

SENATE BILL 84

Unofficial Copy
R4

1999 Regular Session
(9lr0524)

ENROLLED BILL

-- Judicial Proceedings/Commerce and Government Matters --

Introduced by **Senator Stone (Task Force to Study the Comprehensive
Licensing of Automotive-Related Industries)**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Vehicle Law -- Automotive-Related Industries -- Regulation~~
3 ~~Task Force to Study the Comprehensive Licensing of Automotive-Related~~
4 ~~Industries~~

5 FOR the purpose of ~~requiring automotive repair facilities and vehicle storage facilities~~
6 ~~to maintain certain records and make certain records and certain vehicles and~~
7 ~~parts available for inspection by the Motor Vehicle Administration (MVA) or by a~~
8 ~~police officer during normal business hours; establishing civil penalties for~~
9 ~~violations of certain regulatory requirements applicable to certain~~
10 ~~automotive-related industries; authorizing certain employees of the MVA to~~
11 ~~issue citations pertaining to certain business practices regulated under the~~
12 ~~Maryland Vehicle Law; authorizing the MVA to sue for injunctive relief under~~
13 ~~specified circumstances; modifying a prohibited act pertaining to operation of~~
14 ~~tow trucks; modifying the maximum criminal penalty applicable to certain~~
15 ~~unlicensed business activities; modifying the jurisdiction of the District Court;~~
16 ~~prescribing certain procedures pertaining to enforcement of certain business~~

1 regulatory provisions and collection of certain civil penalties; defining certain
 2 terms; and generally relating to the regulation of certain automotive-related
 3 industries and business practices under the Maryland Vehicle Law
 4 reestablishing the Task Force to Study the Comprehensive Licensing of
 5 Automotive-Related Industries; specifying the membership of the Task Force;
 6 requiring the Motor Vehicle Administrator to assign staff and provide
 7 administrative support to the Task Force; requiring the Task Force to study
 8 certain matters; requiring the Task Force to report to the Governor and the
 9 General Assembly on or before a certain date; providing for the effective date
 10 and termination of this Act; and generally relating to the Task Force to Study
 11 the Comprehensive Licensing of Automotive-Related Industries.

12 ~~BY repealing and reenacting, with amendments,~~
 13 ~~Article—Courts and Judicial Proceedings~~
 14 ~~Section 4-401(11)~~
 15 ~~Annotated Code of Maryland~~
 16 ~~(1998 Replacement Volume)~~

17 ~~BY repealing and reenacting, with amendments,~~
 18 ~~Article—Transportation~~
 19 ~~Section 12-104.1, 12-108, 13-920(j), 15-113, and 27-101(h) and (i)~~
 20 ~~Annotated Code of Maryland~~
 21 ~~(1998 Replacement Volume and 1998 Supplement)~~

22 ~~BY adding to~~
 23 ~~Article—Transportation~~
 24 ~~Section 15-113.1 and 15-115~~
 25 ~~Annotated Code of Maryland~~
 26 ~~(1998 Replacement Volume and 1998 Supplement)~~

27 ~~BY repealing and reenacting, without amendments,~~
 28 ~~Article—Transportation~~
 29 ~~Section 13-920(a), 15-502(a), and 27-101(a) and (b)~~
 30 ~~Annotated Code of Maryland~~
 31 ~~(1998 Replacement Volume and 1998 Supplement)~~

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

34 ~~Article—Courts and Judicial Proceedings~~

35 ~~4-401.~~

36 ~~Except as provided in § 4-402 of this subtitle, and subject to the venue~~
 37 ~~provisions of Title 6 of this article, the District Court has exclusive original civil~~
 38 ~~jurisdiction in:~~

1 (11) A proceeding for adjudication of a civil penalty for any violation under §
 2 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122 [of the
 3 Transportation Article], OR § 21-1414 of the Transportation Article, or Article 41, §
 4 2-101(e-1) of the Code or any rule or regulation issued pursuant to those sections;

5 **Article—Transportation**

6 ~~12-104.1.~~

7 (a) ~~The Administrator may designate employees of the Investigative Division~~
 8 ~~of the Administration to exercise the powers specified in subsection (b) of this section.~~

9 (b) (1) An employee appointed under this section may issue citations to the
 10 extent authorized by the Administrator for violations of:

11 (i) Those provisions of Title 13 of this article relating to:

12 1. ~~The vehicle excise tax;~~

13 2. ~~Vehicle titling and registration;~~

14 3. ~~Special registration plates for individuals with disabilities;~~

15 ~~and~~

16 4. ~~Parking permits for individuals with disabilities;~~

17 (ii) ~~Those provisions of Title 17 of this article relating to required~~
 18 ~~security;~~

19 (iii) ~~Those provisions of Title 14 of this article relating to falsified,~~
 20 ~~altered, or forged documents and plates;~~

21 (iv) ~~Those provisions of Title 16 of this article relating to unlawful~~
 22 ~~application for a license and vehicle operation during periods of cancellation,~~
 23 ~~revocation, and suspension of a driver's license; [and]~~

24 (v) ~~Those provisions of Title 21 of this article relating to special~~
 25 ~~residential parking permits issued by the Administration; AND~~

26 (VI) ~~THOSE PROVISIONS OF TITLE 15 OF THIS ARTICLE RELATING~~
 27 ~~TO:~~

28 1. ~~MAINTENANCE OF AND ACCESS TO REQUIRED BUSINESS~~
 29 ~~RECORDS; AND~~

30 2. ~~UNLICENSED BUSINESS ACTIVITY.~~

31 (2) ~~The issuance of citations under this section shall comply with the~~
 32 ~~requirements of § 26-201 of this article.~~

33 (e) ~~The Administrator shall adopt regulations establishing:~~

1 (1) Qualifications for employees appointed under this section including
2 prerequisites of character, training, experience, and education; and

3 (2) Standards for the performance of the duties assigned to employees
4 appointed under this section.

5 ~~12-108.~~

6 (a) ~~In any matter subject to its jurisdiction, the Administration may subpoena~~
7 ~~any person or documents and take the testimony of any person, in the same manner~~
8 ~~and with the same fees and mileage as provided for by law in civil cases.~~

9 (b) ~~If any person fails to comply with a lawful order or subpoena issued by the~~
10 ~~Administration, the Administration may petition a court of competent jurisdiction to~~
11 ~~compel obedience to the subpoena or order and to compel the production of relevant~~
12 ~~documents and other evidence.~~

13 (C) (1) ~~IF THE ADMINISTRATION CONCLUDES THAT CONTINUING CONDUCT~~
14 ~~OF A PERSON ALLEGED TO BE IN VIOLATION OF TITLE 15 OF THIS ARTICLE MAY~~
15 ~~RESULT IN SUBSTANTIAL HARM TO ANY OTHER PERSON, THE ADMINISTRATION MAY~~
16 ~~SUE FOR INJUNCTIVE RELIEF AGAINST THE CONDUCT.~~

17 (2) ~~IF THE ADMINISTRATION SUES FOR INJUNCTIVE RELIEF UNDER~~
18 ~~THIS SUBSECTION AGAINST A PERSON WHO IS ALLEGED TO HAVE ENGAGED IN~~
19 ~~CONDUCT THAT REQUIRES A LICENSE UNDER TITLE 15 OF THIS ARTICLE, BUT WHO~~
20 ~~DOES NOT HAVE A LICENSE, THE ADMINISTRATION NEED NOT:~~

21 (I) ~~POST BOND; OR~~

22 (II) ~~SHOW THAT NO ADEQUATE REMEDY AT LAW EXISTS.~~

23 (3) ~~A SUIT UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE~~
24 ~~CIRCUIT COURT FOR THE COUNTY WHERE:~~

25 (I) ~~THE ALLEGED VIOLATION OCCURS; OR~~

26 (II) ~~THE PRINCIPAL PLACE OF BUSINESS OF THE ALLEGED~~
27 ~~VIOLATOR IS LOCATED.~~

28 ~~13-920.~~

29 (a) (1) ~~In this section "tow truck" means a vehicle that:~~

30 (i) ~~Is a Class E (truck) vehicle that is designed to lift, pull, or carry~~
31 ~~a vehicle by a hoist or mechanical apparatus;~~

32 (ii) ~~Has a manufacturer's gross vehicle weight rating of 10,000~~
33 ~~pounds or more; and~~

34 (iii) ~~Is equipped as a tow truck or designed as a rollback as defined~~
35 ~~in § 11-151.1 of this article.~~

1 (2) In this section "tow truck" does not include a truck tractor as defined
2 in § 11-172 of this article.

3 (j) (1) This subsection applies only to a vehicle required to be registered in
4 the State.

5 (2) ~~[A] SUBJECT TO SUBSECTION (G) OF THIS SECTION, A person may~~
6 ~~not operate a tow truck [for hire] unless the tow truck is registered under this~~
7 ~~section.~~

8 (3) A person convicted of operating a tow truck in violation of this
9 subsection shall be subject to a fine of up to \$3,000.

10 15-113.

11 (a) Each person who conducts auctions as a business in this State of motor
12 vehicles of a type required to be registered under this article shall keep a record of:

- 13 (1) The name and address of the consignor;
- 14 (2) The date on which it was consigned;
- 15 (3) The year, make, model, and serial number of each vehicle consigned;
- 16 (4) The title number and state where the vehicle was last registered;
- 17 (5) The odometer mileage reading at the time of consignment;
- 18 (6) The name and address of the person to whom the vehicle was sold;
- 19 (7) The selling price; and
- 20 (8) The date of sale.

21 (b) During business hours, the records shall be open to inspection by the
22 Administration OR BY A POLICE OFFICER.

23 (c) The records required by this section shall be kept for at least 3 years after
24 the transaction to which it applies.

25 (D) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER
26 SUBSECTIONS (A) THROUGH (C) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY
27 NOT EXCEEDING:

28 (1) FOR A FIRST OFFENSE, \$500; OR

29 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, \$1,000.

1 ~~15-113.1.~~

2 (A) (1) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
3 ~~INDICATED.~~

4 (2) ~~"AUTOMOTIVE REPAIR FACILITY" MEANS A FACILITY WHERE~~
5 ~~MALFUNCTIONS OF A MOTOR VEHICLE ARE DIAGNOSED OR CORRECTED FOR~~
6 ~~COMPENSATION.~~

7 (3) ~~"VEHICLE STORAGE FACILITY" MEANS A FACILITY WHERE DISABLED~~
8 ~~VEHICLES ARE STORED AT ANY TIME FOR COMPENSATION.~~

9 (B) (1) ~~A PERSON WHO OPERATES AN AUTOMOTIVE REPAIR FACILITY SHALL~~
10 ~~KEEP ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE MOTOR~~
11 ~~VEHICLE REPAIRS ARE CONDUCTED OF:~~

12 (I) ~~THE NAME AND ADDRESS OF THE OWNER OF EACH MOTOR~~
13 ~~VEHICLE REPAIRED OR STORED AT THE AUTOMOTIVE REPAIR FACILITY;~~

14 (II) ~~THE DATE A MOTOR VEHICLE WAS LEFT AT THE AUTOMOTIVE~~
15 ~~REPAIR FACILITY;~~

16 (III) ~~THE YEAR, MODEL, AND VEHICLE IDENTIFICATION NUMBER OF~~
17 ~~THE VEHICLE; AND~~

18 (IV) ~~FOR ANY PARTS OF MOTOR VEHICLES AT THE AUTOMOTIVE~~
19 ~~REPAIR FACILITY, PROOF OF OWNERSHIP OR PROOF OF THE RIGHT OF POSSESSION.~~

20 (2) ~~A PERSON WHO OPERATES A VEHICLE STORAGE FACILITY SHALL~~
21 ~~KEEP ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE VEHICLES~~
22 ~~ARE STORED OF:~~

23 (I) ~~THE NAME AND ADDRESS OF THE INDIVIDUAL WHO~~
24 ~~REQUESTED STORAGE OF EACH VEHICLE;~~

25 (II) ~~THE DATE THAT EACH VEHICLE WAS BROUGHT INTO THE~~
26 ~~VEHICLE STORAGE FACILITY;~~

27 (III) ~~THE YEAR, MODEL, AND, IF AVAILABLE, THE VEHICLE~~
28 ~~IDENTIFICATION NUMBER OF EACH VEHICLE; AND~~

29 (IV) ~~THE DATE AND MANNER OF DISPOSITION OF EACH VEHICLE.~~

30 (C) ~~THE RECORDS REQUIRED BY THIS SECTION SHALL BE KEPT FOR AT LEAST~~
31 ~~3 YEARS AFTER THE TRANSACTION TO WHICH THE RECORD APPLIES.~~

32 (D) ~~DURING NORMAL BUSINESS HOURS, RECORDS REQUIRED UNDER THIS~~
33 ~~SECTION AND PARTS AND VEHICLES FOR WHICH RECORDS ARE REQUIRED SHALL BE~~
34 ~~AVAILABLE FOR INSPECTION BY THE ADMINISTRATION OR BY A POLICE OFFICER ON~~
35 ~~ANY PREMISES OWNED OR OPERATED BY AN AUTOMOTIVE REPAIR FACILITY OR~~
36 ~~VEHICLE STORAGE FACILITY.~~

~~(E) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER
SUBSECTIONS (B) THROUGH (D) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY
NOT EXCEEDING:~~

~~(1) FOR A FIRST OFFENSE, \$500; OR~~

~~(2) FOR A SECOND OR SUBSEQUENT OFFENSE, \$1,000.~~

~~15-115.~~

~~(A) (1) A PERSON ISSUED A CITATION UNDER § 15-113 OR § 15-113.1 OF THIS
SUBTITLE SHALL COMPLY WITH A NOTICE TO APPEAR CONTAINED IN A CITATION OR
A TRIAL NOTICE ISSUED BY THE DISTRICT COURT.~~

~~(2) A PERSON MAY COMPLY WITH THE NOTICE TO APPEAR BY:~~

~~(I) APPEARANCE IN PERSON OR BY COUNSEL; OR~~

~~(II) PAYMENT OF THE CIVIL PENALTY AS PROVIDED IN THE
CITATION.~~

~~(B) A CITATION ISSUED FOR A VIOLATION UNDER § 15-113 OR § 15-113.1 OF
THIS SUBTITLE SHALL INCLUDE:~~

~~(1) INFORMATION ADVISING THE PERSON RECEIVING THE CITATION OF
THE MANNER IN WHICH LIABILITY MAY BE CONTESTED; AND~~

~~(2) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO
CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:~~

~~(I) IS AN ADMISSION OF LIABILITY AND WAIVER OF DEFENSES;
AND~~

~~(II) RESULTS IN AN ENTRY OF A DEFAULT JUDGMENT IN FAVOR OF
THE ADMINISTRATION AGAINST THE PERSON NAMED IN THE CITATION.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DISTRICT
COURT SHALL:~~

~~(I) ENTER A DEFAULT JUDGMENT IN FAVOR OF THE
ADMINISTRATION IF A PERSON FAILS TO PAY A FINE OR COMPLY WITH A NOTICE TO
APPEAR; AND~~

~~(II) MAIL NOTICE OF THE DEFAULT JUDGMENT TO THE PERSON
NAMED IN THE CITATION.~~

~~(2) THE DEFAULT JUDGMENT SHALL TAKE EFFECT UNLESS, BY THE
END OF THE 15TH DAY AFTER THE DATE THAT NOTICE OF THE DEFAULT JUDGMENT
WAS MAILED, THE PERSON NAMED IN THE CITATION POSTS BOND OR A CIVIL
PENALTY DEPOSIT AND REQUESTS A NEW DATE FOR A TRIAL.~~

1 ~~(D) THE ADMINISTRATION MAY COLLECT A CIVIL PENALTY AND~~
2 ~~ADMINISTRATIVE EXPENSES BY CIVIL ACTION COMMENCED IN THE DISTRICT COURT~~
3 ~~THAT SITS IN THE COUNTY IN WHICH THE VIOLATION OCCURRED.~~

4 ~~15-502.~~

5 ~~(a) A person may not conduct the business of an automotive dismantler and~~
6 ~~recycler or a scrap processor, or engage in the business of acquiring or offering to~~
7 ~~purchase or remove vehicles which are to be dismantled in whole or in part by that~~
8 ~~person for the sale of usable parts, unless the person is licensed by the Administration~~
9 ~~under this subtitle.~~

10 ~~27-101.~~

11 ~~(a) It is a misdemeanor for any person to violate any of the provisions of the~~
12 ~~Maryland Vehicle Law unless the violation:~~

13 ~~(1) Is declared to be a felony by the Maryland Vehicle Law or by any~~
14 ~~other law of this State; or~~

15 ~~(2) Is punishable by a civil penalty under the applicable provision of the~~
16 ~~Maryland Vehicle Law.~~

17 ~~(b) Except as otherwise provided in this section, any person convicted of a~~
18 ~~misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is~~
19 ~~subject to a fine of not more than \$500.~~

20 ~~(h) Any person who is convicted of a violation of any of the provisions of [§~~
21 ~~15-502(a) of this article ("License required"), § 16-303(a), (b), (c), (d), (e), (f), or (g) of~~
22 ~~this article ("Driving while license is canceled, suspended, refused, or revoked"), §~~
23 ~~17-107 of this article ("Prohibitions"), or § 17-110 of this article ("Providing false~~
24 ~~evidence of required security") is subject to:~~

25 ~~(1) For a first offense, a fine of not more than \$1,000, or imprisonment~~
26 ~~for not more than 1 year, or both; and~~

27 ~~(2) For any subsequent offense, a fine of not more than \$1,000, or~~
28 ~~imprisonment for not more than 2 years, or both.~~

29 ~~(i) Any person who is convicted of a violation of any of the provisions of §~~
30 ~~15-302 of this article ("Dealer's license required") [or], § 15-402 of this article~~
31 ~~("Vehicle salesman's license required"), OR § 15-502(A) OF THIS ARTICLE~~
32 ~~("AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR – LICENSE~~
33 ~~REQUIRED") is subject to:~~

34 ~~(1) For a first offense, a fine of not more than \$1,000 or imprisonment for~~
35 ~~not more than 6 months or both; and~~

36 ~~(2) For any subsequent offense, a fine of not more than \$2,000 or~~
37 ~~imprisonment for not more than 1 year or both.~~

1 (a) There is a Task Force to Study the Comprehensive Licensing of
 2 Automotive-Related Industries.

3 (b) The Task Force consists of the following ~~24~~ 22 members:

4 (1) Two members of the Senate of Maryland, appointed by the President
 5 of the Senate, one of whom shall be designated by the President as Cochairman of the
 6 Task Force;

7 (2) Two members of the Maryland House of Delegates, appointed by the
 8 Speaker of the House, one of whom shall be designated by the Speaker as Cochairman
 9 of the Task Force; and

10 (3) One representative from each of the following industry or
 11 government sectors, appointed by the Governor:

12 (i) Auto dismantlers and recyclers - early model salvage;

13 (ii) Auto dismantlers and recyclers - late model salvage;

14 (iii) Auctions;

15 (iv) Scrap processors;

16 (v) Body shops;

17 (vi) Used auto parts distributors;

18 (vii) New ~~and used~~ vehicle dealerships;

19 (viii) Used vehicle dealerships;

20 (ix) Service stations;

21 ~~(ix)~~ (x) Automotive maintenance and repair facilities;

22 ~~(x)~~ (xi) Tire dealers;

23 ~~(xi)~~ (xii) Retailers;

24 ~~(xii)~~ (xiii) The towing industry;

25 ~~(xiii)~~ (xiv) Auto salvage pool;

26 ~~(xiv)~~ (xv) The Motor Vehicle Administration;

27 ~~(xv)~~ (xvi) The Vehicle Theft Prevention Council;

28 ~~(xvi)~~ (xvii) Local law enforcement from jurisdictions that currently
 29 regulate towers; and

30 ~~(xvii)~~ (xviii) The Maryland State Police Auto Theft Unit.

1 (c) The Motor Vehicle Administrator shall assign staff and provide
2 administrative support to the Task Force.

3 (d) The Task Force shall study the scope of unlicensed activity in
4 automotive-related industries, the feasibility of and standards for licensing of
5 currently unlicensed businesses, and the resources necessary to effectively enforce a
6 comprehensive licensing law, or, in the alternative, ways to enhance enforcement to
7 curb illegal activities in automotive-related industries.

8 (e) The Task Force shall report its findings and recommendations to the
9 Governor and, in accordance with § 2-1246 of the State Government Article, the
10 General Assembly on or before December 1, 1999.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 ~~October~~ June 1, 1999. It shall remain effective for a period of 7 months and, at the end
13 of December 31, 1999, with no further action required by the General Assembly, this
14 Act shall be abrogated and of no further force and effect.