

SENATE BILL 149

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2000 Regular Session
0lr0888
CF 0lr1388

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

Introduced and read first time: January 19, 2000

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2000

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - Automotive-Related Industries - Regulation**

3 FOR the purpose of requiring automotive repair facilities and vehicle storage facilities
4 to maintain certain records; requiring that certain records, vehicles, and vehicle
5 parts be made available for inspection by the Motor Vehicle Administration
6 (MVA) or by certain law enforcement officers during certain hours; establishing
7 civil penalties for violation of certain regulatory requirements applicable to
8 certain automotive-related industries; authorizing certain employees of the
9 MVA to issue citations pertaining to certain business practices regulated under
10 the Maryland Vehicle Law; authorizing the MVA to sue for injunctive relief
11 under specified circumstances; ~~modifying a prohibited act pertaining to~~
12 ~~operation of tow trucks~~; modifying the maximum criminal penalty applicable to
13 certain unlicensed business activities; modifying the jurisdiction of the District
14 Court; prescribing certain procedures pertaining to enforcement of certain
15 business regulatory provisions and collection of certain penalties; defining
16 certain terms; providing for the termination of this Act; and generally relating to
17 the regulation of certain automotive-related industries and business practices
18 under the Maryland Vehicle Law.

19 BY repealing and reenacting, with amendments,
20 Article - Courts and Judicial Proceedings
21 Section 4-401(11)
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1999 Supplement)

24 BY repealing and reenacting, with amendments,

1 Article - Transportation
 2 Section 12-104.1, 12-108, ~~13-920(j)~~, 15-113, and 27-101(h) and (i)
 3 Annotated Code of Maryland
 4 (1999 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, without amendments,
 6 Article - Transportation
 7 Section ~~13-920(a)~~, 15-502(a), and 27-101(a) and (b)
 8 Annotated Code of Maryland
 9 (1999 Replacement Volume and 1999 Supplement)

10 BY adding to
 11 Article - Transportation
 12 Section 15-113.1, 15-115, and 15-116
 13 Annotated Code of Maryland
 14 (1999 Replacement Volume and 1999 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 4-401.

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

22 (11) A proceeding for adjudication of a civil penalty for any violation under
 23 § 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122 [of the
 24 Transportation Article], OR § 21-1414 of the Transportation Article, or Article 41, §
 25 2-101(c-1) of the Code or any rule or regulation issued pursuant to those sections;

26 **Article - Transportation**

27 12-104.1.

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

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

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

33 1. The vehicle excise tax;

34 2. Vehicle titling and registration;

1 RESULT IN SUBSTANTIAL HARM TO ANY OTHER PERSON, THE ADMINISTRATION MAY
2 SUE FOR INJUNCTIVE RELIEF AGAINST THE CONDUCT.

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

7 (I) POST BOND; OR

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

9 (3) A SUIT UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE
10 CIRCUIT COURT FOR THE COUNTY WHERE:

11 (I) THE ALLEGED VIOLATION OCCURS; OR

12 (II) THE PRINCIPAL PLACE OF BUSINESS OF THE ALLEGED
13 VIOLATOR IS LOCATED.

14 ~~13-920.~~

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

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

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

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

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

24 (j) (1) ~~This subsection applies only to a vehicle required to be registered in~~
25 ~~the State.~~

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

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

31 15-113.

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

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

9 (b) During business hours, the records shall be open to inspection by the
10 Administration, BY THE DEPARTMENT OF STATE POLICE, OR BY A LAW
11 ENFORCEMENT OFFICER WITH A COUNTY OR MUNICIPAL POLICE DEPARTMENT OR
12 SHERIFF'S OFFICE WHO IS ASSIGNED TO AN ANTITHEFT UNIT.

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

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

- 18 (1) FOR A FIRST OFFENSE, \$500; OR
- 19 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, \$1,000.

20 15-113.1.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) (I) "AUTOMOTIVE REPAIR FACILITY" MEANS A FACILITY WHERE
24 MALFUNCTIONS OF A MOTOR VEHICLE ARE DIAGNOSED OR CORRECTED FOR
25 COMPENSATION.

26 (II) "AUTOMOTIVE REPAIR FACILITY" INCLUDES A BODY SHOP.

27 (3) "MAJOR COMPONENT PART" MEANS:

- 28 (I) AN AIR BAG;
- 29 (II) A BUMPER;
- 30 (III) AN ENGINE;

- 1 (IV) A FRONT FENDER;
- 2 (V) A FRONT OR REAR SIDE DOOR;
- 3 (VI) A HOOD;
- 4 (VII) A PICKUP BOX OR CARGO BOX;
- 5 (VIII) A REAR QUARTER PANEL;
- 6 (IX) A REAR DOOR, DECK LID, HATCHBACK, OR TAILGATE;
- 7 (X) A SIDE ASSEMBLY;
- 8 (XI) A SLIDING OR CARGO DOOR; OR
- 9 (XII) A TRANSMISSION.
- 10 (4) "USED MAJOR COMPONENT PART" DOES NOT INCLUDE A:
- 11 (I) REMANUFACTURED PART THAT HAS NOT BEEN INSTALLED ON
12 A MOTOR VEHICLE SINCE REMANUFACTURE;
- 13 (II) CORE ELEMENT THAT IS HELD SOLELY FOR THE PURPOSE OF
14 BEING RETURNED FOR REMANUFACTURE; OR
- 15 (III) PART THAT IS UNSUITABLE FOR REUSE IN OR ON A MOTOR
16 VEHICLE.
- 17 (5) "VEHICLE STORAGE FACILITY" MEANS A FACILITY WHERE DISABLED
18 VEHICLES ARE STORED AT ANY TIME FOR COMPENSATION.
- 19 (B) A PERSON WHO OPERATES AN AUTOMOTIVE REPAIR FACILITY SHALL
20 KEEP ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE MOTOR
21 VEHICLE REPAIRS ARE CONDUCTED OF:
- 22 (1) THE NAME AND ADDRESS OF THE OWNER OF EACH MOTOR VEHICLE
23 REPAIRED OR STORED AT THE AUTOMOTIVE REPAIR FACILITY OR EACH CUSTOMER
24 WHO LEAVES A MOTOR VEHICLE FOR REPAIR OR STORAGE AT THE AUTOMOTIVE
25 REPAIR FACILITY;
- 26 (2) THE DATE A MOTOR VEHICLE WAS LEFT AT THE AUTOMOTIVE
27 REPAIR FACILITY;
- 28 (3) THE YEAR, MODEL, AND, WHEN REPAIRS INVOLVE A USED MAJOR
29 COMPONENT PART, THE VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE; AND
- 30 (4) FOR A USED MAJOR COMPONENT PART AT THE AUTOMOTIVE REPAIR
31 FACILITY, PROOF OF OWNERSHIP OR PROOF OF THE RIGHT OF POSSESSION,
32 INCLUDING, IF AVAILABLE, THE VEHICLE IDENTIFICATION NUMBER ON THE
33 COMPONENT PART.

1 (C) A PERSON WHO OPERATES A VEHICLE STORAGE FACILITY SHALL KEEP
2 ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE VEHICLES ARE
3 STORED OF:

4 (1) THE NAME AND ADDRESS OF THE INDIVIDUAL WHO REQUESTED
5 STORAGE OF EACH VEHICLE;

6 (2) THE DATE THAT EACH VEHICLE WAS BROUGHT INTO THE VEHICLE
7 STORAGE FACILITY;

8 (3) THE YEAR, MODEL, AND, IF AVAILABLE, THE VEHICLE
9 IDENTIFICATION NUMBER OF EACH VEHICLE; AND

10 (4) THE DATE AND MANNER OF DISPOSITION OF EACH VEHICLE.

11 (D) (1) RECORDS REQUIRED UNDER SUBSECTION (B) OR (C) OF THIS
12 SECTION SHALL BE KEPT FOR AT LEAST 1 YEAR AFTER THE DATE:

13 (I) OF THE TRANSACTION TO WHICH THE RECORD APPLIES; OR

14 (II) ON WHICH A PART OR VEHICLE IS AT THE AUTOMOTIVE REPAIR
15 FACILITY OR VEHICLE STORAGE FACILITY.

16 (2) A PERSON WHO OPERATES AN AUTOMOTIVE REPAIR FACILITY OR
17 VEHICLE STORAGE FACILITY MAY SATISFY THE RECORD REQUIREMENT IF THE
18 REQUIRED RECORD IS A COMPUTERIZED RECORD THAT IS ACCESSIBLE AT THE
19 AUTOMOTIVE REPAIR FACILITY OR VEHICLE STORAGE FACILITY.

20 (E) (1) DURING BUSINESS HOURS OR OTHER HOURS OF OPERATION, AN
21 AUTOMOTIVE REPAIR FACILITY OR VEHICLE STORAGE FACILITY SHALL MAKE
22 AVAILABLE FOR INSPECTION BY THE ADMINISTRATION, BY THE DEPARTMENT OF
23 STATE POLICE, OR BY A LAW ENFORCEMENT OFFICER WITH A COUNTY OR
24 MUNICIPAL POLICE DEPARTMENT OR SHERIFF'S OFFICE WHO IS ASSIGNED TO AN
25 ANTITHEFT UNIT:

26 (I) RECORDS REQUIRED UNDER THIS SECTION; AND

27 (II) USED MAJOR COMPONENT PARTS AND VEHICLES FOR WHICH
28 RECORDS ARE REQUIRED.

29 (2) IF AN AUTOMOTIVE REPAIR FACILITY OR A VEHICLE STORAGE
30 FACILITY IS UNABLE TO PRODUCE A RECORD REQUIRED UNDER THIS SECTION, THE
31 AUTOMOTIVE REPAIR FACILITY OR VEHICLE STORAGE FACILITY MAY PRODUCE
32 OTHER EVIDENCE SATISFACTORY TO THE ADMINISTRATION OR LAW ENFORCEMENT
33 OFFICER OF PROOF OF OWNERSHIP OR RIGHT OF POSSESSION.

34 (F) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER THIS
35 SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:

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

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

2 15-115.

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

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

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

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

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

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

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

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

18 (II) RESULTS IN AN ENTRY OF A DEFAULT JUDGMENT THAT MAY
19 INCLUDE A FINE, COURT COSTS, AND ADMINISTRATIVE EXPENSES IN FAVOR OF THE
20 ADMINISTRATION AGAINST THE PERSON NAMED IN THE CITATION.

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

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

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

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

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

1 15-116.

2 ANY PENALTY UNDER THIS SUBTITLE IS IN ADDITION TO ANY OTHER PENALTY
3 PROVIDED BY LAW.

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2000. It shall remain effective for a period of 3 years and, at the end of
5 September 30, 2003, with no further action required by the General Assembly, this
6 Act shall be abrogated and of no further force and effect.