

2-3-6-87

992277

RECEIVED

JAN 14 1999

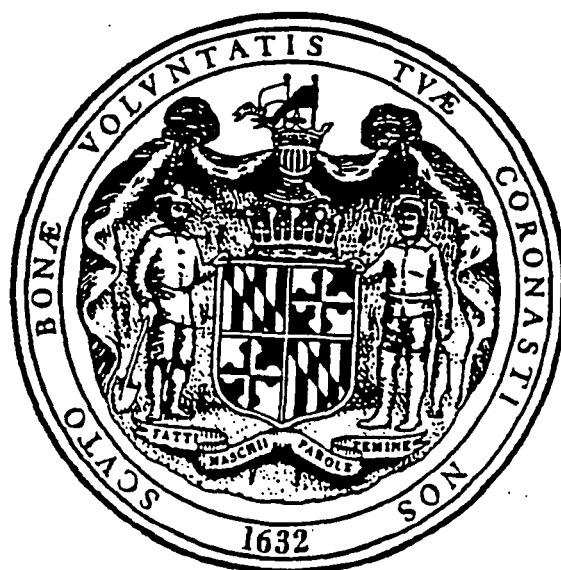
MARYLAND STATE ARCHIVES

FINAL REPORT OF THE  
TASK FORCE TO STUDY THE  
COMPREHENSIVE LICENSING OF  
AUTOMOTIVE-RELATED INDUSTRIES



DECEMBER 1998

**FINAL REPORT OF THE  
TASK FORCE TO STUDY THE  
COMPREHENSIVE LICENSING OF  
AUTOMOTIVE-RELATED INDUSTRIES**



**DECEMBER 1998**

The Office of Driver/Vehicle Policies and Programs  
of the MOTOR VEHICLE ADMINISTRATION,  
Maryland Department of Transportation,  
prepared this document.

For additional copies or further information  
Contact the Office of Driver/Vehicle Policies and Programs at:

Motor Vehicle Administration  
6601 Ritchie Highway, N.E.  
Glen Burnie MD 21062

410-768-7451  
TTY 1-800-492-4575

TASK FORCE TO STUDY THE COMPREHENSIVE  
LICENSING OF AUTOMOTIVE-RELATED INDUSTRIES

---

December 18, 1998

The Honorable Parris N. Glendening  
Governor, State of Maryland

The Honorable Thomas V. Mike Miller, Jr.  
President, Maryland Senate

The Honorable Casper R. Taylor, Jr.  
Speaker, Maryland House of Delegates

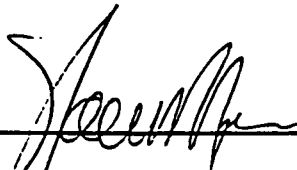
Dear Gentlemen:

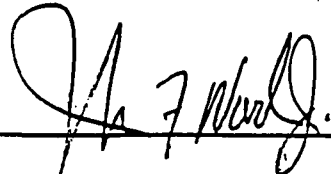
Pursuant to *Chapter 378 of the Laws of Maryland of 1998*, we respectfully submit the report of the Task Force to Study the Comprehensive Licensing of Automotive-Related Industries.

The Task Force met five times during the fall of 1998 to study the scope of unlicensed activity, the feasibility of and standards for licensing of currently unlicensed businesses, and the resources necessary to effectively enforce a comprehensive automotive-related business licensing law. Preliminarily, the Task Force considered comprehensive licensing as the solution to the unregulated, often unscrupulous operations that taint legitimate businesses. After in-depth deliberations, however, the Task Force decided against a complex, controversial, and costly licensing scheme in favor of a basic level of "enhanced enforcement" legislation to give law enforcement the tools needed to curb illegal activities. The Task Force also agreed that the establishment of an advisory council would promote education, communication, and compliance oversight. The legislative proposal and recommended executive order discussed in this report reflect the general consensus of the Task Force.

In recognition of the diverse and complex issues confronting the Task Force, we acknowledge the members, their advisors, and staff for their determination to seek resolutions that will benefit the entire automotive-related industry. The members deserve a special commendation for their resolve in achieving consensus in the development of the Task Force recommendations.

Sincerely,

  
\_\_\_\_\_  
Senator Norman R. Stone, Jr., Co-Chair

  
\_\_\_\_\_  
Delegate John F. Wood, Jr., Co-Chair

cc: Anne S. Ferro, Administrator, Motor Vehicle Administration



TASK FORCE TO STUDY THE COMPREHENSIVE  
LICENSING OF AUTOMOTIVE-RELATED INDUSTRIES

*CONTENTS*

---

Task Force Membership .....	1
Executive Summary	
Introduction.....	2
Background.....	2
Deliberations.....	3
Summary of Recommendations .....	4
Table 1. Overview of Automotive-Related Industries .....	8
Appendices	
1. Chapter 378, Laws of Maryland of 1998 Senate Bill 344 .....	14
2. Legislative Proposal for the 1999 General Assembly Session ...	26
3. Summaries of Task Force Meetings	
~ September 9, 1998 .....	40
~ September 23, 1998 .....	46
~ October 7, 1998 .....	54
~ October 30, 1998 .....	62
~ November 20, 1998 .....	90



TASK FORCE TO STUDY THE COMPREHENSIVE  
LICENSING OF AUTOMOTIVE-RELATED INDUSTRIES

***MEMBERSHIP***

---

Senator Norman R. Stone – Co-Chairman  
Maryland State Senate

Toni Johnson  
Eagle Auto Salvage

Delegate John F. Wood, Jr. – Co-Chairman  
Maryland House of Delegates

David M. Taylor  
Insurance Auto Auctions

Senator Larry E. Haines  
Maryland State Senate

Major W. Ray Presley  
Vehicle Theft Prevention Council

Delegate Diane DeCarlo  
Maryland House of Delegates

William H. Wilson, Jr.  
Annapolis Auto Body

Jerry Brooke Sullivan  
Auto Placement Center, Inc.

Edgar F. Johnson  
The David J. Joseph Company

Corporal Thomas Dupczak  
Maryland State Police  
Auto Theft Unit

Captain Jeffrey L. Norris  
PG Co. Police Department,  
Criminal Investigations Division

James W. Gosnell, Jr.  
Baltimore Auto Recycling

Robert C. Russel  
R & H Motor Cars Limited

Linda L. Wheat  
Windsor Service, Inc.

Joyce Stanley  
Motor Vehicle Administration

Samuel Dansicker  
Cox Auto Parts

***STAFF***

---

Thomas M. Walsh  
Motor Vehicle Administration

William R. Varga  
House of Delegates, Commerce and  
Government Matters Committee

Sherri L. Cook  
Motor Vehicle Administration

W. Steve Lee  
Motor Vehicle Administration

Victoria Whitlock  
Motor Vehicle Administration



**REPORT OF THE TASK FORCE TO STUDY THE COMPREHENSIVE  
LICENSING OF AUTOMOTIVE-RELATED INDUSTRIES**

***INTRODUCTION***

---

The Task Force to Study the Comprehensive Licensing of Automotive-Related Industries was established by *Chapter 378 of the Laws of Maryland of 1998*. (See *Appendix 1 — Senate Bill 344*.) The Task Force was charged with studying the scope of unlicensed activity, the feasibility of and standards for licensing of currently unlicensed businesses, and the resources necessary to effectively enforce a comprehensive automotive-related business licensing law.

The seventeen-member Task Force included two members of the Senate of Maryland; two members of the Maryland House of Delegates; and one representative from each of the following industry or government sectors: auto dismantlers and recyclers (early-model salvage and late-model salvage); auctions; scrap processors; body shops; used auto parts distributors; new and used vehicle dealerships; the towing industry; auto salvage pool; the Motor Vehicle Administration; the Vehicle Theft Prevention Council; local law enforcement; and the Maryland State Police Auto Theft Unit.

Senator Norman R. Stone, Jr. and Delegate John F. Wood, Jr. served as co-chairmen of the Task Force.

***BACKGROUND***

---

The movement and sale of vehicles and vehicle parts is among the largest industry sectors in the United States economy. In Maryland, many of the automotive-related businesses are not subject to regulation or licensing by the Motor Vehicle Administration, and in some cases, illegal activity may be aided from detection by this fact. There are also automotive-related businesses that, although required by law to be licensed, are engaging in unlicensed business activity. There is a perception that the lack of consistent regulation and enforcement creates an unfair advantage for the unlicensed entities operating in the State and places the consumer at a disadvantage.

The intent of Senate Bill 344, as first introduced at the 1998 General Assembly, was to repeal the licensing provisions governing automotive dismantlers and recyclers and scrap processors. The basis for the bill was the complaint that the salvage industry is required to be licensed, whereas businesses such as auctions, body shops, and towers are not. The opponents of the bill were concerned that deregulation of the salvage industry would create adverse consequences and new problems. The legislature, therefore, agreed to delay enactment of such a law; instead, it established a Task Force to consider a broad-based

enforcement effort that would address all forms of unlicensed automotive-related business activity.

The controversy was fueled also by the breakdown in efforts to implement the recommendations of a previous task force<sup>1</sup> that deliberated at length on automotive-related issues such as unregulated towing and vehicle-disposal practices and unscrupulous operators. The task force's proposed legislation provided for a statewide Towing Service Licensing Act; however, the interested parties did not share a strong enough consensus on the purpose and goals to achieve adoption of any of the task force's recommendations. This failure to agree on a licensing scheme for the towing industry further influenced the legislature's amendment of SB344 to establish a new Task Force to look for solutions to the whole spectrum of unlicensed automotive-related activity.

### ***DELIBERATIONS***

---

The Task Force to Study the Comprehensive Licensing of Automotive-Related Industries met five times during the fall of 1998 and additional subcommittee meetings were held as needed to address the issues and seek consensus for resolution. (*See Appendices 3 and 4 — Summaries of Task Force Meetings and Subcommittee Recommendations.*)

At the organizational meeting, the Task Force began the task of identifying the critical issues that it would need to consider. A matrix was developed to provide an overview of the auto-related industries including the key activities, scope of existing licensing and regulation, and issues important to each industry (*see Table 1*). Over the next several meetings the matrix was refined and was helpful in focusing on the key issues germane to the Task Force's mission<sup>2</sup>.

With the exception of the auto dismantlers and recyclers and the new and used vehicle dealers, none of the other automotive-related businesses are licensed by the Motor Vehicle Administration. However, all are subject to local zoning requirements regulating the kinds of activity and manner in which those activities can occur on a particular site. And, most operations are subject to other state and local regulations, such as environmental regulations, occupational health and safety regulations, and regulations governing tire disposal, hazardous materials, storm water runoff, screening, dust control, and noise abatement.

Although there was no consensus supporting additional licensing, preliminary discussions pointed to licensing as the solution to the unregulated, often unscrupulous operations that taint legitimate towing and auto dismantlers and recyclers businesses. As the critical issues became clearer, however, the sentiment of Task Force members shifted to the possibility of "enhanced enforcement" to curb illegal activities as a viable alternative to a complex, controversial, and costly regulatory licensing scheme. There was general agreement for

---

<sup>1</sup> Previous Task Force established to Study Motor Vehicle Liens, Regulation of Towing Practices, and the Disposition of Unclaimed Vehicles — met during the 1997 Interim.

<sup>2</sup> Mission of this Task Force — study the scope of unlicensed activity and feasibility of and needed resources to enforce a comprehensive automotive-related business licensing law.

improving record-keeping requirements, increasing inspection authority, adding penalties and enforcement powers, and eliminating the words "for hire" and a penalty provision pertaining to tow truck "TT" tags.

To ensure appropriate time for deliberations and concurrence, subcommittees were appointed to further explore the areas where consensus appeared possible and to consider other alternatives that would promote education, communication, and ensure appropriate compliance oversight. The subcommittees submitted proposals to the full Task Force that, following further refinement, became the basis for this report of the Task Force's findings and recommendations. The aspects addressed by the subcommittees were Group I — *Authority for Enforcement Practices and Roles*; Group II — *Outreach Targets*; and Group III — *Resources*.

## ***RECOMMENDATIONS***

---

The recommendations of the Task Force can be categorized in *three* areas:

- I. Recommendations requiring additional legislation
- II. Establishment of an advisory council by Executive Order
- III. Focus on available and required resources.

### **I. LEGISLATIVE** *(See Appendix 2 for Legislative Proposal for the 1999 General Assembly Session)*

The Task Force recommends legislation that addresses the following issues:

- Require automotive repair facilities to keep accurate and complete records at the location where motor vehicles repairs are conducted of:
  - Name and address of the owner of each motor vehicle repaired or stored at the facility;
  - The date a motor vehicle was left at the facility;
  - The year, model, and vehicle identification number of the vehicle; and
  - For any parts of motor vehicles at the facility, proof of ownership or proof of the right of possession.
- Require vehicle storage facilities to maintain accurate and complete records at the location where vehicles are stored of:
  - The name and address of the individual who requested storage of each vehicle;
  - The date that each vehicle was brought into the vehicle storage facility;
  - The year, model, and, if available, the vehicle identification number of each vehicle; and
  - The date and manner of disposition of each vehicle.

- Require the records of automotive repair facilities and storage facilities be kept for at least 3 years and be available for inspection by the Motor Vehicle Administration or a police officer on the premises.
- Amend the law pertaining to auction records, to give police officers, as well as the Motor Vehicle Administration, the right of inspection.
- Authorize the Motor Vehicle Administration's designated investigators to issue citations relating to the maintenance of and access to required business records and unlicensed business activity.
- Establish civil penalties for violations of record keeping and inspection provisions applicable to automotive repair facilities, storage facilities and auctions (\$500 for a first offense; \$1,000 for a second or subsequent offense). If a person fails to pay a fine or comply with a notice to appear, the District Court shall enter a default judgment in favor of the Motor Vehicle Administration.
- Give the District Court exclusive original civil jurisdiction in the civil penalty proceedings.
- Authorize the MVA to sue for injunctive relief against a person who is engaged in continuing conduct in violation of Title 15 of the Transportation Article.
- Modify the prohibited act pertaining to the operation of tow trucks to require that all tow trucks that meet the definition under § 13-920 of the Transportation Article be required to have "TT" tags by eliminating the words "for hire" in the penalty provision of that section.
- Modify the maximum penalty applicable to unlicensed business activities; i.e., for a first offense, a fine of not more than \$1,000 or imprisonment for not more than 6 months or both; and for any subsequent offense, a fine of not more than \$2,000 or imprisonment for not more than 1 year or both.

## II. EXECUTIVE ORDER

The Task Force recommends that the Governor adopt the following Executive Order:

### **AUTOMOTIVE INDUSTRY-RELATED ADVISORY COUNCIL**

WHEREAS, there is tremendous diversity in the businesses that service the automotive after-market;

WHEREAS, there is confusion and a lack of understanding on the part of consumers and automotive after-market related businesses as to what is a legal business practice and the different avenues of complaint, recovery and enforcement;

WHEREAS, there are laws, rules, and regulations at the federal, state, and local levels of government with respect to the automotive after-market;

WHEREAS, there is a lack of knowledge, communication, and enforcement among the regulating entities; and

WHEREAS, there is a willingness of the automotive after-market-related industries to discuss with the regulating entities enforcement strategies and implementation recommendations.

NOW, THEREFORE, I, PARRIS N. GLENDENING, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING ORDER, EFFECTIVE IMMEDIATELY:

- A. The Motor Vehicle Administration (MVA) is directed to facilitate 3 meetings during 1999 with the relevant federal, state, and local government agencies and automotive after-market businesses for the purpose of continuing a dialogue on the issues of law "enforcement strategies" and discussing other business practices that need to be addressed and/or recognized by the regulating entities, the consumer and other related automotive after-market businesses.
- B. The MVA shall publish one month in advance a meeting notice announcement in the Maryland Register. A representative of the Maryland Insurance Administration, Office of the Maryland Attorney General, Department of the Maryland State Police, Maryland Department of Transportation, and Office of the Governor will be present.
- C. The MVA shall send notice, one month in advance, to a representative of the following private sector industries: Towing, Auto Auctions, Automotive Dismantlers and Recyclers, Auto Salvage Pools, Automotive Mechanical Repair, Body Shops, New and Used Car Dealers, Scrap Processors and any other automotive after-market-related industry that requests a notice.
- D. Recommendations and actions resulting from a meeting shall be developed in the spirit of a private-public sector partnership.

Parris N. Glendening  
Governor of Maryland

### III. RESOURCES

The Task Force recommends that the legislature consider the resources needed to accomplish the enhanced or increased enforcement efforts required of the Motor Vehicle Administration (MVA) because of this report. To address the recommendations of this Task Force, the MVA will need to focus increased efforts on unlicensed or other illegal activities related to the sale of automobiles and automobile parts, towing operations, dismantling and recycling activities, and other related activities.

Since the Task Force is uncertain about which of the Task Force's recommendations will be adopted by the legislature, it does not believe it is appropriate to make any final recommendations on the level of resources that are needed for implementation.

The Task Force recognizes that the MVA and law enforcement agencies each have competing enforcement priorities within their respective agencies. It is not the intent of the Task Force to exacerbate any existing resource problems or to diminish the ability of the MVA and other law enforcement to address current enforcement priorities.

Further, it is not the intent of the Task Force to expand enforcement authority or activity beyond the specific problems discussed by this Task Force. In order to alleviate or reduce the illegal and unlicensed activity in the automotive industries, however, MVA and other law enforcement agencies must make enforcement of automotive industry-related laws and regulations a higher priority.

In summary, in order for MVA to effectively carry out the enhanced enforcement of unlicensed activity, as recommended in this report, the Task Force recommends a formal assessment as to the level of resources based upon the acceptance of the recommendations.



SB 344 TASK FORCE  
TO STUDY THE  
COMPREHENSIVE LICENSING OF AUTOMOTIVE-RELATED INDUSTRIES  
OVERVIEW OF AUTOMOTIVE-RELATED INDUSTRIES (1, 2)

OCTOBER 13, 1998

INDUSTRY	DESCRIPTION	KEY ACTIVITIES	AGENCY(S)	ISSUES
<p><b>AUTO DISMANTLERS &amp; RECYCLERS</b> (new and used)</p> <p>AND</p> <p><b>AUTO PARTS DISTRIBUTORS</b> (used)</p>	<p><b>Number of Operators</b></p> <ul style="list-style-type: none"> <li>• Not reported</li> </ul> <p><b>Membership Organization(s)</b></p> <ul style="list-style-type: none"> <li>• Maryland Automobile &amp; Truck Recycling Association (MATRA)</li> </ul>	<ul style="list-style-type: none"> <li>• Dismantling, destroying or scrapping any vehicles for retail and wholesale resale of useable parts.</li> <li>• Reassign repairable salvage for the purpose of rebuilding on salvage certificate. May also reassign to another auto dealer.</li> <li>• Allowed to title and sell fewer than five vehicles per year without a dealer's license.</li> <li>• Most transactions involve the wholesale trade.</li> <li>• Sells salvaged vehicles in their entirety for parts and rebuilding, and properly disposes of unused parts and environmental hazards.</li> <li>• Some operators deal primarily in new model vehicles, which are generally eight or fewer years old. Other operators deal primarily in the sale of parts and salvage of vehicles that are more than eight years old.</li> </ul>	<p><b>Licensing</b></p> <ul style="list-style-type: none"> <li>• MVA (site location, vehicle inventory and sales, vehicle density, local compliance, monthly inventory reports)</li> </ul> <p><b>Oversight</b></p> <ul style="list-style-type: none"> <li>• Department of Agriculture (insect control)</li> <li>• See endnote</li> </ul> <p><b>Enforcement</b></p> <ul style="list-style-type: none"> <li>• MVA /law enforcement (on-site inspections during business hours)</li> </ul>	<ul style="list-style-type: none"> <li>• Unlicensed activities, particularly businesses operating as dismantlers &amp; recyclers (e.g., body shops, towing operators)</li> <li>• Favor licensing for all industries represented on the Task Force.</li> <li>• Specific leftover parts are not properly disposed of or are sold by unlicensed dismantlers &amp; recyclers.</li> </ul>
<p><b>AUTO SALVAGE POOLS</b></p>	<p><b>Number of Operators</b></p> <ul style="list-style-type: none"> <li>• 4</li> </ul> <p><b>Membership Organization(s)</b></p> <ul style="list-style-type: none"> <li>• American Salvage Pool Association (ASPA)</li> <li>• National Insurance Crime Bureau (NICB)</li> </ul>	<ul style="list-style-type: none"> <li>• Wholesale auction or sale of recovered, damaged, or destroyed vehicles to other operators or recyclers. These operations usually act on behalf of insurance companies.</li> </ul>	<p><b>Licensing</b></p> <ul style="list-style-type: none"> <li>• See endnote</li> </ul> <p><b>Oversight</b></p> <ul style="list-style-type: none"> <li>• NICB</li> <li>• MVA (record-keeping and right of inspection)</li> <li>• See endnote</li> </ul> <p><b>Enforcement</b></p> <ul style="list-style-type: none"> <li>• Law enforcement</li> </ul>	

AUTOMOTIVE-  
RELATED  
INDUSTRIES

OVERVIEW

TABLE 1

INDUSTRY	DESCRIPTION	KEY ACTIVITIES	AGENCY(S)	ISSUES
AUCTIONS	<p>Number of Operators</p> <ul style="list-style-type: none"> <li>• 4-5</li> </ul> <p>Membership Organization(s)</p> <ul style="list-style-type: none"> <li>• National Association of Auto Auctions</li> </ul>	<ul style="list-style-type: none"> <li>• Wholesale sales of used and re-assembled vehicles.</li> <li>• Retail sales can occur only if the: <ul style="list-style-type: none"> <li>- Auction is a licensed dealer;</li> <li>- Vehicle is inspected;</li> <li>- Transaction complies with requirements for a used vehicle dealer;</li> <li>- Vehicle is a lien or repossession for which 50% or more has been paid; or</li> </ul> </li> <li>• Sell to dealers vehicles that are part of a state surplus or municipal inventory.</li> </ul>	<p>Licensing</p> <ul style="list-style-type: none"> <li>• None</li> </ul> <p>Oversight</p> <ul style="list-style-type: none"> <li>• MVA (record keeping, right of inspection)</li> <li>• See endnote</li> </ul> <p>Enforcement</p> <ul style="list-style-type: none"> <li>• Law enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>• Support and enhanced enforcement.</li> </ul>
BODY SHOPS	<p>Number of Operators</p> <ul style="list-style-type: none"> <li>• Approximately 1,200</li> </ul> <p>Membership Organization(s)</p> <ul style="list-style-type: none"> <li>• Washington Metropolitan Auto Body Association</li> </ul>	<ul style="list-style-type: none"> <li>• Repair and reassemble damaged vehicles -- usually for insurance companies and consumers.</li> </ul>	<p>Licensing</p> <ul style="list-style-type: none"> <li>• None</li> </ul> <p>Oversight</p> <ul style="list-style-type: none"> <li>• See endnote</li> </ul> <p>Enforcement</p> <ul style="list-style-type: none"> <li>• Attorney General (fraud)</li> </ul>	<ul style="list-style-type: none"> <li>• Operations vary tremendously in size and scale of operations. Nearly 75% of body shops are small, family-owned operations.</li> <li>• Need a clearer definition of dismantling and recycling operations and how it may apply to the real world operations of body shops.</li> <li>• Insurance companies are a significant player in the overall scheme of how the auto repair industry operates. Further study is needed to explore the insurance companies' superior bargaining position.</li> <li>• There is no clear data on the scope of any problems related to body shops that actually purchase entire vehicles at auctions and sale and/or improperly dispose of leftover parts.</li> </ul>
CAR DEALERS (NEW AND USED)	<p>Number of Operators</p> <ul style="list-style-type: none"> <li>• 488 new car dealers</li> <li>• 884 used car dealers</li> </ul> <p>Membership Organization(s)</p> <ul style="list-style-type: none"> <li>• Maryland New Car &amp; Truck Dealers Association</li> <li>• Washington Area Dealers Association</li> <li>• Maryland Independent Used Car Dealers Association</li> </ul>	<ul style="list-style-type: none"> <li>• Buy, sell, repair or exchange new and used vehicles</li> <li>• Broad authority to engage in most automotive-related industry activities described in this matrix.</li> </ul>	<p>Licensing</p> <ul style="list-style-type: none"> <li>• MVA</li> </ul> <p>Oversight</p> <ul style="list-style-type: none"> <li>• MVA</li> <li>• See endnote</li> </ul> <p>Enforcement</p> <ul style="list-style-type: none"> <li>• MVA AG, law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Prevention of unlicensed sales.</li> </ul>



INDUSTRY	DESCRIPTION	KEY ACTIVITIES	AGENCY(S)	ISSUES
SCRAP PROCESSORS	Number of Operators <ul style="list-style-type: none"> <li>• 11</li> </ul> Membership Organization(s) <ul style="list-style-type: none"> <li>• None reported</li> </ul>	<ul style="list-style-type: none"> <li>• Process iron, steel and certain scrap metal for sale only for re-smelting</li> <li>• Notifies MVA of seller and description of every vehicle received for processing .</li> </ul>	Licensing <ul style="list-style-type: none"> <li>• MVA</li> </ul> Oversight <ul style="list-style-type: none"> <li>• See endnote</li> </ul> Enforcement <ul style="list-style-type: none"> <li>• MVA, law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Illegal and unlicensed activity.</li> </ul>
TOWING	Number of Operators <ul style="list-style-type: none"> <li>• 5,000 licensed trucks</li> </ul> Membership Organization(s) <ul style="list-style-type: none"> <li>• Towing &amp; Recovery Professionals of Maryland (185 members)</li> <li>• Maryland Motor Truck Association</li> <li>• Service Station &amp; Auto Repair Association</li> </ul>	<ul style="list-style-type: none"> <li>• Licensed vehicles of 10,000 pounds or more designed to lift, pull, or carry a vehicle. This specific provision sunsets in 2000</li> <li>• Licensed tow trucks are identified by special "TT" license plates.</li> </ul>	Licensing <ul style="list-style-type: none"> <li>• MVA (for trucks)</li> <li>• Local towing licenses with revocation provisions, but provisions vary among jurisdictions. There is no up-to-date inventory on the specific requirements but eight jurisdictions require municipal licenses.</li> </ul> Oversight <ul style="list-style-type: none"> <li>• See endnote</li> </ul> Enforcement <ul style="list-style-type: none"> <li>• MVA for trucks</li> <li>• DOT or any entity that oversees commercial motor carriers.</li> <li>• Law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• MVA re-titles vehicles as tow trucks that are no longer eligible for such operations.</li> <li>• Other industries support illegitimate towing operations.</li> <li>• Authority to police the industry exists under the current "TT" tag compliance provisions of the law (e.g., MVA can revoke tags but do not often use that authority).</li> <li>• MVA does not fully enforce the requirements for TT tag issuance.</li> <li>• State and local law enforcement use visual inspections to monitor and cite illegal towing operations.</li> <li>• Disconnection of enforcement/oversight efforts and no coordination among agencies and different levels of government.</li> <li>• Lack of knowledge among law enforcement and MVA about the safety requirements for tow trucks.</li> </ul>

<sup>1</sup> Nearly all automotive-related industries are subject to local zoning requirements that regulate the kinds of activity and manner in which those activities can occur on a particular site. In addition, most operations also are subject to state and local environmental regulations such as tire disposal, hazardous materials, storm water runoff, screening, dust control, and noise abatement. Finally, most operators also hold local trader or business licenses and are subject to state and local occupational health and safety regulations.

<sup>2</sup> There are three issues that are common to most auto-related industries:

- Police authority to conduct inspections without a warrant is prohibited and has been since an amendment to the law in 1978.
- Open titles. While it is already illegal for all parties involved in transactions with open titles, the practice impacts the entire industry, and
- Consignment lots (parking lots used by members of the public to display for sale their personal vehicle)



*APPENDIX 1*

---

*CHAPTER 378, LAWS OF MARYLAND OF 1998*  
*SENATE BILL 344*



# SENATE BILL 344

R4

(8r1908)

## ENROLLED BILL

— Judicial Proceedings/Commerce and Government Matters —

Introduced by **Senator Stone**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Vehicle Laws Automotive Dismantlers and Recyclers and Scrap~~

3 ~~Processors Deregulation~~

4 Task Force to Study the Comprehensive Licensing of Automotive-Related  
5 Industries

6 FOR the purpose of ~~repealing licensing provisions and certain other provisions that~~  
7 ~~regulate the operations of automotive dismantlers and recyclers and scrap~~  
8 ~~processors; making conforming changes; and generally relating to the~~  
9 ~~deregulation of automotive dismantlers and recyclers and scrap processors~~  
10 establishing a Task Force to Study the Comprehensive Licensing of  
11 Automotive-Related Industries; specifying the membership of the Task Force;  
12 requiring the Motor Vehicle Administrator to assign staff and provide  
13 administrative support to the Task Force; requiring the Task Force to study  
14 certain matters; requiring the Task Force to report to the Governor and the  
15 General Assembly on or before a certain date; providing for the effective date

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber / conference committee amendments.



1 and termination of this Act; and generally relating to the establishment of a  
 2 Task Force to Study the Comprehensive Licensing of Automotive-Related  
 3 Industries.

4 ~~BY repealing and reenacting, with amendments,~~

5 ~~Article—Transportation~~

6 ~~Section 13-113(f) and (g), 13-622, 25-207(f), 25-207.1(e), and 27-101(h)~~

7 ~~Annotated Code of Maryland~~

8 ~~(1992 Replacement Volume and 1997 Supplement)~~

9 ~~BY repealing~~

10 ~~Article—Transportation~~

11 ~~Section 15-501 through 15-514, inclusive, and the subtitle “Subtitle 5-~~

12 ~~Automotive Dismantlers and Recyclers and Scrap Processors”; and~~

13 ~~27-101(e)(10)~~

14 ~~Annotated Code of Maryland~~

15 ~~(1992 Replacement Volume and 1997 Supplement)~~

16 ~~BY renumbering~~

17 ~~Article—Transportation~~

18 ~~Section 27-101(e)(11) through (26), respectively~~

19 ~~to be Section 27-101(e)(10) through (25), respectively~~

20 ~~Annotated Code of Maryland~~

21 ~~(1992 Replacement Volume and 1997 Supplement)~~

22 Preamble

23 WHEREAS, The movement and sale of vehicles and vehicle parts is among  
 24 the largest industry sectors in the U.S. economy; and

25 WHEREAS, The types of businesses represented in this sector include  
 26 automotive dismantlers and recyclers, body shops, auctions, scrap processors, towers,  
 27 new and used vehicle dealers, wholesalers, and manufacturers; and

28 WHEREAS, In Maryland, many of these businesses, including auctions, body  
 29 shops, and towers, are not subject to regulation or licensing by the Motor Vehicle  
 30 Administration and are able to avoid detection by other government agencies; and

31 WHEREAS, The lack of consistent regulation and enforcement creates an  
 32 unfair advantage for the unlicensed entities operating in the State, making it  
 33 competitively disadvantageous to be licensed; and

34 WHEREAS, The unlicensed activity also places the consumer at a  
 35 disadvantage; and



1 ~~(e) When operating a vehicle with special recycler registration plates outside~~  
2 ~~of this State, [a licensed] AN automotive dismantler and recycler or scrap processor~~  
3 ~~shall operate the vehicle exclusively for the business purposes of automotive~~  
4 ~~dismantling and recycling or scrap processing.~~

5 ~~[Subtitle 5. Automotive Dismantlers and Recyclers and Scrap Processors.]~~

6 ~~[15-501.]~~

7 ~~(a) In this subtitle the following words have the meanings indicated.~~

8 ~~(b) (1) "Automotive dismantler and recycler" means a person in the business~~  
9 ~~of:~~

10 ~~(i) Dismantling, destroying, or scrapping any vehicle for the~~  
11 ~~purpose of reselling any of its usable parts; or~~

12 ~~(ii) Otherwise acquiring vehicles for the benefit of their parts or the~~  
13 ~~materials in them.~~

14 ~~(2) Notwithstanding any provision to the contrary, any reference to a~~  
15 ~~wrecker in any statute, rule, or regulation shall apply to an automotive dismantler~~  
16 ~~and recycler.~~

17 ~~(c) "License" means an automotive dismantler's or recycler's or scrap~~  
18 ~~processor's license issued by the Administration under this subtitle.~~

19 ~~(d) "Scrap processor" means a person in a business:~~

20 ~~(1) That has facilities for processing iron, steel, and nonferrous scrap~~  
21 ~~metal; and~~

22 ~~(2) The principal product of which is scrap iron, scrap steel, and~~  
23 ~~nonferrous scrap for sale only for resmelting purposes.~~

24 ~~(e) "Vehicle" means any vehicle, or the body or chassis of any vehicle, that is to~~  
25 ~~be dismantled, destroyed, or scrapped.]~~

26 ~~[15-502.]~~

27 ~~(a) A person may not conduct the business of an automotive dismantler and~~  
28 ~~recycler or a scrap processor, or engage in the business of acquiring or offering to~~  
29 ~~purchase or remove vehicles which are to be dismantled in whole or in part by that~~  
30 ~~person for the sale of usable parts, unless the person is licensed by the Administration~~  
31 ~~under this subtitle.~~

32 ~~(b) (1) A person may not advertise for the purchase, towing, or removal of~~  
33 ~~junk or abandoned vehicles unless the person is licensed by the Administration under~~  
34 ~~this subtitle.~~



1           ~~(2) Any advertisement for the purchase, towing, or removal of junk or~~  
2 ~~abandoned vehicles by a licensee under this subtitle shall include the license number~~  
3 ~~of the licensee.~~

4           ~~(c) A person may not store on any private property for more than 30 days any~~  
5 ~~vehicle that is to be dismantled, destroyed, or scrapped, unless the person is an~~  
6 ~~automotive dismantler and recycler or a scrap processor licensed under this subtitle.~~

7           ~~(d) This section does not prohibit an unlicensed person from transporting a~~  
8 ~~vehicle to a licensed automotive dismantler and recycler or a licensed scrap processor~~  
9 ~~for dismantling, destroying, or scrapping.]~~

10 ~~[15-503.~~

11           ~~(a) A person may not be licensed under this subtitle unless:~~

12                 ~~(1) The business to be conducted under the license is conducted from a~~  
13 ~~building that is adequate and appropriate for the business;~~

14                 ~~(2) That business has a storage area large enough for at least 25~~  
15 ~~vehicles; and~~

16                 ~~(3) At the fixed location from which the business is conducted, as~~  
17 ~~specified in the application, there is a substantial and legible sign:~~

18                     ~~(i) That advertises the type of business conducted at the location;~~  
19 ~~and~~

20                     ~~(ii) That is placed in a way so as to be seen readily by the public.~~

21           ~~(b) A person may not be licensed as a scrap processor unless the person~~  
22 ~~maintains the following equipment suitable for processing vehicle scrap:~~

23                 ~~(1) A hydraulic baler and shears;~~

24                 ~~(2) A shredder; or~~

25                 ~~(3) Any other suitable equipment that the Administration requires by~~  
26 ~~rule or regulation.~~

27           ~~(c) A person licensed under this subtitle at a fixed location, as specified in the~~  
28 ~~application, on or before December 31, 1985, and the person's successors or assigns,~~  
29 ~~may not be refused permission to operate at the fixed location solely because any~~  
30 ~~portion of the fixed location is within the 100 year floodplain of waters of the State as~~  
31 ~~defined in § 8-101 of the Natural Resources Article.]~~

32 ~~[15-504.~~

33           ~~The Administration shall submit a copy of each application for a license under~~  
34 ~~this subtitle to the Department of Health and Mental Hygiene, for its comments on~~  
35 ~~matters relating to air pollution and health.]~~

1 ~~{15-505.~~

2 ~~(a) Each licensee shall pay an annual fee to the Administration for each~~  
3 ~~license year or part of a license year for which the license is issued.~~

4 ~~(b) The annual license fee shall be established by the Administration.]~~

5 ~~{15-506.~~

6 ~~A license issued under this subtitle authorizes the licensee to conduct the~~  
7 ~~business of an automotive dismantler and recycler or scrap processor, as the case may~~  
8 ~~be, during the license year for which it is issued.]~~

9 ~~{15-507.~~

10 ~~(a) Except as provided in subsection (c) of this section, any person who~~  
11 ~~transfers a vehicle to an automotive dismantler and recycler or scrap processor shall~~  
12 ~~execute an assignment and warranty of title on:~~

13 ~~(1) The certificate of title issued for the vehicle by this State or any other~~  
14 ~~state; or~~

15 ~~(2) Any other documentary evidence of ownership acceptable to the~~  
16 ~~Administration.~~

17 ~~(b) Except as provided in subsection (c) of this section, any person who~~  
18 ~~transfers a vehicle to an automotive dismantler and recycler or scrap processor shall~~  
19 ~~deliver the certificate of title or other documentary evidence of ownership to the~~  
20 ~~automotive dismantler and recycler or scrap processor at the time of the transfer.~~

21 ~~(c) If a person holds an assigned certificate of title or any other documentary~~  
22 ~~evidence of ownership acceptable to the Administration, the person:~~

23 ~~(1) May transfer the vehicle to an automotive dismantler and recycler or~~  
24 ~~scrap processor by endorsing a reassignment and warranty of title on the forms that~~  
25 ~~the Administration requires; and~~

26 ~~(2) Need not obtain a certificate of title in the person's own name.]~~

27 ~~{15-508.~~

28 ~~(a) Within 30 days after an automotive dismantler and recycler or scrap~~  
29 ~~processor acquires title to a vehicle, the automotive dismantler and recycler or scrap~~  
30 ~~processor shall notify the Administration of the acquisition.~~

31 ~~(b) The notice shall be given in the form that the Administration requires.~~

32 ~~(c) Immediately after giving the required notice the automotive dismantler~~  
33 ~~and recycler or scrap processor may dispose of the vehicle for dismantling or~~  
34 ~~scrapping.]~~

1 ~~[15-509-~~

2       ~~(a) This section does not apply to any abandoned vehicle that is 8 years old or~~  
3 ~~older and is totally inoperable.~~

4       ~~(b) If an automotive dismantler and recycler or scrap processor takes~~  
5 ~~possession of a vehicle and does not receive a certificate of title or other documentary~~  
6 ~~evidence of ownership acceptable to the Administration, the automotive dismantler~~  
7 ~~and recycler or scrap processor shall comply with this section.~~

8       ~~(c) After the vehicle has been in the possession of the automotive dismantler~~  
9 ~~and recycler or scrap processor for more than 30 days, the automotive dismantler and~~  
10 ~~recycler or scrap processor shall give at least 10 days' notice of intent to dispose of the~~  
11 ~~vehicle. The notice shall be sent by certified mail, return receipt requested, bearing a~~  
12 ~~postmark from the United States Postal Service, to:~~

13             ~~(1) The owner of the vehicle and any secured party, as shown on the~~  
14 ~~records of the Administration; or~~

15             ~~(2) Any other person who is entitled to possession of the vehicle and~~  
16 ~~whose address is known or reasonably can be obtained.~~

17       ~~(d) (1) The automotive dismantler and recycler or scrap processor takes~~  
18 ~~unencumbered title to the vehicle, without having to obtain a certificate of title for it~~  
19 ~~in his own name, if:~~

20             ~~(i) He has complied with this section; and~~

21             ~~(ii) Except as provided in paragraph (2) of this subsection, the~~  
22 ~~vehicle has not been recovered or reclaimed, before the end of the 10 day period~~  
23 ~~specified in the notice, by the owner, secured party, or other person entitled to its~~  
24 ~~possession.~~

25             ~~(2) If the address of the owner, secured party, or other person entitled to~~  
26 ~~possession of the vehicle cannot be obtained from the records of the Administration or~~  
27 ~~by the exercise of reasonable diligence, the automotive dismantler and recycler or~~  
28 ~~scrap processor takes unencumbered title to the vehicle, without having to obtain a~~  
29 ~~certificate of title in his own name, after the vehicle has been in his possession for 30~~  
30 ~~days.~~

31       ~~(e) If an automotive dismantler and recycler or scrap processor takes title to a~~  
32 ~~vehicle under this section, the automotive dismantler and recycler or scrap processor~~  
33 ~~shall certify this fact to the Administration. The certification shall be made in the~~  
34 ~~form that the Administration requires and sent to the Administration within 5 days~~  
35 ~~after the automotive dismantler and recycler or scrap processor takes title.]~~

36 ~~[15-511-~~

37       ~~(a) Each automotive dismantler and recycler and each scrap processor shall~~  
38 ~~keep an accurate and complete record of all vehicles acquired in his business.~~

1       (b) ~~The records shall contain, for each vehicle acquired:~~

2               (1) ~~The name and address of the person from whom the vehicle was~~  
3 ~~acquired;~~

4               (2) ~~The date on which it was acquired;~~

5               (3) ~~Documentary evidence acceptable to the Administration of ownership~~  
6 ~~of the vehicle; and~~

7               (4) ~~Any other information that the Administration requires.]~~

8 ~~[15-513.-~~

9               (a) ~~An automotive dismantler and recycler may not store vehicles at his place~~  
10 ~~of business at a density of more than 250 vehicles for any 1 acre if the vehicles are not~~  
11 ~~crushed.~~

12              (b) (1) ~~An automotive dismantler and recycler may not store vehicles at the~~  
13 ~~automotive dismantler and recycler's place of business at a density of more than 500~~  
14 ~~vehicles per acre if the vehicles are crushed.~~

15              (2) ~~Crushed vehicles may not be stored on more than 1 acre per place of~~  
16 ~~business.]~~

17 ~~[15-514.-~~

18              ~~Refusal, suspension, or revocation of license. In addition to the other grounds~~  
19 ~~specified in Subtitle 1 of this title for refusal, suspension, or revocation of a license,~~  
20 ~~the Administration may refuse to grant a license under this subtitle to any person and~~  
21 ~~may suspend, revoke, or refuse to renew the license of any person if it finds that the~~  
22 ~~person has violated any applicable rule or regulation of the Department of Health and~~  
23 ~~Mental Hygiene.]~~

24 ~~25-207.~~

25              (f) ~~A vehicle retained for public purposes under subsection (e) of this section:~~

26                   (1) ~~May be dismantled or disassembled for the purpose of using its~~  
27 ~~component parts; and~~

28                   (2) ~~When no longer usable for public purposes, may at the discretion of~~  
29 ~~the police department, without further notice, be sold at public auction as provided in~~  
30 ~~this subtitle or transferred by the police department to a scrap processor [licensed~~  
31 ~~under § 15-502 of this article].~~

32 ~~25-207.1.~~

33              (c) ~~Any vehicle retained for use under this section:~~

1           (1) ~~May not be dismantled or disassembled for the purpose of using its~~  
2 ~~component parts; and~~

3           (2) ~~When no longer usable for public purposes, shall be transferred by~~  
4 ~~the police department to a scrap processor [licensed under § 15-502 of this article].~~

5 ~~27-101.~~

6           (e) ~~Any person who is convicted of a violation of any of the provisions of the~~  
7 ~~following sections of this article is subject to a fine of not more than \$500 or~~  
8 ~~imprisonment for not more than 2 months or both:~~

9           ~~[(10) § 15-502(e) ("Storage of certain vehicles by unlicensed persons~~  
10 ~~prohibited");]~~

11           (h) ~~Any person who is convicted of a violation of any of the provisions of [§~~  
12 ~~15-502(a) of this article ("License required"), § 16-303(a), (b), (c), (d), (e), (f), or (g) of~~  
13 ~~this article ("Driving while license is canceled, suspended, refused, or revoked"), §~~  
14 ~~17-107 of this article ("Prohibitions"), or § 17-110 of this article ("Providing false~~  
15 ~~evidence of required security") is subject to:~~

16           (1) ~~For a first offense, a fine of not more than \$1,000, or imprisonment~~  
17 ~~for not more than 1 year, or both; and~~

18           (2) ~~For any subsequent offense, a fine of not more than \$1,000, or~~  
19 ~~imprisonment for not more than 2 years, or both.~~

20           ~~SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 27-101(e)(11)~~  
21 ~~through (26), respectively, of Article Transportation of the Annotated Code of~~  
22 ~~Maryland be renumbered to be Section(s) 27-101(e)(10) through (25), respectively.~~

23           (a) There is a Task Force to Study the Comprehensive Licensing of  
24 Automotive-Related Industries.

25           (b) The Task Force consists of the following 15 17 members:

26           (1) Two members of the Senate of Maryland, appointed by the President  
27 of the Senate, one of whom shall be designated by the President as Co-Chairman of  
28 the Task Force;

29           (2) Two members of the Maryland House of Delegates, appointed by the  
30 Speaker of the House, one of whom shall be designated by the Speaker as  
31 Co-Chairman of the Task Force; and

32           (3) One representative from each of the following industry or  
33 government sectors, appointed by the Governor:

34           (i) Auto dismantlers and recyclers - early model salvage;

35           (ii) Auto dismantlers and recyclers - late model salvage;

- 1            (iii) Auctions;  
 2            (iv) Scrap processors;  
 3            (v) Body shops;  
 4            (vi) Used auto parts distributors;  
 5            (vii) New and used vehicle dealerships;  
 6            (viii) The towing industry;  
 7            (ix) Auto salvage pool;  
 8            (x) The Motor Vehicle Administration;  
 9            ~~(ix)~~ (xi) The Vehicle Theft Prevention Council;  
 10           ~~(x)~~ (xii) Local law enforcement from jurisdictions currently  
 11 regulating towers; and  
 12           ~~(xi)~~ (xiii) The Maryland State Police Auto Theft Unit.

13           (c) The Motor Vehicle Administrator shall assign staff and provide  
 14 administrative support to the Task Force.

15           (d) The Task Force shall study the scope of unlicensed activity in  
 16 automotive-related industries, the feasibility of and standards for licensing of  
 17 currently unlicensed businesses, and the resources necessary to effectively enforce a  
 18 comprehensive licensing law.

19           (e) The Task Force shall report its findings and recommendations to the  
 20 Governor and in accordance with § 2-1246 of the State Government Article, the  
 21 General Assembly on or before December 1, 1998.

22           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
 23 effect ~~October~~ June 1, 1998. It shall remain effective for a period of 7 months and, at  
 24 the end of December 31, 1998, with no further action required by the General  
 25 Assembly, this Act shall be abrogated and of no further force and effect.

Approved:

\_\_\_\_\_  
 Governor.

\_\_\_\_\_  
 President of the Senate.

\_\_\_\_\_  
 Speaker of the House of Delegates.

*APPENDIX 2*

---

*LEGISLATIVE PROPOSAL  
FOR THE 1999 GENERAL ASSEMBLY SESSION*





R4

91r0524  
CF 91r0525

Bill No.: \_\_\_\_\_  
Requested: \_\_\_\_\_  
Committee: \_\_\_\_\_

Drafted by: Bill Varga  
Typed by: ms  
Stored - 12/14/98  
Proofread by \_\_\_\_\_  
Checked by \_\_\_\_\_



By: (Task Force to Study the Comprehensive Licensing of  
Automotive-Related Industries)

A BILL ENTITLED

AN ACT concerning

**Vehicle Law - Automotive-Related Industries - Regulation**

FOR the purpose of requiring automotive repair facilities and vehicle storage facilities to maintain certain records and make certain records and certain vehicles and parts available for inspection by the Motor Vehicle Administration (MVA) or by a police officer during normal business hours; establishing civil penalties for violations of certain regulatory requirements applicable to certain automotive-related industries; authorizing certain employees of the MVA to issue citations pertaining to certain business practices regulated under the Maryland Vehicle Law; authorizing the MVA to sue for injunctive relief under specified circumstances; modifying a prohibited act pertaining to operation of tow trucks; modifying the maximum criminal penalty applicable to certain unlicensed business activities; modifying the jurisdiction of the District Court; prescribing certain procedures pertaining to enforcement of certain business regulatory provisions and collection of certain civil penalties; defining certain terms; and generally relating to the regulation of certain automotive-related industries and business practices under the Maryland Vehicle Law.

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 4-401(11)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.

9lr0524

Annotated Code of Maryland  
(1998 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Transportation

Section 12-104.1, 12-108, 13-920(j), 15-113, and 27-101(h) and (i)

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)

BY adding to

Article - Transportation

Section 15-113.1 and 15-115

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, without amendments,

Article - Transportation

Section 13-920(a), 15-502(a), and 27-101(a) and (b)

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
MARYLAND, That the Laws of Maryland read as follows:

**Article - Courts and Judicial Proceedings**

4-401.

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(11) A proceeding for adjudication of a civil penalty for any violation under §

9lr0524

5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122 [of the 46  
Transportation Article], OR § 21-1414 of the Transportation Article, or Article 41, § 47  
2-101(c-1) of the Code or any rule or regulation issued pursuant to those sections; 48

**Article - Transportation** 49

12-104.1. 50

(a) The Administrator may designate employees of the Investigative Division 51  
of the Administration to exercise the powers specified in subsection (b) of this section. 52

(b) (1) An employee appointed under this section may issue citations to the 53  
extent authorized by the Administrator for violations of: 54

(i) Those provisions of Title 13 of this article relating to: 55

1. The vehicle excise tax; 56

2. Vehicle titling and registration; 57

3. Special registration plates for individuals with disabilities; 58

and 59

4. Parking permits for individuals with disabilities; 60

(ii) Those provisions of Title 17 of this article relating to required 61  
security; 62

(iii) Those provisions of Title 14 of this article relating to falsified, 63  
altered, or forged documents and plates; 64

(iv) Those provisions of Title 16 of this article relating to unlawful 65  
application for a license and vehicle operation during periods of cancellation, 66  
revocation, and suspension of a driver's license; [and] 67

(v) Those provisions of Title 21 of this article relating to special 68  
residential parking permits issued by the Administration; AND 69

9lr0524

(VI) THOSE PROVISIONS OF TITLE 15 OF THIS ARTICLE RELATING TO:

1. MAINTENANCE OF AND ACCESS TO REQUIRED BUSINESS RECORDS; AND

2. UNLICENSED BUSINESS ACTIVITY.

(2) The issuance of citations under this section shall comply with the requirements of § 26-201 of this article.

(c) The Administrator shall adopt regulations establishing:

(1) Qualifications for employees appointed under this section including prerequisites of character, training, experience, and education; and

(2) Standards for the performance of the duties assigned to employees appointed under this section.

12-108.

(a) In any matter subject to its jurisdiction, the Administration may subpoena any person or documents and take the testimony of any person, in the same manner and with the same fees and mileage as provided for by law in civil cases.

(b) If any person fails to comply with a lawful order or subpoena issued by the Administration, the Administration may petition a court of competent jurisdiction to compel obedience to the subpoena or order and to compel the production of relevant documents and other evidence.

(C) (1) IF THE ADMINISTRATION CONCLUDES THAT CONTINUING CONDUCT OF A PERSON ALLEGED TO BE IN VIOLATION OF TITLE 15 OF THIS ARTICLE MAY RESULT IN SUBSTANTIAL HARM TO ANY OTHER PERSON, THE ADMINISTRATION MAY SUE FOR INJUNCTIVE RELIEF AGAINST THE CONDUCT.

(2) IF THE ADMINISTRATION SUES FOR INJUNCTIVE RELIEF UNDER THIS SUBSECTION AGAINST A PERSON WHO IS ALLEGED TO HAVE ENGAGED IN

9lr0524

CONDUCT THAT REQUIRES A LICENSE UNDER TITLE 15 OF THIS ARTICLE, BUT WHO DOES NOT HAVE A LICENSE, THE ADMINISTRATION NEED NOT:

(I) POST BOND; OR

(II) SHOW THAT NO ADEQUATE REMEDY AT LAW EXISTS.

(3) A SUIT UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE COUNTY WHERE:

(I) THE ALLEGED VIOLATION OCCURS; OR

(II) THE PRINCIPAL PLACE OF BUSINESS OF THE ALLEGED VIOLATOR IS LOCATED.

13-920.

(a) (1) In this section "tow truck" means a vehicle that:

(i) Is a Class E (truck) vehicle that is designed to lift, pull, or carry a vehicle by a hoist or mechanical apparatus;

(ii) Has a manufacturer's gross vehicle weight rating of 10,000 pounds or more; and

(iii) Is equipped as a tow truck or designed as a rollback as defined in § 11-151.1 of this article.

(2) In this section "tow truck" does not include a truck tractor as defined in § 11-172 of this article.

(j) (1) This subsection applies only to a vehicle required to be registered in the State.

(2) [A] SUBJECT TO SUBSECTION (G) OF THIS SECTION, A person may not operate a tow truck [for hire] unless the tow truck is registered under this section.

9lr0524

(3) A person convicted of operating a tow truck in violation of this subsection shall be subject to a fine of up to \$3,000.

15-113.

(a) Each person who conducts auctions as a business in this State of motor vehicles of a type required to be registered under this article shall keep a record of:

- (1) The name and address of the consignor;
- (2) The date on which it was consigned;
- (3) The year, make, model, and serial number of each vehicle consigned;
- (4) The title number and state where the vehicle was last registered;
- (5) The odometer mileage reading at the time of consignment;
- (6) The name and address of the person to whom the vehicle was sold;
- (7) The selling price; and
- (8) The date of sale.

(b) During business hours, the records shall be open to inspection by the Administration OR BY A POLICE OFFICER.

(c) The records required by this section shall be kept for at least 3 years after the transaction to which it applies.

(D) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER SUBSECTIONS (A) THROUGH (C) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:

- (1) FOR A FIRST OFFENSE, \$500; OR
- (2) FOR A SECOND OR SUBSEQUENT OFFENSE, \$1,000.

9lr0524

15-113.1.

142

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

143

144

(2) "AUTOMOTIVE REPAIR FACILITY" MEANS A FACILITY WHERE MALFUNCTIONS OF A MOTOR VEHICLE ARE DIAGNOSED OR CORRECTED FOR COMPENSATION.

145

146

147

(3) "VEHICLE STORAGE FACILITY" MEANS A FACILITY WHERE DISABLED VEHICLES ARE STORED AT ANY TIME FOR COMPENSATION.

148

149

(B) (1) A PERSON WHO OPERATES AN AUTOMOTIVE REPAIR FACILITY SHALL KEEP ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE MOTOR VEHICLE REPAIRS ARE CONDUCTED OF:

150

151

152

(I) THE NAME AND ADDRESS OF THE OWNER OF EACH MOTOR VEHICLE REPAIRED OR STORED AT THE AUTOMOTIVE REPAIR FACILITY;

153

154

(II) THE DATE A MOTOR VEHICLE WAS LEFT AT THE AUTOMOTIVE REPAIR FACILITY;

155

156

(III) THE YEAR, MODEL, AND VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE; AND

157

158

(IV) FOR ANY PARTS OF MOTOR VEHICLES AT THE AUTOMOTIVE REPAIR FACILITY, PROOF OF OWNERSHIP OR PROOF OF THE RIGHT OF POSSESSION.

159

160

(2) A PERSON WHO OPERATES A VEHICLE STORAGE FACILITY SHALL KEEP ACCURATE AND COMPLETE RECORDS AT THE LOCATION WHERE VEHICLES ARE STORED OF:

161

162

163

(I) THE NAME AND ADDRESS OF THE INDIVIDUAL WHO REQUESTED STORAGE OF EACH VEHICLE;

164

165

(II) THE DATE THAT EACH VEHICLE WAS BROUGHT INTO THE VEHICLE STORAGE FACILITY;

166

167

9lr0524

(III) THE YEAR, MODEL, AND, IF AVAILABLE, THE VEHICLE IDENTIFICATION NUMBER OF EACH VEHICLE; AND

(IV) THE DATE AND MANNER OF DISPOSITION OF EACH VEHICLE.

(C) THE RECORDS REQUIRED BY THIS SECTION SHALL BE KEPT FOR AT LEAST 3 YEARS AFTER THE TRANSACTION TO WHICH THE RECORD APPLIES.

(D) DURING NORMAL BUSINESS HOURS, RECORDS REQUIRED UNDER THIS SECTION AND PARTS AND VEHICLES FOR WHICH RECORDS ARE REQUIRED SHALL BE AVAILABLE FOR INSPECTION BY THE ADMINISTRATION OR BY A POLICE OFFICER ON ANY PREMISES OWNED OR OPERATED BY AN AUTOMOTIVE REPAIR FACILITY OR VEHICLE STORAGE FACILITY.

(E) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER SUBSECTIONS (B) THROUGH (D) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:

- (1) FOR A FIRST OFFENSE, \$500; OR
- (2) FOR A SECOND OR SUBSEQUENT OFFENSE, \$1,000.

15-115.

(A) (1) A PERSON ISSUED A CITATION UNDER § 15-113 OR § 15-113.1 OF THIS SUBTITLE SHALL COMPLY WITH A NOTICE TO APPEAR CONTAINED IN A CITATION OR A TRIAL NOTICE ISSUED BY THE DISTRICT COURT.

(2) A PERSON MAY COMPLY WITH THE NOTICE TO APPEAR BY:

- (I) APPEARANCE IN PERSON OR BY COUNSEL; OR
- (II) PAYMENT OF THE CIVIL PENALTY AS PROVIDED IN THE

CITATION.

(B) A CITATION ISSUED FOR A VIOLATION UNDER § 15-113 OR § 15-113.1 OF THIS SUBTITLE SHALL INCLUDE:



9lr0524

(1) INFORMATION ADVISING THE PERSON RECEIVING THE CITATION OF THE MANNER IN WHICH LIABILITY MAY BE CONTESTED; AND	193 194
(2) A WARNING THAT FAILURE TO PAY THE CIVIL PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IN ACCORDANCE WITH THE CITATION:	195 196
(I) IS AN ADMISSION OF LIABILITY AND WAIVER OF DEFENSES; AND	197 198
(II) RESULTS IN AN ENTRY OF A DEFAULT JUDGMENT IN FAVOR OF THE ADMINISTRATION AGAINST THE PERSON NAMED IN THE CITATION.	199 200
(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DISTRICT COURT SHALL:	201 202
(I) ENTER A DEFAULT JUDGMENT IN FAVOR OF THE ADMINISTRATION IF A PERSON FAILS TO PAY A FINE OR COMPLY WITH A NOTICE TO APPEAR; AND	203 204 205
(II) MAIL NOTICE OF THE DEFAULT JUDGMENT TO THE PERSON NAMED IN THE CITATION.	206 207
(2) THE DEFAULT JUDGMENT SHALL TAKE EFFECT UNLESS, BY THE END OF THE 15TH DAY AFTER THE DATE THAT NOTICE OF THE DEFAULT JUDGMENT WAS MAILED, THE PERSON NAMED IN THE CITATION POSTS BOND OR A CIVIL PENALTY DEPOSIT AND REQUESTS A NEW DATE FOR A TRIAL.	208 209 210 211
(D) THE ADMINISTRATION MAY COLLECT A CIVIL PENALTY AND ADMINISTRATIVE EXPENSES BY CIVIL ACTION COMMENCED IN THE DISTRICT COURT THAT SITS IN THE COUNTY IN WHICH THE VIOLATION OCCURRED.	212 213 214
15-502.	215
(a) A person may not conduct the business of an automotive dismantler and recycler or a scrap processor, or engage in the business of acquiring or offering to purchase or remove vehicles which are to be dismantled in whole or in part by that	216 217 218

9lr0524

person for the sale of usable parts, unless the person is licensed by the Administration under this subtitle.

27-101.

(a) It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law unless the violation:

(1) Is declared to be a felony by the Maryland Vehicle Law or by any other law of this State; or

(2) Is punishable by a civil penalty under the applicable provision of the Maryland Vehicle Law.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

(h) Any person who is convicted of a violation of any of the provisions of [§ 15-502(a) of this article ("License required"), § 16-303(a), (b), (c), (d), (e), (f), or (g) of this article ("Driving while license is canceled, suspended, refused, or revoked"), § 17-107 of this article ("Prohibitions"), or § 17-110 of this article ("Providing false evidence of required security")] is subject to:

(1) For a first offense, a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both; and

(2) For any subsequent offense, a fine of not more than \$1,000, or imprisonment for not more than 2 years, or both.

(i) Any person who is convicted of a violation of any of the provisions of § 15-302 of this article ("Dealer's license required") [or], § 15-402 of this article ("Vehicle salesman's license required"), OR § 15-502(A) OF THIS ARTICLE ("AUTOMOTIVE DISMANTLER AND RECYCLER OR SCRAP PROCESSOR - LICENSE REQUIRED") is subject to:

9lr0524

(1) For a first offense, a fine of not more than \$1,000 or imprisonment for 245  
not more than 6 months or both; and 246

(2) For any subsequent offense, a fine of not more than \$2,000 or 247  
imprisonment for not more than 1 year or both. 248

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 249  
October 1, 1999. 250



*SUMMARIES OF TASK FORCE MEETINGS*

*September 9, 1998 — p. 40*

*September 23, 1998 — p. 46*

*October 7, 1998 — p. 54*

*October 30, 1998 — p. 62*

*November 20, 1998 — p. 90*

.....

.....

.....

**Senate Bill 344 Task Force  
on the  
Comprehensive Licensing of Automotive-Related Industries**

---

**MEETING SUMMARY**

**September 9, 1998, 9:00-11:00 a.m.  
Motor Vehicle Administration Headquarters  
Glen Burnie, Maryland**

**MEETING PARTICIPANTS**

**Task Force Members**

Senator Norman R. Stone, Jr., Co-Chairman  
Senator Larry E. Haines  
Delegate Diane DeCarlo  
Samuel Dansicker, Cox Auto Parts/MATRA  
Corporal Thomas Dupczak, Maryland State Police  
James W. Gosnell, Jr., Baltimore Auto Recycling/MATRA  
Edgar F. Johnson, David J. Joseph Company  
Captain Jeffrey L. Norris, Prince Georges County Police Department  
Major W. Ray Presley, Vehicle Theft Prevention Council  
Robert C. Russel, Maryland New Car Association  
Joyce Stanley, Motor Vehicle Administration  
Jerry B. Sullivan, Auto Replacement Center  
David M. Taylor, Insurance Auto Auctions  
Linda L. Wheat, Towing & Recovery Professionals  
Bill Wilson, Washington Metro Body Shop Association

**Motor Vehicle Administration**

Sherrri Cook, Motor Vehicle Administration  
Tom Walsh, Motor Vehicle Administration

**Observers**

Tom Kimmel, Insurance Auto Auction  
Nance Stamboni, Maryland New Car and Truck Dealers Association  
Ellen Valentino, Manis, Canning & Associates  
Bill Varga, Maryland General Assembly

**Staff**

W. Steve Lee

## BACKGROUND AND CONTEXT

Meeting participants discussed that the current SB 344 Task Force has its origins in an unsuccessful effort earlier this year to implement the final recommendations of the Task Force to Study Motor Vehicle Liens, Regulation of Towing Practices, and the Disposition of Unclaimed Vehicles. The substance of the recommendations focused on regulation of the towing industry. During the most recent legislative session, the interested parties did not share a strong enough consensus on the purpose and goals to gain the adoption of any of the Towing Task Force's recommendations. There remains general support for the licensing of towing operations, particularly among the "legitimate" operators. However, there is some disagreement within the towing industry about the need for such licensing and regulation. In addition, the Towing Task Force deliberations and recommendations were further complicated by issues related to protected security issues and the priority of liens. As a result, the SB 344 Task Force will not focus on those particular issues.

## KEY ISSUES

Meeting participants submitted that the following issues provide background and a context to the SB 344 Task Force's deliberations:

### **Working with What Exists**

There is a need to:

- Examine the level of enforcement of existing regulations and authority, and propose solutions to any problems that are identified.
- Create a clearer understanding among the regulators and the regulated community of the boundaries of current regulations.
- Provide an inventory of the current regulations and enforcement authority for all automotive-related industries to identify what, if any, additional regulatory or enforcement authority is needed.
- Discuss the role of local government in prosecution of "problem" operators in automotive-related industries.

### **Expanding the Scope of Existing and Creating New Regulations**

- The Task Force should identify a clear need and rationale as well as the benefits and incentives for any additional regulations. It is not the intent of the Task Force to create regulations for the sake of creating regulations.
- A goal of this Task Force's efforts is not to "unlicense" the auto dismantlers but to create a more level playing field for all entities with an economic interest that are involved in automobile dismantling and salvage operations.



- There is a need to explore broader latitude for law enforcement, for example, inspections of certain operations, such as auto dismantlers, body shops and auction houses.
- Consider limited licensing of body shops, towing operations, auctions, and auto auction pools.

#### **Examples of Problems with the Existing Regulatory Structure**

- Most towing companies are legitimate operators. The problem is with the "night riders" that conduct unsafe and unscrupulous operations such as wrongly removing vehicles, removing parts from these vehicles, selling the parts from their homes or selling the parts to legitimate (licensed) dismantlers.
- The kind of operation described above is in direct competition with licensed dismantlers and puts licensed operators at an economic disadvantage because of the costs associated with being a licensed operations (e.g., license fees, insurance, etc.) and the relatively low prices that are paid for parts.
- Further, in the above scenario, a licensed dismantler ends up paying additional costs if it is discovered by a enforcement authority that the part was taken from a vehicle that was not properly towed or salvaged.
- There is no clear system to track the documentation for parts that would help an individual or company determine if the part was obtained legally or if a salvaged vehicle has been reassembled by parts. The lack of documentation often leads to a lack of accountability.
- Auto auctions have an interface with the public that is equal to that of other types of vehicle re-sale operations yet are not required to be licensed like recyclers and auto dealers.

#### **Other Areas to Consider in the Task Force Deliberations**

- The Task Force should keep in mind the consumer protection issues related to automobile related industry activity.
- There are other agencies with authority over dismantling and salvage operations such as the Maryland Department of the Environment that ensures safe disposal of hazardous materials.
- The Task Force needs to explore how (and if) consignment lots, which are not really used car lots but that allow people to rent space to sell their individuals cars, might fit in the regulatory framework.
- There is a correlation between a geographically-focused crack downs on "night riders" and the incidence of vehicle theft.
- The Task Force should identify the contribution of and inconsistencies with other states' regulations, particularly those of the neighboring jurisdictions.

- In addition, the Task Force should investigate other states' approach to these issues, such as Michigan and Indiana's policies on garage inspectors.
- Legislation on national titling and other related issues has been pending in Congress for several years. The timeframe or certainty for passage is unclear but the Task Force should review the proposals for any ideas that support this effort.
- Insurance auctions sell "once-totaled" vehicles. In these instances, the title is surrendered and the vehicle is "branded" with a salvage certificate. However, often this information is not easily understood by consumers.
- Insurance companies can be exposed to liability in the instances described above and have an interest in ensuring that the all relevant information about parts and "once-totaled" vehicles is made available to the public.
- The insurance industry (and other interests) are not directly represented on the Task Force but are welcomed to attend meetings.
- The Task Force should explore how to create a more clear title history.

#### TASK FORCE SCHEDULE

The meeting participants determined that an aggressive meeting schedule was necessary to meet the December 1, 1998 deadline for submission of the final report. The preliminary schedule is included as an attachment to this meeting summary. The next Task Force meeting will occur on **September 23, 1998 at 10:00 a.m. in Room 200 at MVA Headquarters in Glen Burnie.**

#### SUBCOMMITTEE

A subcommittee was created to further refine the scope of the Task Force's deliberations and to prepare a preliminary set of recommendations for the Task Force to discuss. The subcommittee members include:

Tom Walsh, Chair  
 Sam Dansicker  
 Jerry Sullivan  
 David Taylor  
 Bill Wilson  
 Tom Dupczak  
 Linda Wheat

The subcommittee will meet on **September 16, 1998 at 10:00 a.m. in Room 200 at MVA Headquarters in Glen Burnie.**

### NEXT STEPS

- Prepare and distribute meeting summary. Steve Lee by September 11, 1998.
- Distribute all relevant laws and regulations to Task Force Subcommittee members. Tom Walsh by September 11, 1998.

### NEXT MEETINGS

- Task Force: September 23, 1998 at 10:00 a.m. in Room 200 at MVA Headquarters in Glen Burnie.
- Subcommittee: , September 16, 1998 at 10:00 a.m. in Room 200 at the MVA Headquarters in Glen Burnie.

Attachment:  
Schedule



**Senate Bill 344 Task Force  
on the  
Comprehensive Licensing of Automotive-Related Industries**

**TASK FORCE MEETING SUMMARY  
September 23, 1998  
10:00 a.m. - 12:45 p.m.  
Motor Vehicle Administration Headquarters  
Glen Burnie, Maryland**

**MEETING PARTICIPANTS**

**Task Force Members**

Delegate John Wood, Jr., Co-Chairman  
Delegate Diane DeCarlo  
Samuel Dansicker, Cox Auto Parts/MATRA  
James Gosnell, Jr., MATRA  
Toni Johnson, MATRA/Eagle Auto  
Robert Russel, Maryland New Car and Truck Dealers Association  
Joyce Stanley, Motor Vehicle Administration  
Jerry Sullivan, Auto Replacement Center  
Tom Walsh, Motor Vehicles Administration  
Bill Wilson, Washington Metro Body Shop Association

**Motor Vehicle Administration**

Sherrie Cook  
Victoria Whitlock

**Observers**

Betty Cornwell, Towing & Recovery Professionals of Maryland  
Michael Finn, The David J. Joseph Co.  
Tom Kimmel, Insurance Auto Auction  
Peter Kitzmiller, Maryland New Car and Truck Dealers  
Brian Quinn, Piper & Marbury  
Lorraine Sheehan, Melwood Training Center  
Ellen Valentino, Towing & Recovery Professionals of Maryland  
Bill Varga, Maryland General Assembly

**Staff**

W. Steve Lee, Task Force Coordinator

## SUBCOMMITTEE REPORT

The Task Force Subcommittee met September 16, 1998. The meeting summary is attached.

### **Outline of Issues Related to the Enforcement of Unlicensed Activity within Auto-Related Industries**

#### **I. Authority for Enforcement Practices**

- A. Statute,
  - 1. New
  - 2. Clarify
- B. Regulation
  - 1. New
  - 2. Clarify

#### **II. Roles in the Enforcement Process**

- A. MVA
- B. State Police
- C. Local
- D. Industry

#### **III. Outreach Targets**

- A. Industry
- B. Local law enforcement
- C. State police
- D. Consumers

#### **IV. Resources**

- A. Staff
- B. Materials

## TASK FORCE DISCUSSION

Meeting participants reiterated that the goal of the Task Force is to address the problems associated with unlicensed activities and operators in the automotive-related industries. The Task Force continues to discuss which specific approach would provide the most effective means to address the problem with unlicensed activity:

1. Expand the types of automotive-related industries that require licenses. For example, automotive dismantlers & recyclers are the only "vehicle post-sale" activity with a MVA license requirement. However, as the Overview of Industry Activities illustrates, which is being prepared by the Task Force, many of the other automotive-related activities are subject to the regulations of other local and state agencies.

2. Focus enforcement efforts on licensed operators that conduct activities outside the scope of the specific licenses under which they operate.
3. Expand the enforcement authority for MVA and state and local law enforcement to inspect without warrant and impose sanctions or impose sanctions against any unlicensed operations. Under current law, MVA lacks authority to take criminal action against unlicensed activity and the state police cannot inspect facilities without warrants.

While no clear agreement emerged among Task Force members on which approach to adopt, the remainder of the meeting's discussion focused on several key issues and possible Task Force recommendations:

- Clearly identify and more effectively use of any existing enforcement authority. For example, MVA does have enforcement authority over "registered" tow truck vehicles.
- Address the resources that are needed to license, regulate and/or enforce the industry. For example, MVA and law enforcement authorities have limited manpower and that impacts the number of enforcement-related inspections that might occur under the existing authority. Any additional responsibilities could exacerbate the problem.
- Create the statutory authority for MVA and state and local law enforcement to access records, information on inventory, sales volumes, etc. for all automotive-related industries.
- Conduct additional outreach to law enforcement and prosecutors to create a greater sense of urgency in the apprehension and prosecution of unlicensed operators. For example, "consignment lots" that operate outside of what is legally allowed is a problem that several Task Force members believe needs monitoring.
- Rely on more local enforcement.
- There are a number issues related to "open titles" that have impacts across the industry. However, the Task Force has made no decision to specifically address that issue because:

All of the parties with an interest in the issue are not represented on the Task Force; and  
Conducting transactions that involve open titles is already illegal, and it does directly address unlicensed operators.

- Existing law makes no clear distinction between salvage for sale or personal (or fleet) use, and provides no upward limit (e.g., up to 4 as it does for dealers) before a license is required.

## INDUSTRY ACTIVITY OVERVIEW

The Task Force is working to complete a matrix that outlines the descriptions, key activities, agencies and issues associated with all of the automotive related industries. The information discussed in this meeting has been incorporated into the matrix and will be distributed for further discussion at the October 7 meeting.

### NEXT STEPS

- Determine if a survey of local towing license requirements by the Maryland Association of Counties and Maryland Municipal League would be helpful (Linda Wheat).
- Determine how many auto salvage pools hold used vehicle dealer licenses (Joyce Stanley).
- Review Industry Activity Overview matrix with Subcommittee and finalize for presentation and review at the October 7th meeting.
- Task Force meeting: October 7, 1998 10:00 a.m., MVA Headquarters, Room 200.



Senate Bill 344 Task Force  
on the  
Comprehensive Licensing of Automotive-Related Industries

---

**SUBCOMMITTEE MEETING SUMMARY**

September 16, 1998  
10:00 a.m. -12:00 p.m.  
Motor Vehicle Administration Headquarters  
Glen Burnie, Maryland

**MEETING PARTICIPANTS**

**Subcommittee Members**

Tom Walsh, Chairman  
Samuel Dansicker, Cox Auto Parts/MATRA  
Joyce Stanley, Motor Vehicles Administration  
Jerry B. Sullivan, Auto Replacement Center  
David M. Taylor, Insurance Auto Auctions  
Linda L. Wheat, Towing & Recovery Professionals  
Bill Wilson, Washington Metro Body Shop Association

**Motor Vehicles Administration**

Sherrie Cook, Motor Vehicle Administration

**Observers**

Betty Cornwell, Towing & Recovery Professionals of Maryland  
Tom Kimmel, Insurance Auto Auction  
Ernest Richards, Towing Industry  
Bill Varga, Maryland General Assembly

**Staff**

W. Steve Lee, Task Force Coordinator

**SUBCOMMITTEE PURPOSE**

- Clarify problem(s) that need attention during Task Force deliberations.
- Develop preliminary recommendations for Task Force

**COMMENTS ON 9/9/98 TASK FORCE MEETING SUMMARY**

The summary suggests that there was a consensus for the final recommendations of the Towing Task Force. Specifically, on the need to license the towing industry. In fact, support for licensing of towing was acceptable only insofar as the recommendations provided for a legal method of disposal for abandoned vehicles.

## CRITICAL ISSUES FOR THE SB 344 TASK FORCE

- Eliminate non-licensed operations and illegal activity within licensed operations. The problem is that auto-related industries with a license to engage in one type of activity actually engage in other "unlicensed" activities as well and operators with no license to conduct any auto-related activity engage in unlicensed activity.

For example:

Body shops often will go to an auction, buy a car, disassemble the car, use the parts to fix another car. However, they then sell the remaining parts to scrap processors and others, which is an unlicensed activity for body shops. Upon inspection it is difficult for inspectors to determine which vehicles are under repair and which are for sale. Moreover, it is difficult to trace which parts were obtained legally.

Many auctions are wholesale operations and should only sell to licensed dismantlers, scrap processors, or dealers. However, auctions are not *required* to have a wholesale dealers license.

Some tow truck operators will illegally pick-up vehicles and sell them (no questions asked) to dismantlers and scrap processors at prices that undercut legitimate operations. There is a lack of accountability for engaging in illegal activity throughout the industry.

- This group suggested that MVA and local law enforcement place a greater emphasis on enforcement of existing laws. For instance, existing Federal as well as state law may provide support for enforcement.
- Further, that the Task Force should identify ways to educate local law enforcement on and make the enforcement of the vehicle code a higher priority. For instance, working with Vehicle Theft Prevention Council or with local police departments.
- Another strategy to explore is how to increase the resources at MVA to make enforcement of the vehicle code a higher priority. For example, MVA currently has 31 investigators and only six of them conduct business investigations.
- In some instances, law enforcement officials do not believe that the authority exists or authority is sufficiently clear for them to inspect, review or monitor certain unlicensed auto-related industries. The same is true for MVA. The state investigators in the home improvement industry have clear authority to seek criminal sanctions for unlicensed activity and MVA does not have such clear authority.
- Evaluate how well the existing enforcement mechanisms work. Under current law there are criminal sanctions for violation of any provision of the vehicle code but it may be a need to

establish a more specific provision for fines and penalties in the auto-related industries that are at issue in Task Force deliberations.

- Amend the Transportation Code to include for all types of auto-related industries the types of activities (e.g., record keeping on the origin of vehicles and parts, inventory of stock, sales records, etc.) that provide grounds for law enforcement to inspect the legitimacy of auto-related industries.
- Clarify in the law, as appropriate, the specific legal and allowable activities for all industries.
- Continue the discussion on the need to make information on vehicle titles more clearly indicate when a vehicle has been salvaged. For example, current law requires new car dealers to disclose when a car has been repaired cars but used car dealers do not have the same requirement.
- This issues is complicated by the requirements to "brand" vehicles where repairs exceed the fair market value. The threshold for this requirement varies among states. The Task Force should examine the requirements of neighboring states.

#### NEXT STEPS

The Subcommittee will work with staff to complete the Overview of Auto-Related Industries, which describes the key activities, licensing, oversight, enforcement and issues associated with each of the industries at issues in the task Force deliberations. A draft will be provided for discussion at the September 23, 1998 Task Force meeting.

Staff will obtain a summary of the neighboring states' laws related to branded and salvaged vehicles.

No follow-up subcommittee meeting was scheduled.



**Senate Bill 344 Task Force  
to Study the  
Comprehensive Licensing of Automotive-Related Industries**

---

**TASK FORCE MEETING SUMMARY**

October 7, 1998, 10:00 AM to 12:30 PM  
Motor Vehicle Administration  
Glen Burnie MD

**MEETING PARTICIPANTS**

**Task Force Members**

Senator Norman R. Stone, Jr., Co-Chairman  
Senator Larry E. Haines  
Corporal Thomas Dupczak, Maryland State Police  
Edgar F. Johnson, David J. Joseph Company  
James W. Gosnell, Jr. Baltimore Auto Recycling/MATRA  
Tom Widerman (substitute for David Taylor), Insurance Auto Auctions  
Joyce Stanley, Assistant Manager, Business Licensing and Consumer Services, MVA  
Jerry B. Sullivan, Auto Replacement Center  
Bill Wilson, Washington Metro Body Shop Association  
Betty Cornwell (substitute for Linda Wheat), Executive Director, Towing and Recovery  
Professionals of Maryland  
Major W. Ray Presley, Vehicle Theft Prevention Council

**Staff Support**

Tom Walsh, MVA  
Bill Varga, Department of Legislative Services  
Sherri Cook, MVA  
Steve Lee, MVA  
Victoria Whitlock

**Advisory Support**

Dawn Smith, Insurance Auto Auctions  
Sheila Loftus, Washington Metropolitan Auto Body Association  
Al Scrimger, Maryland New Car and Truck Dealers Association  
Ellen Valentino, Manis, Canning & Associates  
Charles Schaub, Acting Manager, Business Licensing and Consumer Services

**DISCUSSION SUMMARY**

- Bill Wilson gave an overview of the National Association of Attorneys General's (NAAG) *Auto Repair Task Force Report* and noted the Task Force's recognition of the complexity of the issues related to auto repair and the automobile industry in general.

- Betty Cornwell announced the upcoming *1998 American Towman Exposition* at the New Baltimore Convention Center on November 20-22. The event coincides with the industry's "National Tow Safety Week" and features seminars, exhibits, and safety awards. Registration information was distributed.
- Tom Walsh distributed copies of a letter from Thomas Kimmel, Esq., who, on behalf of the Insurance Auto Auctions, Corp., *recommends Task Force consideration of these two legislative proposals:*
  - *Improved record-keeping requirements* combined with *increased inspection authority* by both the Motor Vehicle Administration and law enforcement agencies would address most of the concerns raised by the State Police and Motor Vehicle Administration. We do not feel there has been any demonstrated need for additional licensing requirements, nor has there been any consensus supporting additional licensing.
  - *Additional penalties and enforcement powers* by the Motor Vehicle Administration will enable it to enforce existing laws and the new recommendations, including particularly taking action against entities which are engaging in activities without a license when they should be licensed — activities which have been complained about by various segments of the industry, particularly the recyclers and dismantlers and the towing industry.
- Jerry Sullivan asked for clarification of item 2 of the Summary of the September 16 Task Force meeting; i.e., "*Focus enforcement efforts on licensed operators that conduct activities outside the scope of the specific licenses under which they operate.*" His recollection was that the discussion was more focused on "unlicensed" activity rather than on licensed operators; *for example, body shops that buy cars to dismantle for parts.* Jim Gosnell believed the discussion was less about the licensing aspect and more about the need to strengthen requirements related to access of records, record-keeping requirements, and *enforcement of unlicensed activity or activities* outside the scope of the license held.  
Suggestion:
  - Jim Gosnell — Amend law to require the seller to process the assigned title. This would ensure that the vehicle is titled properly.
- In exploring the *enforcement* aspect further, Tom Widerman questioned whether the police must actually witness the *illegal activity* in order to make a case and what are the penalties associated with unlicensed activity. Transportation Article, Title 27 provides the following penalties:
  - *Misdemeanor: not more than \$500 fine and 2 months imprisonment:*
    - § 15-312 – Dealers: Prohibited acts — Vehicle sales transactions
    - § 15-313 – Dealers: Prohibited acts — Advertising practices

- § 15-314 – Dealers: Prohibited acts — Violation of licensing laws
- § 15-411 – Vehicle Salesmen: Prohibited acts
- § 15-502(c) – Storage of vehicles to be dismantled, destroyed, or scrapped by unlicensed persons

- **Misdemeanor: not more than \$1000 fine and/or 1 year (1<sup>st</sup> offense) or 2 years (2<sup>nd</sup> offense):**
  - § 15-502(a) – unlicensed automotive dismantler and recycler or scrap processor
- **Misdemeanor: not more than \$1000 fine and/or 6 months (1<sup>st</sup> offense) or \$2000 fine and/or 1 year (2<sup>nd</sup> offense):**
  - § 15-302(a) – unlicensed dealer
  - § 15-402(a) – unlicensed vehicle salesman
- **Motor Vehicle Law violation: up to \$3000 fine**
  - § 13-920 – “for hire” tow trucks must be registered as tow trucks
- About the *inspection of records*, Jim Gosnell pointed out the problem is not with those businesses that are licensed, but with those engaged in unlicensed activities. About towing operations, Ellen Valentino said law enforcement can come in at anytime to check records, *if* the tow trucks are properly registered. According to Ray Presley, the State Police authority is restricted to “safety-related” inspections — and “safety” cannot be used as a subterfuge to gain access. He suggested that law enforcement needs the same legislative authority as currently exists for dealers’ records. Ellen Valentino questioned what records do the State Police want, especially since records of illegal activity are not ordinarily kept. Tom Walsh suggested that this be explored further in sub-committee.
- **“TT” tags** — Jim Gosnell asked if the local licenses are required only for the purpose of police towing. Ms. Valentino does not know that to be true. However, in order to obtain “TT” tags, the owner must provide a federal employer identification number (FEIN) or social security number if not a company or corporation. Also, if applicable, the owner must provide a U.S. Department of Transportation motor carrier number or an Interstate Commerce Commission (ICC) motor carrier authority number, and the truck has to be marked ICC approved with phone number and location lettering of a certain size. Senator Stone followed with the question: Can the operator do all tow-related activities legally, as long as the tow truck has “TT” tags? Ms. Valentino answered yes. Tom Walsh questioned whether the “TT” tags are issued by the MVA without sufficient verification of compliance. The consensus was that verification could be better. Further discussion:
  - Jim Gosnell — It might be appropriate for the task force to consider legislation for location requirements or vehicle inspection before getting “TT” tags.
  - Senator Haines — The solution may be better reporting requirements for the tow companies.
  - Senator Stone — All tow trucks should be required to have “TT” tags — running around without tow tags is dangerous.
  - Tom Walsh — Further education is needed.
  - Bill Varga — The “TT” tags should be permitted only if the vehicle is “for hire.” Private businesses (repair shops, dealers, dismantlers and recyclers, and scrap

- processors) do not need "TT" tags to do their own repair work. Maybe the solution would be to take the words "for hire" out of the law (TR§ 13-920(j)).
- Senator Stone — If we continue to allow the exception "for hire" in the law, we are providing a loophole.
  - Ed Johnson questioned the fairness of requiring a person who is towing vehicles in conjunction with his own business to have tow tags.
  - Chuck Schaub — Question: Should tow trucks be exempt from using dealer tags? Currently dealer tags are only allowed on vehicles used in the course of the dealership business; however, dealers run into problems, if they drive into Pennsylvania where *all* tow trucks are required to be properly registered.
  - Betty Cornwell — To be engaged in police towing, State police require all tow truck to be registered under TR§13-920.
- Discussion about **insurance requirements for tow trucks**: Do insurance companies notify the MVA when tow truck operators cancel their commercial liability insurance coverage? This needs to be checked out. The minimum requirements are \$100,000 per person, \$300,000 per occurrence bodily injury liability and \$100,000 per occurrence property damage liability. Ellen Valentino mentioned that tow truck operators have been known to cancel their insurance or convert it to less costly coverage immediately after they obtain the registration plates. If this is happening, does the MVA hear about it and what, if any, action is taken by the MVA to verify insurance coverage or suspend registration? Tom Walsh suggested reviewing viable options with the insurance compliance staff — either in subcommittee or as an agenda item for the next meeting.
  - Senator Stone observed that the *discussion thus far seems to make a point for State licensure* — for uniformity — and he asked Ellen Valentino if the towers' association was opposed to licensing. Ms. Valentino said the association thinks the industry is already heavily regulated and believes that MVA's insurance requirements should be enforced strictly. Further, the only way to catch the night crawlers is on the street. When the trucks are not in operation, they are parked in backyards, and they do not have "TT" registration tags. It is the industry's consensus that Maryland needs to concentrate on enforcing what is already on the books before adding another layer. In the subdivisions where there are local ordinances and police-issued licenses, illegal operators' vehicles can be revoked and/or impounded. She would like to see MACCO do a survey to determine the extent of regulation in each subdivision.
  - Further discussion about *licensing versus enhanced enforcement*: Senator Stone said it sounds like licensing of repair shops and mechanics has always been a problem; and if that concept is hard to settle on, then it would seem that enhanced enforcement would be a better approach. Jim Gosnell recalled that the previous task force concluded the only way additional resources could be obtained would be with a comprehensive licensing law and the high fiscal note was a major hurdle. Bill Wilson mentioned that the federal government gives grants for anti-car theft enforcement if the state meets certain federal requirements. Asked about prior MVA enforcement, Mr. Gosnell stated that in times past, MVA did engage in unlicensed investigations, but the problems were MVA's limited resources, the need for police assistance, and in getting the judicial system to understand or agree that the activity



was a crime — education was lacking. In the scheme of things, this kind of crime (unlicensed automotive-related activity) ranks low, and courts are reluctant to impose the maximum penalties although they are not stiff. Jerry Sullivan asked if the businesses *were to be licensed*, would there be any legislative incentive for authorizing additional resources (personnel and man-hours) and would the courts treat the cases more seriously. Joyce Stanley suggested that another alternative might be to concentrate on consumer education about the consequences and damages of doing business with unlicensed and unregulated businesses.

- The rough draft matrix “*Overview of Automotive-Related Industries*” was reviewed and further refined. The latest draft is attached.

#### NEXT STEPS

- **Outline Final Report:** The following three subcommittees will begin developing the Task Force Report. Vicki Whitlock will be the liaison to the groups — to find information, make contact with task force members, etc. (Telephone 410-768-7423; Fax 410-424-3101).

In drafting the report, the meeting notes can be used as a resource for getting all issues in narrative form. Justifications for recommendations and legislative or regulatory changes should be included. *The first drafts should be forwarded to Tom Walsh by October 27 so they can be distributed at the next meeting.*

#### **Group I. Authority for Enforcement Practices and Roles:**

Sam Dansicker – Chairman  
Sherri Cook  
Bill Varga  
Tom Kimmel  
Tom Dupczak  
Betty Cornwell

#### **Group II. Outreach Targets:**

Linda Wheat – Chairman  
Ellen Valentino  
Jerry Sullivan  
Bill Wilson  
Vicki Whitlock

#### **Group III. Resources:**

Joyce Stanley – Chairman  
David Taylor  
Jim Gosnell  
Toni Johnson  
Bill Russel

#### ➔ NEXT MEETING

October 30, 1998 at 10:00, MVA Glen Burnie, Conference Room 200.

SB 344 TASK FORCE  
TO STUDY THE  
COMPREHENSIVE LICENSING OF AUTOMOTIVE-RELATED INDUSTRIES  
OVERVIEW OF AUTOMOTIVE-RELATED INDUSTRIES (1, 2)  
OCTOBER 13, 1998

INDUSTRY	DESCRIPTION	KEY ACTIVITIES	AGENCY(S)	ISSUES
<p><b>AUTO DISMANTLERS &amp; RECYCLERS</b> (new and used)</p> <p>AND</p> <p><b>AUTO PARTS DISTRIBUTORS</b> (used)</p>	<p><b>Number of Operators</b></p> <ul style="list-style-type: none"> <li>Not reported</li> </ul> <p><b>Membership Organization(s)</b></p> <ul style="list-style-type: none"> <li>Maryland Automobile &amp; Truck Recycling Association (MATRA)</li> </ul>	<ul style="list-style-type: none"> <li>Dismantling, destroying or scrapping any vehicles for retail and wholesale resale of useable parts.</li> <li>Reassign repairable salvage for the purpose of rebuilding on salvage certificate. May also reassign to another auto dealer.</li> <li>Allowed to title and sell fewer than five vehicles per year without a dealer's license.</li> <li>Most transactions involve the wholesale trade.</li> <li>Sells salvaged vehicles in their entirety for parts and rebuilding, and properly disposes of unused parts and environmental hazards.</li> <li>Some operators deal primarily in new model vehicles, which are generally eight or fewer years old. Other operators deal primarily in the sale of parts and salvage of vehicles that are more than eight years old.</li> </ul>	<p><b>Licensing</b></p> <ul style="list-style-type: none"> <li>MVA (site location, vehicle inventory and sales, vehicle density, local compliance, monthly inventory reports)</li> </ul> <p><b>Oversight</b></p> <ul style="list-style-type: none"> <li>Department of Agriculture (insect control)</li> <li>See endnote</li> </ul> <p><b>Enforcement</b></p> <ul style="list-style-type: none"> <li>MVA /law enforcement (on-site inspections during business hours)</li> </ul>	<ul style="list-style-type: none"> <li>Unlicensed activities, particularly businesses operating as dismantlers &amp; recyclers (e.g., body shops, towing operators)</li> <li>Favor licensing for all industries represented on the Task Force.</li> <li>Specific leftover parts are not properly disposed of or are sold by unlicensed dismantlers &amp; recyclers.</li> </ul>
<p><b>AUTO SALVAGE POOLS</b></p>	<p><b>Number of Operators</b></p> <ul style="list-style-type: none"> <li>4</li> </ul> <p><b>Membership Organization(s)</b></p> <ul style="list-style-type: none"> <li>American Salvage Pool Association (ASPA)</li> <li>National Insurance Crime Bureau (NICB)</li> </ul>	<ul style="list-style-type: none"> <li>Wholesale auction or sale of recovered, damaged, or destroyed vehicles to other operators or recyclers. These operations usually act on behalf of insurance companies.</li> </ul>	<p><b>Licensing</b></p> <ul style="list-style-type: none"> <li>See endnote</li> </ul> <p><b>Oversight</b></p> <ul style="list-style-type: none"> <li>NICB</li> <li>MVA (record-keeping and right of inspection)</li> <li>See endnote</li> </ul> <p><b>Enforcement</b></p> <ul style="list-style-type: none"> <li>Law enforcement</li> </ul>	

INDUSTRY	DESCRIPTION	KEY ACTIVITIES	AGENCY(S)	ISSUES
AUCTIONS	<p>Number of Operators</p> <ul style="list-style-type: none"> <li>• 4-5</li> </ul> <p>Membership Organization(s)</p> <ul style="list-style-type: none"> <li>• National Association of Auto Auctions</li> </ul>	<ul style="list-style-type: none"> <li>• Wholesale sales of used and re-assembled vehicles.</li> <li>• Retail sales can occur only if the: <ul style="list-style-type: none"> <li>- Auction is a licensed dealer,</li> <li>- Vehicle is inspected;</li> <li>- Transaction complies with requirements for a used vehicle dealer;</li> <li>- Vehicle is a lien or repossession for which 50% or more has been paid, or</li> </ul> </li> <li>• Sell to dealers vehicles that are part of a state surplus or municipal inventory.</li> </ul>	<p>Licensing</p> <ul style="list-style-type: none"> <li>• None</li> </ul> <p>Oversight</p> <ul style="list-style-type: none"> <li>• MVA (record keeping, right of inspection)</li> <li>• See endnote</li> </ul> <p>Enforcement</p> <ul style="list-style-type: none"> <li>• Law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Support and enhanced enforcement.</li> </ul>
BODY SHOPS	<p>Number of Operators</p> <ul style="list-style-type: none"> <li>• Approximately 1,200</li> </ul> <p>Membership Organization(s)</p> <ul style="list-style-type: none"> <li>• Washington Metropolitan Auto Body Association</li> </ul>	<ul style="list-style-type: none"> <li>• Repair and reassemble damaged vehicles -- usually for insurance companies and consumers.</li> </ul>	<p>Licensing</p> <ul style="list-style-type: none"> <li>• None</li> </ul> <p>Oversight</p> <ul style="list-style-type: none"> <li>• See endnote</li> </ul> <p>Enforcement</p> <ul style="list-style-type: none"> <li>• Attorney General (fraud)</li> </ul>	<ul style="list-style-type: none"> <li>• Operations vary tremendously in size and scale of operations. Nearly 75% of body shops are small, family-owned operations.</li> <li>• Need a clearer definition of dismantling and recycling operations and how it may apply to the real world operations of body shops.</li> <li>• Insurance companies are a significant player in the overall scheme of how the auto repair industry operates. Further study is needed to explore the insurance companies' superior bargaining position.</li> <li>• There is no clear data on the scope of any problems related to body shops that actually purchase entire vehicles at auctions and sale and/or improperly dispose of leftover parts.</li> </ul>
CAR DEALERS (NEW AND USED)	<p>Number of Operators</p> <ul style="list-style-type: none"> <li>• 488 new car dealers</li> <li>• 884 used car dealers</li> </ul> <p>Membership Organization(s)</p> <ul style="list-style-type: none"> <li>• Maryland New Car &amp; Truck Dealers Association</li> <li>• Washington Area Dealers Association</li> <li>• Maryland Independent Used Car Dealers Association</li> </ul>	<ul style="list-style-type: none"> <li>• Buy, sell, repair or exchange new and used vehicles</li> <li>• Broad authority to engage in most automotive-related industry activities described in this matrix.</li> </ul>	<p>Licensing</p> <ul style="list-style-type: none"> <li>• MVA</li> </ul> <p>Oversight</p> <ul style="list-style-type: none"> <li>• MVA</li> <li>• See endnote</li> </ul> <p>Enforcement</p> <ul style="list-style-type: none"> <li>• MVA AG, law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Prevention of unlicensed sales.</li> </ul>

INDUSTRY	DESCRIPTION	KEY ACTIVITIES	AGENCY(S)	ISSUES
SCRAP PROCESSORS	<p><b>Number of Operators</b></p> <ul style="list-style-type: none"> <li>• 11</li> </ul> <p><b>Membership Organization(s)</b></p> <ul style="list-style-type: none"> <li>• None reported</li> </ul>	<ul style="list-style-type: none"> <li>• Process iron, steel and certain scrap metal for sale only for re-smelting.</li> <li>• Notifies MVA of seller and description of every vehicle received for processing..</li> </ul>	<p><b>Licensing</b></p> <ul style="list-style-type: none"> <li>• MVA</li> </ul> <p><b>Oversight</b></p> <ul style="list-style-type: none"> <li>• See endnote</li> </ul> <p><b>Enforcement</b></p> <ul style="list-style-type: none"> <li>• MVA, law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Illegal and unlicensed activity.</li> </ul>
TOWING	<p><b>Number of Operators</b></p> <ul style="list-style-type: none"> <li>• 5,000 licensed trucks</li> </ul> <p><b>Membership Organization(s)</b></p> <ul style="list-style-type: none"> <li>• Towing &amp; Recovery Professionals of Maryland (185 members)</li> <li>• Maryland Motor Truck Association</li> <li>• Service Station &amp; Auto Repair Association</li> </ul>	<ul style="list-style-type: none"> <li>• Licensed vehicles of 10,000 pounds or more designed to lift, pull, or carry a vehicle. This specific provision sunsets in 2000.</li> <li>• Licensed two trucks are identified by special "TT" license plates.</li> </ul>	<p><b>Licensing</b></p> <ul style="list-style-type: none"> <li>• MVA (for trucks)</li> <li>• Local towing licenses with revocation provisions, but provisions vary among jurisdictions. There is no up-to-date inventory on the specific requirements but eight jurisdictions require municipal licenses.</li> </ul> <p><b>Oversight</b></p> <ul style="list-style-type: none"> <li>• See endnote</li> </ul> <p><b>Enforcement</b></p> <ul style="list-style-type: none"> <li>• MVA for trucks</li> <li>• DOT or any entity that oversees commercial motor carriers.</li> <li>• Law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• MVA re-titles vehicles as tow trucks that are no longer eligible for such operations.</li> <li>• Other industries support illegitimate towing operations.</li> <li>• Authority to police the industry exists under the current "TT" tag compliance provisions of the law (e.g., MVA can revoke tags but do not often use that authority).</li> <li>• MVA does not fully enforce the requirements for TT tag issuance.</li> <li>• State and local law enforcement use visual inspections to monitor and cite illegal towing operations.</li> <li>• Disconnection of enforcement/oversight efforts and no coordination among agencies and different levels of government.</li> <li>• Lack of knowledge among law enforcement and MVA about the safety requirements for tow trucks.</li> </ul>

61

<sup>1</sup> Nearly all automotive-related industries are subject to local zoning requirements that regulate the kinds of activity and manner in which those activities can occur on a particular site. In addition, most operations also are subject to state and local environmental regulations such as tire disposal, hazardous materials, storm water runoff, screening, dust control, and noise abatement. Finally, most operators also hold local trader or business licenses and are subject to state and local occupational health and safety regulations.

<sup>2</sup> There are three issues that are common to most auto-related industries:

- Police authority to conduct inspections without a warrant is prohibited and has been since an amendment to the law in 1978;
- Open titles. While it is already illegal for all parties involved in transactions with open titles, the practice impacts the entire industry; and
- Consignment lots (parking lots used by members of the public to display for sale their personal vehicle)

**Senate Bill 344 Task Force  
to Study the  
Comprehensive Licensing of Automotive-Related Industries**

---

**TASK FORCE MEETING SUMMARY**

October 30, 1998, 10:00 AM to 12:30 PM

Motor Vehicle Administration

Glen Burnie MD

**MEETING PARTICIPANTS**

**Task Force Members**

Senator Norman R. Stone, Jr., Co-Chairman

Senator Larry E. Haines

Samuel Dansicker, Cox Auto Parts

Corporal Thomas Dupczak, Maryland State Police

Joyce Stanley, Assistant Manager, Business Licensing and Consumer Services, MVA

David M. Taylor, Insurance Auto Auctions

Bill Wilson, Washington Metro Body Shop Association

Linda L. Wheat, Windsor Service, Inc.

**Staff Support**

Tom Walsh, MVA

Bill Varga, Maryland General Assembly, CGM Committee

Sherri Cook, MVA

Steve Lee, MVA

Victoria Whitlock, MVA

**Advisory Support**

Jonathan Acton, Attorney General's Office, MDOT/MVA

Joseph Carroll, Maryland New Car & Truck Dealers Association

Betty Cornwell, Executive Director, Towing and Recovery

Professionals of Maryland

Thomas Kimmel, Insurance Auto Auctions

Ellen Valentino, Manis, Canning & Associates

**DISCUSSION SUMMARY**

- **Injunctive Relief:** Jonathan Acton, Office of the Attorney General Counsel, informed the Task Force participants about the elements needed to sue for **injunctive relief** — the administrative remedy successfully used by the Maryland Home Improvement and Real Estate Commissions. Since the MVA currently does not have the authority to file for injunctive relief when they find unlicensed activity, Mr. Acton strongly urges that the task force follow the Home Improvement model as it considers legislative options. [See attached excerpt from the Business Regulation Article, Annotated Code of Md.] He cautions, however, that it is labor intensive and time consuming to seek injunctive relief — but in

certain major cases where it is desirable to make an impact, it will work. In such event, the investigators must be able to demonstrate not only unlicensed activity but also a continuing pattern of practice and bring in a victim — enough to give the Attorney General's Office a case.

*Comments:* The task force discussed the question of whether to include injunctive relief authority in its recommendations. Even though it is difficult to get an injunction and the reality is MVA will not use it in 95 percent of its cases, the consensus is that in extreme cases it could serve as a deterrent.

*Action Item:* Bill Varga was asked to draft the necessary statutory language to give MVA this authority. Attached is the revised proposed legislation which has been approved by Jon Acton.

- **Subcommittee Reports:** At the last task force meeting, three subcommittees were formed to begin development of the Task Force Report. Copies of the subcommittees' draft reports were faxed to task force, staff, and advisory support members for advance review prior to the October 30 meeting. The chairpersons discussed the issues and recommendations for each of the groups as follows:

- **Group I. AUTHORITY FOR ENFORCEMENT PRACTICES AND ROLES**

*Chair — Sam Dansicker. Sherri Cook, Bill Varga, Tom Kimmel, Tom Dupczak, Betty Cornwell.*

This subcommittee reviewed the work of the Task Force as it related to enforcement efforts and goals, and adopted six final recommendations. Sam Dansicker briefed the task force on the following *six recommended statutory changes*, which are intended to assist law enforcement efforts, and thereby curb illegal activities, but which stop short of establishing additional regulatory licensing schemes. Overall, the task force agreed with the subcommittee recommendations. Further, the task force favored the inclusion of a provision for injunctive relief (as discussed beginning on page 1 of this meeting summary) and, depending on further research, possibly authority to impose civil penalties (see recommended statutory change #4 below).

**Statutory Change #1: Establishing a criminal penalty for failure of auctioneers to maintain required records;**

**Statutory Change #2: Requiring persons in the automotive repair business to maintain certain records concerning vehicle and part inventories;**

*Comments:* Mechanical-repair facilities have not been discussed extensively heretofore, but they, too, are remiss in keeping source records of parts used. It is believed that car dealers will go along with this one and that most legitimate repair shops would have no problem with keeping source records.

*Action Item:* Senator Stone recommended that Tom Walsh discuss the proposed statutory change that requires automotive repair facilities to

*maintain inventory records with Mr. Roy Littlefield of the W.M.D.A. (WASHINGTON, MARYLAND, DELAWARE SERVICE STATION AND AUTOMOTIVE REPAIR ASSOCIATION).*

**Statutory Change #3: Expanding or establishing a right for MVA inspectors and law enforcement officers to inspect certain records during normal business hours without the need for a warrant;**

*Comments:* Concern was voiced that it seems far-reaching to give authority to inspect records of automotive repair facilities; on the other hand, in the case of businesses licensed under Title 15 of the Transportation Article, police already have record-inspection authority. This is somewhat controversial with the towers' association who believe record inspection is a dangerous precedent — they would prefer that law enforcement have warrants since they are most likely to be looking for criminal activity. Senator Stone wants to make sure the proposed law says what the task force intends; police should not be allowed to go in on a pretext to look at other things. It was pointed out that the suggested statutory change [TR §15-113.1] limits the inspection authority to specific records. It was also noted that the suggested language gives police authority to question the proof of ownership or right of possession of motor vehicle parts at automotive repair facility.

*Action Item:* Staff was instructed to develop alternative language that would limit police authority to access business establishments.

**Statutory Change #4: Authorizing MVA investigators to issue citations for violations of business regulation provisions under Title 15 of the Transportation Article relating to record requirements;**

*Questions:* What happens if fine is not paid? District Court has authority under TR §36-304 to suspend driving privileges and issue warrants for noncompliance. Driver's license suspension is popular, but this raises further questions: Who is charged? Corporation or individual? Is there authority to pursue civil penalty?

*Action Item:* Staff was asked to look into the question of legal remedy for failure to pay fines on non-incarcerable offenses; otherwise, the citation authority is meaningless. May need to look for other methods, such as civil penalties as currently imposed by the Home Improvement Commission (BR §8-820). The sentiment of the Task Force is not to attach "imprisonment" to failure to keep records. Staff was also asked to look at alternative enforcement procedures.

**Statutory Change #5: Providing that the operator of a tow truck that is not registered under §13-920 of the Transportation Article is subject to the \$3,000 penalty by eliminating the "not-for-hire" exception;**

*Comments:* Concern was raised about the use of roll-backs for hauling equipment and construction materials. However, if vehicles were used for towing something other than a vehicle, it would not meet the definition requiring "TT" license plates.

**Statutory Change #6: Increasing monetary penalties for persons who engage in activities that currently require an automotive dismantler and recycler or scrap processor license without being licensed under Title 15, Subtitle 5 of the Transportation Article.**

- **Group II. OUTREACH TARGETS**

*Chair — Linda Wheat. Ellen Valentino, Jerry Sullivan, Bill Wilson, Vicki Whitlock.*

Linda Wheat reviewed this subcommittee's findings and recommendations relating to communication and outreach among business entities, consumers, and government. The group envisions an Automotive Industry-Related Advisory Council that would provide a forum for improving communication and fielding concerns from all entities. The council would consist of representatives from the private and public sectors and would meet approximately three times yearly for the purpose of addressing issues, seeking voluntary compliance, reaching resolution, discussing laws, and providing education. The MVA would be the logical agency to facilitate these open-agenda meetings. The subcommittee rejected the idea of a commission established by law in favor of a self-enforced council with open membership.

*Suggestions:* The council could also publish pamphlets and news releases, distribute industry-related association publications; send representatives to address association meetings; and participate in law-enforcement training programs. In addition to the membership recommended by Group II, the American Automobile Association (AAA), State's Attorneys Offices, and citizens from the public should also be represented on the council. MVA and private sector could share costs. A *Mission Statement* would be helpful in defining the purpose and scope of the council.

*Action Item: The subcommittee was asked to develop a Mission Statement and to expand the membership to include other representatives as suggested. Attached is a draft "resolution" for task force's advance review — to be discussed at the November 20 meeting. The sixth paragraph contains what the subcommittee considers the "mission statement." The subcommittee defers to the task force the question of whether the resolution should be an Executive Order or just a commitment signed by some relevant agency like MVA.*

- **Group III. RESOURCES**

*Chair — Joyce Stanley. David Taylor, Jim Gosnell, Toni Johnson, Bill Russell.*



Joyce Stanley reviewed the recommended Resources needed to accomplish the task force's preference for an enhanced or increased enforcement program. The subcommittee feels strongly that the Maryland State Police should work closely with the MVA and recommends the formation of a *JOINT TASK FORCE* to include at least one representative from the MSP Auto Theft Squad and eight special, uniformed MVA investigators with citation and arrest powers and ability to assess fines. Non-compliance in paying fines could result in the suspension of driver's licenses. The fines would help defray the costs associated with the task force. A "1-800" would be a viable method for reporting violations. The subcommittee report provided an overview of the estimated costs (\$275,000) associated with the *JOINT TASK FORCE*.

*Comments:* It is unlikely that the legislature would approve the eight additional investigators given the recent history of downsizing MVA's investigative services division. However, the task force recognizes and agrees that MVA will need additional resources if the investigators are expected to have a major role in the enhanced or increased enforcement program. There is concern that MVA's investigators are constrained (due to staff shortages) from carrying out their regulatory responsibilities for the presently licensed businesses. Regarding the proposal that fines would help to defray the costs associated with the Joint Task Force, it was noted that criminal fines levied for violations are credited to the State's General Fund, not the Transportation Trust Fund.

*Action Item:* MVA staff will draft language to be included in the Task Force Report to clearly indicate that in order for the MVA to effectively carry out the enhanced enforcement of unlicensed activity, it needs additional resources. The task force recommended that the report identify the need for an assessment as to the level of resources that will be needed. Attached for advance review and discussion at the November 20 meeting is the draft of the revised language for the Resources component of the task force report.

#### NEXT STEP

- **Draft final Task Force Report.** The first draft will be reviewed at the next task force meeting on November 20. Submission Due Date: December 1, 1998.

#### NEXT MEETING

- **November 20, 1998 at 2:00 PM, MVA Glen Burnie, Conference Room 200.**

**ATTACHMENT 1:**  
***Business Regulation Article, Annotated Code of M.***  
***(Meeting Summary October 30, 1998)***

**STATE OF MARYLAND**  
**BUSINESS REGULATION**

- BR § 8-206(b) Authority to employ investigative staff
- BR § 8-208 Enforcement authority
- BR § 8-212 Ability to require records and other information  
(Note this is limited to licensees and applicants for licenses)
- BR § 8-601(d) Criminal penalty for operating without license
- BR § 8-620 Civil penalty provisions
- BR § 8-623 General criminal penalty provision

(2) to seek to get a home improvement contract from an owner.

(o) *Subcontractor*. — "Subcontractor" means a person, other than a laborer or supplier of materials, who makes an oral or written agreement with:

- (1) a contractor to perform all or part of a home improvement contract; or
- (2) another subcontractor to perform all or part of a subcontract to a home improvement contract.

(p) *Subcontractor license*. — "Subcontractor license" means a license issued by the Commission to act as a subcontractor. (An. Code 1957, art. 56, § 249; 1992, ch. 4, § 2; ch. 649; 1994, ch. 120.)

**Effect of amendments.** — The 1992 amendment, effective Jan. 1, 1993, deleted "central heating or air-conditioning system" following "awning" in (g)(2)(iii).

The 1994 amendment, effective Oct. 1, 1994, deleted "for up to 3 single-family units" following "residence" in (g)(1)(i); and added (g)(2)(iv) and (g)(3)(v) and (vi).

**Bill review letter.** — Chapter 649, Acts 1992 (House Bill 1386), was approved for constitutionality and legal sufficiency, as it was

determined that the title of the bill adequately encompassed express powers and duties of the board created by the bill to be valid. (Letter of Attorney General dated May 22, 1992).

Quoted in *Reisch v. State*, 107 Md. App. 464, 668 A.2d 970 (1995), cert. denied, — Md. —, 676 A.2d 993 (1996).

Cited in *Linkus v. Maryland State Bd. of Heating Ventilation, Air-Conditioning & Refrigeration Contractors*, 114 Md. App. 262, 689 A.2d 1254 (1997).

*Subtitle 2. Maryland Home Improvement Commission.*

**§ 8-203. Chairman.**

With the advice of the Secretary, the Governor shall designate a chairman from among the members of the Commission. (An. Code 1957, art. 56, § 250; 1992, ch. 4, § 2; 1993, ch. 5, § 1.)

**Effect of amendments.** — The 1993 amendment, approved Mar. 16, 1993, and effective from date of enactment, substituted "designate" for "appoint."

**§ 8-206. Staff.**

(a) *In general*. — (1) The executive director may employ a staff in accordance with the State budget.

(2) Except as otherwise provided by law, the staff is in the skilled service or professional service, with the exception of special appointments, in the State Personnel Management System.

(b) *Investigative staff*. — The executive director shall employ an investigative staff in accordance with the State budget.

(c) *Contractual experts*. — The executive director may contract with an expert, subject to the State budget, if the services of an expert are required in a particular case.

(d) *Home improvement complaints*. — Investigative staff and contractual experts shall investigate only complaints about home improvement. (An. Code 1957, art. 56, § 252; 1992, ch. 4, § 2; 1993, ch. 22, § 1; 1997, ch. 743.)

**Effect of amendments.** — The 1993 amendment, effective Oct. 1, 1993, added (a)(2). The 1997 amendment, effective Oct. 1, 1997, substituted "skilled service or professional service" for "skilled service or professional service."

vice, with the exception of special appointments, in" for "classified service of" in (a)(2).

**Editor's note.** — Section 3, ch. 22, Acts 1993, provides that "this Act is not intended to change the status as of October 1, 1993 of any employee, official, or position from the State Personnel Management System or any other personnel system to a different personnel system, from the unclassified service to the classified service, from the classified service to the unclassified service, or otherwise from one employment status to a different employment status."

Section 4 of ch. 22 provides that "except as expressly provided to the contrary in this Act, any transaction or employment status affected

by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before October 1, 1993 and every right, duty, or interest flowing from the statute, remains valid after October 1, 1993 and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If the change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit."

*Subtitle 3. Licensing.*

**§ 8-301. License required; exceptions.**

(a) *Contractor license*. — Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) *Subcontractor license*. — Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c) *Salesperson license*. — Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

(d) *Exceptions*. — This section does not apply to:

(1) an individual who works for a contractor or subcontractor for a salary or wages but who is not a salesperson for the contractor;

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

(4) an architect, electrician, plumber, heating, ventilation, air-conditioning, or refrigeration contractor, or other person who:

(i) is required by State or local law to meet standards of competency or experience before engaging in an occupation or profession;

(ii) currently is licensed in that occupation or profession under State or local law; and

(iii) is:

- 1. acting only within the scope of that occupation or profession; or
- 2. installing a central heating or air-conditioning system;

(5) a security systems technician licensed under Title 18 of the Business Occupations and Professions Article; or

(6) a person who is selling a home improvement to be performed by a person described in item (4) of this subsection. (An. Code 1957, art. 56, §§ 247, 255, 256; 1992, ch. 4, § 2; ch. 649; 1994, ch. 3, § 13; ch. 362.)

## REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 56, §§ 251(b) and 252(b).

In subsection (b)(1)(i) of this section, the former phrase "as a public record" is deleted since regulations, by law, must be published and are thereby available to the public. See Title 10, Subtitle 1 of the State Government Article.

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that subsection (b)(2) of this

section is revised to authorize the Commission to set a fee for a copy of the regulations. Former Art. 56, § 252(b) did not require the Commission to collect a fee for copies of the regulations; rather, it simply required the Commission to "fix a price". The Commission currently does not charge for copies of the regulations.

Defined term:  
"Commission"

§ 8-101

### § 8-208. Administration and enforcement by Commission.

(a) *In general.* — The Commission shall administer and enforce this title.

(b) *Injunction; restitution; order for completion.* — (1) If the Commission concludes that continuing conduct of a person alleged to be in violation of this title will result in irreparable or substantial harm to any other person, the Commission may sue for:

(i) injunctive relief against the conduct;

(ii) an order for satisfactory completion of a home improvement contract; or

(iii) restitution.

(2) If the Commission sues for injunctive relief under this subsection against a person who is not licensed under this title, the Commission need not:

(i) post bond; or

(ii) show that no adequate remedy at law exists.

(3) A suit under this section shall be brought in the circuit court for the county where:

(i) the alleged violation occurs; or

(ii) the principal place of business of the alleged violator is located.

(An. Code 1957, art. 56, §§ 251, 259, 261; 1992, ch. 4, § 2.)

## REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 56, § 259, the first sentence of § 251(a), and, as it related to former § 259, § 261(b)(2).

In subsection (b)(1) of this section, the former phrase "regardless of whether the violator is a licensee" is deleted as unnecessary in light of the use of the defined term "person".

Subsection (b)(3) of this section is revised to apply regardless of the remedy sought under subsection (b)(1) of this section. Although the requirement in former Art. 56, § 259(a)(1) only applied in cases of a "permanent or temporary injunction", there appeared to be no reason why its application was limited.

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(1) of this section the broad reference to "any other person" is substituted for the former reference to "any citizen of this State" to avoid inadvertently excluding certain persons from protection.

Defined terms:

"Commission"	§ 8-101
"County"	§ 1-101
"Home improvement contract"	§ 8-101
"Person"	§ 1-101

## REVISOR'S NOTE

This section is new language derived without substantive change from former Art. 56, § 251A.

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, that in some municipal corporations in the State it is the municipal corporation rather than the county that issues building permits. The General Assembly may wish to expand this section to provide the information to municipal corporations as well.

The Committee also notes that the reference to "licensees" is substituted for the former narrower reference to licensed "contractors" to conform to the current practice of the Commission.

## Defined terms:

"Commission"	§ 8-101
"County"	§ 1-101
"License"	§ 8-101

## § 8-212. Miscellaneous powers and duties.

(a) Powers. — The Commission at any time may require of an applicant or licensee:

(1) information reasonably related to the administration or enforcement of this title; and

(2) the production of financial records.

(b) Duties. — The Commission shall have a seal. (An. Code 1957, art. 56, § 257; 1992, ch. 4, § 2.)

## REVISOR'S NOTE

Subsection (a) of this section is new language derived without substantive change from former Art. 56, § 257(j).

Subsection (b) of this section is new language substituted for former Art. 56, § 253(b), which imposed a duty on the Commission to adopt a seal and provided specific procedures for adoption. Since the Commission has adopted a seal, the former requirement of adoption is obsolete.

Subsection (a) of this section is revised to clarify that which only was implied in the former law; i.e., the Commission may require certain financial information only from applicants and licensees.

In subsection (a)(2) of this section, the term "financial records" is substituted for the former words "books of accounts and financial statements" for brevity.

The second sentence of former Art. 56, § 251(a), which provided that the Commission has powers expressly conferred or reasonably implied from this title, is deleted as implicit in the scheme of this title.

## Defined terms:

"Commission"	§ 8-101
"License"	§ 8-101

## § 8-213. Disposition of money.

Except as otherwise provided by law, the Commission shall pay all money collected under this title into the General Fund of the State. (1992, ch. 4, § 2.)

## REVISOR'S NOTE

This section is standard language substituted for item (3) of the second sentence of former Art. 56, § 252(a), which required the executive director to pay fees collected as provided in regulations of the Comptroller. The substituted language conforms to similar provisions in other titles of this article and other requirements of law. See Md. Constitution, Art. III,

§§ 32 and 52 and Title 7 of the State Finance and Procurement Article.

The introductory clause of this section, "[e]xcept as otherwise provided by law", is added in light of the Home Improvement Guaranty Fund. See Subtitle 4 of this title.

The Business Regulation Article Review Committee notes, for consideration by the Gen-

(e) *Changes in contract.* — A salesperson or other agent or employee of a contractor may not make a change in a home improvement contract for an owner. (An. Code 1957, art. 56, § 265; 1992, ch. 4, § 2; 1994, ch. 740.)

*Effect of amendments.* — The 1994 amendment, effective Oct. 1, 1994, designated the introductory language of (c) as (c)(1) and made related paragraph and subparagraph designation changes; and added present (c)(2) and (3).

*Interest in proceeds of contract.* — This

section and § 8-617 do not bar a home improvement contractor from obtaining an interest in the proceeds of a home improvement contract prior to the contractor's fully performing under the contract. *In re Patio & Porch Sys.*, 194 Bankr. 569 (Bankr. D. Md. 1996).

### § 8-504. Permits.

Except for a permit for a home improvement to be performed by a property owner, the building and permits department of a county or a municipal corporation may not issue a permit for a home improvement unless the permit includes the license number of a licensed contractor. (An. Code 1957, art. 56, § 251B; 1992, ch. 4, § 2; 1996, ch. 336.)

*Effect of amendments.* — The 1996 amendment, effective Oct. 1, 1996, inserted "or a municipal corporation."

*Editor's note.* — Section 2, ch. 336, Acts 1996, provides that "the building and permits department of any municipal corporation may

use all of its home improvement permit application forms that the building and permits department has in stock as of October 1, 1996 before using home improvement permit application forms that include spaces for the license numbers required under this Act."

### *Subtitle 6. Prohibited Acts; Penalties.*

#### Part I. Specific Prohibited Acts and Specific Penalties.

### § 8-601. Acting as contractor or subcontractor or selling a home improvement without license.

(a) *Contractor.* — Except as otherwise provided in this title, a person may not act or offer to act as a contractor in the State unless the person has a contractor license.

(b) *Subcontractor.* — Except as otherwise provided in this title, a person may not act or offer to act as a subcontractor in the State unless the person has a contractor license or subcontractor license.

(c) *Salesperson.* — Except as otherwise provided in this title, ~~a person may not sell or offer to sell a home improvement in the State unless the person has a contractor license or salesperson license.~~

(d) *Penalty.* — A person who violates this section is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 30 days or both and, on a second or subsequent conviction, is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 2 years or both. (An. Code 1957, art. 56, §§ 246, 261, 268; 1992, ch. 4, § 2; 1997, chs. 631, 632.)

**Effect of amendments.** — Chapters 631 and 632, Acts 1997, both effective Oct. 1, 1997, made identical changes. Each, in (d), deleted "knowingly and willfully" preceding "violates," inserted "first," substituted "\$1,000" for "\$5,000," substituted "30 days" for "2 years" and added "and, on a second or subsequent conviction,

is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 2 years or both" to the end.

Cited in *Reisch v. State*, 107 Md. App. 464, 668 A.2d 970 (1995), cert. denied. — Md. —, 675 A.2d 993 (1996).

Part II. Miscellaneous Prohibited Acts.

§ 8-607. Misrepresentation.

A person may not:

- (1) make a substantial misrepresentation when obtaining a home improvement contract;
- (2) make a false promise that is likely to influence, persuade, or induce in connection with a home improvement contract;
- (3) misrepresent a material fact when applying for a license; or
- (4) fail to give the written notice required under § 8-501(c)(2) and (3) of this title. (An. Code 1957, art. 56, § 261; 1992, ch. 4, § 2; 1994, ch. 740.)

**Effect of amendments.** — The 1994 amendment, effective Oct. 1, 1994, added (4).

§ 8-617. Payment before signing contract; deposit limited.

**Interest in proceeds of contract.** — This section and § 8-501 do not bar a home improvement contractor from obtaining an interest in the proceeds of a home improvement contract

prior to the contractor's fully performing under the contract. In *re Patio & Porch Sys.*, 194 Bankr. 569 (Bankr. D. Md. 1996).

Part III. Civil Penalties.

§ 8-620. Civil penalties.

(a) *In general.* — The Commission may impose on a person who violates this title, including § 8-607(4) of this subtitle, a civil penalty not exceeding \$5,000 for each violation, whether or not the person is licensed under this title.

(b) *Considerations.* — In setting the amount of a civil penalty, the Commission shall consider:

- (1) the seriousness of the violation;
- (2) the good faith of the violator;
- (3) any previous violations;
- (4) the harmful effect of the violation on the complainant, the public, and the business of home improvement;
- (5) the assets of the violator; and
- (6) any other relevant factors. (An. Code 1957, art. 56, §§ 261, 267; 1992, ch. 4, § 2; 1994, ch. 740.)

**Effect of amendments.** — The 1994 amendment, effective Oct. 1, 1994, inserted "including § 8-607(4) of this subtitle" in (a).

## Part IV. General Criminal Penalty.

## § 8-623. General criminal penalty.

(a) *Application of section.* — This section only applies if there is no greater criminal penalty provided under this title or other applicable law.

(b) *Penalty.* — A person who violates this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months or both. (An. Code 1957, art. 56, §§ 246, 261, 268; 1992, ch. 4, § 2; 1997, chs. 631, 632.)

*Effect of amendments.* — Chapters 631 and 632, Acts 1997, both effective Oct. 1, 1997, made identical changes. Each deleted "knowingly and willfully" preceding "violates" in (b). Quoted in *Reusch v State*, 107 Md. App 464, 668 A.2d 970 (1995), cert. denied, — Md. —, 675 A.2d 993 (1996).

*Subtitle 7. Short Title; Termination of Title.*

## § 8-702. Termination of title.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on October 1, 2002. (An. Code 1957, art. 56, § 269A; 1992, ch. 4, § 2; ch. 237, § 2; 1994, ch. 428; 1996, ch. 197.)

*Effect of amendments.* — The 1994 amendment, effective Sept. 30, 1994, substituted "1996" for "1994." The 1996 amendment, effective Oct. 1, 1996, substituted "2002" for "1996."



**ATTACHMENT 2:**  
**Revised Proposed Legislation (incl. Injunctive Relief)**  
*(Meeting Summary October 30, 1998)*

By:

**A BILL ENTITLED**

AN ACT concerning

**Vehicle Law - Automotive Related Industries - Regulation**

FOR the purpose of requiring automotive repair facilities to maintain certain records; providing that certain records must be available for inspection by police officers and the Motor Vehicle Administration (MVA) at certain times; providing that a person who violates certain provisions under the Maryland Vehicle Law is subject to a certain criminal penalty; establishing a criminal penalty relating to business records; modifying a maximum criminal penalty relating to certain unlicensed activity; authorizing certain employees of the MVA to issue citations pertaining to certain business practices regulated under the Maryland Vehicle Law; authorizing the MVA to sue for injunctive relief under specified circumstances; modifying a prohibited act relating to the operation of a tow truck; and generally relating to the regulation of automotive -related business activities under the Maryland Vehicle Law.

BY repealing and reenacting, with amendments,

Article - Transportation

Section 12-104.1, 12-108, 13-920, 15-113, and 27-101(h) and (i)

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)

BY adding to

Article - Transportation

Section 15-113.1

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)

BY repealing and reenacting, without amendment,

Article - Transportation

Section 15-502(a) and 27-101(a) and (b)

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)

**SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,**  
That the Laws of Maryland read as follows:

**Article - Transportation**

12-104.1. *Issuance of citations.*

(a) The Administrator may designate employees of the Investigative Division of the Administration to exercise the powers specified in subsection (b) of this section.

(b) (1) An employee appointed under this section may issue citations to the extent authorized by the Administrator for violations of:

(i) Those provisions of Title 13 of this article relating to:

1. The vehicle excise tax;
2. Vehicle titling and registration;
3. Special registration plates for individuals with disabilities;
4. Parking permits for individuals with disabilities;

and

(ii) Those provisions of Title 17 of this article relating to required security;

(iii) Those provisions of Title 14 of this article relating to falsified, altered, or forged documents and plates;

(iv) Those provisions of Title 16 of this article relating to unlawful application for a license and vehicle operation during periods of cancellation, revocation, and suspension of a driver's license; [and]

(v) Those provisions of Title 21 of this article relating to special residential parking permits issued by the Administration ; and

(vi) **Those provisions of Title 15 of this article relating to maintenance and access to required business records.**

(2) The issuance of citations under this section shall comply with the requirements of § 26-201 of this article.

(c) The Administrator shall adopt regulations establishing:

(1) Qualifications for employees appointed under this section including prerequisites of character, training, experience, and education; and

(2) Standards for the performance of the duties assigned to employees appointed under this section.

12-108. *Authority to subpoena witnesses and take testimony; Injunctive relief.*

(a) In any matter subject to its jurisdiction, the Administration may subpoena any

person or documents and take the testimony of any person, in the same manner and with the same fees and mileage as provided for by law in civil cases.

(b) If any person fails to comply with a lawful order or subpoena issued by the Administration, the Administration may petition a court of competent jurisdiction to compel obedience to the subpoena or order and to compel the production of relevant documents and other evidence.

(c) (1) If the Administration concludes that continuing conduct of a person alleged to be in violation of Title 15 of this article may result in irreparable harm or substantial harm to any other person, the Administration may sue for injunctive relief against the conduct.

(2) If the Administration sues for injunctive relief under this subsection against a person who is alleged to engage in conduct that requires a license under Title 15 of this article, but who does not have a license, the Administration need not:

- (i) Post bond; or
- (ii) Show that no adequate remedy at law exists.

(3) A suit under this subsection shall be brought in the circuit court for the county where:

- (i) The alleged violation occurs; or
- (ii) The principal place of business of the alleged violator is located.

13-920. *Tow trucks.*

(a) (1) In this section "tow truck" means a vehicle that:

- (i) Is a Class E (truck) vehicle that is designed to lift, pull, or carry a vehicle by a hoist or mechanical apparatus;
- (ii) Has a manufacturer's gross vehicle weight rating of 10,000 pounds or more; and
- (iii) Is equipped as a tow truck or designed as a rollback as defined in § 11-151.1 of this article.

(2) In this section "tow truck" does not include a truck tractor as defined in § 11-172 of this article.

(b) When registered with the Administration every tow truck as defined in this section is a Class T vehicle.

article while being operated within the limits of Baltimore City, unless the vehicle is being operated on an interstate highway.

(g) Except for tow trucks operated by dealers, automotive dismantlers and recyclers, and scrap processors displaying special registration plates issued under Title 13 of this article, the vehicle shall display a distinctive registration plate as authorized by the Administration.

(h) A person who registers a tow truck under this section or operates a tow truck in this State that is registered under the laws of another state shall:

(1) Obtain commercial liability insurance in the amount of at least \$100,000 per person, \$300,000 per occurrence bodily injury liability, and \$100,000 per occurrence property damage liability; and

(2) Provide a federal employer identification number and, if applicable to the tow truck under federal requirements:

(i) A U.S. Department of Transportation motor carrier number; or

(ii) An Interstate Commerce Commission motor carrier authority number.

(i) (1) Except as provided under paragraph (2) of this subsection, a person may not operate a rollback in combination with a vehicle being towed unless the rollback is registered as a tow truck.

(2) This subsection does not apply to a vehicle that is registered and operated in accordance with § 13-621 or § 13-622 of this article.

(j) (1) This subsection applies only to a vehicle required to be registered in the State.

(2) A person may not operate a tow truck [for hire] unless the tow truck is registered under this section.

(3) A person convicted of operating a tow truck in violation of this subsection shall be subject to a fine of up to \$3,000.

15-113. *Auctioneer's records.*

(a) Each person who conducts auctions as a business in this State of motor vehicles of a type required to be registered under this article shall keep a record of:

(1) The name and address of the consignor;

(2) The date on which it was consigned;

- (3) The year, make, model, and serial number of each vehicle consigned;
- (4) The title number and state where the vehicle was last registered;
- (5) The odometer mileage reading at the time of consignment;
- (6) The name and address of the person to whom the vehicle was sold;
- (7) The selling price; and
- (8) The date of sale.

(b) During business hours, the records shall be open to inspection by the Administration or any police officer while discharging the officer's official duties .

(c) The records required by this section shall be kept for at least 3 years after the transaction to which it applies.

(d) A person who fails to comply with any requirement under subsection (a) through (c) of this section is subject to a penalty under § 27-101(b) of this article.

**15-113.1. Automotive repair facility's records.**

(a) In this section, "automotive repair facility" means any person who diagnoses or corrects malfunctions of a motor vehicle for financial profit.

(b) Each automotive repair facility in this State shall keep accurate and complete records at the location where motor vehicle repairs are conducted of:

(1) The name and address of the owner of each motor vehicle repaired or stored at the automotive repair facility;

(2) The date a motor vehicle was left at the automotive repair facility;

(3) The year, model, and vehicle identification number of the vehicle;  
and

(4) For any parts of motor vehicles at the automotive repair facility, proof of ownership or proof of the right of possession.

(c) The records required by this section shall be kept for at least 3 years after the transaction to which the record applies.

(d) During business hours, records required under this section shall be open to inspection by the Administration or any police officer while discharging the officer's official duties.

(e) A person who fails to comply with any requirement under subsection (b) through (d) of this section is subject to a penalty under § 27-101(b) of this article.

15-502. *License required.*

(a) A person may not conduct the business of an automotive dismantler and recycler or a scrap processor, or engage in the business of acquiring or offering to purchase or remove vehicles which are to be dismantled in whole or in part by that person for the sale of usable parts, unless the person is licensed by the Administration under this subtitle.

27-101. *Penalties for misdemeanors.*

(a) It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law unless the violation:

(1) Is declared to be a felony by the Maryland Vehicle Law or by any other law of this State; or

(2) Is punishable by a civil penalty under the applicable provision of the Maryland Vehicle Law.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

(h) Any person who is convicted of a violation of any of the provisions of [§ 15-502(a) of this article ("License required"), ] § 16-303(a), (b), (c), (d), (e), (f), or (g) of this article ("Driving while license is canceled, suspended, refused, or revoked"), § 17 -107 of this article ("Prohibitions"), or § 17 -110 of this article ("Providing false evidence of required security") is subject to:

(1) For a first offense, a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both; and

(2) For any subsequent offense, a fine of not more than \$1,000, or imprisonment for not more than 2 years, or both.

(i) Any person who is convicted of a violation of any of the provisions of § 15 -302 of this article ("Dealer's license required") , [or] § 15-402 of this article ("Vehicle salesman's license required"), or § 15-502(a) of this article ("Automotive dismantler and recycler or scrap processor - license required) is subject to:

(1) For a first offense, a fine of not more than \$1,000 or imprisonment for not more than 6 months or both; and

(2) For any subsequent offense, a fine of not more than \$2,000 or imprisonment for not more than 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
October 1, 1999.

**MEMORANDUM**

October 27, 1998

**TO: TASK FORCE TO STUDY THE COMPREHENSIVE  
LICENSING OF AUTOMOTIVE-RELATED INDUSTRIES**

**FROM: SAM DANSICKER, Chairman  
Group 1 - Authority for Enforcement Practices and Roles**

The Group 1 Subcommittee met on Tuesday, October 20, 1998, reviewed the work of the Task Force as it related to enforcement efforts and goals, and adopted final recommendations which it respectfully submits to the full Task Force for consideration.<sup>1</sup>

The Subcommittee adopted six recommendations, all of which are intended to assist law enforcement efforts, and thereby curb illegal activities, but which stop short of establishing additional regulatory licensing schemes. The six recommended statutory changes are: (1) establishing a criminal penalty for failure of auctioneers to maintain required records; (2) requiring persons in the automotive repair business to maintain certain records concerning vehicle and part inventories; (3) expanding or establishing a right for Motor Vehicle Administration (MVA) inspectors and law enforcement officers to inspect certain records during normal business hours without the need for a warrant; (4) authorizing MVA investigators to issue citations for violations of business regulation provisions under Title 15 of the Transportation Article relating to record requirements; (5) providing that the operator of a tow truck that is not registered under § 13-920 of the Transportation Article is subject to the \$3,000 penalty by eliminating the "not-for-hire" exception; and (6) increasing monetary penalties for persons who engage in activities that currently require an automotive dismantler and recycler or scrap processor license without being licensed under Title 15, Subtitle 5 of the Transportation Article. Each of these recommendations is discussed in detail below and suggested statutory changes are included as Attachment 1. Other matters that the Subcommittee considered, but decided against recommending additional statutory changes at this time, are addressed below under the heading "Miscellaneous Issues".

---

<sup>1</sup> The Group 1 Subcommittee consists of Sam Dansicker, Chairman, Sherri Cook, Betty Cornwell, Tom Dupczak, Tom Kimmel, and Bill Varga. Also attending the October 20th meeting was Ellen Valentino.



## **Auctioneer records**

*The Subcommittee recommends that § 15-113 of the Transportation Article (Auctioneer's records) be amended to include a specific penalty provision.*

Auctioneers are the only automotive-related industry currently regulated under Title 15 of the Transportation Article that are not subject to a regulatory licensing scheme.<sup>2</sup> Since 1978, however, a person who auctions motor vehicles as a business has been required to maintain certain records for a period of three years.<sup>3</sup> These records are to be open to inspection by the Motor Vehicle Administration during business hours.

The current law, however, does not provide a specific prohibited act for failure to comply with the record keeping provisions. Nor has the Chief Judge of the District Court included a penalty for a violation of § 15-113 of the Transportation Article in the Schedule for Prepayment of Fines, the initial source that a law enforcement officer would probably check when charging a person for a violation of the Maryland Vehicle Law. Although it could be argued that a violation of this provision would be subject to a criminal penalty under § 27-101(b) of the Transportation Article, the Subcommittee recommends that the law be clarified to eliminate any doubt that failure to comply constitutes a criminal offense. A new subsection (d) would be added to § 15-113, providing that a person who fails to comply with record requirements would be subject to a penalty under § 27-101(b) of the Transportation Article.

## **Automotive repair facilities**

*The Subcommittee recommends that all automotive repair facilities be required to maintain inventory records for a three year period, similar to record keeping requirements currently in place for those businesses licensed under the Maryland Vehicle Law.*

The Subcommittee recognizes and agrees that the Task Force is not interested in

---

<sup>2</sup> Auctioneers also are not subject to any other regulatory licensing scheme under State law. However, § 17-1803(b) of the Business Regulation Article, Annotated Code of Maryland, authorizes counties and municipalities to require a local license in order to sell goods at auction.

<sup>3</sup> Chapter 589, Acts of the General Assembly of 1978. See § 15-113 of the Transportation Article, Annotated Code of Maryland.

imposing new regulatory licensing schemes. Nevertheless, if illegal activity in automotive-related industries is to be curtailed, adequate record keeping to track vehicles and parts must be required. Although the Subcommittee first focused on body shops, it felt that this approach was too limited, and decided to recommend record keeping by all automotive repair facilities. (Professional vehicle theft might be for purposes of acquiring an engine as well as a front end.) The Subcommittee recommends that "automotive repair facility" be defined consistent with the current definition under the Automotive Repair Facility Act, a definition that has been interpreted to include a facility that performs automotive body work.<sup>4</sup> The Subcommittee suggests a list of records to be required and suggests that records be retained for a minimum of three years. Violation of the record keeping requirements would constitute a criminal offense, consistent with the approach the Subcommittee recommends for records of auctioneers.

It is important to point out that the Subcommittee was not in full agreement on this matter. It was questioned whether imposing a record keeping requirement, absent some type of licensing scheme, is appropriate. Law enforcement and the MVA are given responsibility for policing a vast industry without a means of tracking who the industry actually is. Nevertheless, the majority of the Subcommittee felt that the record keeping requirement was a good compromise and starting point, increasing accountability while avoiding the licensing of additional industries. It gives law enforcement another tool to curb illegal activity. And it tracks the approach that the General Assembly enacted in 1978, requiring that persons who auction motor vehicle maintain certain records.<sup>5</sup>

#### Access to required records

*The Subcommittee recommends that both law enforcement and MVA personnel be given authority to access required records during business hours without the need for a warrant.*

Under current law, required records of each business licensed under Title 15 of the Transportation Article are open to inspection by the MVA or by any police officer "while

---

<sup>4</sup> Under § 14-1001(b) of the Commercial law Article, Annotated Code of Maryland, "automotive repair facility" is defined as "any person who diagnoses or corrects malfunctions of a motor vehicle for financial profit." The Maryland Court of Appeals has interpreted this definition to include automotive body work for financial profit. (Morris v. Gregory, 339 Md. 191, 661 A. 2d 712 (1995)).

<sup>5</sup> See § 15-113 of the Transportation Article, Annotated Code of Maryland.

discharging his official duties."<sup>6</sup> In contrast, the law governing records of auctioneers authorizes inspection only by MVA personnel.

The Subcommittee recommends that the right of inspection be uniform for both licensed and unlicensed businesses regulated under Title 15 of the Transportation Article. This expanded authorization would apply to records of auctioneers as well as automotive repair facilities.

#### **MVA Investigators**

*The Subcommittee recommends that MVA investigators be given authority to issue citations for violations under Title 15 of the Transportation Article, relating to required business records.*

Currently, MVA investigators lack authority to issue citations for violations under Title 15 of the Transportation Article.<sup>7</sup> Consistent with the recommended authority to inspect certain business records, the Subcommittee recommends that MVA investigators be given specific authority to issue citations concerning required business records.

#### **Tow trucks**

*The Subcommittee recommends that all tow trucks that meet the definition under § 13-920 of the Transportation Article be required to have TT tags by eliminating the words "for hire" in the penalty provision of that section.*

Current law requires that certain vehicles used for towing be registered under § 13-920 of the Transportation Article.<sup>8</sup> This section authorizes the operator to engage in

---

<sup>6</sup> See § 15-105(f) of the Transportation Article, Annotated Code of Maryland.

<sup>7</sup> As to the authority of MVA investigators, see § 12-104.1 of the Transportation Article, Annotated Code of Maryland.

<sup>8</sup> "Tow truck" is defined in part under § 13-920 of the Transportation Article, Annotated Code of Maryland, as "a vehicle that: (i) [i]s a Class E (truck) vehicle that is designed to lift, pull, or carry a vehicle by a hoist or mechanical apparatus; (ii) [h]as a manufacturer's gross vehicle weight rating of 10,000 pounds or more; and (iii) [i]s equipped as a tow truck or designed as a rollback as defined in § 11-151.1 of this article." The definition excludes a truck tractor as defined in § 11-172 of the

certain towing practices, provides a separate fee schedule for registration purposes, grants the operator certain exemptions relating to weight and size limitations, and requires the operator to carry certain liability insurance coverage. The law exempts from registration under § 13-920 tow trucks operated with dealer tags or tags issued to automotive dismantlers or recyclers and scrap processors.<sup>9</sup>

Because the relevant penalty provision applies only to vehicles operated "for hire", however, absence of a TT tag alone is not a reasonable basis for law enforcement officers to stop and check a tow truck operator. Therefore, the Subcommittee recommends that the words "for hire" be eliminated from the penalty provision under § 13-920(j) of the Transportation Article. This change is intended to assist law enforcement efforts in curbing activities by certain unscrupulous operators.

#### **Dismantling vehicles for parts without license**

*The Subcommittee recommends that potential monetary penalties for conducting the business of an automotive dismantler and recycler or of a scrap processor without the necessary license be increased.*

In order to increase the deterrent for engaging in the business of an automotive dismantler and recycler or of a scrap processor without the appropriate license, the Subcommittee recommends that the monetary penalty be increased for subsequent offenders.<sup>10</sup> The Subcommittee suggests that § 27-101(i) of the Transportation Article be

---

Transportation Article.

<sup>9</sup> As to interchangeable registration tags available to dealers and automotive dismantlers or recyclers and scrap processors, see §§ 13-621 and 13-622 of the Transportation Article, Annotated Code of Maryland, respectively.

<sup>10</sup> The law defines "automotive dismantler and recycler" as a person "in the business of: (i) [d]ismantling, destroying, or scrapping any vehicle for the purpose of reselling any of its usable parts; or (ii) [o]therwise acquiring vehicles for the benefit of their parts or the materials in them." A "scrap processor" is defined as a person "in a business: (1) [t]hat has facilities for processing iron, steel, and nonferrous scrap metal; and (2) [t]he principal product of which is scrap iron, scrap steel, and nonferrous scrap for sale only for resmelting purposes." See § 15-501 of the Transportation Article, Annotated Code of Maryland.

Section 15-502(a) of the Transportation Article provides, "A person may not conduct the business of an automotive dismantler and recycler or a scrap processor, or engage in the business of

amended to provide the same penalty scheme currently in effect for unlicensed dealers and salesman. Therefore, someone receiving a subsequent conviction under § 15-201(a) of the Transportation Article could be fined up to \$2,000.<sup>11</sup> Although the Subcommittee believes higher fines increases the deterrent against unlicensed activity, the Subcommittee was careful to not recommend penalties in excess of similar penalties under the Maryland Vehicle Law.

#### Miscellaneous issues

The Subcommittee also considered recommending legislation that would have granted the MVA the ability to seek injunctive relief in the circuit court when it determines a person is engaging in illegal conduct, authority similar to that granted some regulatory agencies under State law.<sup>12</sup> Currently, the MVA's enforcement authority is more limited. The MVA is authorized to petition a court of competent jurisdiction when a person fails to comply with a lawful order or subpoena issued by the MVA to compel obedience with the subpoena or order or to compel the production of evidence.<sup>13</sup> However, following conversations with the Office of Attorney General, it was felt that the authority the MVA investigators currently have when criminal activity is identified, the ability to seek a statement of charges from the District Court, is a more efficient enforcement process. Normally, when a statement of charges is sought, a hearing before the District Court is conducted within a three week period. The process to obtain an injunctive relief in the circuit courts is far more complex. Nevertheless, the Committee suggests that the Motor Vehicle Administrator or her designee meet with representatives of the Attorney General's Office to review the merit of giving MVA explicit authority to seek injunctions, as well as the scope of such authority, prior to adoption of the Task Force's final report.

---

acquiring or offering to purchase or remove vehicles which are to be dismantled in whole or in part by that person for the sale of usable parts, unless the person is licensed by the Administration under this subtitle." The current penalty for violating this provision is a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both, for a first offense, and for a subsequent offense, a fine of not more than \$1,000 or imprisonment for not more than 2 years or both. (See § 27-101(h) of the Transportation Article, Annotated Code of Maryland)

<sup>11</sup> Although this amendment actually reduces the maximum potential imprisonment, the Subcommittee recognizes that the real deterrent is in terms of monetary penalties, not the unlikely occurrence of imprisonment.

<sup>12</sup> See, e.g., § 8-208 of the Business Regulation Article, Annotated Code of Maryland, granting the Maryland Home Improvement Commission authority to seek injunctive relief under certain circumstances.

<sup>13</sup> See § 12-108 of the Transportation Article, Annotated Code of Maryland.

**Resolution: Automotive-Related Advisory Council**  
*(Meeting Summary October 30, 1998)*

DRAFT

*AUTOMOTIVE RELATED ADVISORY COUNCIL*

WHERE AS, there is tremendous diversity in the businesses that service the automotive after-market;

WHERE AS, there is confusion and a lack of understanding on the part of consumers and automotive after-market related businesses as to what is a legal business practice and the different avenues of complaint, recovery and enforcement;

WHERE AS, there are laws, rules and regulations at the federal, state and local levels of government with respect to the automotive after-market;

WHERE AS, there is a lack of knowledge, communication and enforcement among the regulating entities; and

WHERE AS, there is a willingness of the automotive after-market related industries to discuss with the regulating entities enforcement strategies and implementation recommendations.

THEREFORE, the Motor Vehicle Administration is directed to facilitate 3 meetings during the 1999 year with the relevant federal, state, and local government agencies and automotive after-market businesses for the purpose of continuing a dialogue on the issues of law "enforcement strategies" and discussing other business practices that need to be addressed and/or recognized by the regulating entities, the consumer and other related automotive after-market businesses.

MVA shall publish one month in advance a meeting notice announcement in the Maryland Register. A representative of the Maryland Insurance Administration, Office of the Maryland Attorney General, Department of the Maryland State Police, Maryland Department of Transportation, and Office of the Governor will be present.

MVA shall send notice, one month in advance, to a representative of the following private sector industries, Towing, Auto Auctions, Automotive Dismantlers and Recyclers, Auto Salvage Pools, Automotive Mechanical Repair, Body Shops, New and Used Car Dealers, Scrap Processors and any other automotive after-market related industry that requests a notice.

Recommendations and actions resulting from a meeting shall be developed in the spirit of a private-public sector partnership.

---

Parris N. Glendening  
Governor of Maryland

**Task Force to Study the Comprehensive Licensing of  
Automotive-Related Industries**

**Final Report**

**Resources**

The Task Force recommends that the legislature consider and identify in its deliberations of the problems associated with the automotive industries the resources needed to accomplish the enhanced or increased enforcement efforts required of the MVA as a result of this Task Force report. The Task Force recommends in this report that the MVA focus increased efforts on unlicensed or other illegal activities related to the sale of automobiles and automobile parts, towing operations, dismantling and recycling activities, and other related activities. However, during the Task Force's deliberations and preparation of the final report there was considerable uncertainty about how many of the Task Force's recommendations, if any, would be adopted by the legislature. Therefore, the Task Force did not believe it was appropriate to make any final recommendations on the level of resources that are needed to implement these recommendations.

The Task Force believes that the MVA and law enforcement agencies have competing enforcement priorities. It is not the intent of the Task Force to exacerbate any existing resource problems or to diminish the ability of the MVA and other law enforcement to address current enforcement priorities. Further, it is not the intent of the Task Force to expand enforcement authority or activity beyond the specific problems discussed by this Task Force. In order to alleviate or reduce the illegal and unlicensed activity in the automotive industries, however, MVA and other law enforcement agencies must make enforcement of automotive industry-related laws and regulations a higher priority.

In summary, in order for MVA to effectively carry out the enhanced enforcement of unlicensed activity, as recommended in this report, the Task Force recommends a formal assessment as to the level of resources based upon the acceptance of the recommendations.





**Senate Bill 344 Task Force  
to Study the  
Comprehensive Licensing of Automotive-Related Industries**

---

**TASK FORCE MEETING SUMMARY**

**November 20, 1998, 2:00 PM to 4:00 PM**

**Motor Vehicle Administration**

**Glen Burnie MD**

**MEETING PARTICIPANTS**

**Task Force Members**

Senator Norman R. Stone, Jr., Co-Chairman

Samuel Dansicker, Cox Auto Parts

James W. Gosnell, Jr., Baltimore Auto Recycling

Major W. Ray Presley, Vehicle Theft Prevention Council

Joyce Stanley, Assistant Manager, Business Licensing and Consumer Services, MVA

Jerry Brooke Sullivan, Auto Placement Center, Inc.

David M. Taylor, Insurance Auto Auctions

Bill Wilson, Washington Metro Body Shop Association

**Staff Support**

Tom Walsh, MVA

Bill Varga, Maryland General Assembly, CGM Committee

Sherri Cook, MVA

Steve Lee, MVA

Victoria Whitlock, MVA

**Advisory Support**

Thomas Kimmel, Insurance Auto Auctions

Ellen Valentino, Manis, Canning & Associates

Peter Kitzmiller, MD New Car and Truck Dealer's Association

**DISCUSSION SUMMARY**

- A. BUSINESS RECORDS – RIGHT OF INSPECTION:** During the Task Force's October 30<sup>th</sup> meeting, concern was expressed about granting law enforcement and MVA inspectors access to business establishments (non-licensed entities) for purposes of inspecting records. The primary concern that this proposed provision could be used as a pretense by law enforcement to gain access to private property without obtaining a warrant where any evidence of illegal activity in "plain view" would be fair game. Staff was instructed to develop alternative language for the Task Force's consideration.

Bill Varga facilitated discussion on the following *two alternatives*:

## Article - Transportation

### Alternative 1:

15-113.1.

...

~~(D) DURING BUSINESS HOURS, AN AUTOMOTIVE REPAIR FACILITY SHALL MAKE AVAILABLE FOR INSPECTION RECORDS REQUIRED UNDER THIS SECTION SHALL BE OPEN TO INSPECTION BY AT THE REQUEST OF THE ADMINISTRATION OR ANY OF A POLICE OFFICER WHILE DISCHARGING THE OFFICER'S DUTIES.~~

...

### Alternative 2:

15-113.1.

...

(D) DURING BUSINESS HOURS, RECORDS REQUIRED UNDER THIS SECTION AND PARTS AND VEHICLES FOR WHICH RECORDS ARE REQUIRED SHALL BE ~~OPEN TO~~ AVAILABLE FOR INSPECTION BY THE ADMINISTRATION OR BY A POLICE OFFICER.

...

### Comments:

- *Alternative 1 (15-113.1(D))* implies that the automotive repair facility could comply with a request by making records available off of or outside of the premises. Neither this draft nor the original draft grants an explicit right of inspection of parts or vehicles for purposes of determining the accuracy of required records. Consensus is *Alternative 1* seems weak and unenforceable; *i.e.*, no time limits; delaying tactics.

- *Alternative 2 (15-113.1(D))* is certainly stronger and goes back to the original intent. If an unregulated person would deny access, MVA and law enforcement would go to court for an order. When *Alternative 2* is read in context with the complete legislative proposal (§ 15-113.1), it seems to accomplish the goal of making all automotive-repair facilities keep records. After discussion, it was agreed that *Alternative 2* proposal should be amended to add "ON ANY PREMISES OWNED OR OPERATED BY THE AUTOMOTIVE-REPAIR FACILITY." With the exception of the Towers' Association representation, the consensus is *Alternative 2*, as amended at this meeting, is reasonable and should apply to all businesses. On behalf of the towers, Ellen Valentino reiterated their objection and pointed out that the eight largest jurisdictions already require access to records. Others at the meeting observed, however, that, in most local jurisdictions, the towers are not similarly regulated. Short of a full-licensing scheme for towers, this approach seemed a reasonable alternative and, ideally, one that should have unanimous concurrence. Ms. Valentino agreed to present this issue to the Association membership and will inform staff in writing by December 3 as to their position regarding the inclusion of towing businesses in legislation that gives MVA or police the right to inspect business records.

- *Regulation authority.* It was suggested that the Task Force might also wish to reconsider whether the record requirements under proposed § 15-113.1(b) ought to be modified to require that records be kept "in accordance with regulations adopted by the Administration." Regulations detailing the manner that records must be kept

would enhance enforcement efforts. Regulations could also establish criteria for imposition of the actual penalty. **Consensus is the proposed language is adequate** as it allows more flexibility for the application of common sense — too much specificity (regulations) would adversely impact those businesses that were able to produce *some* records albeit not in the required format.

- B. ENFORCEMENT MECHANISMS – CIVIL PENALTIES:** The Task Force also was concerned about establishing a criminal penalty for record violations where failure to pay the fine would result in suspension of the offender's driver's license. Staff was requested to explore alternative enforcement mechanisms. However, the existing provisions addressing suspension of driver's licenses only refer to traffic citations. Because there is no business licensing scheme, the normal administrative remedies are unavailable (*i.e.* suspension/revocation of business license). An alternative is to provide for a civil penalty. Civil violations often carry higher monetary penalties than criminal provisions. Jurisdiction over civil citations could be placed in the District Court.

The Task Force discussed the following *four legislative proposals* relating to the establishment of civil penalties that were developed by staff as requested at the last meeting for the Task Force's consideration:

1. Amendment to include reference to § 15-113 and Task Force's proposed § 15-113.1 in existing CJ § 4-401 to give the District Court jurisdiction in civil penalty proceedings:

**Article – Courts and Judicial Proceedings**

**4-401. District Court – Exclusive original jurisdiction.**

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of "Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(11) A proceeding for adjudication of a civil penalty for any violation under § 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122 [of the Transportation Article], OR § 21-1414 of the Transportation Article, or Article 41, § 2-101(c-1) of the Code or any rule or regulation issued pursuant to those sections;

**Comments:** No opposition to this proposal was voiced.

2. New language to establish civil penalty and amounts:

**Article – Transportation**

**Alternative 1:**

15-113.1.

...

(E) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER SUBSECTION (B) THROUGH (D) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY UNDER § 27-101(B) OF THIS ARTICLE OF:

(1) FOR A FIRST OFFENSE, \$1,000; OR

(2) FOR A SECOND OR SUBSEQUENT OFFENSE,  
\$2,500.

*(Note: A similar provision would be added to TR § 15-113.)*

*Alternative 2:*

(E) A PERSON WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER SUBSECTION (B) THROUGH (D) OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY UNDER § 27-101(B) OF THIS ARTICLE IN ACCORDANCE WITH REGULATIONS OF THE ADMINISTRATION NOT EXCEEDING:

(1) FOR A FIRST OFFENSE, \$1,000; OR

(2) FOR A SECOND OR SUBSEQUENT OFFENSE,  
\$2,500.

*Comments:*

- *Alternative 1 (15-113.1.(E))* was rejected by the Task Force — does not give the court any discretion to set the fine.

- *Alternative 2 (15-113.1.(E))* is more agreeable to the Task Force as it gives the court discretion to set the fine; however, those in attendance concurred that the language should be revised to lower the fine thresholds to **\$500 for a first offense and \$1,000 for a second or subsequent offense**. The Task Force further concurred that the **second alternative be revised to delete the language giving MVA the regulatory authority to establish criteria and graduated fine schedule based on seriousness or repetitiveness of offenses**.

3. New language to provide a warning that failure to pay the civil penalty or contest the citation will result in a default judgment in favor of the MVA.

**Article - Transportation**

15-115.

(A) (1) A PERSON ISSUED A CITATION UNDER § 15-113 OR 15-113.1 OF THIS SUBTITLE SHALL COMPLY WITH A NOTICE TO APPEAR CONTAINED IN A CITATION OR A TRIAL NOTICE ISSUED BY THE DISTRICT COURT.

(2) A PERSON MAY COMPLY WITH THE NOTICE TO  
APPEAR BY:

(I) APPEARANCE IN PERSON OR BY COUNSEL: OR  
(II) PAYMENT OF THE CIVIL PENALTY AS  
PROVIDED IN THE CITATION.

(B) A CITATION ISSUED FOR A VIOLATION UNDER § 5-113  
OR § 15-113.1 OF THIS SUBTITLE SHALL INCLUDE:

(1) INFORMATION ADVISING THE PERSON RECEIVING  
THE CITATION OF THE MANNER IN WHICH LIABILITY MAY BE  
CONTESTED: AND

(2) A WARNING THAT FAILURE TO PAY THE CIVIL  
PENALTY OR TO CONTEST LIABILITY IN A TIMELY MANNER IN  
ACCORDANCE WITH THE CITATION;

(I) IS AN ADMISSION OF LIABILITY AND WAIVER  
OF DEFENSES; AND

(II) MAY RESULT IN AN ENTRY OF A DEFAULT  
JUDGMENT IN FAVOR OF THE ADMINISTRATION AGAINST THE PERSON  
NAMED IN THE CITATION.

(C) THE ADMINISTRATION MAY COLLECT A CIVIL PENALTY  
AND ADMINISTRATIVE EXPENSES BY CIVIL ACTION COMMENCED IN  
THE DISTRICT COURT FOR THE JURISDICTION IN WHICH THE  
ALLEGED VIOLATION OCCURRED.

*(Note: The above proposal (§ 15-115) could be accompanied by the following amendment to § 7-302 of the Courts and Judicial Proceedings Article.)*

*Comments: The consensus was favorable for this proposal. However, attendees agreed they would like the language to be more specific; i.e., if trial date is missed, the disposition SHALL (instead of *may*) result in immediate default without the necessity of going back to Court. However, recognizing there are legitimate reasons for failing to appear, a person should have a limited opportunity to request a new trial date by posting security.*

4. New language to credit collected civil penalties to the Transportation Trust Fund:

**Article — Courts and Judicial Proceedings**

7-302.

**(B-1) CIVIL PENALTIES RESULTING FROM CITATIONS  
ISSUED UNDER §15-113 OR § 15-113.1 OF THE TRANSPORTATION ARTICLE  
THAT ARE COLLECTED BY THE DISTRICT COURT SHALL BE COLLECTED IN  
ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION AND CREDITED TO  
THE TRANSPORTATION TRUST FUND.**

**Comments:** Normally, penalties collected by the District Court are credited to the State's general fund. An alternative would be to require that civil penalties be credited to the Transportation Trust Fund, since, as drafted above, a default judgment would be in favor of the MVA. This would appear to make sense if MVA is seen as the primary enforcement agency and given regulatory authority relating to record requirements. The State's Central Collection Unit would handle actual collections. The **consensus did not favor** this proposal for a dedicated fund since it would aggravate current District Court's record keeping system — fines should go to the same fund as all the others.

- C. AUTOMOTIVE INDUSTRY-RELATED ADVISORY COUNCIL:** On behalf of the Group II: Outreach Targets subcommittee, Ellen Valentino corrected an item on page 4 of the October 30<sup>th</sup> meeting summary pertaining to the recommended Automotive Industry-Related Advisory Council. The subcommittee proposed that the advisory council be established *not by* "resolution" as specified in the notes *but by* "Executive Order" or some other formal announcement. The correction was so noted and accepted by the Task Force.
- D. TASK FORCE REPORT.** The first draft of the Executive Summary was distributed for review and comments. Language revisions were suggested and will be reflected in the next draft.

#### NEXT STEPS

- **The Towing and Recovery Professionals of Maryland** was asked to reconsider their position on the keeping and inspection of records as reported in item A of this Task Force Meeting Summary. Ellen Valentino will advise staff members, Tom Walsh and Bill Varga, of the Association's decision, which will be reflected in the Task Force Report either as an inclusion in the proposed legislation or as a written dissent.

**Update Following the Task Force Meeting:** On December 3, 1998, Ms. Valentino contacted Task Force staff support and advised that The Towing and Recovery Professionals would not oppose the inclusion of *vehicle storage facilities* in the record keeping and inspection requirements. Alternative language was submitted and will be included in the Task Force's legislative proposal.

- **Draft of the Executive Summary of the Task Force Report** will be sent to the Task Force membership for final review and comment during the week of December 7, 1998. Members will be asked to forward comments by December 14, 1998.
- **The Task Force Report** will be mailed by December 18 to all designees and participants after final *approval and signatures of the Task Force Co-Chairmen* have been obtained.

\*