

SESSION OF 2011

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2312**

As Agreed to April 1, 2011

Brief*

HB 2312, as amended, would require registration of scrap metal dealers. On or after January 1, 2012, in order to purchase regulated scrap metal, a business would have to be registered for each place of business. The business would have to submit its application for registration to the city in which it is located, or if it is not located within the corporate limits of a city, to the board of county commissioners in the county in which it is located. Pursuant to the bill, the initial registration fee would be not less than \$100 nor more than \$400. Registration would be valid for ten years. The fee for renewing registration would be not less than \$25 nor more than \$50. Purchasing scrap metal without being registered would be a class A, nonperson misdemeanor.

Prior to granting registration to a scrap metal dealer, a board of county commissioners would be required to give written notice of the filing of an application for registration to the clerk of the township where the applicant's business is located within ten days of registration or renewal. The governing body of a city and the board of county commissioners also would be required to provide written notice of a filing to the sheriff, chief of police, or director of all law enforcement agencies in the county within ten days of registration or renewal.

The bill would outline the requirements for filing an application for registration, the factors that would prohibit

* Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

registration, and circumstances that would allow or require the board of county commissioners or the city's governing board to suspend for up to thirty days or revoke registration.

“Value” would be defined under the bill as the value of the property or the cost to restore the site of the theft of regulated scrap metal to its condition at the time immediately prior to the theft, whichever is greater. Further, scrap metal dealers would be required to pay by check or using a system that photographs or videotapes the payment recipient. Finally, the bill would modify the list of scrap metal property for which the seller must provide proof of authority to sell.

Conference Committee Action

The Conference Committee agreed to the changes made by the Senate and amended the bill to require that the registration form be approved, rather than prepared, by the Attorney General. Additionally, in the section requiring proof of authorization to sell certain scrap metals, it removed from subsection 9 language including wire or cable owned and marked by a telephone, cable, electric, water, or other utility provider that has had the sheathing removed, making ownership identification impossible; and in subsection 20, amended the provision to read “twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24, or 26 gauge.”

Background

In the House Committee on Corrections and Juvenile Justice, representatives of the City of Topeka, the Topeka Police Department, the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, the Kansas Peace Officers' Association, and the Attorney General's Office appeared in support of HB 2312. The Committee also received written testimony in support of the bill from AT&T

and a representative of a metal recycling business presented neutral testimony. No opponents appeared at the hearing.

The House Committee amended the original bill by:

- Specifying that failure to obtain a scrap metal dealer license would be a class A, nonperson misdemeanor;
- Adding limited liability corporations to the list of entities ineligible for a license if persons associated with the entity would be ineligible;
- Deleting provisions that would have created penalties specific to theft of regulated scrap metal depending on the value of the metal;
- Further amending the definition of “value”; and
- Making it unlawful for a scrap metal dealer to:
 - Purchase wire or cable owned by a telephone, cable, electric, water, or other utility provider when the sheathing has been removed, making identification impossible; or
 - Use a form of payment other than those outlined in the bill to purchase more than \$35 worth of property, copper in any form for any amount, catalytic converters, and refrigeration condensing units and related parts.

The House Committee of the Whole further amended HB 2312 by changing “limited liability corporation” to “limited liability company” in the section making limited liability corporations ineligible for a scrap metal dealer license if persons associated with the entity would be ineligible. It also adopted an amendment that would allow a person under age 18 to obtain a scrap metal dealer license, but only if the minor's parents also would be eligible for a license. Similarly,

it adopted an exception allowing a scrap metal dealer to purchase or receive regulated scrap metal from a minor who is accompanied by a parent or guardian or who is a licensed scrap metal dealer.

In the Senate Committee on Federal and State Affairs, representatives from the City of Topeka and Advantage Recycling appeared in support of the bill. A representative from the City of Topeka suggested amendments which were incorporated into the bill.

The Senate Committee on Federal and State Affairs amended the bill to: eliminate the requirement that scrap metal dealers must have a license and require such dealers to be “registered” instead; modify the list of scrap metal property for which the seller would have to provide proof of authority to sell; and not exempt certain scrap metal from transactions.

The Senate Committee of the Whole amended the bill by preventing scrap metal dealers under 18 from obtaining registration if the minor's parents, while registered, committed a felony that would prohibit registration. It also struck the provision denying registration to a person whose spouse would be ineligible for registration. Further, in the section allowing suspension of a dealer's registration, it amended the bill to apply to employing a person who has unlawfully sold scrap metal within the last 24 months, increasing that time period from 18 months. Finally, it deleted a provision requiring revocation if the registrant employs a person who has been convicted of the crimes listed in the bill within the preceding five years.

The fiscal note on HB 2312 as introduced indicated that the precise fiscal impact on cities and counties and on the Kansas Bureau of Investigation was not available. The Attorney General indicated any costs could be absorbed within the existing budget.

The Kansas Sentencing Commission estimated an increase in annual convictions pursuant to HB 2312 as introduced of between four and six prison beds in FY 2012 and between six and 12 beds in FY 2021. As the number of male inmates already exceeds capacity, the bed impact of this bill in addition to the impact of other possible legislation is likely to require additional expenditures. *The FY 2012 Governor's Budget Report* includes \$2.5 million for contract prison beds and if construction is necessary, the Department of Corrections has identified two expansion projects: two high medium housing units at El Dorado Correctional Facility, with 512 beds, costing \$22.7 million for construction and \$9.3 million for operation; and one minimum security housing unit at Ellsworth Correctional Facility, with 100 beds, costing \$5.9 million for construction and \$1.8 million for operation.

Scrap Metal Dealer Registration