

As Reported by the House Insurance Committee

130th General Assembly

**Regular Session
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H. B. No. 468

Representatives Sears, McGregor

Cosponsors: Representatives Becker, Hackett, Henne

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A B I L L

To amend sections 505.871, 4501.25, 4505.061,	1
4738.01, 4738.02, 4738.03, 4738.17, and 4738.99,	2
to enact sections 3937.19, 4738.021, 4738.022,	3
4738.023, and 4738.031, and to repeal section	4
4738.18 of the Revised Code relative to salvage	5
motor vehicles and junk motor vehicles.	6

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

Section 1. That sections 505.871, 4501.25, 4505.061, 4738.01,	7
4738.02, 4738.03, 4738.17, and 4738.99 be amended and sections	8
3937.19, 4738.021, 4738.022, 4738.023, and 4738.031 of the Revised	9
Code be enacted to read as follows:	10

Sec. 505.871. (A) A board of township trustees may provide,	11
by resolution, for the removal of any vehicle in the	12
unincorporated territory of the township that the board determines	13
is a junk motor vehicle, as defined in section 505.173 of the	14
Revised Code.	15

(B) If a junk motor vehicle is located on public property,	16
the board of township trustees may provide in the resolution for	17
the immediate removal of the vehicle.	18

(C)(1) If a junk motor vehicle is located on private	19
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property, the board of township trustees may provide in the 20
resolution for the removal of the vehicle not sooner than fourteen 21
days after the board serves written notice of its intention to 22
remove or cause the removal of the vehicle on the owner of the 23
land and any holders of liens of record on the land. 24

(2) The notice provided under this division shall generally 25
describe the vehicle to be removed and indicate all of the 26
following: 27

(a) The board has determined that the vehicle is a junk motor 28
vehicle. 29

(b) If the owner of the land fails to remove the vehicle 30
within fourteen days after service of the notice, the board may 31
remove or cause the removal of the vehicle. 32

(c) Any expenses the board incurs in removing or causing the 33
removal of the vehicle may be entered upon the tax duplicate and 34
become a lien upon the land from the date of entry. 35

(3) The board shall serve the notice under this division by 36
sending it by certified mail, return receipt requested, to the 37
owner of the land, if the owner resides in the unincorporated 38
territory of the township or if the owner resides outside the 39
unincorporated territory of the township and the owner's address 40
is known or ascertainable through an exercise of reasonable 41
diligence. The board also shall send notice in such manner to any 42
holders of liens of record on the land. If a notice sent by 43
certified mail is refused or unclaimed, or if an owner's address 44
is unknown and cannot reasonably be ascertained by an exercise of 45
reasonable diligence, the board shall publish the notice once in a 46
newspaper of general circulation in the township before the 47
removal of the vehicle, and, if the land contains any structures, 48
the board also shall post the notice on the principal structure on 49
the land. 50

A notice sent by certified mail shall be deemed to be served	51
for purposes of this section on the date it was received as	52
indicated by the date on a signed return receipt. A notice given	53
by publication shall be deemed to be served for purposes of this	54
section on the date of the newspaper publication.	55
(D) The board of township trustees may cause the removal or	56
may employ the labor, materials, and equipment necessary to remove	57
a junk motor vehicle under this section. All expenses incurred in	58
removing or causing the removal of a junk motor vehicle, when	59
approved by the board, shall be paid out of the township general	60
fund from moneys not otherwise appropriated, except that if the	61
expenses exceed five hundred dollars, the board may borrow moneys	62
from a financial institution to pay the expenses in whole or in	63
part.	64
(E) The board of township trustees may utilize any lawful	65
means to collect the expenses incurred in removing or causing the	66
removal of a junk motor vehicle under this section, including any	67
fees or interest paid to borrow moneys under division (D) of this	68
section. The board may direct the township fiscal officer to	69
certify the expenses and a description of the land to the county	70
auditor, who shall place the expenses upon the tax duplicate as a	71
lien upon the land to be collected as other taxes and returned to	72
the township general fund.	73
(F)(1) <u>As used in this division:</u>	74
(a) <u>"Motor vehicle salvage dealer"</u> has the same meaning as in	75
<u>section 4738.01 of the Revised Code.</u>	76
(b) <u>"Scrap metal processing facility"</u> has the same meaning as	77
<u>in section 4737.05 of the Revised Code.</u>	78
(2) <u>Notwithstanding section 4513.63 of the Revised Code, if a</u>	79
<u>junk motor vehicle is removed and disposed of in accordance with</u>	80
<u>this section, the clerk of courts of the county shall issue a</u>	81

<u>salvage certificate of title for that junk motor vehicle to a</u>	82
<u>motor vehicle salvage dealer licensed pursuant to Chapter 4738. of</u>	83
<u>the Revised Code or a scrap metal processing facility licensed</u>	84
<u>pursuant to sections 4737.05 to 4737.12 of the Revised Code if all</u>	85
<u>of the following conditions are satisfied:</u>	86
<u>(a) The board of township trustees has entered into a</u>	87
<u>contract with the motor vehicle salvage dealer or scrap metal</u>	88
<u>processing facility for the disposal or removal of the junk motor</u>	89
<u>vehicle in accordance with section 505.85 of the Revised Code.</u>	90
<u>(b) The fiscal officer for the board of township trustees</u>	91
<u>executes in triplicate an affidavit prescribed by the registrar of</u>	92
<u>motor vehicles describing the junk motor vehicle and the manner of</u>	93
<u>removal or disposal and certifying that all requirements of this</u>	94
<u>section and the notice and records search requirements of section</u>	95
<u>4505.101 of the Revised Code have been satisfied.</u>	96
<u>(c) The board of township trustees retains the original</u>	97
<u>affidavit for the board's records and furnishes the remaining two</u>	98
<u>copies of the affidavit to the motor vehicle salvage dealer or</u>	99
<u>scrap metal processing facility.</u>	100
<u>(d) The motor vehicle salvage dealer or scrap metal</u>	101
<u>processing facility presents one copy of the affidavit to the</u>	102
<u>clerk.</u>	103
<u>(3) The clerk shall issue the salvage certificate of title,</u>	104
<u>free and clear of all liens and encumbrances, not later than</u>	105
<u>thirty days after the motor vehicle salvage dealer or scrap metal</u>	106
<u>processing facility presents the affidavit pursuant to division</u>	107
<u>(F)(2) of this section.</u>	108
<u>(G) Notwithstanding section 4513.65 of the Revised Code, but</u>	109
<u>subject to division (G)(H)(2) of this section, any collector's</u>	110
<u>vehicle that meets the definition of a junk motor vehicle is</u>	111
<u>subject to removal under this section.</u>	112

(G)(H)(1) Nothing in this section affects the authority of a board of township trustees to adopt and enforce resolutions under section 505.173 of the Revised Code to regulate the storage of junk motor vehicles on private or public property in the unincorporated territory of the township.	113 114 115 116 117
(2) A resolution adopted under this section is subject to the same restrictions specified in division (A) of section 505.173 of the Revised Code for resolutions adopted under that section.	118 119 120
<u>Sec. 3937.19. (A) A person who purchases, takes possession of, and duly registers a motor vehicle in good faith may submit a claim to the purchaser's insurance company for the loss of the motor vehicle if both of the following apply:</u>	121 122 123 124
<u>(1) The purchaser is subsequently permanently divested of the right of ownership or possession to that motor vehicle because a court or other law enforcement entity has determined that the certificate of title or vehicle identification number has been falsified or otherwise tampered with or illegally altered, or that the motor vehicle had been stolen prior to the purchase.</u>	125 126 127 128 129 130
<u>(2) The purchaser has comprehensive insurance coverage on the motor vehicle that covers damage to or the loss of the motor vehicle.</u>	131 132 133
<u>(B) An insurance company that holds a current policy on a motor vehicle containing comprehensive coverage that covers damage to or the loss of the vehicle for which a claim is made under this section shall pay the claim, less any applicable deductible, in an amount not less than an amount based on the value of the motor vehicle at the time the purchaser was divested of the right of ownership and possession if the insurer determines that the purchase was made in good faith and a fair market value was paid. The insurance company shall have the right to assert any applicable policy exclusions, conditions, or provisions.</u>	134 135 136 137 138 139 140 141 142 143

Sec. 4501.25. There is hereby created in the state treasury 144
the state bureau of motor vehicles fund. The fund shall consist of 145
all money collected by the registrar of motor vehicles, including 146
taxes, fees, and fines levied, charged, or referred to in Chapters 147
4501., 4503., 4505., 4506., 4507., 4509., 4510., 4511., 4517., 148
4519., and 4521., and sections 3123.59, 2935.27, 2937.221, 149
3123.59, 4738.06, and 4738.13, and 4738.18 of the Revised Code 150
unless otherwise designated by law. The fund shall be used to pay 151
the expenses of administering the law relative to the powers and 152
duties of the registrar of motor vehicles. All investment earnings 153
of the fund shall be retained by the fund. 154

Sec. 4505.061. If the application for a certificate of title 155
refers to a motor vehicle last previously registered in another 156
state, the application shall be accompanied by a physical 157
inspection certificate issued by the department of public safety 158
verifying the make, body type, model, and manufacturer's vehicle 159
identification number of the motor vehicle for which the 160
certificate of title is desired. The physical inspection 161
certificate shall be in such form as is designated by the 162
registrar of motor vehicles. The physical inspection of the motor 163
vehicle shall be made at a deputy registrar's office, or at an 164
established place of business operated by a licensed motor vehicle 165
dealer. Additionally, the physical inspection of a salvage vehicle 166
owned by an insurance company may be made at an established place 167
of business operated by a ~~salvage~~ motor vehicle salvage dealer, 168
salvage motor vehicle auction, or salvage motor vehicle pool 169
licensed under Chapter 4738. of the Revised Code. The deputy 170
registrar, ~~the~~ motor vehicle dealer, ~~or the~~ salvage motor vehicle 171
salvage dealer, salvage motor vehicle auction, or salvage motor 172
vehicle pool may charge a maximum fee of ~~two dollars and~~ 173
~~seventy five cents commencing on July 1, 2001, three dollars and~~ 174

~~twenty five cents commencing on January 1, 2003, and three dollars and fifty cents commencing on January 1, 2004, for conducting the physical inspection.~~ 175
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The clerk of the court of common pleas shall charge a fee of one dollar and fifty cents for the processing of each physical inspection certificate. The clerk shall retain fifty cents of the one dollar and fifty cents so charged and shall pay the remaining one dollar to the registrar by monthly returns, which shall be forwarded to the registrar not later than the fifth day of the month next succeeding that in which the certificate is received by the clerk. The registrar shall pay such remaining sums into the state bureau of motor vehicles fund established by section 4501.25 of the Revised Code. 178
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Sec. 4738.01. As used in sections 4738.01 to 4738.16 of the Revised Code: 188
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(A) "Motor vehicle salvage dealer" means any person who engages in business primarily for the purpose of selling salvage motor vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal. 190
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(B) "Salvage motor vehicle" means any motor vehicle which is in a wrecked, dismantled, or worn out condition, or unfit for operation as a motor vehicle. 195
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(C) "Salvage motor vehicle auction" means any person who on ~~his own~~ ~~the person's~~ behalf or as an agent for a third party engages in business for the purpose of auctioning salvage motor vehicles ~~to motor vehicle salvage dealers~~. 198
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(D) "Salvage motor vehicle pool" means any person who as an agent for a third party engages in business for the purpose of storing, displaying, and offering for sale salvage motor vehicles 202
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to motor vehicle salvage dealers.	205
(E) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds himself <u>the liquidator</u> out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.	206 207 208 209 210 211 212 213
(F) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of salvage motor vehicles or salvage motor vehicle parts to an ultimate purchaser a person who purchases the salvage motor vehicle for use as a consumer.	214 215 216 217 218
(G) "Ultimate Authorized purchaser" means, with respect to any a person who purchases a salvage motor vehicle or from a salvage motor vehicle part, a purchaser who in good faith purchases such auction or salvage motor vehicle or part pool for purposes other than resale and is not licensed as a motor vehicle dealer under Chapter 4517. of the Revised Code. and who satisfies either of the following criteria:	219 220 221 222 223 224 225
(1) <u>The person is a motor vehicle salvage dealer who is licensed pursuant to this chapter; a junk yard that is licensed pursuant to section 4737.07 of the Revised Code; a scrap metal processing facility that is licensed pursuant to section 4737.05 of the Revised Code; a used motor vehicle dealer who is licensed pursuant to section 4517.02 of the Revised Code; a salvage dismantler or automotive recycler; or a salvage dealer, junk yard, scrap metal processing facility, used motor vehicle dealer, salvage dismantler, or automotive recycler business authorized to purchase salvage motor vehicles by another state, country, or jurisdiction.</u>	226 227 228 229 230 231 232 233 234 235 236

<u>(2) The person does not satisfy the criteria described in division (G)(1) of this section but has purchased not more than a total of five salvage motor vehicles in the current calendar year from any salvage motor vehicle auction or salvage motor vehicle pool.</u>	237 238 239 240 241
(H) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.	242 243 244
<u>(I) "Casual sale" means any transfer of a salvage motor vehicle by a person other than a motor vehicle salvage dealer, salvage motor vehicle auction, or salvage motor vehicle pool, to an ultimate purchaser a person who purchases the salvage motor vehicle for use as a consumer.</u>	245 246 247 248 249
Sec. 4738.02. (A) Except as provided in divisions (B) and (D)(E) of this section, no person shall engage in the business of selling at retail salvage motor vehicles or salvage motor vehicle parts, or assume to engage in any such business without first obtaining a motor vehicle salvage dealer's license pursuant to this chapter.	250 251 252 253 254 255
<u>(B)(1) Except as provided in divisions (B)(1) and (C)(1) of section 4738.03 of the Revised Code and (E) of this section, no person shall engage in the business of selling at retail salvage motor vehicles nor, other than as a lessor, provide a location or a space for the sale of 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.</u>	256 257 258 259 260 261 262 263
<u>(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 both of the</u>	264 265 266 267

<u>following apply:</u>	268
(a) <u>The acquisition of salvage motor vehicles is incidental to the primary business of the person.</u>	269 270
(b) <u>The disposal of those salvage motor vehicles is incidental to the primary business of the person.</u>	271 272
(C) <u>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 pursuant to this chapter calendar year.</u>	273 274 275 276 277 278
(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.	279 280 281 282
(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.	283 284 285 286 287 288 289 290
(F) Nothing in this chapter applies to any public officer performing his official duties.	291 292
Sec. 4738.021. (A) Every salvage motor vehicle auction and salvage motor vehicle pool shall do all of the following:	293 294
(1) <u>Keep an electronic record of all sales of salvage motor vehicles and shall include in the record the make, model, year, vehicle identification number, and the names and addresses of the</u>	295 296 297

<u>purchaser and seller of the salvage motor vehicle.</u>	298
<u>(2) Obtain from any authorized purchaser of an Ohio salvage motor vehicle a copy of a driver's license, passport, or other government-issued identification. Every salvage motor vehicle auction and salvage motor vehicle pool shall maintain a copy of this identification for a period of two years.</u>	299
<u>(3) Obtain from any person who is an authorized purchaser as defined in division (G)(1) of section 4738.01 of the Revised Code documented proof of any required license or other authorization to do business pursuant to this chapter or, for any person residing in a state, jurisdiction, or country that does not issue a motor vehicle salvage dealer, junk yard, scrap metal processing facility, used motor vehicle dealer, salvage dismantler, or automotive recycler license, a declaration under penalty of perjury that the authorized purchaser is authorized to purchase salvage vehicles in that person's state, jurisdiction, or country. Every salvage motor vehicle auction and salvage motor vehicle pool shall maintain a copy of this documentation for a period of two years.</u>	304
<u>(4) Obtain from any person who is an authorized purchaser as defined in division (G)(2) of section 4738.01 of the Revised Code a declaration under penalty of perjury that the authorized purchaser is not making a purchase in excess of the applicable limit identified in that division. The salvage motor vehicle auction or salvage motor vehicle pool shall maintain that declaration for a period of two years. The declaration may be submitted by the authorized purchaser in electronic or written format.</u>	317
<u>(B) Every salvage motor vehicle auction and salvage motor vehicle pool shall submit the information collected pursuant to division (A)(1) of this section to the registrar of motor vehicles on a monthly basis pursuant to the rules adopted by the registrar</u>	326
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<u>in division (C) of this section.</u>	330
<u>(C)(1) Within sixty days after the effective date of this section, the registrar shall develop a statewide database for the submission of the information collected pursuant to division</u>	331
<u>(A)(1) of this section. The system shall be used to maintain an accurate record of all sales conducted by a salvage motor vehicle auction or salvage motor vehicle pool.</u>	332
<u>(2) The registrar may adopt any rules pursuant to Chapter 119. of the Revised Code as necessary to facilitate the timely submission of the information required pursuant to this section.</u>	333
<u>The registrar shall make the information the registrar receives under this section available to any state or local law enforcement agency upon request.</u>	334
<u>Sec. 4738.022. Every salvage motor vehicle auction and salvage motor vehicle pool shall comply with the reporting requirements of the national motor vehicle title information system.</u>	340
<u>Sec. 4738.023. Within thirty days after the sale of a salvage motor vehicle, the registrar of motor vehicles shall issue a salvage certificate of title to the purchaser of that salvage motor vehicle containing the following notice in bold lettering:</u>	341
<u>"SALVAGE VEHICLE - NOT FOR RESALE WITHOUT DISCLOSURE.</u>	342
<u>WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF OHIO MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE CERTIFICATE OF TITLE."</u>	343
<u>Sec. 4738.03. (A) No person licensed as a motor vehicle salvage dealer under this chapter shall engage in the business of</u>	357
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selling at retail salvage motor vehicle parts or salvage motor vehicles, unless the business is operated primarily for the purpose of selling at retail salvage motor vehicle parts. Any person operating such a business primarily for the purpose of selling at retail salvage motor vehicle parts may secondarily sell at retail salvage motor vehicles or manufacture a product of gradable scrap metal for sale to scrap metal processors or any other consumer.

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

(1) ~~Make a casual sale of~~ Knowingly sell a salvage motor vehicle to anyone other than an authorized purchaser;

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

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

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

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

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

(1) ~~Make a casual sale of~~ Knowingly sell a salvage motor vehicle to anyone other than an authorized purchaser;

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

(3) ~~Sell a salvage motor vehicle to any person except a~~

person licensed as a motor vehicle salvage dealer under this chapter;	389
(4)(3) Fail to make an Ohio salvage certificate of title available to the purchaser of a salvage motor vehicle sold by the salvage motor vehicle pool, before payment for the salvage motor vehicle is completed;	391
(5)(4) Operate as a motor vehicle salvage dealer at the same location where any salvage motor vehicle pool is operated.	395
 <u>Sec. 4738.031. No person who is not an authorized purchaser shall purchase a salvage motor vehicle from a salvage motor vehicle auction or salvage motor vehicle pool.</u>	397
 <u>Sec. 4738.17. (A) No person who is not licensed as a salvage motor vehicle auction or salvage motor vehicle pool shall engage in the business of selling salvage motor vehicle parts or salvage motor vehicles at wholesale. Any</u>	400
 <u>(B)(1) Any person licensed as a salvage motor vehicle dealer under this chapter may sell salvage motor vehicle parts or salvage motor vehicles at wholesale.</u>	404
 <u>(2) Notwithstanding division (A) of this section, a person may sell salvage motor vehicles at wholesale to or through a salvage motor vehicle auction or salvage motor vehicle pool without obtaining any license pursuant to this chapter if both of the following apply:</u>	407
 <u>(a) The acquisition of salvage motor vehicles is incidental to the primary business of the person.</u>	412
 <u>(b) The disposal of those salvage motor vehicles is incidental to the primary business of the person.</u>	414
 <u>Sec. 4738.99. (A) Whoever violates section 4738.02 or 4738.03</u>	416

of the Revised Code is guilty of a misdemeanor of the second degree on a first offense; on each subsequent offense, such person is guilty of a misdemeanor of the first degree.	417 418 419
(B) Whoever violates section 4738.01, sections 4738.04 to 4738.13, or division (B) of section 4738.16 of the Revised Code is guilty of a misdemeanor of the fourth degree.	420 421 422
(C) Whoever violates section <u>4738.031</u> , <u>4738.14</u> , or 4738.15 of the Revised Code is guilty of a minor misdemeanor.	423 424
Section 2. That existing sections 505.871, 4501.25, 4505.061, 4738.01, 4738.02, 4738.03, 4738.17, and 4738.99 and section 4738.18 of the Revised Code are hereby repealed.	425 426 427