


**MEMORANDUM**

May 2, 2014

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Action:** Expedited Bill 18-14, Secondhand Personal Property – Automated Purchasing Machines

**Public Safety Committee recommendation: The Committee took no action on Bill 18-14, but recommended (3-0) that the executive branch draft a memorandum of understanding (MOU) with ecoATM and submit the MOU to the Council for approval.**

Expedited Bill 18-14, Secondhand Personal Property – Automated Purchasing Machines, sponsored by Council President Rice and Councilmembers Branson, Floreen, Riemer, Council Vice President Leventhal and Councilmembers Navarro and Elrich, was introduced on March 18. A public hearing was held on April 8 and a Public Safety Committee was held on April 30.

Bill 18-14 would amend the County's secondhand personal property law to prohibit the use of automated purchasing machines (also known as "reverse vending machines") in the County. The fiscal and economic impact statements were received on April 7, 2014, and indicate no fiscal or economic impact (©5-8).

**Background**

An automated purchasing machine (APM) is a self-service kiosk that dispenses payment, typically in cash, for cell phones or other electronic devices. There is currently only one operator of APMs in the United States, ecoATM, and there are currently no APMs located in the County. Transactions of the sort conducted with APMs are currently covered under the County's secondhand personal property law, Chapter 44A of the Code, but the existing law does not directly address the use of APMs. Baltimore City and Baltimore County have recently enacted local laws specifically prohibiting the use of APMs<sup>1</sup> out of concern that APMs provide a convenient opportunity for cell phone thieves to convert stolen goods to cash without human interaction, thereby encouraging such thefts.

The Maryland General Assembly passed House Bill 918 (HB 918) during the 2014 session, and it is expected to be signed by the Governor (©9-26). Once signed into law, HB 918 will take effect on October 1, 2014, and will preempt the County from regulating APMs and supersede existing County law regulating APMs, but will permit the County to prohibit the use

<sup>1</sup> Baltimore City prohibited the use of APMs in September 2013, and Baltimore County enacted its prohibition on March 4, 2014.

of APMs within the County, as is proposed in Bill 18-14.<sup>2</sup> The County's secondhand personal property law will be superseded as pertains to APMs, so maintaining the status quo beyond October 1, 2014 is not an option. The Council essentially must decide whether to expressly prohibit APMs, or accept the State regulation of them.

### **Public Hearing**

Three people spoke at the public hearing on April 8: Captain Laura Lanham of MCPD, on behalf of the County Executive and Police Chief (©27); Rob Garagiola of Alexander and Cleaver (©28); and Michael McCann, Director of Law Enforcement Relations for ecoATM (©31-33).

Captain Lanham stated that the Executive believes that APMs "have no place in Montgomery County at this time." She also said that there was concern about a "possible increase of crimes to obtain personal property" should these machines proliferate in the County, and said that in the Executive's view, there is not sufficient historical experience to support the proposition that APMs serve as a deterrent to crime. Captain Lanham did express that, despite the stated concerns, the Executive is "open to alternatives to an outright ban."

Mr. Garagiola said that he did not believe that APMs lead to more cell phone theft, but instead believes that they can be useful tools for law enforcement to apprehend thieves. He referred to the passage of HB 918, and provided a summary of the provisions of the bill. Mr. Garagiola urged withdrawal of Bill 18-14, and suggested that the County pursue a Memorandum of Understanding (MOU) with ecoATM governing any future location of ecoATM machines in the County.

Mr. McCann, representing ecoATM and its parent company, Outerwall, opposed the bill, recognizing that cell phone theft is a problem, but saying that ecoATM has a strong interest in its prevention. He discussed the several security measures taken in purchases made through ecoATM APMs, and indicated that the APMs had in fact helped solve crimes. He also said that ecoATM is the only operator of cell phone and mp3 purchasing APMs, and that there are no such APMs currently operating in Montgomery County.

### **Public Safety Committee Worksession**

The Public Safety Committee considered Bill 18-14 on April 30. The executive branch was represented by Assistant Chief Russ Hamill, MCPD, Captain Laura Lanham, MCPD, Sergeant Sean Renauer, MCPD, and Bruce Meier, OMB. Also present was Michael McCann on behalf of ecoATM. Assistant Chief Hamill stated a concern about APMs presenting an opportunity to easily convert cell phones to cash, but indicated that there was not enough evidence to determine the level of concern created by the machines. When asked, he indicated that the use of an MOU specifying that ecoATM would not locate APMs in the County without the County's consent would be acceptable to the Chief and the County Executive.

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<sup>2</sup> The new state law will also permit the County to license APMs and APM operators. Because of the expressly stated preemption, the extent of the County's authority to license is limited to collecting a license fee, and not to placing additional conditions or restrictions on the issuance of a license.

The Committee took no action on Bill 18-14, but recommended (3-0) that the executive branch draft a suitable MOU with ecoATM, and submit the MOU to the Council for approval.

### **Issues for Discussion**

#### **1. How will APMs be regulated after HB 918 takes effect?**

As of October 1, 2014, a State regulatory regime for such transactions will be in place. The provisions of HB 918 closely resemble the State law regulating secondhand precious metal dealers. In general, the new State law regulatory framework would provide for the designation by the local government of the “primary law enforcement unit” to receive APM records, the licensing of operators of APMs, requirements for transactions conducted through APMs, and penalties for noncompliance.

#### ***Preemption of local laws***

As previously noted, HB 918 preempts the right of a county or municipality to regulate APMs or APM operators, and supersedes any existing law of a county or municipality that regulates APMs or APM operators. As a result of this provision, the County’s secondhand personal property law will no longer govern APM transactions once HB 918 takes effect. However, State law will not limit the power of a county or municipality to prohibit the installation of APMs within the county or municipality, or to license APMs and APM operators.

#### ***Licensing of “buyers”***

The first part of the new State regulation of APMs requires a person buying or offering to buy property by means of an APM (a “buyer”) to obtain a license from the State Department of Labor, Licensing, and Regulation. To obtain a license as a buyer, a person must submit an application, signed under oath and accompanied by a nonrefundable \$300 application fee, to the Secretary of Labor, Licensing, and Regulation (the “Secretary”). As part of the application, the applicant must authorize a municipal, county, or State police officer or agent, acting in the course of a stolen property investigation or an investigation of a violation of State law regulating APMs, to inspect and photograph all personal property and records at the applicant’s business or storage locations.

In addition to the application, a person seeking to be licensed as a buyer must submit to a criminal history records check (CHRC) with the Criminal Justice Information System (CJIS). The Secretary may deny an application if the applicant has been convicted of a felony or certain misdemeanors. Registration and a CHRC is also required for a person serving as a primary point of contact, regularly conducting business for a licensed buyer, and maintaining a physical location in Maryland for the conduct of business (a “resident agent”). The State law will also provide a number of circumstances in which the Secretary may deny, suspend, or revoke a license, or reprimand the licensee.

#### ***Transaction, reporting, and recordkeeping requirements***

HB 918 prohibits certain purchases through APMs, and imposes several transaction, reporting, and recordkeeping requirements on buyers. A buyer may not buy or offer to buy

personal property from a minor, and may not buy an electronic device valued at \$25 or more if the APM cannot determine the serial number of the device. For each transaction, a buyer must ensure that each APM owned or operated by the buyer:

- requires a seller to provide the seller's full name, home address, contact telephone number, and date of birth *before* completing the transaction;
- requires a seller to submit a government-issued identification card or other identification required by the Secretary;
- makes a record of the transaction that includes the required information obtained from the seller, a photograph of the seller, an electronic copy or photocopy of the identifying information, a description of the personal property, and the date, time, and location of the transaction; and
- makes a record of the make and model of each electronic device purchased, including the serial number of the device, if it can be determined at the time of purchase.

In addition to the above requirements, a buyer must use an individual to screen each purchase transaction, and must keep a record of the screener assigned to each transaction. The individual screening the transaction may do so remotely.

A buyer must submit the required records for a transaction to the primary law enforcement unit designated by the local government within 48 hours of the transaction; the records may be in paper or electronic format. If a serial number cannot be determined at the time of the transaction, the buyer must submit a preliminary report within 48 hours, and must then submit a final report, including the serial number, within 14 days of the transaction.

A buyer must keep all personal property purchased for at least 30 days after submission of the required information to the primary law enforcement unit. On request of the primary law enforcement unit, a buyer must provide any personal property purchased through an APM, and must make all personal property purchased through an APM available for inspection by the primary law enforcement unit at any time.

A buyer must remove all personal property purchased by an APM at least once every 10 days, and notify the primary law enforcement unit of the date and time of the removal at least 72 hours before removing the personal property. The primary law enforcement unit may inspect the personal property being removed from an APM at the time of removal.

### ***Penalties***

A knowing and willful violation of the law is a misdemeanor subject to a fine of up to \$1,000 for a first offense, and up to \$5,000 for a second or subsequent offense. Each violation is a separate offense. The Secretary may also impose a penalty of up to \$5,000 for certain acts generally related to fraud committed by an applicant, licensee, or an agent, employee, manager or partner of an applicant or licensee. The law also provides under certain circumstances that the Secretary may seek an immediate restraining order from a circuit court to prohibit a licensee from buying, selling, or disposing of personal property, or disposing of a record about personal property.

## **2. Do APMs increase or deter cell phone theft, and what about any environmental benefit?**

Proponents of restrictions on the operation of APMs contend that the APMs contribute to, or encourage, theft of cell phones and personal electronic devices by offering a quick, impersonal means to convert stolen goods to cash without adequate safeguard to prevent the purchase of stolen property. Defenders of APMs assert that APMs are actually an asset to law enforcement in resolving crimes, and that they provide a valuable environmental benefit by recycling cell phones and electronic devices that might otherwise end up in a landfill. Unfortunately, there appears to be a lack of hard data to unquestionably support any of these claims.

### ***Increasing thefts***

As noted earlier, Baltimore City and Baltimore County have recently passed laws banning APMs. Both jurisdictions blamed the machines for an uptick in phone thefts, and Baltimore County Police Chief Jim Johnson expressed confidence that the ban “will help reduce the number of crimes involving cell phones by taking cash out of the equation.”<sup>3</sup> Also, in the District of Columbia, Police Chief Lanier has been an outspoken critic of APMs, seeing them as an easy way for thieves to turn stolen goods into cash. Chief Lanier appeared on NBC’s Today Show on May 23, 2013 in an investigative feature in which two different APMs accepted an ID from someone who was clearly not the seller, and completed the transaction.<sup>4</sup> While there are no APMs currently located in the District of Columbia, there are several in surrounding suburban jurisdictions, and Chief Lanier stated that her Department traced 200 stolen phones to one APM over the summer of 2013.<sup>5</sup> In contrast to Chief Lanier’s claim, ecoATM asserts that just 1 in every 1,500 phones that it acquires through APMs is lost or stolen. (©37)

In addition to the two Maryland jurisdictions, APMs have been banned in Riverside, California, with similar justification. The Philadelphia City Council introduced a bill banning APMs last fall and was approved by committee, but the bill appears likely to go to a task force for further consideration before passage.<sup>6</sup> A few other local jurisdictions have considered banning or restricting APM operation, but to date have not done so.

There does not appear to be a consensus among law enforcement agencies regarding the impact of APMs on cell phone thefts, and it appears that any evidence of a relationship is anecdotal. Law enforcement agencies in the jurisdictions that have banned APMs have expressed a view that there is a connection, as has the South Burlington, Vermont Police Department.<sup>7</sup> However, police departments in Burlington, Vermont,<sup>8</sup> Houston, Texas,<sup>9</sup> and Everett, Washington<sup>10</sup> have indicated that they have not seen an increase in cell phone thefts since the appearance of APMs in or near their respective jurisdictions.

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<sup>3</sup> <http://news.wypr.org/post/baltimore-county-bans-ecoatm>

<sup>4</sup> <http://www.today.com/news/cash-phone-atms-inay-fuel-violent-crime-top-cop-says-1C9858818>

<sup>5</sup> <http://www.npr.org/blogs/alltechconsidered/2013/09/07/219809481/baltimore-officials-want-to-unplug-phones-for-cash-kiosks>

<sup>6</sup> <http://philadelphia.cbslocal.com/2013/10/24/phila-councilmembers-agree-to-explore-cell-phone-buyback-atms/>

<sup>7</sup> <http://www.sevendaysvt.com/vermont/responsible-recycling-or-digital-pawnshop-why-vermont-cops-are-worried-about-ecoatms/Content?oid=2266489>

<sup>8</sup> *Id.*

<sup>9</sup> <http://abclocal.go.com/ktrk/story?section=news/local&id=9279987>

<sup>10</sup> <http://www.komonews.com/news/local/Can-automated-kiosks-actually-help-catch-cellphone-thieves-209978851.html>

### ***Aid to law enforcement***

In response to criticism from law enforcement, APM operator ecoATM asserts that it actively works with law enforcement (©36-37), and that the machines actually assist in solving crimes and returning stolen phones to their rightful owners. Media reports offer support for the contention that arrests are sometimes made with the assistance of the operator when stolen phones turn up in APMs, and at least one local law enforcement agency has benefited from collaboration with ecoATM.<sup>11</sup> However, whether this will have a deterrent effect resulting in a reduction of thefts remains an open question.

### ***Recycling cell phones and other electronic devices***

Another proclaimed benefit of APMs is that they reduce the number of cell phones and mobile devices entering the solid waste stream. In its most recent estimate (2009), the U.S. EPA estimated that fewer than 12 million of 129 million mobile devices disposed of, less than 8% by weight, were collected for recycling.<sup>12</sup> These devices contain precious metals and plastics that can be recycled, but that are toxic and can pollute the air and contaminate soil and drinking water if placed in a landfill. Given the abysmal rate of recycling and the toxicity of mobile device component parts, it is beyond debate that the rate at which cell phones and other mobile devices needs to be increased.

According to ecoATM, it has recycled over 2 million devices through its APMs in its four-year existence, including a million in the 9 months between April 2013 and January 2014.<sup>13</sup> It is unclear how many of the devices recycled through APMs would otherwise have entered the solid waste stream, but it is likely that APM recycling does contribute to some reduction of the number of devices going into landfills. However, ban on APMs would *not* foreclose all opportunities to resell or recycle cell phones and other electronic devices. Best Buy offers in-store and online trade-in of a wide variety of electronic devices, including phones, and recycling of most electronics equipment and appliances.<sup>14</sup> There are also several online buyer/reseller operations, such as uSell.com and gazelle.com, and a search on call2recycle.org indicated 33 drop-off locations for cell phone recycling within 10 miles of the 20850 zip code.<sup>15</sup>

### ***Other measures to prevent cell phone theft***

In addition to the new State law requirements governing APMs, another technological development to combat cell phone theft is worth consideration. This April, several phone manufacturers and wireless companies voluntarily agreed to include “kill switch” technology on their devices beginning next year (©42). This technology would allow owners to remotely remove data from their phones, and render the phones inoperable if stolen.

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<sup>11</sup> <http://www.somdnews.com/article/20130215/NEWS/130219415/1055/NEWS&template=southernMaryland>

<sup>12</sup> <http://www.epa.gov/osw/conserve/materials/ecycling/manage.htm>

<sup>13</sup> <http://www.prnewswire.com/news-releases/americans-embracing-recycling-for-phones-and-electronics-ecoatm-marks-two-million-devices-recycled-240271441.html>

<sup>14</sup> <http://www.bestbuy.com/site/payment-pricing/trade-in-recycling/pcmcat204400050010.c?id=pcmcat204400050010>

<sup>15</sup> <http://www.call2recycle.org/locator/>

While a voluntary agreement is not as powerful as a legal mandate, and while there remains some criticism of the agreement,<sup>16</sup> the implementation of kill switch technology should have a favorable impact on phone thefts. There is also a bill pending in the U.S. Congress to require the technology on phones manufactured in or imported into the United States.<sup>17</sup> The new State law requires an APM to determine the serial number of a device purchased for over \$25, and an APM must power on the device to determine the serial number. Therefore, a newer phone rendered inoperable by kill switch could not be legally purchased through an APM.

### **3. Is an MOU with ecoATM a viable alternative to a ban?**

At the public hearing, Mr. Garagiola suggested that, as an alternative to banning APMs, the County should pursue an MOU with ecoATM, the only manufacturer/operator of APM machines. Mr. Garagiola stated that ecoATM has no current plans to locate an APM in the County, but that an MOU could provide that, should those plans change, the County's consent would be required prior to the location of an ecoATM APM in the County. While it is questionable whether such an MOU would be an enforceable contract, enforceability would likely not be a problem. The County has the authority under State law to prohibit the installation or operation APMs in the County, and could act to do so if ecoATM violated the terms of the agreement.

If the Council does not ban APMs, an MOU may be helpful in maintaining a dialogue with ecoATM concerning any future location of ecoATM APMs in the County. However, it should be noted that while ecoATM is *currently* the only operator of APMs, it is certainly possible that another business could enter the field, and any MOU with ecoATM would certainly not be binding on another APM operator.

### **4. Should APMs be licensed, if they are not banned?**

In addition to allowing a county or municipality to prohibit the installation or operation of APMs, the new State law will allow a county or municipality to license APMs and APM operators. According to the Maryland General Assembly Department of Legislative Services, this licensing authority is similar to that allowed to counties and municipalities for junk dealers and scrap metal processors, and intended to be limited to collecting a fee for the issuance of a license. If the Council chooses not to prohibit APMs outright, staff recommends requiring each APM operator to obtain a County license for each APM located in the County. A County licensing requirement would ensure that the County is aware of the number and location of the APMs operating in the County, as well as who is operating them.

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<sup>16</sup> <http://www.businessweek.com/articles/2014-04-16/next-debate-on-phones-kill-switch-who-turns-them-on>

<sup>17</sup> <https://www.govtrack.us/congress/bills/113/hr4065/text>

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Expedited Bill No. 18-14  
Concerning: Secondhand Personal  
Property – Automated Purchasing  
Machines  
Revised: 04/30/2014 Draft No. 3  
Introduced: March 18, 2014  
Expires: September 18, 2015  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President Rice and Councilmembers, Branson, Floreen, Riemer, Council Vice  
President Leventhal and Councilmembers Navarro and Elrich

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**AN EXPEDITED ACT to:**

- (1) prohibit the use of automated purchasing machines for the purchase of personal property;
- (2) define certain terms;
- (3) provide certain exceptions; and
- (4) generally amend the secondhand personal property law.

By amending

Montgomery County Code  
Chapter 44A, Secondhand Personal Property  
Sections 44A-1, 44A-16 and 44A-17

And adding

Section 44A-18

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

1       **Sec 1. Sections 44A-1, 44A-16 and 44A-17 are amended and Section**  
 2       **44A-18 is added as follows:**

3       **44A-1. Definitions.**

4       When used in this chapter:

5       Automated Purchasing Machine means a self-service device that:

- 6           (1)   is designed to dispense payment in exchange for personal  
 7               property; and  
 8           (2)   is also known as a reverse vending machine.

9   \*       \*       \*

10       Recyclable materials means recyclable solid waste as defined in Section 48-  
 11       46.

12   \*       \*       \*

13       **44A-16. Automated Purchasing Machines.**

14       (a)   General Prohibition. Except as otherwise provided in this Section, a  
 15           person must not purchase or offer to purchase any personal property  
 16           by means of an automated purchasing machine.

17       (b)   Exception for recyclable materials. This Section does not prohibit the  
 18           use of an automated purchasing machine exclusively [[for collecting]]  
 19           to collect recyclable materials [[pursuant to]] under a government-  
 20           operated or -approved recycling program.

21       **44A-17. Regulations; restitution.**

22       The Executive must adopt reasonable regulations under method (3) to  
 23       implement and administer this Chapter which may authorize the County to obtain  
 24       restitution on behalf of an injured party.

25       **[44A-17.] 44A-18. Penalties.**

26       (a)   Any person who violates this Chapter is subject to punishment for a  
 27           class A violation. Each day that a violation continues is a separate  
 28           offense.

(b) The Director of the Office of Consumer Protection may file an action in any court with jurisdiction to enjoin any violation of this Chapter or to enforce any order or decision issued under this Chapter.

[44A-18. Reserved.]

**Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

*Approved:*

---

Craig L. Rice, President, County Council

Date

*Approved:*

---

Isiah Leggett, County Executive

Date

*This is a correct copy of Council action.*

---

Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Expedited Bill 18-14

### *Secondhand Personal Property – Automated Purchasing Machines*

<b>DESCRIPTION:</b>	Bill 18-14 would amend the County's secondhand personal property law to prohibit the use of automated purchasing machines in the County.
<b>PROBLEM:</b>	Automated purchasing machines (APMs), also known as "reverse vending machines" and "cell phone kiosks," are self-service machines which dispense cash payment for cell phones and other electronic devices. APMs provide a convenient opportunity for thieves to convert stolen goods to cash without any human interaction.
<b>GOALS AND OBJECTIVES:</b>	To prohibit the use of automated purchasing machines in the County.
<b>COORDINATION:</b>	Department of Police
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	Baltimore City prohibited APMs in September 2013. Baltimore County passed a law prohibiting APMs on March 5, 2014.
<b>SOURCE OF INFORMATION:</b>	Josh Hamlin, 240-777-7892
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	Subject to Class "A" violation.

BILL 18-14E



ROCKVILLE, MARYLAND

JH  
CC  
SBF  
LL

MEMORANDUM

April 7, 2014

TO: Craig Rice, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance

SUBJECT: FEIS for Bill 18-14E, Secondhand Personal Property - Automated Purchasing Machines

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurni, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
Michael Coveyou, Department of Finance  
David Platt, Department of Finance  
Robert Hagedoorn, Department of Finance  
Chief Thomas Manger, Montgomery County Police Department  
Captain Laura Lanham, Montgomery County Police Department  
Bruce Meier, Office of Management and Budget  
Alex Espinosa, Office of Management and Budget  
Felicia Zhang, Office of Management and Budget  
Naeem Mia, Office of Management and Budget

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

2014 APR -7 PM 3:52

**Fiscal Impact Statement**  
**Council Bill 18-14E, Secondhand Personal Property - Automated Purchasing Machines**

1. Legislative Summary

Bill 18-14 would amend the County's secondhand personal property law to prohibit the use of automated purchasing machines (also known as "reverse vending machines") in the County.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

No change in revenues or expenditures is expected.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

No change in revenues or expenditures is expected.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

None.

6. An estimate of the staff time needed to implement the bill.

None.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

8. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed.

9. A description of any variable that could affect revenue and cost estimates.

There are currently none of these machines in the County. If any were to be established, they would be handled by existing resources.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

11. If a bill is likely to have no fiscal impact, why that is the case.

This bill does not have a fiscal impact at the present time because there are currently none of these machines in the County.

12. Other fiscal impacts or comments.

None.

13. The following contributed to and concurred with this analysis:

Captain Laura Lanham, MCPD

Bruce Meier, Office of Management & Budget

J. Hughes  
Jennifer A. Hughes, Director  
Office of Management and Budget

4/7/14  
Date

**Economic Impact Statement**  
**Bill 18-14E, Secondhand Personal Property – Automated Purchasing Machines**

**Background:**

This legislation would prohibit the use of automated purchasing machines (APMs) for the purchase of personal property; define certain terms; provide certain expenditures; and generally amend the secondhand personal property law.

**1. The sources of information, assumptions, and methodologies used.**

- Montgomery County Department of Police (MCP)
- Montgomery County Office of Consumer Protection (OCP)
- The number of automated purchasing machines (APMs) currently in the County
- The number and amount of transactions for each of the APMs

**2. A description of any variable that could affect the economic impact estimates.**

According to information provided by MCP, there are currently no APMs in the County. Also from information provided by OCP, there are no businesses in the County that manufacture or provide such machines. Because Bill 18-14E (Bill) would prohibit the use of APMs in the County and there are no companies in the County that supply such machines, there are no variables that could affect the economic impact estimates.

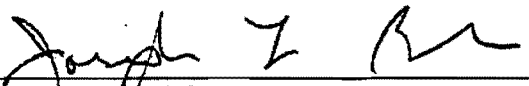
**3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.**

The Bill would have no direct economic impact on employment, spending, savings, investment, incomes, and property values.

**4. If a Bill is likely to have no economic impact, why is that the case?**

The Bill would have no direct economic impact because there are no APMs or companies currently operating in the County.

**5. The following contributed to or concurred with this analysis:** David Platt and Rob Hagedoorn, Finance; Captain Terrence Pierce, Montgomery County Department of Police; Eric Friedman, Office of Consumer Protection.

  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

4-2-14  
\_\_\_\_\_  
Date

# HOUSE BILL 918

C2

(4lr3024)

## ENROLLED BILL

— Economic Matters/Finance —

Introduced by ~~Delegate Costa~~ Delegates Costa, Clippinger, and M. Washington

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Business Regulation – Automated Purchasing Machines – Licensing of**  
3 **Buyers and Required Records**

4 FOR the purpose of requiring a person to have a license before doing business as a  
5 buyer of personal property by means of an automated purchasing machine in  
6 the State; establishing the application and renewal processes for a buyer's  
7 license; requiring applicants for a buyer's license and a certain resident agent of  
8 an applicant or a licensee to apply for a national and State criminal history  
9 records check; authorizing the Secretary of Labor, Licensing, and Regulation to  
10 issue a license under certain circumstances; authorizing the Secretary to deny,  
11 suspend, or revoke a license, reprimand a licensee, or impose a certain penalty  
12 under certain circumstances; requiring the Secretary to provide certain hearing  
13 procedures before certain actions are taken; requiring the Secretary to inform  
14 each primary law enforcement unit of each license that is issued, renewed,  
15 changed to a new business location, denied, suspended, or revoked; requiring a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



1 buyer to ensure that each automated purchasing machine that the buyer owns  
 2 or operates in the State meets certain requirements; requiring an automated  
 3 purchasing machine to require a seller of certain personal property to provide  
 4 certain information before the completion of a certain transaction; requiring an  
 5 automated purchasing machine to verify certain information through certain  
 6 documentation submitted by a seller; establishing certain record keeping and  
 7 reporting requirements for a buyer; requiring a buyer to submit certain reports  
 8 to the primary law enforcement unit if certain information cannot be  
 9 determined at a certain time; providing that certain reporting requirements  
 10 may not be construed to require a buyer to incur a certain financial burden;  
 11 requiring a buyer to keep all personal property bought for a certain period of  
 12 time; requiring a buyer to provide certain personal property to the primary law  
 13 enforcement unit on request and at the cost of the buyer; requiring a buyer to  
 14 make certain personal property available for inspection by the primary law  
 15 enforcement unit at a certain time; requiring buyers to remove certain personal  
 16 property from an automated purchasing machine in a certain manner and to  
 17 provide a certain notice; authorizing the primary law enforcement unit to  
 18 inspect personal property being removed from an automated purchasing  
 19 machine at the time of removal; requiring a buyer to have use an individual  
 20 screen ~~transactions~~ transaction under certain circumstances; requiring a buyer  
 21 to keep certain records regarding screeners; requiring a buyer to contact the  
 22 primary law enforcement unit if personal property is determined to be stolen  
 23 and to return personal property to the primary law enforcement unit free of  
 24 charge; prohibiting ~~an automated purchasing machine operator~~ a buyer from  
 25 buying or offering to buy personal property from a minor; prohibiting a buyer  
 26 from buying an electronic device under certain circumstances; establishing  
 27 certain penalties for a violation of this Act; exempting certain automated  
 28 purchasing machines from this Act; providing that this Act preempts the right  
 29 of any county or municipality to regulate automated purchasing machines or  
 30 operators of automated purchasing machines and supersedes any existing law of  
 31 a county or municipality that regulates automated purchasing machines or  
 32 operators of automated purchasing machines under certain circumstances;  
 33 authorizing a county or municipality to license automated purchasing machines  
 34 and operators of automated purchasing machines; requiring the Secretary to  
 35 adopt certain regulations; providing for the designation of certain primary law  
 36 enforcement units for a certain purpose; defining certain terms; and generally  
 37 relating to automated purchasing machines.

38 BY adding to

39 Article – Business Regulation

40 Section 20–101 through 20–502 to be under the new title “Title 20. Automated  
 41 Purchasing Machines”

42 Annotated Code of Maryland

43 (2010 Replacement Volume and 2013 Supplement)

44 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 45 MARYLAND, That the Laws of Maryland read as follows:

Article – Business Regulation

TITLE 20. AUTOMATED PURCHASING MACHINES.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

20-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “AUTOMATED PURCHASING MACHINE” MEANS A SELF-SERVICE DEVICE THAT:

(1) IS DESIGNED TO DISPENSE MONEY IN EXCHANGE FOR PERSONAL PROPERTY; AND

(2) IS ALSO KNOWN AS A REVERSE VENDING MACHINE.

(C) “BUYER” MEANS A PERSON THAT BUYS OR OFFERS TO BUY PERSONAL PROPERTY BY MEANS OF AN AUTOMATED PURCHASING MACHINE.

(D) “ELECTRONIC DEVICE” MEANS A DEVICE CAPABLE OF FACILITATING COMMUNICATION THROUGH VOICE, DATA, TEXT, OR OTHER VISUAL OR AUDITORY FORMAT.

(E) “EMPLOYEE” MEANS AN INDIVIDUAL WHO IS EMPLOYED BY A BUYER TO BUY OR SUPERVISE DIRECTLY THE BUYING OF PERSONAL PROPERTY.

(F) “LICENSE” MEANS A LICENSE ISSUED BY THE SECRETARY TO DO BUSINESS AS A BUYER.

(G) (1) “PERSONAL PROPERTY” MEANS PRIVATE PROPERTY THAT IS MOVEABLE.

(2) “PERSONAL PROPERTY” INCLUDES:

(I) PROPERTY THAT IS SERIALIZED OR NORMALLY HAS A UNIQUE IDENTIFIER; AND

(II) GIFT CARDS OR VOUCHERS THAT HAVE MONETARY VALUE.

1 (H) "PRIMARY LAW ENFORCEMENT UNIT" MEANS THE DEPARTMENT OF  
2 STATE POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY A  
3 RESOLUTION OF THE COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY  
4 IN WHICH THE AUTOMATED PURCHASING MACHINE IS LOCATED.

5 (I) (1) "RECYCLABLE MATERIALS" MEANS MATERIAL THAT:

6 (I) IF NOT RECYCLED, WOULD BECOME SOLID WASTE FOR  
7 DISPOSAL IN A REFUSE DISPOSAL SYSTEM; AND

8 (II) MAY BE COLLECTED, SEPARATED, OR PROCESSED AND  
9 RETURNED TO THE MARKETPLACE IN THE FORM OF RAW MATERIALS OR  
10 PRODUCTS.

11 (2) "RECYCLABLE MATERIALS" INCLUDES PAPER, GLASS,  
12 METALS, PLASTICS, AND CARDBOARD.

13 (J) "RESIDENT AGENT" MEANS A PERSON REGISTERED IN THE STATE  
14 WHO:

15 (1) SERVES AS A PRIMARY POINT OF CONTACT ~~AND~~;

16 (2) REGULARLY CONDUCTS BUSINESS FOR THE LICENSEE; AND

17 (3) MAINTAINS A PHYSICAL LOCATION IN MARYLAND WHERE THE  
18 RESIDENT AGENT REGULARLY CONDUCTS BUSINESS AND AT WHICH THE  
19 RESIDENT AGENT OR AN EMPLOYEE OF THE RESIDENT AGENT IS PHYSICALLY  
20 PRESENT DURING NORMAL BUSINESS HOURS.

21 (K) "SELLER" MEANS A PERSON WHO SELLS OR OFFERS TO SELL  
22 PERSONAL PROPERTY TO AN AUTOMATED PURCHASING MACHINE.

23 20-102.

24 (A) THIS TITLE DOES NOT APPLY TO AN AUTOMATED PURCHASING  
25 MACHINE THAT IS USED EXCLUSIVELY FOR COLLECTING RECYCLABLE  
26 MATERIALS IN ACCORDANCE WITH A RECYCLING PROGRAM APPROVED BY THE  
27 DEPARTMENT OF THE ENVIRONMENT.

28 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
29 SUBSECTION, THIS TITLE:

**(I) PREEMPTS THE RIGHT OF A COUNTY OR MUNICIPALITY TO REGULATE AUTOMATED PURCHASING MACHINES AND OPERATORS OF AUTOMATED PURCHASING MACHINES; AND**

**(II) SUPERSEDES ANY EXISTING LAW OF A COUNTY OR MUNICIPALITY THAT REGULATES AUTOMATED PURCHASING MACHINES AND OPERATORS OF AUTOMATED PURCHASING MACHINES.**

**(2) THIS TITLE DOES NOT LIMIT THE POWER OF A COUNTY OR MUNICIPALITY TO:**

**(I) LICENSE AUTOMATED PURCHASING MACHINES AND OPERATORS OF AUTOMATED PURCHASING MACHINES; OR**

**(II) PROHIBIT THE INSTALLATION OR OPERATION OF AUTOMATED PURCHASING MACHINES WITHIN THE COUNTY OR MUNICIPALITY.**

**20-103.**

THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT AND ENFORCE THIS TITLE.

**SUBTITLE 2. DESIGNATION OF PRIMARY LAW ENFORCEMENT UNIT.**

**20-201.**

(A) A COUNTY OR MUNICIPAL GOVERNING BODY IN THE COUNTY IN WHICH AN AUTOMATED PURCHASING MACHINE IS LOCATED SHALL DESIGNATE BY RESOLUTION THE PRIMARY LAW ENFORCEMENT UNIT TO RECEIVE RECORDS IN ACCORDANCE WITH § 20-402(A)(1) OF THIS TITLE.

**(B) IF A MUNICIPAL GOVERNING BODY DESIGNATES A COUNTY POLICE DEPARTMENT OR SHERIFF AS THE PRIMARY LAW ENFORCEMENT UNIT UNDER THIS SECTION, THE COUNTY MAY DESIGNATE THE DEPARTMENT OF STATE POLICE AS THE PRIMARY LAW ENFORCEMENT UNIT.**

### SUBTITLE 3. LICENSING.

**20-301.**

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON SHALL HAVE A LICENSE BEFORE THE PERSON DOES BUSINESS AS A BUYER IN THE STATE.

**20-302.**

1           (A)   (1)   AN APPLICANT FOR A LICENSE SHALL:

2                               (i)   SUBMIT TO THE SECRETARY AN APPLICATION ON THE  
3 FORM THAT THE SECRETARY PROVIDES; AND

4                               (ii)   PAY TO THE SECRETARY AN APPLICATION FEE OF \$300.

5           (2)   THE APPLICATION FEE IS NONREFUNDABLE.

6           (B)   THE APPLICANT SHALL SIGN THE APPLICATION UNDER OATH.

7           (C)   IN ADDITION TO ANY OTHER INFORMATION THAT THE SECRETARY  
8 REQUIRES, THE APPLICATION SHALL STATE:

9                               (1)   THE NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS OF THE  
10 APPLICANT;

11                              (2)   THE BUSINESS ADDRESS OF THE APPLICANT;

12                              (3)   A TELEPHONE NUMBER AT WHICH THE APPLICANT CAN BE  
13 REACHED DURING NORMAL BUSINESS HOURS;

14                              (4)   EACH ADDRESS WHERE THE APPLICANT HAS CONDUCTED ANY  
15 BUSINESS DURING THE 3 YEARS BEFORE APPLICATION;

16                              (5)   THE DRIVER'S LICENSE NUMBER, IF ANY, OF THE APPLICANT;  
17 AND

18                              (6)   THE NAME AND PERMANENT ADDRESS OF THE RESIDENT  
19 AGENT WHO WILL REPRESENT THE APPLICANT IN THE STATE.

20           (D)   THE APPLICATION FORM SHALL CONTAIN IMMEDIATELY ABOVE THE  
21 SIGNATURE LINE THE FOLLOWING:

22                    "IF ISSUED A LICENSE, I AGREE TO ALLOW A MUNICIPAL, COUNTY, OR  
23 STATE POLICE OFFICER OR AGENT ACTING IN THE COURSE OF A STOLEN  
24 PROPERTY INVESTIGATION OR AN INVESTIGATION OF A VIOLATION OF THIS  
25 TITLE TO INSPECT AND PHOTOGRAPH ALL PERSONAL PROPERTY AND RECORDS  
26 AT MY BUSINESS OR STORAGE LOCATIONS."

27   20-303.

1       **BEFORE AN INDIVIDUAL MAY BEGIN WORK AS A RESIDENT AGENT FOR A**  
2 **BUYER:**

3               **(1) THE BUYER SHALL SUBMIT TO THE SECRETARY ON THE FORM**  
4 **THAT THE SECRETARY PROVIDES THE NAME OF THE INDIVIDUAL; AND**

5               **(2) THE INDIVIDUAL SHALL APPLY FOR A NATIONAL AND STATE**  
6 **CRIMINAL HISTORY RECORDS CHECK REQUIRED UNDER § 20-304(B) OF THIS**  
7 **SUBTITLE.**

8 **20-304.**

9               **(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL**  
10 **JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT**  
11 **OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

12               **(B) APPLICANTS FOR LICENSES UNDER § 20-301 OF THIS SUBTITLE**  
13 **AND INDIVIDUALS WHOSE NAMES MUST BE SUBMITTED TO THE SECRETARY**  
14 **UNDER § 20-303 OF THIS SUBTITLE SHALL APPLY TO THE CENTRAL**  
15 **REPOSITORY FOR A NATIONAL AND STATE CRIMINAL HISTORY RECORDS CHECK**  
16 **ON A FORM APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY.**

17               **(C) THE CENTRAL REPOSITORY SHALL PROVIDE TO THE SECRETARY:**

18               **(1) THE NATIONAL AND STATE CRIMINAL HISTORY RECORDS OF**  
19 **EACH INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK UNDER**  
20 **SUBSECTION (B) OF THIS SECTION AND A PRINTED STATEMENT LISTING ANY**  
21 **CONVICTIONS AND PLEAS OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL**  
22 **CHARGE;**

23               **(2) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS**  
24 **CHECK FOR AN INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK**  
25 **AND A REVISED PRINTED STATEMENT LISTING ANY CONVICTIONS AND PLEAS OF**  
26 **GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL CHARGE OCCURRING IN THE**  
27 **STATE AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK;**  
28 **AND**

29               **(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A**  
30 **CRIMINAL HISTORY RECORDS CHECK BY AN INDIVIDUAL REQUIRING A**  
31 **CRIMINAL HISTORY RECORDS CHECK.**

32               **(D) AN INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK**  
33 **SHALL SUBMIT A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN AT ANY**  
34 **DESIGNATED STATE OR LOCAL LAW ENFORCEMENT OFFICE IN THE STATE OR**

1 OTHER AGENCY OR LOCATION APPROVED BY THE SECRETARY OF PUBLIC  
2 SAFETY AND CORRECTIONAL SERVICES TO THE CENTRAL REPOSITORY.

3 (E) AN INDIVIDUAL REQUIRING A CRIMINAL HISTORY RECORDS CHECK  
4 UNDER SUBSECTION (B) OF THIS SECTION SHALL PAY:

5 (1) THE MANDATORY PROCESSING FEE REQUIRED BY THE  
6 FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY  
7 RECORDS CHECK; AND

8 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE  
9 CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL  
10 HISTORY RECORDS.

11 (F) A BUYER OR AN APPLICANT MAY PAY FOR THE COSTS INCURRED BY  
12 THE RESIDENT AGENT OR OTHER INDIVIDUAL REQUIRING A CRIMINAL HISTORY  
13 RECORDS CHECK UNDER SUBSECTION (B) OF THIS SECTION.

14 (G) (1) INFORMATION OBTAINED BY THE SECRETARY FROM THE  
15 CENTRAL REPOSITORY UNDER THIS TITLE SHALL BE CONFIDENTIAL AND MAY  
16 BE DISSEMINATED ONLY TO THE INDIVIDUAL WHO IS THE SUBJECT OF THE  
17 CRIMINAL HISTORY RECORDS CHECK.

18 (2) NOTHING IN PARAGRAPH (1) OF THIS SUBSECTION SHALL  
19 PRECLUDE THE SECRETARY FROM NOTIFYING A BUYER OR AN APPLICANT OF  
20 THE APPROVAL OR DISQUALIFICATION OF THE RESIDENT AGENT FOR  
21 EMPLOYMENT BASED ON INFORMATION OBTAINED BY THE SECRETARY UNDER  
22 THIS SECTION.

23 (H) THE SECRETARY SHALL VERIFY PERIODICALLY THE CONTINUED  
24 EMPLOYMENT OR LICENSURE OF INDIVIDUALS REQUIRING CRIMINAL HISTORY  
25 RECORDS CHECKS IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE  
26 SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

27 20-305.

28 (A) ON RECEIPT OF A COMPLETE NATIONAL AND STATE CRIMINAL  
29 RECORD REPORT FROM THE CENTRAL REPOSITORY IN ACCORDANCE WITH §  
30 20-304 OF THIS SUBTITLE, THE SECRETARY SHALL ISSUE A LICENSE TO EACH  
31 APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

32 (B) THE SECRETARY MAY NOT ISSUE A LICENSE FOR AN ADDRESS THAT  
33 IS:

1           (1)   A HOTEL OR MOTEL ROOM;

2           (2)   A MOTOR VEHICLE; OR

3           (3)   A POST OFFICE BOX.

4           (C)   THE SECRETARY MAY NOT ISSUE MORE THAN ONE LICENSE FOR A  
5   SINGLE BUSINESS LOCATION.

6           (D)   THE SECRETARY MAY NOT ISSUE A LICENSE TO A MINOR.

7           (E)   WHENEVER A LICENSE IS SUSPENDED OR REVOKED, ANOTHER  
8   LICENSE MAY NOT BE ISSUED TO A BUYER FOR THE SAME BUSINESS LOCATION.

9           (F)   A LICENSE AUTHORIZES THE LICENSEE TO DO BUSINESS AS A  
10   BUYER ONLY AT THE ADDRESS FOR WHICH THE LICENSE IS ISSUED.

11   **20-306.**

12           (A)   UNLESS A LICENSE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED  
13   IN THIS SECTION, THE LICENSE EXPIRES ON THE FIRST APRIL 30 THAT COMES:

14               (1)   AFTER THE EFFECTIVE DATE OF THE LICENSE; AND

15               (2)   IN AN EVEN-NUMBERED YEAR.

16           (B)   AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE SECRETARY  
17   SHALL MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE  
18   LICENSEE:

19               (1)   A RENEWAL APPLICATION FORM; AND

20               (2)   A NOTICE THAT STATES:

21                   (I)   THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

22                   (II)   THE DATE BY WHICH THE SECRETARY MUST RECEIVE  
23   THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED  
24   BEFORE THE LICENSE EXPIRES; AND

25                   (III)   THE AMOUNT OF THE RENEWAL FEE.

26           (C)   BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY  
27   RENEW IT FOR AN ADDITIONAL 2-YEAR TERM IF THE LICENSEE:

1           (1) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON  
2 THE FORM THAT THE SECRETARY PROVIDES;

3           (2) SIGNS THE RENEWAL APPLICATION UNDER OATH;

4           (3) UPDATES THE INFORMATION SUBMITTED IN THE ORIGINAL  
5 APPLICATION AND STATES THAT THE INFORMATION IS CURRENT;

6           (4) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,  
7 AGREES TO COMPLY WITH EACH REQUIREMENT APPLICABLE TO THE ORIGINAL  
8 APPLICATION;

9           (5) STATES THAT THE LICENSEE:

10               (I) HAS NOT VIOLATED THIS TITLE;

11               (II) HAS NOT BEEN CONVICTED OF AN OFFENSE SPECIFIED  
12 IN § 20-307 OF THIS SUBTITLE; AND

13               (III) HAS NOT HAD A SIMILAR LICENSE DENIED, SUSPENDED,  
14 OR REVOKED IN ANOTHER JURISDICTION;

15           (6) OTHERWISE IS ENTITLED TO BE LICENSED; AND

16           (7) PAYS TO THE SECRETARY A RENEWAL FEE OF \$265.

17           (D) THE SECRETARY MAY REQUIRE A LICENSEE TO SUBMIT A NATIONAL  
18 AND STATE CRIMINAL HISTORY RECORDS CHECK WITH THE RENEWAL  
19 APPLICATION.

20           (E) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE  
21 WHO MEETS THE REQUIREMENTS OF THIS SECTION.

22           (F) A LICENSE IS NOT TRANSFERABLE AND MAY BE USED ONLY TO  
23 BENEFIT THE LICENSEE.

24           (G) (1) A LICENSEE MAY CHANGE THE PLACE OF BUSINESS FOR  
25 WHICH A LICENSE IS ISSUED ONLY IF THE LICENSEE:

26               (I) SUBMITS TO THE SECRETARY AN APPLICATION TO  
27 TRANSFER THE LICENSE TO A NEW BUSINESS LOCATION ON A FORM THAT THE  
28 SECRETARY PROVIDES; AND

1 (II) RECEIVES THE WRITTEN APPROVAL OF THE  
2 SECRETARY.

3 (2) WITHIN 45 DAYS AFTER THE APPLICATION IS FILED WITH THE  
4 SECRETARY, THE SECRETARY SHALL APPROVE OR DISAPPROVE THE  
5 APPLICATION AND NOTIFY THE LICENSEE OF THE APPROVAL OR DISAPPROVAL  
6 IN WRITING.

7 (3) IF THE SECRETARY APPROVES A PROPOSED CHANGE OF  
8 PLACE OF BUSINESS, THE LICENSEE SHALL ATTACH THE WRITTEN APPROVAL  
9 OF THE SECRETARY TO THE LICENSE UNTIL AN AMENDED LICENSE IS RECEIVED  
10 BY THE LICENSEE.

11 (H) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER  
12 THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

13 20-307.

14 (A) (1) IN THIS SUBSECTION, A BUYER'S OR AN APPLICANT'S AGENTS,  
15 EMPLOYEES, MANAGEMENT PERSONNEL, OR PARTNERS INCLUDE ONLY THOSE  
16 INDIVIDUALS WHO ARE DIRECTLY INVOLVED IN TRANSACTIONS ON BEHALF OF  
17 THE BUYER OR APPLICANT.

18 (2) SUBJECT TO THE HEARING PROVISIONS OF § 20-308 OF THIS  
19 SUBTITLE, THE SECRETARY MAY DENY A LICENSE TO AN APPLICANT,  
20 REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE  
21 APPLICANT OR LICENSEE OR AN AGENT, AN EMPLOYEE, A MANAGER, OR A  
22 PARTNER OF THE APPLICANT OR LICENSEE:

23 (I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR  
24 ATTEMPTS TO OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR  
25 ANOTHER PERSON;

26 (II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

27 (III) HAS A SIMILAR LICENSE DENIED, SUSPENDED, OR  
28 REVOKED IN ANOTHER JURISDICTION;

29 (IV) UNDER THE LAWS OF THE UNITED STATES OR OF ANY  
30 STATE, IS CONVICTED OF:

31 1. A FELONY; OR

1                               2.     A MISDEMEANOR THAT IS DIRECTLY RELATED TO  
2 THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO BE  
3 INVOLVED IN BUYING OR SELLING PERSONAL PROPERTY;

4                               (V)   KNOWINGLY EMPLOYS OR KNOWINGLY CONTINUES TO  
5 EMPLOY, AFTER BEING NOTIFIED BY THE SECRETARY, AN INDIVIDUAL WHO,  
6 UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS CONVICTED OF:

7                               1.     A FELONY; OR

8                               2.     A MISDEMEANOR THAT IS DIRECTLY RELATED TO  
9 THE FITNESS AND QUALIFICATION OF THE EMPLOYEE TO BE INVOLVED IN  
10 BUYING OR SELLING PERSONAL PROPERTY;

11                              (VI) WILLFULLY FAILS TO PROVIDE OR WILLFULLY  
12 MISREPRESENTS ANY INFORMATION REQUIRED TO BE PROVIDED UNDER THIS  
13 TITLE;

14                              (VII) VIOLATES THIS TITLE; OR

15                              (VIII) VIOLATES A REGULATION ADOPTED UNDER THIS TITLE.

16                              (3)   (I)   INSTEAD OF OR IN ADDITION TO REPRIMANDING A  
17 LICENSEE OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION,  
18 THE SECRETARY MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH  
19 VIOLATION.

20                              (II) TO DETERMINE THE AMOUNT OF THE PENALTY  
21 IMPOSED UNDER THIS SUBSECTION, THE SECRETARY SHALL CONSIDER:

22                              1.     THE SERIOUSNESS OF THE VIOLATION;

23                              2.     THE HARM CAUSED BY THE VIOLATION;

24                              3.     THE GOOD FAITH OF THE LICENSEE; AND

25                              4.     ANY HISTORY OF PREVIOUS VIOLATIONS BY THE  
26 LICENSEE.

27                              (4)   THE SECRETARY SHALL PAY ANY PENALTY COLLECTED  
28 UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.

1           (5) THE SECRETARY SHALL DISTRIBUTE PERIODICALLY TO ALL  
2 BUYERS A LIST OF INDIVIDUALS WHOSE LICENSES HAVE BEEN REVOKED IN THE  
3 STATE.

4           (B) (1) IF A LICENSEE IS CHARGED WITH A VIOLATION OF THIS TITLE  
5 THAT COULD RESULT IN SUSPENSION OR REVOCATION OF THE LICENSE, THE  
6 SECRETARY MAY SEEK FROM A CIRCUIT COURT AN IMMEDIATE RESTRAINING  
7 ORDER TO PROHIBIT THE LICENSEE FROM:

8                       (I) BUYING OR SELLING PERSONAL PROPERTY;

9                       (II) DISPOSING OF PERSONAL PROPERTY; OR

10                      (III) DISPOSING OF A RECORD ABOUT PERSONAL PROPERTY.

11           (2) THE RESTRAINING ORDER IS IN EFFECT UNTIL:

12                      (I) THE COURT LIFTS THE ORDER; OR

13                      (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

14           (C) THE SECRETARY SHALL CONSIDER THE FOLLOWING FACTS IN THE  
15 GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR  
16 THE REPRIMAND OF A LICENSEE WHEN AN APPLICANT OR A LICENSEE IS  
17 CONVICTED OF A FELONY OR MISDEMEANOR DESCRIBED IN SUBSECTION (A)(2)  
18 OF THIS SECTION:

19                      (1) THE NATURE OF THE CRIME;

20                      (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES  
21 AUTHORIZED BY THE LICENSE;

22                      (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE  
23 CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR  
24 LICENSEE TO ACT AS A BUYER;

25                      (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

26                      (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR  
27 LICENSEE BEFORE AND AFTER THE CONVICTION.

28 20-308.

1 (A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE  
2 GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL ACTION  
3 UNDER § 20-307 OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE  
4 INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY  
5 FOR A HEARING BEFORE THE SECRETARY.

6 (B) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN  
7 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT  
8 ARTICLE.

9 (C) THE SECRETARY MAY ADMINISTER OATHS IN A PROCEEDING  
10 UNDER THIS SECTION.

11 (D) IF, AFTER DUE NOTICE, THE INDIVIDUAL AGAINST WHOM THE  
12 ACTION IS CONTEMPLATED DOES NOT APPEAR, NEVERTHELESS THE  
13 SECRETARY MAY HEAR AND DETERMINE THE MATTER.

14 20-309.

15 A PARTY TO A PROCEEDING UNDER THIS TITLE WHO IS AGGRIEVED BY A  
16 FINAL DECISION OF THE SECRETARY IN A CONTESTED CASE, AS DEFINED IN §  
17 10-202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS  
18 ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

19 20-310.

20 THE SECRETARY SHALL INFORM EACH PRIMARY LAW ENFORCEMENT  
21 UNIT OF EACH LICENSE THAT IS ISSUED, RENEWED, CHANGED TO A NEW  
22 BUSINESS LOCATION, DENIED, SUSPENDED, OR REVOKED.

23 SUBTITLE 4. AUTOMATED PURCHASING MACHINE TRANSACTIONS.

24 20-401.

25 (A) A BUYER SHALL ENSURE THAT EACH AUTOMATED PURCHASING  
26 MACHINE THAT THE BUYER OWNS OR OPERATES IN THE STATE MEETS THE  
27 REQUIREMENTS OF THIS SECTION.

28 (B) (1) BEFORE THE COMPLETION OF A TRANSACTION IN WHICH AN  
29 AUTOMATED PURCHASING MACHINE BUYS PERSONAL PROPERTY, THE  
30 AUTOMATED PURCHASING MACHINE SHALL REQUIRE A SELLER TO PROVIDE  
31 THE FOLLOWING INFORMATION:

32 (I) THE FULL NAME OF THE SELLER;

1 (II) THE DATE OF BIRTH OF THE SELLER;

2 (III) THE COMPLETE HOME ADDRESS OF THE SELLER; AND

3 (IV) A CONTACT TELEPHONE NUMBER FOR THE SELLER.

4 (2) AN AUTOMATED PURCHASING MACHINE RECEIVING  
5 PERSONAL PROPERTY FROM A SELLER SHALL VERIFY THE INFORMATION  
6 PROVIDED BY THE SELLER UNDER PARAGRAPH (1) OF THIS SUBSECTION BY  
7 REQUIRING THE SELLER TO SUBMIT:

8 (I) THE SELLER'S GOVERNMENT-ISSUED IDENTIFICATION  
9 CARD; OR

10 (II) ANY OTHER FORM OF PERSONAL IDENTIFYING  
11 INFORMATION REQUIRED BY THE SECRETARY.

12 ~~(B)~~ (C) (1) ON COMPLETION OF A TRANSACTION IN WHICH AN  
13 AUTOMATED PURCHASING MACHINE BUYS PERSONAL PROPERTY, THE  
14 AUTOMATED PURCHASING MACHINE SHALL MAKE A RECORD OF THE  
15 TRANSACTION THAT INCLUDES:

16 (I) THE INFORMATION OBTAINED FROM THE SELLER  
17 UNDER SUBSECTION ~~(A)(1)~~ (B)(1) OF THIS SECTION;

18 (II) A PHOTOGRAPH OF THE SELLER;

19 (III) AN ELECTRONIC COPY OR A PHOTOCOPY OF THE  
20 IDENTIFYING INFORMATION SUBMITTED UNDER SUBSECTION ~~(A)(2)~~ (B)(2) OF  
21 THIS SECTION;

22 (IV) THE DATE, TIME, AND LOCATION OF THE TRANSACTION;  
23 AND

24 (V) A DESCRIPTION OF THE PERSONAL PROPERTY,  
25 INCLUDING A STATEMENT WHETHER THE PERSONAL PROPERTY APPEARS TO  
26 HAVE BEEN ALTERED.

27 (2) (I) IN ADDITION TO THE INFORMATION REQUIRED UNDER  
28 PARAGRAPH (1) OF THIS SUBSECTION, IF THE PERSONAL PROPERTY BOUGHT BY  
29 AN AUTOMATED PURCHASING MACHINE IS AN ELECTRONIC DEVICE, THE  
30 AUTOMATED PURCHASING MACHINE SHALL MAKE A RECORD OF:

1                               1.     THE MAKE AND MODEL OF THE ELECTRONIC  
2     DEVICE; AND

3                               2.     THE SERIAL NUMBER OF THE ELECTRONIC  
4     DEVICE IF IT CAN BE DETERMINED AT THE TIME OF PURCHASE.

5                               (ii)   A SERIAL NUMBER THAT AN AUTOMATED PURCHASING  
6     MACHINE GENERATES TO RECORD A TRANSACTION DOES NOT QUALIFY AS A  
7     SERIAL NUMBER FOR PURPOSES OF THIS PARAGRAPH.

8                               (3)   A SEPARATE ENTRY SHALL BE MADE FOR EACH ITEM OF  
9     PERSONAL PROPERTY INVOLVED IN A TRANSACTION.

10   20-402.

11               (A)   (1)   (i)   ~~A SUBJECT TO PARAGRAPH~~ SUBPARAGRAPH (III) OF  
12     THIS SUBSECTION PARAGRAPH, A BUYER SHALL SUBMIT A COPY OF THE  
13     RECORDS REQUIRED UNDER ~~§ 20-401(B)~~ § 20-401(C) OF THIS SUBTITLE TO THE  
14     PRIMARY LAW ENFORCEMENT UNIT WITHIN 48 HOURS AFTER A TRANSACTION  
15     IN A PAPER OR ELECTRONIC FORMAT ACCEPTABLE TO THE PRIMARY LAW  
16     ENFORCEMENT UNIT.

17                               (ii)   IF A SERIAL NUMBER CANNOT BE DETERMINED AT THE  
18     TIME OF THE TRANSACTION, A BUYER SHALL SUBMIT TO THE PRIMARY LAW  
19     ENFORCEMENT UNIT:

20                               1.     A PRELIMINARY REPORT CONTAINING THE  
21     INFORMATION REQUIRED UNDER ~~§ 20-401(B)~~ § 20-401(C) OF THIS SUBTITLE,  
22     EXCEPT THE SERIAL NUMBER, WITHIN 48 HOURS AFTER THE TRANSACTION;  
23     AND

24                               2.     A FINAL REPORT CONTAINING THE INFORMATION  
25     REQUIRED UNDER ~~§ 20-401(B)~~ § 20-401(C) OF THIS SUBTITLE, INCLUDING THE  
26     SERIAL NUMBER, WITHIN ~~14~~ 17 DAYS AFTER THE TRANSACTION.

27                               (iii) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS  
28     PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE A BUYER TO INCUR A  
29     SUBSTANTIAL FINANCIAL BURDEN TO COMPLY WITH THE REQUIREMENTS OF  
30     THIS PARAGRAPH.

31                               (2)   A BUYER SHALL KEEP THE RECORDS REQUIRED UNDER §  
32     ~~20-401(B)~~ § 20-401(C) OF THIS SUBTITLE FOR AT LEAST 1 YEAR AFTER THE  
33     DATE OF THE TRANSACTION.

1                   (3) A COPY OF A RECORD SUBMITTED UNDER ~~§ 20-401(B)~~ §  
2 20-401(C) OF THIS SUBTITLE:

3                   (I) SHALL BE KEPT CONFIDENTIAL;

4                   (II) IS NOT A PUBLIC RECORD; AND

5                   (III) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE  
6 STATE GOVERNMENT ARTICLE.

7           (B) (1) A BUYER SHALL KEEP ALL PERSONAL PROPERTY BOUGHT  
8 FOR AT LEAST 30 DAYS AFTER THE BUYER SUBMITS THE INFORMATION  
9 REQUIRED UNDER ~~§ 20-401(B)~~ § 20-401(C) OF THIS SUBTITLE TO THE PRIMARY  
10 LAW ENFORCEMENT UNIT.

11                   (2) ON THE REQUEST OF THE PRIMARY LAW ENFORCEMENT UNIT,  
12 A BUYER SHALL PROVIDE TO THE PRIMARY LAW ENFORCEMENT UNIT ANY  
13 PERSONAL PROPERTY PURCHASED BY AN AUTOMATED PURCHASING MACHINE  
14 AT THE COST OF THE BUYER.

15           (C) A BUYER SHALL MAKE ALL PERSONAL PROPERTY PURCHASED BY  
16 AN AUTOMATED PURCHASING MACHINE AVAILABLE FOR INSPECTION BY THE  
17 PRIMARY LAW ENFORCEMENT UNIT AT ANY TIME.

18           (D) (1) A BUYER SHALL REMOVE ALL ITEMS OF PERSONAL PROPERTY  
19 FROM AN AUTOMATED PURCHASING MACHINE IN INTERVALS OF NO LESS THAN  
20 10 DAYS.

21                   (2) A BUYER SHALL NOTIFY THE PRIMARY LAW ENFORCEMENT  
22 UNIT OF THE DATE AND TIME THE BUYER WILL REMOVE PERSONAL PROPERTY  
23 FROM AN AUTOMATED PURCHASING MACHINE AT LEAST 72 HOURS BEFORE  
24 REMOVING THE PERSONAL PROPERTY.

25                   (3) THE PRIMARY LAW ENFORCEMENT UNIT MAY INSPECT THE  
26 PERSONAL PROPERTY BEING REMOVED FROM AN AUTOMATED PURCHASING  
27 MACHINE AT THE TIME OF THE REMOVAL.

28 20-403.

29           (A) (1) (I) A BUYER SHALL USE AN INDIVIDUAL TO SCREEN EACH  
30 TRANSACTION IN WHICH AN AUTOMATIC PURCHASING MACHINE BUYS  
31 PERSONAL PROPERTY.

1 (II) AN INDIVIDUAL WHO SCREENS A TRANSACTION MAY  
2 SCREEN THE TRANSACTION REMOTELY.

3 (2) A BUYER SHALL KEEP A RECORD OF THE SCREENER  
4 ASSIGNED TO SCREEN EACH TRANSACTION.

5 (B) IF A BUYER DETERMINES THAT PERSONAL PROPERTY SOLD TO AN  
6 AUTOMATED PURCHASING MACHINE IS STOLEN, THE BUYER SHALL:

7 (1) CONTACT THE PRIMARY LAW ENFORCEMENT UNIT AS SOON AS  
8 PRACTICABLE; AND

9 (2) RETURN THE PERSONAL PROPERTY TO THE PRIMARY LAW  
10 ENFORCEMENT UNIT FREE OF CHARGE.

11 SUBTITLE 5. PROHIBITED ACTS; PENALTIES.

12 20-501.

13 (A) A BUYER MAY NOT BUY OR OFFER TO BUY PERSONAL PROPERTY  
14 FROM A MINOR.

15 (B) IF AN AUTOMATED PURCHASING MACHINE CANNOT DETERMINE  
16 THE SERIAL NUMBER OF AN ELECTRONIC DEVICE AND THE DEVICE IS VALUED  
17 AT \$25 OR MORE, THE BUYER MAY NOT PURCHASE THE ELECTRONIC DEVICE.

18 20-502.

19 (A) A PERSON WHO KNOWINGLY OR WILLFULLY VIOLATES THIS TITLE IS  
20 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

21 (1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING ~~\$500;~~ \$1,000;  
22 AND

23 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT  
24 EXCEEDING ~~\$1,000;~~ \$5,000.

25 (B) EACH VIOLATION OF THIS TITLE IS A SEPARATE OFFENSE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2014.

|

**TESTIMONY ON BEHALF OF COUNTY EXECUTIVE ISIAH LEGGETT ON  
EXPEDITED BILL 18-14, SECONDHAND PERSONAL PROPERTY – AUTOMATED  
PURCHASING MACHINES**

**April 8, 2014**

Good afternoon President Rice and Members of the County Council. I am Captain Laura Lanham, Director of the Criminal Investigations Division of the Montgomery County Police. I am here on behalf of County Executive Isiah Leggett and Chief Tom Manger to testify on Expedited Bill 18-14, Secondhand Personal Property – Automated Purchasing Machines.

These self-service kiosks dispense cash payments for cell phones and other electronic devices. Baltimore City and Baltimore County recently enacted local laws prohibiting the use of such machines based on concern that they provide thieves greater opportunity to convert stolen electronic goods to cash. Mr. Leggett agrees that these machines have no place in Montgomery County at this time, and further analysis is needed to determine if, and when, they may be permitted in the future.

Some jurisdictions that have automated purchasing machines have shown an increase in street robberies and thefts, although a direct correlation has not been proven. These machines allow an individual to sell property -regardless of how the property was obtained - at vending machines rather than face-to-face with proper documentation and proof of identification.

Our current system of secondhand-property sales within Montgomery County requires the seller to sell to an individual and the record of that sale identifying the seller to be sent to the police department in a timely manner. The proliferation of these machines may circumvent our current system, thus creating an environment where the use of fake IDs may make the identification of the seller difficult to determine. We are concerned about the possible increase of crimes to obtain personal property, to include armed robbery, for a quick sale at an automated purchasing machine.

Proponents of automated purchasing machines argue that the machines promote recycling rates and actually serve as a deterrent to crime through their technology. While it is Mr. Leggett's view that there is not sufficient historical experience to prove this, he is open to alternatives to an outright ban that would prevent the proliferation of these machines in Montgomery County until such time as their crime-fighting benefits are clearly shown, as determined by the Chief of Police. This would also allow State-level regulatory efforts (passed during the 2014 legislative session of the Maryland General Assembly) to take effect and would prevent Montgomery County from becoming a "hot spot" for street crimes.

2

**ALEXANDER & CLEAVER**

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**TESTIMONY BEFORE THE MONTGOMERY COUNTY COUNCIL**

**EXPEDITED BILL 18-14, SECONDHAND PERSONAL PROPERTY –  
AUTOMATED PURCHASING MACHINES**

**April 8, 2014**

Mr. President and members of the Council: Good afternoon. This is the first time since holding public office that I am testifying on any legislation.

First, I applaud Council President Rice and others for seeking solutions to reduce cell phone theft. It is an epidemic and a nuisance. Unfortunately, there are too many avenues for cell phone thieves to obtain cash for stolen phones.

Second, I do not believe that automated purchasing machines (“APMs”) lead to more cell phone theft. Rather, I believe that such machines can be useful tools for law enforcement to apprehend cell phone thieves and perpetrators of other crimes, and to return stolen cell phones to their lawful owner. This fact will only be enhanced by enactment of House Bill 918 – Business Regulation – Automated Purchasing Machines – Licensing of Buyers and Required Records, which passed the House and Senate unanimously during the 2014 Maryland General Assembly session. A summary of the legislation is attached for your reference.

Third and finally, I respectfully urge the withdrawal of this bill. Instead, I urge the County to pursue a memorandum of understanding (“MOU”) between the County and ecoATM – the only automated purchasing machine company in the State of Maryland. The nature of an MOU would be that if ecoATM wanted to bring a kiosk to the County, the County would need to consent. This approach provides greater flexibility than a statutory ban. Presently, ecoATM has no plan to come to the County, but at some point in the future, the County or ecoATM may desire one or more ecoATM kiosks in the County. Furthermore, an MOU more easily enables the County to see the effects of the state legislation on the regulation of APMs in other jurisdictions before deciding on a course of action. In sum, an MOU approach – rather than a statutory ban – would provide the flexibility and discretion for the County to make such a decision at the appropriate time.

## **Summary of HB 918**

- **Effective Date: October 1, 2014.**
- **Establishes state licensing process.**
- **Creates statewide uniform regulatory authority of APMs, but does not prohibit local government from licensing APMs.**
- **Application for state license, states that applicant agrees “to allow a municipal, county, or state police officer or agent acting in the course of a stolen property investigation...to inspect and photograph all personal property and records” at the APM business or storage locations.**
- **Local government designates primary law enforcement unit to receive APM records.**
- **Seller must provide before completion of APM transaction:**
  - **Full name;**
  - **Date of birth;**
  - **Home address; and**
  - **Telephone number.**
- **APM shall verify information by requiring seller to provide government-issued identification card.**
- **APM company shall have an individual (remotely acceptable) screen each APM transaction.**
- **Before completion of a transaction, APM must make a record for law enforcement that includes:**
  - **Information above provided by seller;**
  - **Photograph of seller;**
  - **Seller’s government-issued identification card;**
  - **Date, time, location of transaction;**
  - **Description of property, including a statement whether the property appears to have been altered; and**
  - **Make and model of electronic device.**
- **The record must be provided to law enforcement designee within 48 hours of transaction.**
- **Unless serial number of the product cannot be determined at the time of transaction, it must also be provided within 48 hours to law enforcement designee**
- **If cannot determine serial number at time of purchase, then have 17 days to provide to law enforcement; however, cannot purchase an electronic device for more than \$25 if cannot determine the serial number at the APM.**

- **Records must be kept for one year after transaction.**
- **Property must remain in APM for at least 10 days before removal and must notify law enforcement 72 hours in advance prior to removing property from APM.**
- **APM company must keep all property for 30 days after submitting records to law enforcement.**
- **On request of law enforcement, APM company must provide law enforcement property purchased by an APM at the cost of APM company.**
- **Cannot purchase from minor.**
- **Law enforcement may inspect any APM purchase at any time.**

3

## Testimony before Montgomery County Council 4/8/2014

Good afternoon. My name is Michael McCann. I am the retired Chief of Police of the River Vale Police Department in New Jersey. I am a graduate of the FBI National Academy in Quantico, Virginia and I recently served as the Chairman for Crime Prevention and Criminal Intelligence for the Bergen County Police Chiefs Association. I am here in Montgomery County in my capacity as the Director of Law Enforcement Relations for ecoATM, I respectfully oppose the ban legislation. ecoATM is the ONLY operator of interactive kiosks that provide a safe, secure, and an environmentally friendly way to sell your used cell phone, MP3 player or tablet.

Cell phone theft is a national problem. Cities and counties nationwide are experiencing increased crime all too frequently; the thief is after your phone or other electronics. We recognize that Montgomery County is not immune to this trend and that it is a very real problem facing the county.

Let me be very clear about our intentions; Cell phone theft is bad for our business at ecoATM, and we want to prevent it as much as the County Executive, County Police Chief and the entire Montgomery County Council.

In the past 14 months in the State of Maryland we have recycled 51,800 devices and of those, 150 have been requested by law enforcement, which is a fraction of 1%. In those cases we worked with laws enforcement to return the device to the rightful owner and provide law enforcement with suspects.

Our kiosks operate in a way that makes it tougher for cell phone thieves to use our machines. First, before any transaction begins we advise the person at the kiosk that the information from the sale WILL be shared with law enforcement.

Our security features start with an ID Scanner which requires the seller to present a valid ID. In addition to our live attendant approval process our state of the art ID scanner and validation software will not only photograph the ID but validates for

authenticity by examining for holograms, watermarks, or other specific authentication methods used in all 50 states.

The next step in the process is the inspection of the phone or other device. Where the machine detects the make and model of the phone, based on that information a cord is released for that particular device and this is where we attempt to capture the serial number for the device. Based on the information we receive we will make an offer for the device where the seller can either accept or decline to proceed. If they accept we retrieve 3 images of them using 3 different high resolution cameras, including a fish eye camera to see if there are others present at the machine at a wider angle.

This is where a live agent views the person standing at the kiosk and compares it to the government identification that was submitted to verify that this is the same person

Before the sale is final we require a thumb print.

We have had positive communication from detectives from around the country thanking us for the information that we provide that has helped solve crimes. When law enforcement wants a device we give it to them, we do not require a subpoena or a search warrant. If the device is stolen it is returned at a complete loss to the company.

We hold all collected devices for a minimum of 30 days, and upon request we can extend the holding period for longer.

To further support law enforcement the agency can come to the kiosk and call our company and request that we remotely open the door at the machine for law enforcement to inspect or retrieve any device they wish to inspect further.

We can upload an agency specific "Do Not Buy List", meaning if Montgomery County asks that we don't buy from people on a list that they provide we will not buy from them as they will be flagged. We will also flag someone that has been reported to have sold a stolen device in the past.






All of the information retrieved is provided to the law enforcement through a pdf to the police department, the regulatory bill also requires that we provide all transaction information into BWI Rapid.

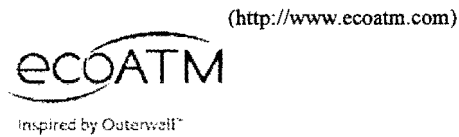
Our engineers are building analytics into our system which will flag suspicious transactions and report them to law enforcement, such as a person using kiosks at multiple locations or recycling an unusual number of device over certain time period.

We currently do not operate in Montgomery County. Our parent company Outerwall, which owns Coinstar and Redbox in 2013 did over 30 million dollars in revenue and paid 2.5 million in taxes. As a former Chief of Police I am very proud of our partnerships with law enforcement and the efforts that we make to be completely transparent.

Thank you and I welcome questions.

## SECOND HAND DEALER REPORT

C U S T O M E R	NAME PAUL VINCENT CASHMAN 3RD						T R A N S A C	TRANSACTION DATE 10/16/2013	
	SEX M	HAIR BROWN	EYES BLUE	HEIGHT 6' 0"	WEIGHT 170	BIRTH DATE [REDACTED]		LOAN/BUY NUMBER I637UFFW	
	DRIVERS LICENSE NO. OR OTHER I.D. [REDACTED]			STATE CA				TIME 11:35:08 AM	
	ADDRESS/CITY/STATE [REDACTED]				YEAR OF EXPIRATION [REDACTED]			TRANSACTION BUY - \$20.00	
STORE INFO	LICENSE NUMBER				POLICE DIVISION				
	NAME Los Santos Mall				ADDRESS/CITY/STATE 123 abc ave./Los Angeles/California/92102				
I T E M	ARTICLE Cell Phone			COLOR Green	POWERS UP YES	LCD IS GOOD YES	GOOD MECHANICS YES		
	BRAND NAME HTC			MODEL First PM33100					
	IMEI/MEID [REDACTED]				SERIAL NUMBER [REDACTED]				
	PROPERTY IMAGES								
									
I D I M A G E						T P H R U I M N B T			
W I E M B A C G A E M S									
SIGNATURES	Customer electronically acknowledged that they were the owner or authorized by the owner to sell the property.					CONSUMER VERIFIED BY PAUL CASHMAN			

~~(http://www.ecoatm.com)~~

# Frequently Asked Questions

***What devices can I bring to an ecoATM?***

We currently accept phones, MP3 players and tablets.

***How does ecoATM determine pricing?***

ecoATM prices each phone based on:

***Model***

***Specific condition***

***Value in the secondary markets***

The price range is significant. While we may not be able to pay for some older models, newer devices can fetch up to \$300. The specific condition of each individual phone is carefully determined by the ecoATM machine vision systems, electrical diagnostics, and artificial intelligence system in order to get the best price we can find in secondary markets. For example, a phone with water damage or a broken LCD will be worth less than a fully functional phone, and an older phone will be priced at a lower price than a phone that's still performing well in the current market.

***How does ecoATM pricing compare with selling my phone online?***

ecoATM shops worldwide channels for the best prices we can find for each individual phone model (we fully vet our buyers to make sure they meet environmental standards). Our prices are competitive with other cell phone buyback services and we accept more kinds of devices than most of our competitors.

ecoATM also provides immediate evaluation and payment, unlike online methods that can take as long as 45 days to pay. Additionally, in online selling, consumers “grade” the condition of their own phone and it is often the case that once the buyers disagree with that condition “grading” and in turn offer substantially less than was originally quoted and expected. This never happens with ecoATM.

***Does ecoATM accept accessories, like chargers?***

ecoATM accepts all chargers and other accessories (cases, etc.) for recycling whether they’re working or not, but we cannot pay for the accessories.

***Does my device have to be charged before I visit ecoATM? If so, should I bring my own cord to charge it?***

Your device does not have to be charged – though keep in mind that whether or not the phone powers up will affect pricing. During its price assessment, ecoATM will offer you the appropriate cord for your device. We also have charging stations attached to most kiosks.

***What happens to my device once I’ve ended my transaction and it’s in the ecoATM?***

The majority of the devices we receive are reused, while the remaining devices are recycled.

Almost all consumer electronics contain toxic materials such as lead, mercury, arsenic and a broad variety of other materials that pose a threat to the environment and our health. The best thing we can do is to extend the life of existing devices as long as possible so that there is no need to build new devices to take their place. The next best thing we can do is to responsibly reclaim materials from devices that are truly end-of-life.

For more on this, please visit our Going Green (<http://www.ecoatm.com/going-green/>) page.

***Is it true that ecoATMs operate totally on their own, without any humans involved?***

This is false. Whenever someone uses an ecoATM, they are required to present a valid ID, which is then scanned so our team of online attendants (real, live human beings) can check it against multiple photos the ecoATM has taken of the seller in front of the machine. The transaction will be declined if:

***The person doesn’t match the ID***

***If they’re under 18 years old***

***The ID is invalid***

Though we love and trust our machines, you can rest assured that you are never alone when you’re visiting your local ecoATM.

***How do you work with law enforcement?***

Along with the steps above, ecoATM collects information about each phone and scans each seller’s thumbprint at the kiosk. This information, along with the photos taken of the seller and their ID, is shared with police and also sent to nationwide electronic databases like LeadsOnline or Business Watch Internationals’ RAPID system. We also hold all phones at our processing facility for 30 days after the initial transaction, in case we need to return a device to its owner.

***What steps have you taken to protect my stolen phone from being sold at an ecoATM?***

We work closely with police on their investigations. Police officers will tell you that we cooperate well beyond what we are required to by law to help them get the data they need to catch thieves.

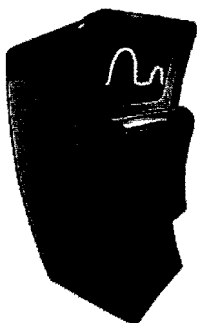
We're also honored to work with a law enforcement advisory board made up of retired Chiefs, Commissioners, head detectives, and officers from some of the biggest police and sheriff's departments in the country who provide us with guidance and ideas on how best to help local law enforcement.

We collect thousands of phones each day and fewer than 1 lost or stolen phone winds up in an ecoATM for every 1,500 phones we collect. But if you do happen to have your phone lost or stolen and it ends up in an ecoATM, we will return it to you at no cost. That is a guarantee.

#### ***Can I buy or franchise an ecoATM kiosk?***

Not at this time. ecoATM builds, owns, maintains and installs the kiosks in high-traffic retail locations.

ecoATM has become aware that individuals or entities unrelated to ecoATM are offering to sell, lease or license ecoATM kiosks. Please be advised that ecoATM does not sell, lease or license its kiosks, and has not authorized any individuals or entities to sell, lease or license its kiosks. Please disregard any such offers and report them (<mailto:max@ecoATM.com>) so that we may take appropriate action to prevent any potential fraud to consumers or harm to our business.



(<http://www.ecoatm.com>)

*ecoATM is the world's first automated eWaste recycling station. That's a fancy way of saying that we're a friendly green machine looking to pay cash for the responsible recycling of your old cell phones, MP3 players and tablets. Sell your phone or other device by placing it in the ecoATM kiosk, and we'll tell you how much it's worth. What happens next? You get instant cash. With ecoATM kiosks all over the country, and with your help, we're working hard to solve the eWaste problem facing our planet.*

#### **Support**

Customer Service  
(<http://www.ecoatm.com/customer-service>)  
Privacy Policy  
(<http://www.ecoatm.com/privacy-policy>)  
Terms and Conditions  
(<http://www.ecoatm.com/terms-and-conditions>)

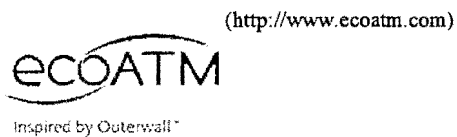
#### **Press Room**

Press Kit  
(<http://www.ecoatm.com/press-kit>)

#### **Company**

About Us  
(<http://www.ecoatm.com/about-us>)  
Charities  
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(http://www.ecoatm.com)

# Law Enforcement FAQs

**There is an inquiry about a specific phone which may have been sold at an ecoATM machine.**

***How can we get a device back when it's in the kiosk?***

We can open our kiosk for any member of law enforcement who can produce credentials. Here's how:

1. Call our ecoATM Support Line at 858-324-4111 and select the Law Enforcement option.
2. You'll be connected to an attendant who will gather important information to verify that you are indeed law enforcement.
3. Once they've verified your identity, they'll connect you with one of our technicians who will remotely open the kiosk for you and direct you to the stored device.

***How can we get back a device when it's in transit?***

You can contact your state's Regulatory Affairs representative or our ecoATM Support Line who will flag the device. Once it has reached our headquarters, it will be retrieved and mailed back to your department.

***How can we get back a device when it's at the ecoATM headquarters?***

If you request the device within 30 days of the transaction, it will be retrieved and mailed back to you ASAP.

**How does ecoATM verify that a person's ID is his or her own?**

The first step of the ID process involves verifying the ID card presented. ecoATM uses a state-of-the-art ID scanner and validation software that not only photographs the ID but validates for authenticity by examining the ID for holograms, watermarks, or other specific authentication methods used in all 50 states. Images of these IDs are collected, stored, and are available as part of the daily reports provided by ecoATM to your precinct. Once the ID is verified, the user is permitted to proceed; however, this does not mean that the person has been approved to complete a transaction.

Prior to completing the final transaction, using the kiosk's built-in webcams, a remote attendant in San Diego, CA compares the photo ID with the user's face in real-time to confirm or deny every transaction. In order to pass verification, a person must provide a valid ID and must be at least 18 years of age. The attendant will verify the age on the license and make sure it has not expired before the consumer is allowed to move forward in selling back the device.

**Can law enforcement have access to the kiosk?**

***Yes, if you're an on-duty, law enforcement officer conducting a criminal investigation and need access to one of the devices inside the kiosk we can absolutely pop open the front door for you remotely. Here's what to do:***

1. Call our ecoATM Support Line at 858-324-4111 and select the Law Enforcement option.
2. You'll be connected to an attendant who will gather important information to verify that you are indeed law enforcement.
3. Once they've verified your identity, they'll connect you with one of our technicians who will open the kiosk for you and direct you to the stored devices.

**Can you report the transactions? And how do I get access to the reports?**

ecoATM has a partnership with the leading online reporting service, LeadsOnline. We upload every transaction daily into their database. We provide law enforcement access to those reports free of charge. If your department has other needs we can report our transactions to you in the manner you prefer (e.g. via email, fax, or other online reporting systems.)

**Who should we contact if we have a question or need assistance?**

If you have a reporting or technical question, please contact your state's ecoATM Regulatory Affairs representative. Your state's representative will be able to assist you with more specific questions or concerns regarding the kiosk workings and transactions. You can reach your state's primary contact by calling the Regulatory Affairs Specialist, Paul Cashman, at 858-766-7237. He will be able to answer your question or connect you with your state's representative.

For broader matters, your primary contacts at ecoATM will be our West Coast Director of Law Enforcement Relations Max Santiago, retired Deputy Commissioner of the California Highway Patrol—or our East Coast Director of Law Enforcement Relations Michael McCann, retired Chief of Police of the River Vale Police Department. Both Santiago and McCann bring years of law enforcement experience to ecoATM and lead the company in its commitment to working closely with law enforcement. They are always available for questions about the company—and welcome the opportunity to speak with your Chief or Executive Staff.

You can contact Max Santiago at [max.santiago@outerwall.com](mailto:max.santiago@outerwall.com) and 858-461-9968 or Mike McCann at [michael.mccann@outerwall.com](mailto:michael.mccann@outerwall.com) and 201-739-7287.

**What form of ID does ecoATM require?**

ecoATM requires every user to present a valid US state-issued ID. ecoATM has invested in state of the art technology, identification, and verification systems that capture real time data on all the individuals recycling phones at our kiosks.

**How is the ID determined to be valid?**

For each transaction, ecoATM uses a state-of-the-art ID scanner and AssureTec Reader validation software. This process enables us to photograph the user's ID and validate its authenticity by examining the ID for holograms, watermarks, or other specific authentication methods used in all 50 states. In addition to scanning the ID, a remote ecoATM attendant examines each consumer, real-time, through the kiosk's built-in webcams and ensure they match the person who is depicted on the government-issued ID.

**Do customers have to pay to get their phones back?**

All lost or stolen devices are returned to the owner, free of charge, if requested by a law enforcement officer as long as the customer provides us with a police report for the stolen device and written authorization from law enforcement to release the device.

**If a customer calls stating their phone has been lost or stolen, and they believe it is in an ecoATM, are there any directions I should give them regarding his or her device and the process to retrieve it from ecoATM?**

1. Please direct the individual to notify his or her carrier of the situation so they can:
  - a) Suspend service temporarily and b) ask for the phone's IMEI or MEID number. (IMEI stands for International Electronic Identifying number and is the most important piece of information we use to track the devices recycled in our machine.)Many phones also have features that allow you to track or lock them remotely, or even wipe the personal data they contain. If they have enabled these features on their phone, they may want to try to track it that way. If they are not sure if they have these features, they should call their carrier to best determine how to identify the phone.
2. From there, direct the individual to call ecoATM Support Line at 858-324-4111.  
ecoATM customer service will work with them to ensure their stolen phone is returned to them at no additional charge as quickly as possible.

**How long do you hold the devices?**

ecoATM holds all devices for at least 30 days (longer if required by state or local laws and/or regulations).

**How can I find out if there are any kiosks near me?**

You can go to [ecoATM.com/find-a-location](http://ecoATM.com/find-a-location). It will show all the kiosks located in your area. You can also call our customer service team at 858-324-4111.

**What information is gathered when the device is plugged in at the kiosk? I've noticed that not all transactions in Leads Online list the serial number, but list processing instead. Does this get updated? If so, at what point?**

Our kiosk has the ability to electronically extract serial numbers. However, this isn't always technically possible due to the extremely wide range of makes, models, ages, and conditions of devices that we accept. In any instance where the machine cannot electronically extract the serial number, an ecoATM attendant will manually capture the serial number as soon as the device reaches our processing center in San Diego, CA.

All manually captured serial numbers are updated, both in our own database and with the online reporting services we utilize.

**How often are the devices cleared from the machines?**

The devices are cleared from the machine once a week by an armored car service.

**When attempting to retrieve a phone, what information should I have?**

The best piece of information you can provide us to track the device is the IMEI or MEID number. If these are not available, any information you have about the device, the seller, or the transaction will be useful.

**My question is not listed here. Who can I contact to get more information?**

Please direct any outstanding questions you might have to Paul Cashman, ecoATM's Regulatory Affairs Specialist, at 858-381-4236 or email him at [paul.cashman@outerwall.com](mailto:paul.cashman@outerwall.com).

Back To Law Enforcement Homepage (<http://www.ecoatm.com/law-enforcement/>)



(<http://www.ecoatm.com>)

*ecoATM is the world's first automated eWaste recycling station. That's a fancy way of saying that we're a friendly green machine looking to pay cash for the responsible recycling of your old cell phones, MP3 players and tablets. Sell your phone or other device by placing it in the ecoATM kiosk, and we'll tell you how much it's worth. What happens next? You get instant cash. With ecoATM kiosks all over the country, and with your help, we're working hard to solve the eWaste problem facing our planet.*

### Support

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## Smartphone Anti-Theft Voluntary Commitment

Released April 15, 2014

### Part I

Each device manufacturer and operating system signatory of Part I of this “Smartphone Anti-Theft Voluntary Commitment” agrees that new models of smartphones first manufactured after July 2015 for retail sale in the United States will offer, at no cost to consumers, a baseline anti-theft tool that is preloaded or downloadable on wireless smartphones that provides the connected capability to:

1. Remote wipe the authorized user’s data (i.e., erase personal info that is added after purchase such as contacts, photos, emails, etc.) that is on the smartphone in the event it is lost or stolen.
2. Render the smartphone inoperable to an unauthorized user (e.g., locking the smartphone so it cannot be used without a password or PIN), except in accordance with FCC rules for 911 emergency communications, and if available, emergency numbers programmed by the authorized user (e.g., “phone home”).
3. Prevent reactivation without authorized user’s permission (including unauthorized factory reset attempts) to the extent technologically feasible (e.g., locking the smartphone as in 2 above).
4. Reverse the inoperability if the smartphone is recovered by the authorized user and restore user data on the smartphone to the extent feasible (e.g., restored from the cloud).

In addition to this baseline anti-theft tool, consumers may use other technological solutions, if available for their smartphones.

### Part II

Each network operator signatory of Part II to the “Smartphone Anti-Theft Voluntary Commitment” commits to permit the availability and full usability of a baseline anti-theft tool to be preloaded or downloadable on smartphones as specified in this commitment.

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The following network operators, device manufacturers and operating system companies are participating in the voluntary commitment: Apple Inc.; Asurion; AT&T; Google Inc.; HTC America, Inc.; Huawei Device USA; Motorola Mobility LLC; Microsoft Corporation; Nokia, Inc.; Samsung Telecommunications America, L.P.; Sprint Corporation; T-Mobile USA; U.S. Cellular; and Verizon Wireless.