

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1189

6
7 H.P. 910

House of Representatives, March 14, 1983

8 Referred to the Committee on Transportation. Sent up for concurrence
9 and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Carroll of Limerick.

Cosponsor: Representative Moholland of Princeton.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Amend the Motor Vehicle
18 Salvage Laws of the State.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 29 MRSA §2351, sub-§§5-A to 5-D are
23 enacted to read:

24 5-A. Public vehicle identification
25 number. "Public vehicle identification number" means
26 the number affixed to the vehicle in a position where
27 it is readily visible.

28 5-B. Recycler. "Recycler" means a person
29 engaged in the business of dismantling, destroying,
30 scrapping or storing vehicles for the purpose of
31 reselling any of their usable parts or acquiring
32 vehicles for the benefit of their parts or the mate-
33 rials in them, including the rebuilding of salvage
34 vehicles.

1 5-C. Salvage vehicle. "Salvage vehicle" means a
2 vehicle which has no marketable value other than the
3 value of the basic materials used in the construction
4 of the vehicle.

5 5-D. Scrap processor. "Scrap processor" means a
6 person engaged in a business which has the facilities
7 for processing iron, steel and nonferrous scrap
8 metal, and the principal product is scrap iron, scrap
9 steel and nonferrous scrap for sale for remelting
10 purposes.

11 Sec. 2. 29 MRSA §2351, sub-§10, as enacted by PL
12 1973, c. 586, §1, is amended to read:

13 10. Vehicle. "Vehicle" means a vehicle, as de-
14 defined in section 1, or the body or chassis of any
15 vehicle that is to be dismantled, destroyed, scrapped
16 or rebuilt.

17 Sec. 3. 29 MRSA §2377, sub-§1, as enacted by PL
18 1981, c. 110, §34, is amended to read:

19 1. Insurer to obtain certificate of salvage.
20 When a vehicle, as defined by section 1, subsection
21 20, for which a Maine certificate of title has been
22 issued, is, by reason of condition or circumstance
23 declared a ~~total loss~~ salvage vehicle, as defined by
24 this chapter, by an insurer, the insurance company or
25 its authorized agent shall, within 10 days from the
26 date of settlement of the insurance claim, surrender
27 the certificate of title to the Secretary of State
28 and make application for certificate of salvage in
29 accordance with section 2364. The Secretary of State
30 shall issue a certificate of salvage to the insurance
31 company on a form he prescribes. At the time the sal-
32 vage vehicle is sold, the insurance company or its
33 agent shall endorse the assignment of ownership on
34 the certificate of salvage and surrender it to the
35 buyer of the salvage vehicle. The salvage vehicle may
36 not again be titled or registered for operation on
37 the highways of Maine, unless there is compliance
38 with subsection 3.

39 Sec. 4. 29 MRSA §2377, sub-§2, ¶C, as enacted by
40 PL 1981, c. 110, §34, is amended to read:

1 C. Any person who repairs or rebuilds for operation
2 tion on the highway a vehicle which, by reason of
3 its condition or circumstance, has been declared
4 a ~~total loss~~ salvage vehicle, as defined by this
5 chapter, by an owner or insurance company, shall
6 comply with subsection 3 and shall:

7 (1) If the vehicle was not previously
8 insured, obtain the certificate of title
9 from the owner of the vehicle and make
10 application for certificate of salvage in
11 accordance with section 2364; or

12 (2) If the vehicle was previously insured,
13 obtain a certificate of salvage from the
14 insurance company if a certificate of sal-
15 vage was last issued in this State or in
16 another jurisdiction whose laws require the
17 issuance of certificates of salvage; or, if
18 no certificate of salvage was issued by
19 another jurisdiction for a vehicle last
20 registered and titled there, obtain a cer-
21 tificate of title from the insurance company
22 and, in accordance with section 2364, make
23 application for certificate of salvage in
24 this State.

25 Sec. 5. 29 MRSA §2377, sub-§3, as amended by PL
26 1981, c. 696, §8, is further amended to read:

27 3. Repaired or rebuilt vehicle. If a vehicle,
28 which was declared a ~~total loss~~ salvage vehicle, as
29 defined by this chapter, by an owner or by an insur-
30 ance company, is repaired or rebuilt for operation on
31 the highways, the vehicle may not again be titled or
32 registered for operation in this State unless:

33 A. The identification number of the vehicle and
34 its component parts are inspected for identity,
35 and the vehicle is able to pass a safety inspec-
36 tion in accordance with the Maine vehicle inspec-
37 tion laws before the vehicle may be offered,
38 advertised or exposed for sale;

39 B. If necessary, the Secretary of State assigns
40 a new vehicle identification number to the vehi-
41 cle upon application for a vehicle identification
42 number in accordance with section 103; and

1 C. Upon demand of the Secretary of State or his
2 authorized agents, a repairer or rebuilder pro-
3 duces receipts of purchase of the vehicle or for
4 component parts used in the repairing or rebuild-
5 ing process, or both.

6 Sec. 6. 29 MRSA c. 21, sub-c. V is enacted to
7 read:

8 SUBCHAPTER V

9 LICENSING OF RECYCLERS AND SCRAP PROCESSORS

10 §2448. License required

11 No person may engage in business as a recycler or
12 scrap processor without having been issued a license
13 under this subchapter. The terms of each license
14 shall be for the period beginning from the date of
15 issuance of that license and ending on the 31st day
16 of December next following.

17 A person is engaged in the business as a recycler
18 or scrap processor when he:

19 1. Rebuilds; repairs. Rebuilds or repairs;

20 2. Wrecks; dismantles. Wrecks or dismantles; or

21 3. Sells; displays. Sells used parts or used
22 accessories of 5 or more salvage vehicles or parts
23 thereof, or displays or permits the display of 3 or
24 more salvage vehicles or parts thereof upon premises
25 owned or controlled by him.

26 Failure to obtain such a license is a Class E
27 crime.

28 Financial institutions, as defined in Title 9-B,
29 section 131, subsections 17 and 17-A, and all insur-
30 ance companies licensed to do business in this State
31 are exempt from this section.

32 §2449. Requirements

33 1. Facilities and personnel. To qualify as a
34 dealer under this subchapter, the applicant shall

1 have at least the following facilities and personnel:

2 A. An established place of busi-
3 ness. "Established place of business" means a
4 permanent commercial location within the State,
5 easily accessible and open to the public at all
6 reasonable times, at which the business of a
7 recycler or scrap processor may be carried on in
8 accordance with all applicable laws, codes,
9 zoning and land-use regulations and at which the
10 public may contact the recycler, scrap processor
11 or his representative at all reasonable times and
12 at which shall be kept and maintained the books,
13 records and files necessary to conduct the busi-
14 ness at that place. The established place of
15 business shall display an exterior sign perma-
16 rently affixed to the land or buildings;

17 B. Proper facilities for the storage and display
18 of vehicles being handled;

19 C. A suitable office from which business is con-
20 ducted and records of the business are kept; and

21 D. At least one full-time employee, who may be
22 the applicant, and who works at the established
23 place of business a minimum of 30 hours a week.

24 2. Penalty. Failure to comply with this section
25 is a Class E crime.

26 §2450. Application for license; form; fee

27 1. Application. A recycler or scrap processor
28 may apply for a license by filing with the Secretary
29 of State an application in such form as the Secretary
30 of State may prescribe and upon payment of the neces-
31 sary fee as set forth.

32 2. Contents. Every application shall contain
33 the following information:

34 A. The applicant's name, type of business orga-
35 nization and place of organization;

36 B. The qualification and business history of the
37 applicant, and any partner, officer or director;

1 C. Whether the applicant has been found guilty
2 of any felony within the past 5 years involving
3 moral turpitude, or for any misdemeanor concern-
4 ing fraud or conversion, or suffering any judg-
5 ment in any civil action involving fraud, misrep-
6 resentation or conversion and, in the case of a
7 corporation or partnership, all directors, offi-
8 cers or partners;

9 D. A satisfactory report from a representative
10 of the Secretary of State that the applicant has
11 an established place of business at each business
12 location in the State; and

13 E. Any other information the Secretary of State
14 may require.

15 §2451. License fees

16 The initial application for a license under this
17 subchapter shall be accompanied by a \$20
18 nonrefundable application fee. The application fee
19 for every license issued under this subchapter shall
20 be \$50.

21 §2452. Action on application

22 1. Initial application. After a thorough inves-
23 tigation and a review of the facts then available to
24 him, the Secretary of State shall act upon an appli-
25 cation for an initial recycler's or scrap processor's
26 license within 90 days after receipt thereof by
27 granting or refusing to grant the license. If the
28 Secretary of State refuses to grant an initial li-
29 cence to an applicant, notice shall be given to that
30 applicant that an opportunity for hearing before the
31 Secretary of State or his deputy shall be provided
32 upon request to show cause why that license should be
33 granted.

34 2. Renewal application. The Secretary of State,
35 after a thorough investigation, shall act upon an
36 application for renewal of a recycler's or scrap
37 processor's license within 90 days after receipt
38 thereof by renewing that license or by filing a writ-
39 ten complaint initiating an action before the Admin-
40 istrative Court, as provided in Title 4, chapter 25.

1 After hearing, the Administrative Court may refuse to
2 issue or renew a license and may refuse the subse-
3 quent reapplication for a period not to exceed one
4 year.

5 §2453. Display and content of license

6 The license of a recycler or scrap processor
7 shall specify:

8 1. Location. The location or locations of each
9 established place of business and other locations
10 occupied or to be occupied by the licensee in con-
11 ducting his business;

12 2. Effective and expiration dates. The effec-
13 tive and expiration dates of the license; and

14 3. Other information. Any other information the
15 Secretary of State deems necessary.

16 The license or supplemental license issued there-
17 fore shall be conspicuously displayed at each estab-
18 lished place of business or other locations occupied
19 or to be occupied by the licensee in conducting his
20 business.

21 §2454. Grounds for denying, suspending or revoking
22 recycler's or scrap processor's license

23 1. Grounds. A recycler's or scrap processor's
24 license may be denied, suspended or revoked on any
25 one or more of the following grounds:

26 A. Material misstatement in application for a
27 license;

28 B. Failure to comply with any provision of this
29 subchapter or any lawful rule;

30 C. Failure to maintain an established place of
31 business;

32 D. Failure to notify the Secretary of State in
33 writing 30 days prior to moving or ceasing opera-
34 tion;

1 E. Defrauding any buyer, to the buyer's damage,
2 or any other person in the conduct of the
3 licensee's business;

4 F. Having been convicted of any fraudulent act
5 in connection with business as a recycler or
6 scrap processor;

7 G. Any violation of Title 5, sections 206 to
8 212, unfair trade practices law, or violation of
9 Title 17, section 3203;

10 H. Has submitted a check, draft or money order
11 to the Secretary of State for any obligation or
12 fee due the State and it is thereafter dishonored
13 or refused upon presentation;

14 I. Certification by the State Tax Assessor that
15 any tax, other than property tax, assessed and
16 deemed final under Title 36, remains unpaid in an
17 amount exceeding \$1,000 for a period greater than
18 60 days after the licensee or applicant has
19 received notice of the finality of the tax and
20 that the licensee or applicant has refused to
21 cooperate with the Bureau of Taxation in estab-
22 lishing and remaining in compliance with a
23 reasonable plan for liquidating that liability;
24 or

25 J. Failure to appear at a hearing required by
26 the Secretary of State or failure to appear in
27 court pursuant to a lawful summons issued by any
28 law enforcement officer having authority to
29 enforce this chapter.

30 §2455. Suspension and revocation

31 Notwithstanding Title 4, section 1151, subsection
32 2, and Title 5, sections 10003 and 10051, the Admin-
33 istrative Court or the Secretary of State may sus-
34 pend, revoke or deny any license issued pursuant to
35 this subchapter.

36 §2456. Acts of officers, directors, partners and
37 employees

1 If a licensee is a partnership or corporation, it
2 is sufficient cause for the denial, suspension or
3 revocation of a license that any officer, director or
4 trustee of the partnership or corporation, or any
5 member in the case of a partnership, has committed
6 any act or omitted any duty which would be cause for
7 refusing, suspending or revoking a license to such
8 party as an individual. Each licensee is responsible
9 for the acts of any or all of his employees while
10 acting as his agent, if that licensee approved of or
11 had knowledge of the acts or other similar acts and
12 after that approval or knowledge retained the bene-
13 fit, proceeds, profits or advantages accruing from
14 the acts or otherwise ratified the acts.

15 §2457. Appeal from action of the Secretary of State

16 Any person aggrieved by the act of the Secretary
17 of State to refuse to grant or renew a license under
18 this subchapter or to suspend or revoke a license or
19 by any other act of the Secretary of State which he
20 alleges to be improper, unreasonable or unlawful
21 under this subchapter may, within 30 days' notice of
22 the decision, appeal to the Superior Court for a
23 judicial review, as provided in Title 5, chapter 375,
24 subchapter VII.

25 §2458. Record of transactions

26 A licensee shall maintain for 5 years, in the
27 form the Secretary of State prescribes, a record of:

28 1. Receipt or acquisition. Every vehicle or
29 component part, body, chassis, engine or transmission
30 of or for a vehicle received or acquired by him, its
31 description and identifying number, the date of its
32 receipt or acquisition, and the name and address of
33 the person from whom received or acquired;

34 2. Disposal. Every vehicle or vehicle body,
35 chassis or engine disposed of by him, its description
36 and identifying number, the date of its disposition,
37 and the name and address of the person to whom dis-
38 posed of; and

39 3. Wrecking or dismantling. Every vehicle
40 wrecked or dismantled by him, and the date of its
41 wrecking or dismantling.

