

Such a fund would provide a means by which the State could furnish an incentive to those in the business to take scrapped vehicles at the end of their useful life. I am aware that this approach runs into some difficulty due to the mobility of our society, especially here in Maryland. It may be that the Federal Government should establish such a procedure thereby insuring the participation of all States.

For the above reasons I am compelled to veto this measure.

Sincerely,

(s) SPIRO T. AGNEW,

Governor.

Letter of State Law Department on S. B. 16

April 19, 1968.

Honorable Spiro T. Agnew
Governor of the State of Maryland
State House
Annapolis, Maryland

Dear Governor Agnew:

You have requested us to review Senate Bill 16 and to advise you whether it is constitutional. Senate Bill 16, which repeals various sections of the Motor Vehicle Code and enacts a new § 71 to that Code, would, among other things, define wreckers and scrap processors, provide for the disposal of abandoned motor vehicles and for the licensing of wreckers, and cover other related matters.

While the matter is not entirely free from doubt, we believe that, with the exception of subsection (k) (5), the Bill is constitutional. It is true that the Bill does make distinctions in the obligations imposed as between wreckers and scrap processors as defined therein. However, in light of the strong presumption of constitutionality which attends the passage of a bill, we are unable to say that these distinctions on their face constitute a denial of equal protection of the laws.

Subsection (k) (5) presents an additional problem. This subsection makes it unlawful for a wrecker "to refuse to accept any vehicle or part thereof" unless the wrecker has reason to believe the vehicle has been stolen. We believe that subsection (k) (5) might be held to unduly restrict the lawful operation of a private business in violation of Article 23 of the Maryland Declaration of Rights. This is especially true in light of the requirement in subsection (n) of the Bill that a wrecker store no more than 250 vehicles on any one acre of property. While the Bill itself does bear a substantial relation to the public health, the provisions of subsection (k) (5) might well constitute an unreasonable exercise of the police powers. See *Dasch v. Jackson*, 170 Md. 251, 263-264 (1936).

If subsection (k) (5) is invalid, it would not, in our opinion, invalidate the remaining provisions of the Bill. Even though the Bill does not contain a "severability clause", it seems clear that without subsection (k) (5), the original legislative intent in enacting the Bill would be preserved and we, therefore, are of the opinion that the