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## BILL ANALYSIS



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Senate Bill 916 (as introduced 3-21-18)  
Sponsor: Senator Mike Kowall  
Committee: Commerce

Date Completed: 4-17-18

**CONTENT**

**The bill would amend Public Act 350 of 1917, which governs the licensure and business of second hand dealers and junk dealers, to do the following:**

- **Specify that "second hand dealer" would include a person who is engaged in the business of receiving tangible personal property for recycling by means of an automated recycling kiosk.**
- **Require a second hand dealer who used an automated recycling kiosk to receive articles to obtain a license in the city, county, or village in which the kiosk was installed.**
- **Provide that a second hand dealer who used an automated recycling kiosk to receive articles would be considered to be carrying on the business of a second hand dealer in the city, county, or village in which the kiosk was installed.**
- **Permit a dealer to pay cash for an item if the payment were made by an automated recycling kiosk.**
- **Permit a second hand dealer that operated an automated recycling kiosk to store an article acquired at the kiosk in a secure off-site location; and require a dealer to retain a stored item for 30 days and return it at the request of a law enforcement officer without cost.**

**The bill also specifies that the Act's exemption from licensure for internet drop-off stores and certain individuals would not exempt a person who was purchasing or selling scrap metal from complying with the Scrap Metal Regulatory Act.**

The bill would take effect 90 days after its enactment.

**Definitions**

"Second hand dealer" or "junk dealer" means a person whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures. Under the bill, second hand dealer would include a person who is engaged in the business of receiving tangible personal property for recycling by means of an automated recycling kiosk.

The bill would define "automated recycling kiosk" as an interactive device that is installed in a secure retail space, and has the following technological functions: a) verification of a seller's identity by remote examination of a government-issued identification card by a live representative during all hours of operation; b) secure storage of items accepted by the kiosk

for recycling; c) capture and storage of images of the seller and the article purchased during the transaction; and d) electronic reporting of all transactions to law enforcement.

Where the Act refers to a person, corporation, copartnership, or firm, the bill would refer to a person. "Person" would mean an individual, corporation, limited liability company, partnership, or other legal entity.

#### Automated Recycling Kiosk; License Required

The Act prohibits a person from carrying on the business of second hand dealer or junk dealer in any county, city, or village of the State without first obtaining a license from the county, city, or village where the business is to be conducted. Under the bill, if a second hand dealer used an automated recycling kiosk to receive articles, the dealer would have to obtain a license in the city, county, or village in which the kiosk was installed.

A county, city, or village may grant a license authorizing a person to conduct business as a second hand dealer or junk dealer, subject to the Act's provisions. Under the bill, a license would authorize the person to carry on the business in that city, county, or village. A second hand dealer that used an automated recycling kiosk to receive articles would be considered to be carrying on the business of a second hand dealer in the city, county, or village in which the kiosk was installed.

The Act allows a city, village, or county to inspect the premises of a licensed second hand dealer or junk dealer during normal business hours. Under the bill, "premises" would include the place where an automated recycling kiosk was installed.

#### Method of Payment

The Act requires a second hand dealer or junk dealer to pay for an item only by check or by an electronic payment system. Under the bill, if payment were made by an automated recycling kiosk, the dealer could pay cash for the item.

#### Article Retention, Return to Law Enforcement

The Act requires a purchaser to retain an article purchased or exchanged for at least 15 days before disposing of it, in an accessible place in the building where the article is purchased and received. The purchaser also must attach a tag to the article. Where these provisions refer to "purchaser", the bill would refer to "second hand dealer or junk dealer" or "dealer". The requirement to retain an article would apply except as provided below.

The bill would permit a second hand dealer that operated an automated recycling kiosk to store articles acquired at the kiosk in a secure off-site location. The dealer would have to retain a stored article for 30 days and, upon request, return the article to a law enforcement officer of the State without cost.

#### Scrap Metal Purchaser/Seller

Generally, the requirement to obtain a license does not apply to an internet drop-off store that complies with certain requirements, or an individual who is engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself. However, this exemption does not exempt a person who is purchasing or selling articles of nonferrous metal from compliance with the Nonferrous Metal Regulatory Act. Under the bill, instead, the exemption would not exempt a person who was purchasing or selling articles of scrap metal, as defined in the Scrap Metal Regulatory Act, from complying with that Act. (The

Nonferrous Metal Regulatory Act was renamed The Scrap Metal Regulatory Act. The Act defines "scrap metal" as ferrous or nonferrous metal, or items that contain ferrous or nonferrous metal, that are sold or offered for sale for the value of the ferrous or nonferrous metal they contain rather than their original intended use; ferrous or nonferrous metal removed from or obtained by cutting, demolishing, or disassembling a building, structure, or manufactured item; or other metal that cannot be used for its original intended purpose but can be processed for reuse in a mill, foundry, die caster, or other manufacturing facility.)

MCL 445.401-445.405

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would have no fiscal impact on the State and could have a small indeterminate fiscal impact on local government. A violation of Public Act 350 of 1917 is generally a misdemeanor punishable by imprisonment for up to six months and a fine of between \$500 and \$1,000. The license of a person that is found guilty of violating the Act is revoked upon entry of a conviction and that person is not permitted to carry on the business of being a second hand or junk dealer within the State for one year after the conviction. The provisions of the bill would increase the number of people who are subject to the requirements of the Act, which could increase the number of violations and the imposition of penalties. Any increase in misdemeanor arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, and jails. Any associated increase in fine revenue would increase funding to public libraries.

The fee for a license under the Act must be established by the local unit based on the cost of issuance.

Fiscal Analyst: Ryan Bergan

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