

Letter from State Law Department on House Bill No. 506

May 2, 1963.

Honorable J. Millard Tawes
Governor of Maryland
State House
Annapolis, Maryland

Re: House Bill No. 506

Dear Governor Tawes:

House Bill No. 506, submitted to this office for review as to its legal sufficiency, is a measure empowering the County Commissioners of Carroll County to impose a "license tax" upon the owners of motor vehicle junk yards. It provides that any such tax so imposed "shall be levied according to the number of junked motor vehicles in the motor vehicle junk yard"; and it authorizes the Commissioners "to eliminate any county taxes applicable heretofore for inventory of junked motor vehicles in any such motor vehicle junk yard should an annual license tax be imposed". The Bill also gives the Commissioners regulatory powers, which powers are limited to "rules, regulations and orders necessary for the purpose of levying and collecting the tax imposed". However, the tax collected may be used "as the County Commissioners of Carroll County, in their discretion, may determine".

It is our opinion that the tax proposed by this Bill is not a "license tax"—although it is called such—but a "property tax". The provisions of the Bill itself compel such a conclusion:

1. License taxes are taxes imposed under the police powers and are intended not to be revenue-producing, but merely to meet the incidental costs of maintaining regulatory laws designed to protect the public welfare. Here, however, there is no exercise of the police powers, for the County Commissioners are not empowered to specify under what circumstances the junk yards are to be operated and licensed; indeed, the statute really does not appear to contemplate the issuance of licenses at all.

2. The present discretion given the County Commissioners respecting the application of the tax monies collected also bolsters the conclusion that the Bill is a revenue measure and not a legislative enactment under the police powers.

3. That the tax created would be a property tax—as distinguished from either a license or use tax—is persuasively demonstrated by the fact that the Legislature has expressly stated its intention that such tax should be imposed in lieu of the presently existing property tax on inventory.

As a property tax, then, that contemplated by House Bill No. 506 fails to meet the constitutional requirements of uniformity and equality specified in Article 15 of the Declaration of Rights. Equality and uniformity are achieved in property taxation only when the tax imposed bears a direct relationship to, and is determined solely by, the value of the property taxed. *Anne Arundel County v. English*, 182 Md. 514. The tax contemplated by this legislation, however, would not be based upon the *value* of the junked motor vehicles in a