

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 453-End

AND AT THE  
**FIRST SPECIAL SESSION**  
September 6, 1983 to September 7, 1983  
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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2411, except that section 2411, subsection 2 shall not apply to boards existing on September 23, 1971.

Sec. 2. 30 MRSA §4963, sub-§2, ¶B, as enacted by PL 1971, c. 455, §2, is amended to read:

B. The board may approve the issuance of a special exception permit or conditional use permit in strict compliance with the ordinance; and provided ~~the municipality has not authorized the planning board, agency or office to issue said permits that, if the municipality has authorized the planning board, agency or office to issue these permits, an appeal from the granting or denial of such a permit may be taken directly to Superior Court if required by local ordinance;~~

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 17, 1983.

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## CHAPTER 476

H.P. 910 - L.D. 1189

### AN ACT to Amend the Motor Vehicle Salvage Laws of the State.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the citizens of Maine and of the United States have determined that, in recognition of the services rendered to the State and the Nation by its veterans, provisions for suitable final resting places should be made for those who have served their country; and

Whereas, 2 cemeteries have been established for such a purpose in the County of Kennebec, one owned by the State Government in the City of Augusta and one at the Veterans' Administration facility at Togus owned by the United States; and

Whereas, the operation of recycling or scrap processing facilities in the immediate vicinity of these cemeteries is inimicable to their purpose in that it detracts from the visual and peaceful aspects of the cemeteries as they are currently consituted; and

Whereas, the operation of a recycling or scrap processing facility is currently proposed immediately

next to the state veterans cemetery in Augusta; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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

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

5-B. Recycler. "Recycler" means a person engaged in the business of dismantling, destroying, scrapping or storing vehicles for the purpose of reselling any of their usable parts or acquiring vehicles for the benefit of their parts or the materials in them, including the rebuilding of salvage vehicles.

5-C. Salvage vehicle. "Salvage vehicle" means a vehicle which has no marketable value other than the value of the basic materials used in the construction of the vehicle, including, but not limited to, engine, engine compartment, transmission, passenger compartment, truck cab, left door assemble, frame and dash assembles.

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

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

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

1. Insurer to obtain certificate of salvage. When a vehicle, as defined by section 1, subsection 20, for which a Maine certificate of title has been issued, is, by reason of condition or circumstance declared a ~~total loss~~ salvage vehicle, as defined by this chapter, by an insurer, the insurance company or its authorized agent shall, within 10 days from the date of settlement of the insurance claim, surrender the certificate of title to the Secretary of State

and make application for certificate of salvage in accordance with section 2364. The Secretary of State shall issue a certificate of salvage to the insurance company on a form he prescribes. At the time the salvage vehicle is sold, the insurance company or its agent shall endorse the assignment of ownership on the certificate of salvage and surrender it to the buyer of the salvage vehicle. The salvage vehicle may not again be titled or registered for operation on the highways of Maine, unless there is compliance with subsection 3.

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

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

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

(2) If the vehicle was previously insured, obtain a certificate of salvage from the insurance company if a certificate of salvage was last issued in this State or in another jurisdiction whose laws require the issuance of certificates of salvage; or, if no certificate of salvage was issued by another jurisdiction for a vehicle last registered and titled there, obtain a certificate of title from the insurance company and, in accordance with section 2364, make application for certificate of salvage in this State.

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

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

A. The identification number of the vehicle and its component parts are inspected for identity, and the vehicle is able to pass a safety inspection in accordance with the Maine vehicle inspec-

tion laws before the vehicle may be offered, advertised or exposed for sale;

B. If necessary, the Secretary of State assigns a new vehicle identification number to the vehicle upon application for a vehicle identification number in accordance with section 103; and

C. Upon demand of the Secretary of State or his authorized agents, a repairer or rebuilder produces receipts of purchase of the vehicle or for component parts used in the repairing or rebuilding process, or both.

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

#### SUBCHAPTER V

#### LICENSING OF RECYCLERS AND SCRAP PROCESSORS

##### §2448. License required

No person may engage in business as a salvage vehicle dealer, recycler or as a repairer without having been issued a license under this subchapter. The terms of each license shall be for the period beginning from the date of issuance of that license and ending on the 31st day of December next following.

A person is engaged in the business of salvage vehicles, recycler or as a repairer when that person is in the business of buying more than 5 salvage vehicles within a 12-month period for the purpose of reselling component parts or rebuilding salvage vehicles for the purpose of resale, or permits the display of salvage vehicles or parts thereof upon premises owned or controlled by him. Failure to obtain such a license is a Class E crime.

##### §2449. Exemptions

Financial institutions, as defined in Title 9-B, section 131, subsections 17 and 17-A, all insurance companies licensed to do business in this State and persons performing repairs to vehicles registered in their names, as provided for in chapter 5, are exempt from this subchapter.

1. Dealerships. Any business, duly licensed by the Secretary of State under chapter 5, subchapter III-A, who also is engaged in the business as a salvage vehicle dealer, recycler or as a repairer, as part of his dealership shall be exempt from the licensing provision of section 2448.

2. Retail businesses selling primarily new or rebuilt auto parts. Retail businesses that sell primarily new auto parts or rebuilt auto parts that do not buy salvage vehicles to dismantle for their inventories shall be exempt from the licensing provision of section 2448.

§2450. Requirements

1. Facilities and personnel. To qualify as a dealer under this subchapter, the applicant shall have at least the following facilities and personnel:

A. An established place of business. "Established place of business" means a permanent commercial location within the State, easily accessible and open to the public at all reasonable times, at which the business of a recycler or scrap processor may be carried on in accordance with all applicable laws, codes, zoning and land-use regulations and at which the public may contact the recycler, scrap processor or his representative at all reasonable times and at which shall be kept and maintained the books, records and files necessary to conduct the business at that place. The established place of business shall display an exterior sign permanently affixed to the land or buildings;

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

C. A suitable office from which business is conducted and records of the business are kept.

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

§2451. Application for license; form; fee

1. Application. A recycler or scrap processor may apply for a license by filing with the Secretary of State an application in such form as the Secretary of State may prescribe and upon payment of the necessary fee as set forth.

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

A. The applicant's name, type of business organization and place of organization;

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

C. Whether the applicant has been found guilty



of any felony within the past 5 years involving moral turpitude, or for any misdemeanor concerning fraud or conversion, or suffering any judgment in any civil action involving fraud, misrepresentation or conversion and, in the case of a corporation or partnership, all directors, officers or partners;

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

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

§2452. License fees

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

§2453. Action on application

1. Initial application. After a thorough investigation and a review of the facts then available to him, the Secretary of State shall act upon an application for an initial recycler's or scrap processor's license within 90 days after receipt thereof by granting or refusing to grant the license. If the Secretary of State refuses to grant an initial license to an applicant, notice shall be given to that applicant that an opportunity for hearing before the Secretary of State or his deputy shall be provided upon request to show cause why that license should be granted.

2. Renewal application. The Secretary of State, after a thorough investigation, shall act upon an application for renewal of a recycler's or scrap processor's license within 90 days after receipt thereof by renewing that license or by filing a written complaint initiating an action before the Administrative Court, as provided in Title 4, chapter 25. After hearing, the Administrative Court may refuse to issue or renew a license and may refuse the subsequent reapplication for a period not to exceed one year.

The records and the established place of business shall at all times be available for inspection by the Secretary of State, his duly authorized agents or the Chief of the State Police or his designee.

§2454. Display and content of license

The license of a recycler or scrap processor shall specify:

1. Location. The location or locations of each established place of business and other locations occupied or to be occupied by the licensee in conducting his business;

2. Effective and expiration dates. The effective and expiration dates of the license; and

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

The license or supplemental license issued therefore shall be conspicuously displayed at each established place of business or other locations occupied or to be occupied by the licensee in conducting his business.

§2455. Grounds for denying, suspending or revoking recycler's or scrap processor's license

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

A. Material misstatement in application for a license;

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

C. Failure to maintain an established place of business;

D. Failure to notify the Secretary of State in writing 30 days prior to moving or ceasing operation;

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

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

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

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

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

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

2. Location. No license may be granted if the place of business of the recycler or scrap processor is within one mile of a state or federally-owned veterans' cemetery, unless the Secretary of State finds that:

A. The conduct of the business by the licensee will not unduly interfere or degrade the purposes of the cemetery;

B. The business and location will be adequately screened for sight and noise; and

C. There is adequate distance, not less than 1,500 feet, between the cemetery and place of business.

§2456. Suspension and revocation

Notwithstanding Title 4, section 1151, subsection 2, and Title 5, sections 10003 and 10051, the Administrative Court or the Secretary of State may suspend, revoke or deny any license issued pursuant to this subchapter.

§2457. Acts of officers, directors, partners and employees

If a licensee is a partnership or corporation, it is sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the partnership or corporation, or any member in the case of a partnership, has committed

any act or omitted any duty which would be cause for refusing, suspending or revoking a license to such party as an individual. Each licensee is responsible for the acts of any or all of his employees while acting as his agent, if that licensee approved of or had knowledge of the acts or other similar acts and after that approval or knowledge retained the benefit, proceeds, profits or advantages accruing from the acts or otherwise ratified the acts.

§2458. Appeal from action of the Secretary of State

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

§2459. Record of transactions

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

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

2. Disposal. Every vehicle or vehicle body, chassis or engine disposed of by him, its description and identifying number, the date of its disposition, and the name and address of the person to whom disposed of; and

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

The records shall at all times be available for inspection by the Secretary of State, or his duly authorized agents.

The records and the established place of business shall at all times be available for inspection by the Secretary of State, his duly authorized agent or the Chief of the State Police or his designee.

Any violation of this section is a Class E crime.

§2460. Surrendering certificates of title

Any recycler or scrap processor who dismantles, destroys, scraps or processes a vehicle shall mail or deliver the certificate of title or certificate of salvage to the Secretary of State for cancellation. A certificate of title or registration to the vehicle shall not again be issued.

§2461. Maintenance of identification numbers

No recycler or scrap processor may possess or exercise control over a vehicle or component part thereof that has had the public vehicle identification number removed. It is not a defense to this section that the recycler or scrap processor did not know that the public identification number had been removed.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 17, 1983.

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## CHAPTER 477

H.P. 1345 - L.D. 1784

AN ACT Making Appropriations and Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1984, and June 30, 1985.

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

### PART A

Appropriation. There is appropriated from the General Fund for the fiscal years ending June 30, 1984, and June 30, 1985, to the departments listed, the sums identified in the following subsections.