

SESSION OF 2011

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2312**

As Amended by House Committee of the Whole

**Brief\***

HB 2312 would create new sections of law to govern scrap metal dealers. It would provide that in order to purchase regulated scrap metal, a business would have to have a license for each place of business. The business would submit its application for licensure 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. Prior to granting a license or renewal to a scrap metal dealer, a board of county commissioners would be required to give written notice of an application for licensure or renewal to the clerk of the township where the applicant business is located and to consider any advisory recommendations from the township's board filed within ten days. Additionally, the governing body of a city and the board of county commissioners would be required to provide written notice of the application to the sheriff, chief of police, or director of all law enforcement agencies in the county and to consider any advisory recommendations from law enforcement filed within ten days. Pursuant to the bill, the license could be issued either annually or for the calendar year. Purchasing scrap metal without a license would be a class A, nonperson misdemeanor.

The bill would outline the requirements for an application for licensure, the factors that would prohibit licensure, and circumstances allowing and requiring the board of county commissioners or the city's governing board to revoke a license. It also would amend the definition of some key terms.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Finally, the bill would make 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.

### **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. A representative of a metal recycling business also presented neutral testimony. No opponents appeared at the hearing.

The House Committee amended the 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 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. Further, the House Committee of the Whole 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.

The fiscal note on the original bill indicates that the precise fiscal impact of HB 2312 on cities and counties and on the Kansas Bureau of Investigation is not available.

The Attorney General indicates any costs could be absorbed within the existing budget.

The Kansas Sentencing Commission estimates 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 Governor's*

*Recommended FY 2012 Budget* 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 and a cost of \$22.7 million for construction and \$9.3 million for operation, and one minimum security housing unit at Ellsworth Correctional Facility, with 100 beds and a cost of \$5.9 million for construction and \$1.8 million for operation.