

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 320

(Delegate Frush)

Environmental Matters

Judicial Proceedings

Vehicle Laws - Towed and Stored Vehicles - Disposal

This bill establishes specified notice and recordkeeping procedures that must be complied with before a person may deliver a vehicle to an automotive dismantler and recycler or scrap processor, or before an automotive dismantler and recycler or scrap processor may acquire unencumbered title to a vehicle prior to the vehicle's disposition.

Fiscal Summary

State Effect: Department of State Police (DSP) operations are affected, but any additional expenditures are expected to be minimal and offset by the collection of fees for the use of the DSP theft prevention database. Motor Vehicle Administration (MVA) operations are minimally affected to revise certain forms and to receive additional notices, but any increase in activity can likely be handled with existing resources.

Local Effect: Local law enforcement may experience an additional operational burden, which can likely be handled with existing resources.

Small Business Effect: Minimal impact on small business automotive dismantlers and recyclers or scrap processors and towers to the extent there is an interruption in the supply of abandoned vehicles being delivered and to comply with additional notice and recordkeeping requirements. In addition, towers will need to pay an annual fee to use an existing DSP system in order to comply with the bill's notice requirement.

Analysis

Bill Summary: The bill changes the required notice of the acquisition of a vehicle that must be provided to MVA before a vehicle may be disposed of by a licensed automotive

dismantler and recycler or scrap processor. The period by which a licensee must provide notice is reduced, from within 30 days of acquisition, to the end of the next business day following acquisition. In addition, the bill specifies that the notice be an electronic transmission of a copy of the records required to be kept.

The bill also adds new recordkeeping requirements for a licensed automotive dismantler and recycler or scrap processor regarding acquired vehicles, including the name, address, and contact information for the licensee; the vehicle identification number for an acquired vehicle; a statement of whether the vehicle is to be destroyed, offered for sale, or otherwise disposed; and whether the vehicle is intended for export out of the country.

The electronic transmission must also be sent to DSP on a form prescribed for a stolen vehicle inspection. DSP must then notify a licensed automotive dismantler and recycler or scrap processor of the results of the stolen vehicle inspection as soon as feasible and take possession of a vehicle if determined to be stolen. If a licensee takes unencumbered title to a vehicle and receives notice that the vehicle is not stolen, it may immediately dispose of the vehicle. The bill authorizes MVA to impose penalties against a licensee on whose property was found a vehicle that was not reported to DSP under these requirements. The penalties include a license suspension of 5 days for a first offense, a 30-day license suspension for a second offense, and license revocation for third or subsequent offense.

The bill establishes additional requirements for persons (generally towers) who deliver abandoned vehicles that are more than eight years old and have no engine or are otherwise totally inoperable to an automotive dismantler and recycler or scrap processor without a certificate of title. A tower who is delivering such a vehicle to an automotive dismantler and recycler or scrap processor must electronically transmit a record of the vehicle transfer to MVA and perform existing procedures regarding notice to the vehicle owner or other interested parties. A person that receives notice of the transfer of their vehicle for delivery to an automotive dismantler and recycler or scrap processor is granted 30 days to reclaim the vehicle after notice on payment of all towing, preservation, and storage charges resulting from taking or placing the vehicle in custody.

The bill makes towers liable for treble damages for failure to comply with these notice procedures. The tower must also provide full documentation to an automotive dismantler and recycler or scrap processor that the required notice was provided; an automotive dismantler and recycler or scrap processor must make this record available for inspection by law enforcement for a period of three years. An automotive dismantler and recycler or scrap processor takes unencumbered title to a delivered vehicle if the tower has complied with these required notice procedures.

Current Law/Background:

Disposition of Vehicles without Title or Evidence of Ownership

MVA issues licenses to conduct the business of an automotive dismantler and recycler or scrap processor. If an automotive dismantler and recycler or scrap processor takes possession of a vehicle and does not receive a certificate of title or other documentary evidence of ownership acceptable to MVA, the automotive dismantler and recycler or scrap processor must comply with specified notice requirements. Specifically, after the vehicle has been in the possession of the automotive dismantler and recycler or scrap processor for more than 30 days, the automotive dismantler and recycler or scrap processor has to give at least 10 days notice of intent to dispose of the vehicle. The notice must be sent by certified mail, return receipt requested, to the owner of the vehicle and any secured party, as shown on MVA records, or to any other person who is entitled to possession of the vehicle and whose address is known or reasonably can be obtained.

The automotive dismantler and recycler or scrap processor takes unencumbered title to the vehicle, without having to obtain a certificate of title, if these notice procedures are followed and the vehicle has not been recovered or reclaimed within the 10-day period. The automotive dismantler and recycler or scrap processor may also take unencumbered title to the vehicle if the address of the owner, secured party, or other person entitled to possession of the vehicle cannot be obtained from MVA records and the vehicle remains in possession for 30 days. If an automotive dismantler and recycler or scrap processor takes title to a vehicle, the automotive dismantler and recycler or scrap processor must provide certification of the title to MVA within 5 days in the form that MVA requires and generally must also provide electronic notice to MVA within 30 days of acquiring title. Once notice is provided to MVA, the automotive dismantler and recycler or scrap processor may dispose of the vehicle.

Each automotive dismantler and recycler or scrap processor must keep records of all vehicles acquired, including the name and address of the person from whom the vehicle was acquired, the date on which it was acquired, documentary evidence acceptable to MVA of ownership of the vehicle, and any other information that MVA requires.

MVA has authority to take actions against the license of an automotive dismantler and recycler or scrap processor including revocation, suspension, or refusal to renew the license, or MVA may order the licensee to pay a fine of up to \$1,000 for each violation of law.

Disposal of Abandoned Vehicles

An abandoned vehicle means a motor vehicle, trailer, or semitrailer that:

- is inoperable and left unattended 48 hours on public property;
- remains illegally on public property for 48 hours;
- is on private property without consent for 48 hours;
- has remained in a garage for more than 10 days after the garage keeper has given the vehicle owner notice to remove the vehicle, or beyond the time when, by contract, the vehicle was to remain in the garage;
- is left for more than 10 days in a garage by someone other than the registered owner or left by a person only authorized to have possession of the vehicle under a contract;
- has remained on public property for 48 hours and has invalid or incorrect registration plates;
- has been left unattended for 24 hours on a controlled access highway;
- has been left unattended on a highway and does not display appropriate warning devices; or
- is not reclaimed from impoundment under specific court order.

Generally, the police may take an abandoned vehicle into custody and impound the vehicle. In addition, any person who possesses or on whose property is found an abandoned vehicle may apply to the police department of the jurisdiction in which the vehicle is located for authority to transfer the vehicle to an automotive dismantler and recycler or scrap processor. If the vehicle remains unclaimed after three weeks, and following specified notice procedures, the vehicle may be sold at public auction.

The process governing the disposition of abandoned vehicles is different for the transfer of certain vehicles referred to as “hulks,” which are more than eight years old and have no engine or are otherwise totally inoperable. A person can transfer a hulk to an automotive dismantler and recycler or scrap processor without following the same notice procedures and without possessing a certificate of title. The automotive dismantler and recycler or scrap processor may, however, require the transferor of the hulk to execute an indemnity agreement.

This separate process originated in the late 1960s as the result of an effort to rid the State of abandoned hulks. The current indemnity agreement and expedited procedure for the scrapping of hulks are the only remnants of a host of former incentives. In fact, Chapter 556 of 1969 provided for the payment of a fee (dubbed a “bounty” by the U.S. Supreme Court) for the scrapping of a vehicle and also established a fine for maintaining abandoned vehicles in scrap yards. Although aspects of this initiative

survived a challenge before the Supreme Court in 1976, most of the original incentives have since been repealed. However, in 1998 the Federal District Court for the District of Maryland declared the transfer of hulks without a certificate of title or notification an unconstitutional violation of the Due Process Clause.

DSP and other law enforcement agencies in the State are heavily involved in the process of disposing of abandoned vehicles. In addition to environmental and aesthetic issues, a lack of control over the process of vehicle disposal may also lead to theft and other crimes. Because of this, DSP maintains a unit actively engaged in overseeing the lawful transfer of abandoned vehicles and proper disposal by vehicle scrappers or recyclers. The capabilities of this unit have been significantly enhanced recently due to a new statewide computer system established pursuant to Chapter 383 of 2008 to account for transactions in the secondary precious metals market, which includes sale of vehicles for salvage or scrap. The scrap value of a vehicle varies greatly, from several hundred to several thousand dollars, based on prevailing market conditions, demand for a particular vehicle make and model, whether the vehicle is a late model year or an older vehicle, vehicle weight, and other factors.

State Fiscal Effect: Due to the new Regional Automated Property Information Database system established under Chapter 383 of 2008 and recent efforts supported by the Maryland Vehicle Theft Prevention Council, DSP can likely handle the increase in abandoned vehicle transactions and oversight with existing resources. DSP advises that it will charge a fee to towers that will use this system under the bill's requirement; while the exact amount of this fee has not been established, it may be around \$200 annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Harford County, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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