

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 334

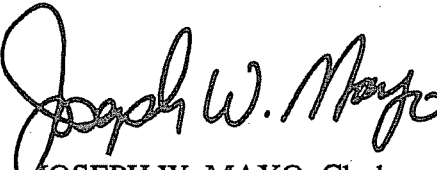
H.P. 255

House of Representatives, February 4, 1993

**An Act to Establish An Automobile Recycling License.**

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Reference to the Committee on Business Legislation suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative JACQUES of Waterville.  
Cosponsored by Senator BALDACCI of Penobscot and  
Representatives: POULIN of Oakland, REED of Dexter, Senator: CIANCHETTE of Somerset.

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

4 Sec. 1. 30-A MRSA §3751, as amended by PL 1989, c. 104, Pt.  
6 C, §§8 and 10, is further amended by adding at the end a new  
8 paragraph to read:

10 It is recognized that recycling of automobiles is a business  
12 enterprise that, when conducted in accordance with certain  
14 standards, differs from the enterprise of an automobile graveyard  
16 and that adoption of uniform state standards for this type of  
18 business enterprise would assist in development and regulation of  
20 that business.

22 Sec. 2. 30-A MRSA §3752, sub-§1-A is enacted to read:

24 1-A. Automobile recycling business. "Automobile recycling  
26 business" means the business premises of a person who purchases  
28 or acquires salvage vehicles for the purpose of reselling the  
30 vehicles or component parts of the vehicles or rebuilding or  
32 repairing salvage vehicles for the purpose of resale or for  
34 selling the basic materials in the salvage vehicles, provided  
36 that 80% of the business premises is used for automobile  
38 recycling operations.

40 Sec. 3. 30-A MRSA §3752, sub-§6 is enacted to read:

42 6. Recycling or recycling operations. "Recycling or  
44 recycling operations" means the dismantling of motor vehicles for  
46 the purpose of reselling the component parts of the vehicles or  
48 rebuilding or repairing salvage vehicles for the purpose of  
50 resale or for selling the basic materials in the salvage vehicles.

52 Sec. 4. 30-A MRSA §§3753 and 3754, as amended by PL 1989, c.  
54 104, Pt. C, §§8 and 10, are further amended to read;

56 **§3753. Permit required**

58 No person may establish, operate or maintain an automobile  
60 graveyard, automobile recycling business or junkyard without  
62 first obtaining a nontransferable permit from the municipal  
64 officers of the municipality in which the automobile graveyard,  
66 automobile recycling business or junkyard is to be located, or  
68 from the county commissioners of the county of any unorganized  
territory in which the automobile graveyard, automobile recycling  
business or junkyard is to be located. Permits issued to an  
automobile graveyard or junkyard under this section are valid  
until the first day of the following year. Permits issued to an  
automobile recycling business under this section are valid for 5  
years from the date of issuance and are renewable provided that

2 the license holder complies with the standards of operation  
3 applicable at the time of issuance of the permit. A person  
4 operating a business that involves the recycling of automobiles  
5 may operate under a license for an automobile graveyard or a  
6 license for an automobile recycling business.

8 **§3754. Hearings**

10 Municipal officers or county commissioners, as provided for  
11 in section 3753, shall hold a public hearing before granting a  
12 permit to establish, operate or maintain an automobile graveyard,  
13 automobile recycling business or junkyard. They shall post a  
14 notice of the hearing at least 7 and not more than 14 days before  
15 the hearing in at least 2 public places in the municipality or  
16 unorganized territory and publish a notice in one newspaper  
17 having general circulation in the municipality or unorganized  
18 territory in which the automobile graveyard, automobile recycling  
19 business or junkyard is to be located. The municipal officers or  
20 county commissioners shall give written notice of the application  
21 to the Department of Transportation by mailing a copy of the  
22 application at least 7 and not more than 14 days before the  
23 hearing.

24 **Sec. 5. 30-A MRSA §3755**, as amended by PL 1991, c. 745, §2,  
25 is further amended to read:

26 **§3755. Limitations on graveyard or junkyard permits**

28 **1. Highways; Interstate and Primary Systems.** No permit may  
29 be granted for an automobile graveyard or junkyard within 1,000  
30 feet of the right-of-way of any highway incorporated in the  
31 Interstate and Primary Systems or within 600 feet of the  
32 right-of-way of any other highway, except for:

34 A. Those automobile graveyards or junkyards which that are  
35 kept entirely screened to ordinary view from the highway at  
36 all times by natural objects, plantings or fences;

38 (1) Screening required by this paragraph must be well  
39 constructed and properly maintained at a minimum height  
40 of 6 feet and acceptable to the municipal officers or  
41 county commissioners. It must comply with the rules  
42 adopted by the Department of Transportation. The  
43 permit shall specify that compliance with these rules  
44 is required; and

46 B. Those automobile graveyards or junkyards located within  
47 areas which that have been zoned for industrial use and  
48 located more than 600 feet but less than 1,000 feet from the

2 right-of-way of any highway incorporated in the Interstate  
and Primary Systems.

4 2. **Public facilities.** No permit may be granted for an  
automobile graveyard or junkyard which that is:

6 A. Located within 300 feet of any public park, public  
8 playground, public bathing beach, school, church or  
cemetery; and

10 B. Within ordinary view from that public facility.

12 2-A. **Public and private water supplies.** No permit may be  
14 granted for automobile graveyard operations within 100 feet of a  
well that serves as a public or private water supply. This  
16 prohibition does not include a private well that serves only the  
automobile graveyard or the owner's or operator's abutting  
18 residence. This prohibition does not apply to wells installed  
after the effective date of this subsection if the automobile  
20 graveyard has already received a permit under section 3753.

22 3. **Limitation on new permits.** No permit may be granted for  
any automobile graveyard or junkyard established after October 3,  
24 1973, and located within 100 feet of any highway.

26 4. **Rules.** No permit may be granted for an automobile  
graveyard or junkyard that does not comply with the rules adopted  
28 under section 3759. Municipal officers or county commissioners  
as provided for in section 3753 may apply more stringent  
30 restrictions, limitations and conditions in considering whether  
to grant or to deny any permit for an automobile graveyard or  
32 junkyard adjacent to any highway.

34 5. **Local ordinances.** This subchapter shall may not be  
construed to limit a municipality's home rule authority to enact  
36 ordinances with respect to automobile graveyards and junkyards  
which that concern any other standards that the municipality  
38 determines reasonable, including, but not limited to:

40 A. Compliance with state and federal hazardous waste  
regulations;

42 B. Fire and traffic safety;

44 C. Levels of noise which that can be heard outside the  
46 premises;

48 D. Distance from existing residential or institutional  
uses; and

50

2 E. The effect on ground water and surface water, provided  
4 that municipal ordinances on ground water are no less  
6 stringent than or inconsistent with rules adopted by the  
Department of Environmental Protection concerning automobile  
graveyards and junkyards.

8 Municipal officers or county commissioners shall consider  
10 compliance with these local ordinances in deciding whether to  
grant or deny a permit for any automobile graveyard or junkyard  
and in attaching conditions of approval to the grant of a permit.

12 6. Applicability. This section does not apply to permits  
14 for automobile recycling businesses.

16 Sec. 6. 30-A MRSA §3755-A is enacted to read:

18 §3755-A. Automobile recycling business permits; operation  
standards

20 1. Application. An application for an automobile recycling  
22 business permit must include the following information:

24 A. The name and address of the property owner;

26 B. The name and address of the person or entity who will  
operate the site; and

28 C. A site plan, including:

30 (1) Property boundary lines;

32 (2) A description of the soils on the property;

34 (3) The location of any sand and gravel aquifer  
36 recharge areas;

38 (4) The location of any residence or school within 500  
feet of where the cars will be stored;

40 (5) The location of any body of water on the property  
42 or within 200 feet of the property lines;

44 (6) The boundaries of the 100-year flood plain;

46 (7) The location of all roads within 1000 feet of the  
site; and

48 (8) A plan for containment of fluids, containment and  
50 disposal of batteries and storage or disposal of tires.

2           2. Standards for license. The municipality may issue a  
license to an automobile recycling business if the business has a  
4           valid recyclers license issued under Title 29, chapter 21,  
subchapter V and the licensee shows that it will meet the  
6           operation standards set forth in subsection 3.

8           3. Operation standards. An automobile recycling business  
licensed under this section must meet the following standards.

10           A. The site of the yard must be enclosed by a visual screen  
at least 6 feet high and built in accordance with rules  
12           adopted by the Department of Transportation pursuant to  
section 3759.

14           B. A vehicle with an intact engine or motor may not be  
16           stored within 100 feet of any body of water or freshwater  
18           wetland, as defined by Title 38, section 436-A, subsection 5.

20           C. A vehicle may not be dismantled or stored within 500  
feet of a school, church, cemetery or public playground or  
22           park that existed on the date the permit was issued.

24           D. A vehicle may not be dismantled or stored over a sand  
and gravel aquifer or aquifer recharge area.

26           E. A vehicle containing fluids may not be dismantled or  
stored within the 100-year flood plain.

28           F. A vehicle may not be dismantled or stored within 100  
30           feet of a well that serves as a public or private water  
32           supply, excluding a private well that serves only the  
automobile recycling business or the owner or operator's  
34           abutting residence.

36           G. A vehicle may not be located or dismantled closer than  
20 feet from any lot line, unless the operator has notarized  
38           written permission from the abutting property owner.

40           H. Dismantling of a vehicle must be performed in accordance  
with the following standards.

42                   (1) The battery must be removed.

44                   (2) Engine lubricant, transmission fluid, brake fluid  
46                   and engine coolant must be drained into watertight,  
covered containers and must be recycled or disposed of  
48                   in accordance with applicable federal or state laws,  
rules or regulations.

2                   (3) Fluids from a vehicle may not be permitted to flow  
                    or be discharged into or onto the ground.

4                   (4) The recycling operation must comply with all  
                    applicable federal or state laws related to hazardous  
6                   materials.

8                   4. Revocation or suspension of license. For purposes of  
                    section 3758, subsection 3, each of the standards set forth in  
10                   this section are conditions of a license.

12                   5. Relationship to automobile graveyard license. A  
                    business that recycles automobiles but does not qualify for, or  
14                   loses, an automobile recycling business license may apply for and  
                    receive, if eligible, an automobile graveyard license.

16                   6. Relationship to municipal ordinances. Persons licensed  
18                   under this section are exempt from municipal ordinances related  
                    to automobile graveyards or junkyards.

20                   **Sec. 7. 30-A MRSA §3756, as amended by PL 1989, c. 104, Pt.**  
22                   **C, §§8 and 10, is further amended to read:**

24                   **§3756. Permit fees**

26                   The municipal officers or county commissioners shall  
collect, in advance from the applicant for a permit, a fee in  
28                   accordance with the following schedule:

30                   **1. Graveyard or junkyard more than 100 feet from highway.**  
Fifty dollars for each permit for an automobile graveyard or  
32                   junkyard located more than 100 feet from any highway, plus the  
cost of posting and publishing the notice under section 3754; and

34                   **2. Graveyard or junkyard within 100 feet from highway.** Two  
36                   hundred dollars for each permit for an automobile graveyard or  
junkyard located within 100 feet from any highway, plus the cost  
38                   of posting and publishing the notice under section 3754; and

40                   3. Recycling business. Two hundred fifty dollars for a  
42                   5-year license for an automobile recycling business.

44                   **Sec. 8. 30-A MRSA §3758, sub-§3, as amended by PL 1989, c.**  
104, Pt. C, §§8 and 10, is further amended to read:

46                   **3. Revocation or suspension of permit.** Violation of any  
48                   condition, restriction or limitation inserted in a permit by the  
municipal officers or county commissioners is cause for  
50                   revocation or suspension of the permit by the same authority



2 which that issued the permit. No permit may be revoked or  
suspended without a hearing and notice to the owner or the  
operator of the automobile graveyard, automobile recycling  
4 business or junkyard. Notice of hearing shall must be sent to  
the owner or operator by registered mail at least 7 but not more  
6 than 14 days before the hearing. The notice must state the time  
and the place of hearing and contain a statement describing the  
8 alleged violation of any conditions, restrictions or limitations  
inserted in the permit.

10

12

### STATEMENT OF FACT

14

The bill establishes a municipal licensing procedure for  
automobile recycling businesses under standards established by  
16 state law. Currently, businesses that recycle automobiles are  
licensed as automobile graveyards and are subject to both state  
18 and municipal regulation. This bill establishes requirements in  
state law for a recyclers license, including the requirement that  
20 the premises be screened and that potentially hazardous materials  
be handled properly. If these requirements are met, the business  
22 receives an automobile recyclers license and is exempt from  
municipal ordinances relating to automobile graveyards or  
24 junkyards. If the business fails to meet those requirements, the  
business may continue to operate if it qualifies for an  
26 automobile graveyard license, but is then subject to both state  
and municipal requirements.