



Ohio Legislative Service Commission

Bill Analysis

Holly A. Cantrell

Sub. S.B. 273*

129th General Assembly

(As Reported by S. Insurance, Commerce & Labor)

Sens. Faber, Daniels, Hite, Lehner, Manning, Eklund, Widener, Wagoner, Burke, Jones, Balderson, Tavares, Jordan, Brown, Skindell

BILL SUMMARY

- Permits a licensed salvage motor vehicle auction or salvage motor vehicle pool to auction and sell salvage motor vehicles to authorized purchasers.
- Requires a salvage motor vehicle auction or pool to keep an electronic record of all sales, to solicit government-issued identification from any authorized purchaser, and to obtain a copy of the license or authorization to do business, and if applicable, a declaration under penalty of perjury that the authorized purchaser has not exceeded the established purchase limit.
- Requires the Registrar of Motor Vehicles to develop a statewide database for the submission of information collected by salvage motor vehicle auctions and pools.
- Requires a salvage motor vehicle auction or pool to give a copy of the certificate of salvage title or a copy of the certificate of title marked "FOR DESTRUCTION" to a purchaser at the time of sale.
- Makes a person who purchases a salvage motor vehicle from a salvage motor vehicle auction or pool and who does not meet the criteria for an authorized purchaser guilty of a minor misdemeanor.
- Requires an insurance company that has a current insurance policy on any motor vehicle that is confiscated due to it being stolen or otherwise tampered with to

* This analysis was prepared before the report of the Senate Insurance, Commerce and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

compensate the insured person for the value of the vehicle or up to the amount specified in the contract under specified conditions.

- Requires the Bureau of Motor Vehicles to include a specified warning on all certificates of salvage titles.
- Makes changes to the law regarding junk motor vehicles.
- Eliminates the requirement that a licensed motor vehicle salvage dealer must obtain a buyer's identification card in order to purchase salvage motor vehicles at salvage motor vehicle auction or pool.
- Permits a person whose acquisition and disposal of salvage motor vehicles is incidental to the person's primary business to sell salvage motor vehicles at retail without a license to or through a salvage motor vehicle auction or pool.
- Permits physical inspection of a salvage motor vehicle owned by an insurance company to be made at the established place of business of a salvage motor vehicle auction or pool in addition to the established place of business of a salvage motor vehicle dealer under current law.

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CONTENT AND OPERATION

Salvage motor vehicles

Sales to authorized purchasers

The bill permits a licensed salvage motor vehicle auction or a licensed salvage motor vehicle pool (collectively "salvage auction or pool") to auction or sell salvage motor vehicles at wholesale and at retail only to an authorized purchaser. Under current law, a salvage auction or pool may only auction or sell a salvage motor vehicle or salvage motor vehicle parts at wholesale to a licensed motor vehicle salvage dealer (salvage dealer).¹

Under the bill, an authorized purchaser means a person who intends to purchase a salvage motor vehicle from a salvage motor vehicle auction or pool and who satisfies any of the following criteria:

(1) The person is a licensed motor vehicle salvage dealer, a licensed junk yard, or a licensed scrap metal processing facility; is a salvage dismantler or automotive recycler, or is any other entity that is licensed or otherwise authorized to purchase salvage motor vehicles and is regulated by another state, country, or jurisdiction.

(2) The person is a used motor vehicle dealer either licensed in Ohio or licensed or otherwise authorized to do business as a used motor vehicle dealer and is regulated by another state, country, or jurisdiction.

(3) The person does not satisfy the criteria described in (1) or (2) above but who holds a valid federal tax identification number or other verifiable documentation evidencing that the person is authorized by Ohio or the federal government to do business in Ohio and who has purchased fewer than seven salvage motor vehicles in the current calendar year from any salvage motor vehicle auction or pool.

(4) The person does not satisfy the criteria described in (1) or (2) above but has purchased fewer than five salvage motor vehicles in the current calendar year from any salvage motor vehicle auction or pool.²

¹ R.C. 4738.01(C) and (D), 4738.02(A) and (B)(1), and 4738.03(B) and (C) .

² R.C. 4738.01(G).

Records required to be kept by salvage auctions and pools

The bill requires every salvage auction and pool to keep an electronic record of all sales of salvage motor vehicles and to submit the information collected to the Registrar of Motor Vehicles on a not less than quarterly basis via a statewide database that the bill requires the Registrar to establish within 60 days after the bill's effective date. Those records must include the make, model, year, vehicle identification number, and the names and addresses of the purchaser and seller of the salvage motor vehicle.³

The bill also requires that every salvage auction and pool obtain from any person who is an authorized purchaser either a copy of a driver's license, passport, or other government-issued identification.⁴ If the authorized purchaser is an entity licensed or otherwise authorized to purchase salvage motor vehicles or an entity that is licensed or otherwise authorized to do business as a used motor vehicle dealer, the salvage motor vehicle auction or pool must obtain proof of that license or authorization.⁵ The bill also requires every salvage motor vehicle auction and pool to obtain a declaration under penalty of perjury from authorized purchaser who is subject to a purchase limit of either five or seven vehicles per calendar year certifying that the authorized purchaser is not making a purchase in excess of the applicable limit.⁶ The salvage auction or pool must maintain any government-issued identification, proof of licensure or authorization to do business, or declaration under penalty of perjury for a period of two years.⁷ These documents must also be submitted to the Registrar in the same manner as the information contained in the electronic record of sale.⁸

The Registrar may adopt any rules necessary to facilitate the timely submission of the required information. The Registrar may make the required information available to state or local law enforcement upon request.⁹ Under continuing Ohio law, salvage auctions and pools are also required to keep record of all sales transactions pursuant to the rules established by the Salvage Motor Vehicle Licensing Board.¹⁰

³ R.C. 4738.021(A)(1), (B), and (C).

⁴ R.C. 4738.021(A)(2).

⁵ R.C. 4738.021(A)(3)

⁶ R.C. 4738.021(A)(4).

⁷ R.C. 4738.021(A)(4).

⁸ R.C. 4738.021(B).

⁹ R.C. 4738.021(C).

¹⁰ R.C. 4738.15 (not in the bill) and Ohio Administrative Code (O.A.C.) 4501:1-4-22.

The bill also requires every salvage auction and pool to comply with the reporting requirements of the National Motor Vehicle Title Information System (NMVTIS).¹¹ The NMVTIS requires for each vehicle received into inventory every month the following information:

- (1) The name, address, and contact information for the reporting entity;
- (2) Vehicle identification number;
- (3) Date the automobile was obtained;
- (4) Name of the individual or entity from whom the automobile was obtained (for use by law enforcement and appropriate governmental agencies only);
- (5) A statement of whether the automobile was crushed or disposed of, or offered for sale or other purposes;
- (6) A statement of whether the vehicle is intended for export out of the United States.¹²

Additional sales changes

Additionally, the bill allows a person to sell salvage motor vehicles at wholesale to or through a salvage auction or salvage pool without obtaining any license pursuant to the Motor Vehicle Salvage Law if the acquisition and disposal of those salvage motor vehicles is incidental to the seller's primary business. Current law limits a person to making that sale to a salvage dealer.¹³

Casual sales

As the bill allows a salvage auction or pool to auction or sell salvage motor vehicles at retail to authorized purchasers, the bill revises the requirement that certain casual sellers obtain a salvage dealer license. Under the bill, a person also may meet the licensure requirement by obtaining a salvage auction or salvage pool license.¹⁴ Under the bill, "casual sale" means any transfer of a salvage motor vehicle by a person other

¹¹ R.C. 4738.022.

¹² See Section 202 of the Anti Car Theft Act of 1992 (Pub. L. 102-519), Anti-Car Theft Improvements Act of 1996 (Pub. L. 104-152), and 28 Code of Federal Regulations (C.F.R.) 25.56.

¹³ R.C. 4738.02(A) and (B)(2) and 4738.17.

¹⁴ R.C. 4738.02(B).

than a salvage dealer, salvage auction, or salvage pool to a person who intends to purchase the salvage motor vehicle for use as a consumer.¹⁵

Under current law, a "casual sale" is one made to an ultimate purchaser (a person who purchases the salvage motor vehicle in good faith for purposes other than retail) for use as a consumer. Although the bill eliminates the term "ultimate purchaser" from the definition, it retains the requirement that a casual sale must be made to a person for use as a consumer.¹⁶ Under the bill, no person may make more than five casual sales of salvage motor vehicles in a calendar year (instead of in a 12-month period as under current law).¹⁷

Certificates of salvage title

The bill requires that within 90 days after the sale of a salvage motor vehicle by any person, the registrar must issue a certificate of salvage title that contains specific language in bold lettering warning the purchaser that the salvage vehicle may not be safe for operation until properly repaired, and that some states may require an inspection before permitting registration of the vehicle and may permanently brand the certificate of title as "salvage." The notice must also explain that in Ohio the vehicle may be branded as a rebuilt salvage vehicle.¹⁸ The bill also requires that at the time that a salvage motor vehicle is sold at salvage auction or through a salvage pool the auction or pool must give the purchaser of that vehicle a copy of the certificate of salvage title or a copy of the certificate of title marked "FOR DESTRUCTION."¹⁹

Physical inspection of salvage motor vehicles

The bill expands the number of permissible locations where physical inspections of certain salvage motor vehicles may be made. Current law allows the physical inspection of a salvage motor vehicle owned by an insurance company to be made at a salvage dealer's established place of business and allows the dealer to charge a maximum fee of \$3.50 for conducting that inspection. The bill permits physical inspection of a salvage motor vehicle owned by an insurance company to also be made

¹⁵ R.C. 4738.01(I).

¹⁶ R.C. 4738.01(G) (in current law).

¹⁷ R.C. 4738.02(C).

¹⁸ R.C. 4738.023.

¹⁹ R.C. 4505.11(B)(2).

at the place of business of a salvage auction or salvage pool in addition to a salvage dealer, and allows the salvage auction or salvage pool to charge the same fee.²⁰

Salvage dealer identification cards

The bill eliminates the current law requirement that when a salvage dealer wishes to purchase a salvage motor vehicle at salvage auction or salvage pool, the salvage dealer must file an application with the Registrar of Motor Vehicles for a buyer's identification card and pay a \$35 fee for each card. The bill also removes the requirement that the application fee be placed in the State Bureau of Motor Vehicles Fund in the state treasury.²¹

Good faith purchasers of stolen motor vehicles

The bill permits a good faith purchaser of any motor vehicle to file an insurance claim for the loss of the vehicle, if the purchaser subsequently is permanently divested of the right of ownership or possession to that motor vehicle because of a court or law enforcement determination that the certificate of title or vehicle identification number has been falsified or otherwise tampered with or that the vehicle was stolen and if the purchaser has insurance coverage on the motor vehicle that covers damage to or the loss of the motor vehicle. The insurance company that holds a current policy on the motor vehicle for which a claim is made pursuant to the bill must pay the claim in an amount not less than the value of the motor vehicle at the time it was confiscated and not greater than the amount for which the vehicle was insured.²²

Junk motor vehicles

Disposal of vehicle by a board of township trustees

Under continuing law, a board of township trustees may resolve to remove any vehicle located in the unincorporated territory of its own township if the board determines that the vehicle is a junk motor vehicle.²³ For these purposes, "junk motor vehicle" means any motor vehicle that is at least three years old, is extensively damaged (missing wheels, tires, engine, motor, or transmission), and is apparently inoperable.²⁴

²⁰ R.C. 4505.061.

²¹ R.C. 4738.18 and 4501.25.

²² R.C. 3937.19.

²³ R.C. 505.871(A).

²⁴ R.C. 505.173(E) (not in the bill).

Under current law, a board of township trustees may enter into contract with a licensed motor vehicle salvage dealer or licensed scrap metal processing facility for the removal or disposal of a vehicle the board has determined to be a junk motor vehicle.²⁵ If the bill's conditions are satisfied, notwithstanding continuing law requirements for issuing titles, the bill requires the clerk of courts of the applicable county to issue a salvage certificate of title to the salvage dealer or scrap metal processing facility that contracted with the board to remove or dispose of the junk motor vehicle. The fiscal officer for the board of township trustees must execute in triplicate an affidavit (one for retention by the board, and two to be furnished to the salvage dealer or scrap metal processing facility) prescribed by the Registrar of Motor Vehicles describing the junk motor vehicle and the manner of removal or disposal. The fiscal officer must certify in the affidavit that the board is in compliance with the applicable state laws. The salvage dealer or scrap metal processing facility must subsequently present one of the affidavits it received from the fiscal officer to the Clerk of Courts. The Clerk of Courts must then issue a salvage certificate of title free and clear of all liens and encumbrances not later than 30 days after the affidavit is presented by the salvage dealer or scrap metal processing facility.²⁶

Disposal of vehicle by a private property owner

The bill also permits a private property owner (which includes a person with the right to possession) to dispose of a junk motor vehicle situated on the property owner's property to a motor vehicle salvage dealer or scrap metal processing facility if the property owner complies with the procedures outlined in the bill. For these purposes, "junk motor vehicle" has the same meaning as in "**Disposal of a vehicle by a board of township trustees**" above, except that that the junk motor vehicle must also have a fair market value of \$1500 or less, as determined in accordance with standards fixed by the Registrar.²⁷

In order to dispose of a junk motor vehicle under the bill, a property owner must first conduct a search of the records of the Bureau of Motor Vehicles (BMV) to determine the owner of the junk motor vehicle and whether there are any outstanding liens on the junk motor vehicle. If the property owner discovers the name of the owner of the junk motor vehicle, or discovers that an outstanding lien exists on the junk motor vehicle, the property owner must send a notice by certified mail, return receipt requested, stating the location of the junk motor vehicle and its value, and informing

²⁵ R.C. 505.85 (not in the bill).

²⁶ R.C. 505.871(F).

²⁷ R.C. 4505.103(A)(1) and (F).

the owner and lienholder of the junk motor vehicle that unless the owner or lienholder claims the junk motor vehicle within 15 days from the mailing of the notice, the property owner will dispose of the junk motor vehicle to a motor vehicle salvage dealer or scrap metal processing facility and the junk motor vehicle will be destroyed. The property owner must also inform any lienholder that the lienholder's lien will become invalid 15 days after the date of the mailing of the notice. If the junk motor vehicle does not contain a vehicle identification number, the notice requirements are waived.

If, after 15 days of the mailing of the notice, the vehicle remains unclaimed, and the property owner has received the signed receipt from the certified mail or has been notified that delivery was not possible, or if the notice requirements are waived, the property owner must obtain from the BMV or a deputy registrar a property owner junk motor vehicle affidavit as prescribed by the BMV.

In the case of a junk motor vehicle that contains a vehicle identification number, the property owner must submit a completed property owner junk motor vehicle affidavit, a fee of \$5 (which is deposited into the state treasury to the credit of the State Bureau of Motor Vehicles Fund), and the following items to the BMV:

- (1) A photo or pencil tracing of the vehicle identification number plate of the junk motor vehicle;
- (2) Not less than five color photographs of the junk motor vehicle;
- (3) Certified mailing receipts of notification to the owner and all lienholders;
- (4) A copy of the letter sent to the owner of the junk motor vehicle and all lienholders, notifying them that the property owner intends to dispose of the junk motor vehicle;
- (5) The signed and notarized property owner junk motor vehicle affidavit;
- (6) Any other items the Registrar determines are necessary.

In the case of a junk motor vehicle that does not contain a vehicle identification number and the property owner does not know the identity of the owner of the junk motor vehicle, the property owner must submit the completed property owner junk motor vehicle affidavit, a fee of \$5 (which is deposited into the state treasury to the same fund), and the following items to the BMV:

- (1) Not less than seven color photographs of the junk motor vehicle;

(2) An affidavit prescribed by the BMV and signed by a motor vehicle mechanic who is certified by a nationally recognized organization, stating that no part of the junk motor vehicle contains a vehicle identification number;

(3) The signed and notarized junk motor vehicle affidavit;

(4) Any other items the Registrar determines are necessary.

The BMV must determine whether to approve the property owner junk motor vehicle affidavit after review of the affidavit and the other items submitted by the property owner. If the BMV approves the affidavit, the BMV must issue to the property owner a letter of authorization to scrap a junk motor vehicle located on private property, return to the property owner the junk motor vehicle affidavit, and retain the other items that were submitted for a period of three years, after which the items may be destroyed.

The property owner must then present the letter of authorization and the property owner junk motor vehicle affidavit to a licensed motor vehicle salvage dealer or licensed scrap metal processing facility. The salvage dealer or scrap metal processing facility must destroy the junk motor vehicle only after the salvage dealer or scrap metal processing facility has received the junk motor vehicle, the letter of authorization, and the property owner junk motor vehicle affidavit. The salvage dealer or scrap metal processing facility must retain the letter of authorization and the property owner junk motor vehicle affidavit for a period of three years, after which the documents may be destroyed.²⁸

Penalties

Salvage motor vehicles

Under the bill, if a salvage auction or pool sells a salvage motor vehicle to anyone other than an authorized purchaser, the salvage auction or pool is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor upon each subsequent offense. Likewise, the bill makes a person who purchases a salvage motor vehicle from a salvage motor vehicle auction or pool but who does not satisfy or no longer satisfies the criteria for an authorized purchaser, including a person who has purchased salvage motor vehicles in excess of the established limit, guilty of a minor misdemeanor.²⁹

²⁸ R.C. 4505.103.

²⁹ R.C. 4738.99.

Junk motor vehicles

Under the bill, if a property owner submits false, fraudulent or altered items, or a false, fraudulent, or misleading property owner junk motor vehicle affidavit the property owner is guilty of a third degree felony. Additionally, if a motor vehicle mechanic signs an affidavit certifying that a junk motor vehicle contains no vehicle identification number knowing or having reason to know that the affidavit contains false, fraudulent, or misleading information, the mechanic is guilty of a third degree felony. The bill also makes it a third degree felony for a salvage dealer or scrap metal processing facility that receives a junk motor vehicle pursuant to an agreement with a property owner for the disposal of that junk motor vehicle to take any action relative to the junk motor vehicle other than to destroy it.³⁰

HISTORY

ACTION	DATE
Introduced	12-19-11
Reported, S. Insurance, Commerce & Labor	—

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³⁰ R.C. 4505.103(H).

