

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1008 (Delegate Frush)
Environmental Matters

**Vehicle Laws - Automotive Dismantlers and Recyclers or Scrap Processors -
Disposal of Vehicles**

This bill repeals the authorization for a person to transfer vehicles that are abandoned or without acceptable title, which are more than eight years old and have no engine or are otherwise totally inoperable (vehicle “hulks”), to an automotive dismantler and recycler or scrap processor (ADR/SP) without a certificate of title and without complying with specified notice procedures. The bill also requires electronic notification by an ADR/SP to the Motor Vehicle Administration (MVA) and the Department of State Police (DSP) on obtaining a vehicle without acceptable ownership documents. MVA is authorized to impose additional sanctions against the license of an ADR/SP that has not followed this electronic notice requirement.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: Potential meaningful adverse impact on ADR/SPs to provide additional notice, for additional vehicle storage costs, from additional sanctions authorized by the bill, and to the extent that the bill results in an interruption in the supply of vehicles delivered for processing.

Analysis

Bill Summary: The bill repeals the authorization for specified persons to transfer hulks that are abandoned or without acceptable title to an ADR/SP without a certificate of title

and without complying with specified notice procedures that generally apply for other vehicles. Also repealed is the authorization for an ADR/SP to execute an indemnity agreement with a person that transfers one of these hulks, and any reference to separate provisions for the disposal of hulks by an ADR/SP.

After an ADR/SP takes possession of a vehicle without an acceptable ownership document, it is required to electronically notify MVA and DSP in a manner to be prescribed by MVA. After receiving such notice, DSP must perform a stolen vehicle investigation for the vehicle and, as soon as feasible, notify the licensed ADR/SP of the results of the investigation. If the vehicle is determined to be stolen, DSP must take possession of the vehicle. If the vehicle is determined to not be stolen, the ADR/SP must then follow currently required notice procedures of the intent to dispose of the vehicle.

If a stolen vehicle is found on the property of an ADR/SP without having been electronically reported as required by the bill, then MVA may take additional sanctions against the license of the ADR/SP. These sanctions include a 5-day license suspension for a first offense, a 30-day suspension for a second offense, or revocation of the license for a third or subsequent offense.

Finally, the bill authorizes an ADR/SP whose license has been suspended to store a vehicle that is to be dismantled, destroyed, or scrapped if the vehicle was stored before the period of license suspension.

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 ADR/SP takes possession of a vehicle and does not receive a certificate of title or other documentary evidence of ownership acceptable to MVA, the ADR/SP must comply with specified notice requirements. Specifically, after the vehicle has been in the possession of the ADR/SP for more than 30 days, the ADR/SP 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 ADR/SP 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 ADR/SP 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 ADR/SP takes title to a vehicle, it must provide certification of the title to MVA within five 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 ADR/SP may dispose of the vehicle.

Each ADR/SP 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 ADR/SP 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 ADR/SP. 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 ADR/SP without following the same notice procedures and without possessing a certificate of title. The ADR/SP may, however, require the transferor of the hulk to execute an indemnity agreement.

This separate process originated through legislation in the late 1960s and thereafter 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 U.S. 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 and is, therefore, unenforceable.

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 ADR/SPs. The capabilities of this unit have been significantly enhanced 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: DSP operations are affected, but any additional expenditures are expected to be minimal, and may be offset to the extent that the bill results in the collection of additional fees following use of the DSP theft prevention database. MVA operations are minimally affected due to additional transactions and to accomplish necessary internal reprogramming work, but this work can be handled with existing budgeted resources. Finally, Office of Administrative Hearings (OAH) operations are also minimally affected from additional license suspensions and revocations under the bill’s expanded sanction authority for MVA. However, as the number of such sanctions is expected to be minimal, Transportation Trust Fund expenditures and corresponding

general fund revenues that result from reimbursement payments by MVA to OAH for administrative hearings are also expected to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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