

As Introduced

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S. B. No. 273

Senator Faber

**Cosponsors: Senators Daniels, Hite, Lehner, Manning, Eklund, Widener,
Wagoner, Burke, Jones, Balderson, Tavares, Jordan, Brown, Skindell**

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A B I L L

To amend sections 4501.25, 4505.061, 4738.01, 1
4738.02, 4738.03, and 4738.17 and to repeal 2
section 4738.18 of the Revised Code to permit 3
salvage motor vehicle auctions and pools to 4
auction and sell salvage motor vehicles to persons 5
other than motor vehicle salvage dealers, to 6
permit a person whose acquisition and disposal of 7
salvage motor vehicles is incidental to the 8
person's primary business to sell salvage motor 9
vehicles at retail to or through a salvage motor 10
vehicle auction or pool, and to make other changes 11
in the motor vehicle salvage dealer law. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4501.25, 4505.061, 4738.01, 4738.02, 13
4738.03, and 4738.17 of the Revised Code be amended to read as 14
follows: 15

Sec. 4501.25. There is hereby created in the state treasury 16
the state bureau of motor vehicles fund. The fund shall consist of 17
all money collected by the registrar of motor vehicles, including 18

taxes, fees, and fines levied, charged, or referred to in Chapters 19
4501., 4503., 4505., 4506., 4507., 4509., 4510., 4511., 4517., 20
4519., and 4521., and sections ~~3123.59~~, 2935.27, 2937.221, 21
3123.59, 4738.06, and 4738.13, ~~and 4738.18~~ of the Revised Code 22
unless otherwise designated by law. The fund shall be used to pay 23
the expenses of administering the law relative to the powers and 24
duties of the registrar of motor vehicles. All investment earnings 25
of the fund shall be retained by the fund. 26

Sec. 4505.061. If the application for a certificate of title 27
refers to a motor vehicle last previously registered in another 28
state, the application shall be accompanied by a physical 29
inspection certificate issued by the department of public safety 30
verifying the make, body type, model, and manufacturer's vehicle 31
identification number of the motor vehicle for which the 32
certificate of title is desired. The physical inspection 33
certificate shall be in such form as is designated by the 34
registrar of motor vehicles. The physical inspection of the motor 35
vehicle shall be made at a deputy registrar's office, or at an 36
established place of business operated by a licensed motor vehicle 37
dealer. Additionally, the physical inspection of a salvage vehicle 38
owned by an insurance company may be made at an established place 39
of business operated by a ~~salvage~~ motor vehicle salvage dealer, 40
salvage motor vehicle auction, or salvage motor vehicle pool 41
licensed under Chapter 4738. of the Revised Code. The deputy 42
registrar, ~~the~~ motor vehicle dealer, ~~or the salvage~~ motor vehicle 43
salvage dealer, salvage motor vehicle auction, or salvage motor 44
vehicle pool may charge a maximum fee of ~~two dollars and~~ 45
~~seventy five cents commencing on July 1, 2001, three dollars and~~ 46
~~twenty five cents commencing on January 1, 2003, and three dollars~~ 47
and fifty cents ~~commencing on January 1, 2004~~, for conducting the 48
physical inspection. 49

The clerk of the court of common pleas shall charge a fee of 50
one dollar and fifty cents for the processing of each physical 51
inspection certificate. The clerk shall retain fifty cents of the 52
one dollar and fifty cents so charged and shall pay the remaining 53
one dollar to the registrar by monthly returns, which shall be 54
forwarded to the registrar not later than the fifth day of the 55
month next succeeding that in which the certificate is received by 56
the clerk. The registrar shall pay such remaining sums into the 57
state bureau of motor vehicles fund established by section 4501.25 58
of the Revised Code. 59

Sec. 4738.01. As used in sections 4738.01 to 4738.16 of the 60
Revised Code: 61

(A) "Motor vehicle salvage dealer" means any person who 62
engages in business primarily for the purpose of selling salvage 63
motor vehicle parts and secondarily for the purpose of selling at 64
retail salvage motor vehicles or manufacturing or selling a 65
product of gradable scrap metal. 66

(B) "Salvage motor vehicle" means any motor vehicle which is 67
in a wrecked, dismantled, or worn out condition, or unfit for 68
operation as a motor vehicle. 69

(C) "Salvage motor vehicle auction" means any person who on 70
~~his own~~ the person's behalf or as an agent for a third party 71
engages in business for the purpose of auctioning salvage motor 72
vehicles ~~to motor vehicle salvage dealers.~~ 73

(D) "Salvage motor vehicle pool" means any person who as an 74
agent for a third party engages in business for the purpose of 75
storing, displaying, and offering for sale salvage motor vehicles 76
~~to motor vehicle salvage dealers.~~ 77

(E) "Engaging in business" means commencing, conducting, or 78
continuing in business, or liquidating a business when the 79

liquidator thereof holds ~~himself~~ the liquidator out to be 80
conducting such business; making a casual sale or otherwise making 81
transfers in the ordinary course of business when the transfers 82
are made in connection with the disposition of all or 83
substantially all of the transferor's assets is not engaging in 84
business. 85

(F) "Retail sale" or "sale at retail" means the act or 86
attempted act of selling, bartering, exchanging, or otherwise 87
disposing of salvage motor vehicles or salvage motor vehicle parts 88
to an ultimate purchaser for use as a consumer. 89

(G) "Ultimate purchaser" means, with respect to any salvage 90
motor vehicle or salvage motor vehicle part, a purchaser who in 91
good faith purchases such salvage motor vehicle or part for 92
purposes other than resale and is not licensed as a motor vehicle 93
dealer under Chapter 4517. of the Revised Code. 94

(H) "Business" includes any activities engaged in by any 95
person for the object of gain, benefit, or advantage either direct 96
or indirect. 97

(I) "Casual sale" means any transfer of a salvage motor 98
vehicle by a person other than a motor vehicle salvage dealer, 99
salvage motor vehicle auction, or salvage motor vehicle pool, to 100
an ultimate purchaser for use as a consumer. 101

Sec. 4738.02. (A) Except as provided in divisions (B) and 102
~~(D)~~(E) of this section, no person shall engage in the business of 103
selling at retail ~~salvage motor vehicles or~~ salvage motor vehicle 104
parts, ~~or assume to engage in any such business~~ without first 105
obtaining a motor vehicle salvage dealer's license pursuant to 106
this chapter. 107

(B) ~~Except as provided in divisions (B)(1) and (C)(1) of~~ 108
~~section 4738.03 of the Revised Code, no~~ (1) No person shall engage 109

in the business of selling at retail or wholesale salvage motor vehicles without first obtaining a motor vehicle salvage dealer's license, a salvage motor vehicle auction license, or a salvage motor vehicle pool license pursuant to this chapter. 110
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(2) Notwithstanding division (B)(1) of this section, a person may sell salvage motor vehicles at retail to or through a salvage motor vehicle auction or salvage motor vehicle pool without obtaining any license pursuant to this chapter if the acquisition of salvage motor vehicles is incidental to the primary business of the person and the disposal of those salvage motor vehicles is incidental to the primary business of the person. 114
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(C) No person shall make more than five casual sales of salvage motor vehicles in a twelve-month period, commencing with the day of the month in which the first such sale is made, nor provide a location or space for the sale at retail of salvage motor vehicles, without obtaining a motor vehicle salvage dealer's license, salvage motor vehicle auction license, or salvage motor vehicle pool license pursuant to this chapter. 121
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~~(C)~~(D) Except as provided in division ~~(D)~~(E) of this section, no person shall operate as a salvage motor vehicle auction or salvage motor vehicle pool without first obtaining the appropriate license pursuant to this chapter. 128
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~~(D)~~(E) In case of the dissolution of a partnership by death, the surviving partner may operate under any license obtained by the partnership pursuant to this chapter for a period of sixty days and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by the heir, representative, receiver, or trustee in bankruptcy. 132
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~~(E)~~(F) Nothing in this chapter applies to any public officer 140

performing his official duties. 141

Sec. 4738.03. (A) No person licensed as a motor vehicle 142
salvage dealer under this chapter shall engage in the business of 143
selling at retail salvage motor vehicle parts or salvage motor 144
vehicles, unless the business is operated primarily for the 145
purpose of selling at retail salvage motor vehicle parts. Any 146
person operating such a business primarily for the purpose of 147
selling at retail salvage motor vehicle parts may secondarily sell 148
at retail salvage motor vehicles or manufacture a product of 149
gradable scrap metal for sale to scrap metal processors or any 150
other consumer. 151

(B) No person licensed as a salvage motor vehicle auction 152
under this chapter shall: 153

~~(1) Make a casual sale of a salvage motor vehicle;~~ 154

~~(2)~~ Sell a salvage motor vehicle when having reasonable cause 155
to believe it is not offered by the legal owner thereof; 156

~~(3) Sell a salvage motor vehicle to any person except a 157
person licensed as a motor vehicle salvage dealer under this 158
chapter;~~ 159

~~(4)~~(2) Fail to make an Ohio salvage certificate of title 160
available to the purchaser of a salvage motor vehicle sold by the 161
salvage motor vehicle auction, before payment for the salvage 162
motor vehicle is completed; 163

~~(5)~~(3) Operate as a motor vehicle salvage dealer at the same 164
location where any salvage motor vehicle auction is operated. 165

(C) No person licensed as a salvage motor vehicle pool under 166
this chapter shall: 167

~~(1) Make a casual sale of a salvage motor vehicle;~~ 168

~~(2)~~ Sell a salvage motor vehicle when having reasonable cause 169

to believe it is not offered by the legal owner thereof;	170
(3) Sell a salvage motor vehicle to any person except a	171
person licensed as a motor vehicle salvage dealer under this	172
chapter;	173
(4)(2) Fail to make an Ohio salvage certificate of title	174
available to the purchaser of a salvage motor vehicle sold by the	175
salvage motor vehicle pool, before payment for the salvage motor	176
vehicle is completed;	177
(5)(3) Operate as a motor vehicle salvage dealer at the same	178
location where any salvage motor vehicle pool is operated.	179
Sec. 4738.17. (A) No person who is not licensed as a salvage	180
motor vehicle auction or salvage motor vehicle pool shall engage	181
in the business of selling salvage motor vehicle parts or salvage	182
motor vehicles at wholesale. Any	183
<u>(B)(1) Any</u> person licensed as a salvage motor vehicle dealer	184
under this chapter may sell salvage motor vehicle parts or salvage	185
motor vehicles at wholesale.	186
<u>(2) A person may sell salvage motor vehicles at retail to or</u>	187
<u>through a salvage motor vehicle auction or salvage motor vehicle</u>	188
<u>pool without obtaining any license pursuant to this chapter if the</u>	189
<u>acquisition of salvage motor vehicles is incidental to the primary</u>	190
<u>business of the person and the disposal of those salvage motor</u>	191
<u>vehicles is incidental to the primary business of the person.</u>	192
Section 2. That existing sections 4501.25, 4505.061, 4738.01,	193
4738.02, 4738.03, and 4738.17 and section 4738.18 of the Revised	194
Code are hereby repealed.	195