


**MEMORANDUM**

April 4, 2014

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

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

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 Government Operations and Fiscal Policy Committee worksession will be scheduled at a later date.

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.

**Background**

An automated purchasing machine (APM) is a self-service kiosk that dispenses payment, typically in cash, for cell phones or other electronic devices. Such transactions 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 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. In the Maryland General Assembly, House Bill 918 appears likely to become law. If passed and signed by the Governor, House Bill 918 would preempt the County from regulating APMs and supersede existing County law regulating APMs, but would permit the County to prohibit the use of APMs within the County, as is proposed in Bill 18-14.

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

Expedited Bill No. 18-14  
Concerning: Secondhand Personal  
Property – Automated Purchasing  
Machines  
Revised: 03/05/2014 Draft No. 2  
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

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*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                         recyclable materials pursuant to a government-operated or -approved  
20                         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.

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

32 [44A-18. Reserved.]

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

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

37

38 *Approved:*

39

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Craig L. Rice, President, County Council Date

40 *Approved:*

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Isiah Leggett, County Executive Date

42 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Expedited Bill 18-14

*Secondhand Personal Property – Automated Purchasing Machines*

**DESCRIPTION:** Bill 18-14 would amend the County's secondhand personal property law to prohibit the use of automated purchasing machines in the County.

**PROBLEM:** 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.

**GOALS AND OBJECTIVES:** To prohibit the use of automated purchasing machines in the County.

**COORDINATION:** Department of Police

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** Baltimore City prohibited APMs in September 2013. Baltimore County passed a law prohibiting APMs on March 5, 2014.

**SOURCE OF INFORMATION:** Josh Hamlin, 240-777-7892

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** Subject to Class "A" violation.