

# MAINE STATE LEGISLATURE

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L.D. 1708

Date: 3/16/12

(Filing No. H-791)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1260, L.D. 1708, Bill, "An Act To Prevent the Theft and Illegal Sale of Copper and Other Metals"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 30-A MRSA §3771, sub-§5, as enacted by PL 2007, c. 549, §1, is amended to read:

**5. Scrap metal processor.** "Scrap metal processor" means a person that, ~~from a fixed location,~~ purchases scrap metal for resale or recycling.'

Amend the bill in section 2 in subsection 1-A by striking out all of the last underlined sentence (page 1, lines 26 to 28 in L.D.)

Amend the bill in section 3 in paragraph A in the 7th line (page 1, line 37 in L.D.) by inserting after the following: "seller," the following: 'A scrap metal processor shall keep these proof of identification records in a secure, nonpublic location and, unless otherwise permitted by law, may not publish, reproduce, distribute or disclose these records for any other purpose than that described in section 3773, subsection 2.'

Amend the bill in section 5 by striking out all of paragraph G (page 2, lines 8 and 9 in L.D.) and inserting the following:

'G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal: on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453; and'

Amend the bill by striking out all of section 7 and inserting the following:

'Sec. 7. 30-A MRSA §3775-A is enacted to read:

**§3775-A. Holding period; inspection**

**1. Seven-day hold.** If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity,

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1 the officer may issue a written order to the scrap metal processor, specifying the scrap  
2 metal that must be retained and the length of time, which may not exceed 7 days, that the  
3 scrap metal processor must retain the identified scrap metal.

4 **2. Additional 7-day hold.** Prior to the expiration of the time period of the hold  
5 pursuant to subsection 1, a law enforcement officer may impose an additional hold  
6 period, which may not exceed 7 days. The law enforcement officer imposing the  
7 additional hold shall provide the scrap metal processor with a written description of the  
8 scrap metal to be retained and the length of time the scrap metal processor must retain the  
9 identified scrap metal.'

10 Amend the bill by striking out all of section 9 (page 2, lines 30 to 34 and page 3, lines  
11 1 to 35 in L.D.) and inserting the following:

12 **Sec. 9. 30-A MRSA §3778** is enacted to read:

13 **§3778. Violation; penalties**

14 **1. Violation.** A person may not violate this subchapter.

15 **2. Penalties.** In addition to any other penalties provided by law, the following  
16 penalties apply to violations of this subchapter:

17 A. A person who violates this subchapter commits a civil violation for which a fine  
18 of \$1,000 must be adjudged;

19 B. A person who violates this subchapter after having previously been adjudicated of  
20 violating this subchapter commits a civil violation for which a fine of \$3,000 must be  
21 adjudged; and

22 C. A person who violates this subchapter after having previously been adjudicated of  
23 violating this subchapter more than once commits a civil violation for which a fine of  
24 \$4,500 must be adjudged and is prohibited from acting as a scrap metal processor for  
25 6 months.

26 **Sec. 10. Department of Public Safety to review the proposed development**  
27 **of an integrated criminal alert network for scrap metal thefts.** Beginning  
28 September 1, 2012, the Commissioner of Public Safety shall review the merits of using a  
29 statewide integrated criminal alert network to track scrap metal thefts across the State, as  
30 well as the costs associated with requiring scrap metal processors and local law  
31 enforcement agencies to access and use a database designed for the purpose of alerting  
32 participating members to scrap metal thefts. The commissioner shall report by January  
33 15, 2013 to the joint standing committee of the Legislature having jurisdiction over labor,  
34 commerce, research and economic development matters regarding the merits and costs of  
35 using such a network. The joint standing committee may report out a bill implementing  
36 the recommendations in the report to the First Regular Session of the 126th Legislature.'

37 **SUMMARY**

38 This amendment broadens the definition for "scrap metal processor" to include any  
39 scrap metal processors that purchase scrap metal, whether from a fixed location or not. It  
40 adds the requirement that the signed statement made by the seller that the seller is the

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1 owner or is otherwise authorized to sell the scrap metal be made on a form provided by  
2 the buyer that conspicuously bears the warning that making a false statement is a Class D  
3 crime under the Maine Revised Statutes, Title 17-A, section 453.

4 The amendment removes the 72-hour minimum hold for all scrap metal purchased by  
5 the scrap metal processor. It also amends the holding period and the additional holding  
6 period that apply if a law enforcement officer has a reasonable suspicion that scrap metal  
7 being held by a scrap metal processor is stolen from 15 days to 7 days. It also clarifies  
8 that if a law enforcement officer has a reasonable suspicion that the scrap metal may be  
9 related to criminal activity, the officer may impose a hold.

10 It also removes the section of the bill that proposes to establish new crimes, which are  
11 already addressed under current provisions of the Maine Criminal Code. It provides for  
12 mandatory fines to be adjudged for civil violations of the scrap metal processors laws.

13 It requires the Commissioner of Public Safety to review the concept of using a  
14 statewide integrated criminal alert network to track scrap metal thefts across the State, as  
15 well as the costs associated with requiring scrap metal processors and local law  
16 enforcement agencies to access a database designed for the purpose of alerting  
17 participating members to scrap metal thefts. It requires the commissioner to report back  
18 to the joint standing committee of the Legislature having jurisdiction over labor,  
19 commerce, research and economic development matters as to the merits and costs of  
20 using such a network by January 15, 2013. It authorizes the joint standing committee to  
21 report out a bill implementing the recommendations in the report to the First Regular  
22 Session of the 126th Legislature.

**FISCAL NOTE REQUIRED**  
**(See attached)**

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Approved: 03/13/12 *MAC*

# 125th MAINE LEGISLATURE

LD 1708

LR 2405(02)

**An Act To Prevent the Theft and Illegal Sale of Copper and Other Metals**

**Fiscal Note for Bill as Amended by Committee Amendment "A" (H-791)**  
**Committee: Labor, Commerce, Research and Economic Development**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund  
Minor cost increase - Highway Fund  
Minor revenue increase - General Fund

### Correctional and Judicial Impact Statements

Increases the number of civil violations. The collection of additional fines may also increase General Fund revenue by minor amounts.

### Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with issuing written orders imposing hold periods on scrap metal processors, reviewing the merits of using a statewide integrated criminal alert network to track scrap metal thefts and reporting the results can be absorbed within existing budgeted resources and with existing staff.