Ohio Legislative Service Commission

Bill Analysis

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H.B. 468

130th General Assembly
(As Introduced)

Reps. Sears and McGregor, Becker, Hackett, Henne

BILL SUMMARY

Motor Vehicle Salvage Law

- Permits a person to engage in the business of selling at retail salvage motor vehicles to authorized purchases if the person has a salvage motor vehicle auction license or a salvage motor vehicle pool license.

- Prohibits a person licensed as a salvage motor vehicle auction or salvaged motor vehicle pool from knowingly selling a salvage motor vehicle to anyone other than an authorized purchaser.

- Prohibits any person who is not an authorized purchaser from purchasing a salvage motor vehicle from a salvage motor vehicle auction or salvage motor vehicle pool.

- Prohibits a person who is not licensed under the Motor Vehicle Salvage Law from making more than five sales of salvage motor vehicles in a calendar year, as opposed to a 12-month period, to a person who purchases the salvage motor vehicle for use as a consumer.

- Permits a person to sell salvage motor vehicles at retail or at wholesale to or through a salvage motor vehicle auction or salvage motor vehicle pool without a license if the transaction is incidental to the person's primary business.

- Repeals the current law requirement that any person licensed as a motor vehicle salvage dealer purchasing salvage motor vehicles at salvage motor vehicle auctions or salvage motor vehicle pools obtain a buyer's identification card.

- Requires every salvage motor vehicle auction and salvage motor vehicle pool to comply with certain records requirements.

- Requires every salvage motor vehicle auction and salvage motor vehicle pool to submit monthly to the Registrar of Motor Vehicles an electronic record with certain information for each sale of a salvage motor vehicle.

- Grants the Registrar the authority to adopt any rules necessary to facilitate the timely submission of the required information.

- Requires the Registrar to issue to the purchaser of a salvage motor vehicle a salvage certificate of title containing specified disclosures.

- Requires every salvage motor vehicle auction and salvage motor vehicle pool to comply with the reporting requirements of the National Motor Vehicle Title Information System.

Motor Vehicle Law

- Permits a person who purchases, takes possession of, and duly registers a motor vehicle in good faith to submit a claim to the purchaser's insurance company for the loss of the motor vehicle under certain circumstances.

- Permits the physical inspection of a salvage motor vehicle owned by an insurance company to be made at an established place of business operated by a salvage motor vehicle auction or salvage motor vehicle pool.

Resolution for removal of junk motor vehicles

- Requires, if a junk motor vehicle is removed and disposed of by a township resolution to remove a junk vehicle, the clerk of courts of the county to issue a salvage certificate of title for that junk motor vehicle to a licensed motor vehicle salvage dealer or scrap metal processing facility if certain conditions are met.

CONTENT AND OPERATION

Motor Vehicle Salvage Law

The bill makes a number of changes to Ohio's Motor Vehicle Salvage Law. A "salvage motor vehicle" means any motor vehicle that is in a wrecked, dismantled, or worn out condition, or unfit for operation as a motor vehicle. The Motor Vehicle Salvage Law regulates motor vehicle salvage dealers, meaning 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.[1]

License required

General prohibition – retail sales

The bill broadens the types of licenses that authorize a person to sell salvage motor vehicles. Current law prohibits a person from engaging in the business of selling at retail salvage motor vehicles without first obtaining a motor vehicle salvage dealer's license pursuant to this chapter. "Selling 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 consumer). Also, current law prohibits a person from providing a location or space for the sale at retail of salvage motor vehicles without obtaining a motor vehicle salvage dealer's license.

The bill revises these prohibitions and their related definitions. Under the bill, these prohibitions do not apply if the person has a salvage motor vehicle auction license or a salvage motor vehicle pool license. These licenses now authorize their holders to sell salvage motor vehicles at retail to "authorized purchasers" (see "**Prohibitions on salvage motor vehicle auctions and salvage motor vehicle pools**," below). Under current law, these licensees are limited to selling salvage motor vehicles to motor vehicle salvage dealers.

In addition, under the bill a person may sell salvage motor vehicles at retail to or through a salvage motor vehicle auction or salvage motor vehicle pool without obtaining a license if both of the following apply:

- The acquisition of salvage motor vehicles is incidental to the primary business of the person.
- The disposal of those salvage motor vehicles is incidental to the primary business of the person.

Under the bill, the prohibition relating to providing a location or space does not apply to lessors of the location or space.[2]

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[1] R.C. 4738.01(A) and (B).

[2] R.C. 4738.01(C), (D), (F), and (G) and 4738.02.

Casual sales

Also, under continuing law a person is allowed to make a limited number of "casual sales" without violating the license requirement. Current law prohibits a person from making more than five casual sales of salvage motor vehicles in a 12-month period or providing a location or space for the sale at retail of salvage motor vehicles, without obtaining a motor vehicle salvage dealer's license. A "casual sale" is the transfer of a salvage motor vehicle to a consumer by a person other than a person licensed to sell the vehicle. The bill revises this prohibition to be within a calendar year, rather than a rolling 12-month period.[3]

Wholesale sales

The bill creates an exception to the law limiting who may engage in the business of selling salvage motor vehicles at wholesale. Under current law, only licensed salvage motor vehicle dealers, salvage motor vehicle auctions, and salvage motor vehicle pools may do so. The bill permits a person to sell salvage motor vehicles at wholesale to or through a salvage motor vehicle auction or salvage motor vehicle pool without obtaining a license if both of the following apply:

- The acquisition of salvage motor vehicles is incidental to the primary business of the person.
- The disposal of those salvage motor vehicles is incidental to the primary business of the person.[4]

Prohibitions on salvage motor vehicle auctions and salvage motor vehicle pools

The bill removes the current law prohibition on licensed salvage motor vehicle auctions and salvage motor vehicle pools selling a salvage motor vehicle to any person except a licensed motor vehicle salvage dealer.[5] However, a person licensed as a salvage motor vehicle auction or salvage motor vehicle pool continues to be prohibited from doing any of the following:

- Selling a salvage motor vehicle when having reasonable cause to believe it is not offered by the legal owner;

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[3] R.C. 4738.01(I) and 4738.02(C).

[4] R.C. 4738.17.

[5] R.C. 4738.01(C) and (D) and 4738.03(B) and (C).

- Failing to make an Ohio salvage certificate of title available to the purchaser of a salvage motor vehicle sold by the salvage motor vehicle auction or salvage motor vehicle pool, before payment for the salvage motor vehicle is completed;

- Operating as a motor vehicle salvage dealer at the same location where any salvage motor vehicle auction or salvage motor vehicle pool is operated.

In addition, a person licensed as a salvage motor vehicle auction or salvage motor vehicle pool is prohibited from knowingly selling a salvage motor vehicle to anyone other than an authorized purchaser.

Likewise, any person who is not an authorized purchaser is prohibited from purchasing a salvage motor vehicle from a salvage motor vehicle auction or salvage motor vehicle pool. A violation of this prohibition is a minor misdemeanor.[6]

"Authorized purchaser" means a person who purchases a salvage motor vehicle from a salvage motor vehicle auction or salvage motor vehicle pool and who satisfies either of the following criteria:

- The person is a licensed motor vehicle salvage dealer, junk yard, scrap metal processing facility, used motor vehicle dealer, salvage dismantler, or an automotive recycler business authorized to purchase salvage motor vehicles by another state, country, or jurisdiction;

- The person is none of the above but has purchased no 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 (see "**Casual sales**," above).[7]

Buyer's identification card

The bill repeals the current law requirement that any person licensed as a motor vehicle salvage dealer who wishes to purchase salvage motor vehicles at salvage motor vehicle auctions or salvage motor vehicle pools must obtain a buyer's identification card from the Registrar of Motor Vehicles (Registrar).[8]

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[6] R.C. 4738.03(B)(1) and (C)(1), 4738.031, and 4738.99.

[7] R.C. 4738.01(G).

[8] R.C. 4738.18 and a conforming change in R.C. 4501.25.

Records requirements

The bill requires every salvage motor vehicle auction and salvage motor vehicle pool to comply with the following records requirements:

- Keep an electronic record of all sales of salvage motor vehicles, including the make, model, year, vehicle identification number, and the names and addresses of the purchaser and seller of the salvage motor vehicle;

- Obtain from any authorized purchaser of an Ohio salvage motor vehicle a copy of a driver's license, passport, or other government-issued identification and maintain a copy of the identification for two years;

- Obtain from any person who is an authorized purchaser documented proof of any required license or other authorization to do business. 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 motor vehicles in that person's state, jurisdiction, or country. The salvage motor vehicle auction or salvage motor vehicle pool must maintain a copy of this documentation for two years.

- Obtain, in electronic or written format, from any person who is an authorized purchaser under the bill a declaration under penalty of perjury that the authorized purchaser is not making a purchase in excess of the applicable limit and maintain that declaration for two years.[9]

Registrar of Motor Vehicles

The bill requires every salvage motor vehicle auction and salvage motor vehicle pool to submit to the Registrar an electronic record of the make, model, year, vehicle identification number, and the names and addresses of the purchaser and seller for each sale of a salvage motor vehicle. This information must be reported to the Registrar on a monthly basis. Within 60 days after the effective date of the bill, the Registrar must develop a statewide database for the collection of this information to maintain an accurate record of all sales conducted by a salvage motor vehicle auction or salvage motor vehicle pool. The Registrar has the authority to adopt any rules, pursuant to Ohio's Administrative Procedure Act, necessary to facilitate the timely submission of

[9] R.C. 4738.021(A).

this information and must make the information available to any state or local law enforcement agency upon request.

Within 30 days of the sale of a salvage motor vehicle, the Registrar must issue to the purchaser of the salvage motor vehicle a salvage certificate of title containing a specified disclosure notice stating that the vehicle is salvage and may not be safe for operation.[10]

National reporting requirements

Every salvage motor vehicle auction and salvage motor vehicle pool must comply with the reporting requirements of the National Motor Vehicle Title Information System.[11]

Motor Vehicle Law

Motor vehicle insurance

The bill permits a person who purchases, takes possession of, and duly registers a motor vehicle in good faith to submit a claim to the purchaser's insurance company for the loss of the motor vehicle if both of the following apply:

- 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;

- The purchaser has comprehensive insurance coverage on the motor vehicle that covers damage to or the loss of the motor vehicle.

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 such a claim is made must pay the claim if the insurer determines that the purchase was made in good faith and a fair market value was paid. The claim must be in an amount no 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, minus any applicable

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[10] R.C. 4738.021(B) and (C) and 4738.023.

[11] R.C. 4738.022.

deductible. The insurance company has the right to assert any applicable policy exclusions, conditions, or provisions.[12]

Motor vehicle title

Ohio's Certificate of Motor Vehicle Title Law requires any person who is buying or selling a motor vehicle to obtain or transfer a certificate of title for that motor vehicle. The owner of a motor vehicle must apply for a certificate of title when required by the Law.[13] If the motor vehicle was last registered in another state, the application for a certificate of title must be accompanied by a physical inspection certificate issued by the Department of Public Safety. The bill expands the places at which the physical inspection of a salvage vehicle owned by an insurance company can be made to include at an established place of business operated by a salvage motor vehicle auction or salvage motor vehicle pool. Current law only allows the physical inspection of a salvage vehicle owned by an insurance company to be made at an established place of business operated by a licensed motor vehicle salvage dealer.[14]

Resolution for removal of junk motor vehicles

Under the bill, if a junk motor vehicle is removed and disposed of in accordance with the requirements of the law pertaining to the removal of junk motor vehicles by townships, the clerk of courts of the county must issue a salvage certificate of title for that junk motor vehicle to a licensed motor vehicle salvage dealer or scrap metal processing facility if all of the following conditions apply:

- The board of township trustees has entered into a contract with the motor vehicle salvage dealer or scrap metal processing facility for the disposal or removal of the junk motor vehicle;

- The fiscal officer for the board of township trustees executes in triplicate an affidavit prescribed by the Registrar describing the junk motor vehicle and the manner of removal or disposal and certifying that all requirements related to issuing a resolution to remove the vehicle and the notice and records search requirements have been satisfied;

- The board of township trustees retains the original affidavit for the board's records and furnishes the remaining two copies of the affidavit to the motor vehicle salvage dealer or scrap metal processing facility;

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[12] R.C. 3937.19.

[13] R.C. 4505.021 and 4505.03, not in the bill.

[14] R.C. 4505.061.

- The motor vehicle salvage dealer or scrap metal processing facility presents one copy of the affidavit to the clerk.

The clerk must then issue the salvage certificate of title, free and clear of all liens and encumbrances, no later than 30 days after the motor vehicle salvage dealer or scrap metal processing facility presents the required affidavit.[15]

For the purposes of this provision, "junk motor vehicle" means a motor vehicle that is (1) three model years old or older, (2) apparently inoperable, and (3) extensively damaged.[16]

HISTORY

ACTION	DATE
Introduced	03-06-14

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[15] R.C. 505.871(F).

[16] R.C. 505.871(A) by reference to R.C. 505.173, not in the bill.