

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 334

Senator Eklund

A BILL

To amend sections 4517.02, 4738.01, 4738.02, and 1
4738.99 of the Revised Code to amend the law 2
regulating motor vehicle salvage dealers. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4517.02, 4738.01, 4738.02, and 4
4738.99 of the Revised Code be amended to read as follows: 5

Sec. 4517.02. (A) Except as otherwise provided in this 6
section, no person shall do any of the following: 7

(1) Engage in the business of displaying or selling at 8
retail new motor vehicles or assume to engage in that business, 9
unless the person is licensed as a new motor vehicle dealer 10
under sections 4517.01 to 4517.45 of the Revised Code, or is a 11
salesperson licensed under those sections and employed by a 12
licensed new motor vehicle dealer; 13

(2) Engage in the business of offering for sale, 14
displaying for sale, or selling at retail or wholesale used 15
motor vehicles or assume to engage in that business, unless the 16
person is licensed as a dealer under sections 4517.01 to 4517.45 17
of the Revised Code, is a salesperson licensed under those 18
sections and employed by a licensed used motor vehicle dealer or 19

licensed new motor vehicle dealer, or the person holds a 20
construction equipment auction license issued under section 21
4517.17 of the Revised Code; 22

(3) Engage in the business of regularly making available, 23
offering to make available, or arranging for another person to 24
use a motor vehicle, in the manner described in division (M) of 25
section 4517.01 of the Revised Code, unless the person is 26
licensed as a motor vehicle leasing dealer under sections 27
4517.01 to 4517.45 of the Revised Code; 28

(4) Engage in the business of motor vehicle auctioning or 29
assume to engage in that business, unless the person is licensed 30
as a motor vehicle auction owner under sections 4517.01 to 31
4517.45 of the Revised Code and the person uses an auctioneer 32
who is licensed under Chapter 4707. of the Revised Code to 33
conduct the motor vehicle auctions or the person holds a 34
construction equipment auction license issued under section 35
4517.17 of the Revised Code; 36

(5) Engage in the business of distributing motor vehicles 37
or assume to engage in that business, unless the person is 38
licensed as a distributor under sections 4517.01 to 4517.45 of 39
the Revised Code; 40

(6) ~~Make~~ Knowingly make four or more ~~than five~~ casual 41
sales of motor vehicles in a twelve-month period, commencing 42
with the day of the month in which the first such sale is made, 43
nor provide a location or space for the sale of motor vehicles 44
at a flea market, without obtaining a license as a dealer under 45
sections 4517.01 to 4517.45 of the Revised Code, provided that 46
nothing in this section shall be construed to prohibit the 47
disposition without a license of a motor vehicle originally 48
acquired and held for purposes other than sale, rental, or lease 49

to an employee, retiree, officer, or director of the person 50
making the disposition, to a corporation affiliated with the 51
person making the disposition, or to a person licensed under 52
sections 4517.01 to 4517.45 of the Revised Code; 53

(7) Engage in the business of auctioning both large 54
construction or transportation equipment and also motor vehicles 55
incident thereto, unless the person is a construction equipment 56
auctioneer or the person is licensed as a motor vehicle auction 57
owner and the person uses an auctioneer who is licensed under 58
Chapter 4707. of the Revised Code to conduct the auction. 59

(B) Nothing in this section shall be construed to require 60
an auctioneer licensed under sections 4707.01 to 4707.19 of the 61
Revised Code, to obtain a motor vehicle salesperson's license 62
under sections 4517.01 to 4517.45 of the Revised Code when 63
conducting an auction sale for a licensed motor vehicle dealer 64
on the dealer's premises, or when conducting an auction sale for 65
a licensed motor vehicle auction owner; nor shall such an 66
auctioneer be required to obtain a motor vehicle auction owner's 67
license under sections 4517.01 to 4517.45 of the Revised Code 68
when engaged in auctioning for a licensed motor vehicle auction 69
owner. 70

The establishment of a construction equipment auction 71
license by Am. Sub. H.B. 114 of the 129th general assembly shall 72
not in any way modify, limit, or restrict in any manner the 73
conduct of auctions by persons licensed under Chapter 4707. of 74
the Revised Code who are acting in compliance with that chapter. 75

(C) Sections 4517.01 to 4517.45 of the Revised Code do not 76
apply to any of the following: 77

(1) Persons engaging in the business of selling commercial 78

tractors, trailers, or semitrailers incidentally to engaging 79
primarily in business other than the selling or leasing of motor 80
vehicles; 81

(2) Mortgagees selling at retail only those motor vehicles 82
that have come into their possession by a default in the terms 83
of a mortgage contract; 84

(3) The leasing, rental, and interchange of motor vehicles 85
used directly in the rendition of a public utility service by 86
regulated motor carriers. 87

(D) When a partnership licensed under sections 4517.01 to 88
4517.45 of the Revised Code is dissolved by death, the surviving 89
partners may operate under the license for a period of sixty 90
days, and the heirs or representatives of deceased persons and 91
receivers or trustees in bankruptcy appointed by any competent 92
authority may operate under the license of the person succeeded 93
in possession by that heir, representative, receiver, or trustee 94
in bankruptcy. 95

(E) No remanufacturer shall engage in the business of 96
selling at retail any new motor vehicle without having written 97
authority from the manufacturer or distributor of the vehicle to 98
sell new motor vehicles and to perform repairs under the terms 99
of the manufacturer's or distributor's new motor vehicle 100
warranty, unless, at the time of the sale of the vehicle, each 101
customer is furnished with a binding agreement ensuring that the 102
customer has the right to have the vehicle serviced or repaired 103
by a new motor vehicle dealer who is franchised to sell and 104
service vehicles of the same line-make as the chassis of the 105
remanufactured vehicle purchased by the customer and whose 106
service or repair facility is located within either twenty miles 107
of the remanufacturer's location and place of business or twenty 108

miles of the customer's residence or place of business. If there 109
is no such new motor vehicle dealer located within twenty miles 110
of the remanufacturer's location and place of business or the 111
customer's residence or place of business, the binding agreement 112
furnished to the customer may be with the new motor vehicle 113
dealer who is franchised to sell and service vehicles of the 114
same line-make as the chassis of the remanufactured vehicle 115
purchased by the customer and whose service or repair facility 116
is located nearest to the remanufacturer's location and place of 117
business or the customer's residence or place of business. 118
Additionally, at the time of sale of any vehicle, each customer 119
of the remanufacturer shall be furnished with a warranty issued 120
by the remanufacturer for a term of at least one year. 121

(F) (1) Except as otherwise provided in this division, 122
whoever violates this section is guilty of ~~a minor an~~ 123
unclassified misdemeanor and shall be subject to a mandatory 124
fine of one ~~hundred thousand~~ dollars. If the offender previously 125
has been convicted of or pleaded guilty to a violation of this 126
section, whoever violates this section is guilty of a 127
~~misdemeanor felony~~ of the ~~first fifth~~ degree and shall be 128
subject to a mandatory fine of ~~one two~~ thousand dollars. 129

(2) For a violation of division (A) (6) of this section, 130
the associated fine shall be the fine prescribed in division (F) 131
(1) of this section multiplied by three less than the total 132
number of vehicles sold. 133

Sec. 4738.01. As used in sections 4738.01 to 4738.16 of 134
the Revised Code: 135

(A) "Motor vehicle salvage dealer" means any person who 136
engages in business primarily for the purpose of selling salvage 137
motor vehicle parts—and secondarily for the purpose of selling 138

at retail salvage motor vehicles or manufacturing or selling a 139
product of gradable scrap metal. 140

(B) "Salvage motor vehicle" means any motor vehicle ~~which~~ 141
~~is in a wrecked, dismantled, or worn out condition, or that has~~ 142
been determined to be unfit for operation as a motor vehicle, 143
has been declared a total loss by an insurer or owner, has been 144
wrecked, destroyed, or damaged by collision, flood, fire, water, 145
or other occurrence to such an extent that the owner or, if the 146
vehicle was insured, the insurer considers it uneconomical to 147
repair. 148

(C) "Salvage motor vehicle auction" means any person who 149
on the person's behalf or as an agent for a third party engages 150
in business for the purpose of auctioning salvage motor 151
vehicles. 152

(D) "Salvage motor vehicle pool" means any person who as 153
an agent for a third party engages in business for the purpose 154
of storing, displaying, and offering for sale salvage motor 155
vehicles. 156

(E) "Engaging in business" means commencing, conducting, 157
or continuing in business, or liquidating a business when the 158
liquidator thereof holds the liquidator out to be conducting 159
such business; making a casual sale or otherwise making 160
transfers in the ordinary course of business when the transfers 161
are made in connection with the disposition of all or 162
substantially all of the transferor's assets is not engaging in 163
business. 164

(F) "Retail sale" or "sale at retail" means the act or 165
attempted act of selling, bartering, exchanging, or otherwise 166
disposing of salvage motor vehicles or salvage motor vehicle 167

parts—to a person who purchases the salvage motor vehicle or 168
salvage motor vehicle parts for use as a consumer. 169

(G) "Authorized purchaser" means a person who purchases a 170
salvage motor vehicle from a salvage motor vehicle auction or 171
salvage motor vehicle pool and who satisfies either of the 172
following criteria: 173

(1) The person is a motor vehicle salvage dealer who is 174
licensed pursuant to this chapter; a junk yard that is licensed 175
pursuant to section 4737.07 of the Revised Code; a scrap metal 176
processing facility that is licensed pursuant to section 4737.07 177
of the Revised Code; a used motor vehicle dealer who is licensed 178
pursuant to section 4517.02 of the Revised Code; a salvage 179
dismantler or automotive recycler; or a salvage dealer, junk 180
yard, scrap metal processing facility, used motor vehicle 181
dealer, salvage dismantler, or automotive recycler business 182
authorized to purchase salvage motor vehicles by another state, 183
country, or jurisdiction. 184

(2) The person does not satisfy the criteria described in 185
division (G)(1) of this section but has purchased not more than 186
a total of five salvage motor vehicles in the current calendar 187
year from any salvage motor vehicle auction or salvage motor 188
vehicle pool located in Ohio. 189

(H) "Business" includes any activities engaged in by any 190
person for the object of gain, benefit, or advantage either 191
direct or indirect. 192

(I) "Casual sale" means any transfer of a salvage motor 193
vehicle by a person other than a motor vehicle salvage dealer, 194
salvage motor vehicle auction, or salvage motor vehicle pool, to 195
a person who purchases the salvage motor vehicle for use as a 196

consumer.	197
Sec. 4738.02. (A) Except as provided in divisions (B) and (E) of this section, no person shall engage in the business of selling at retail salvage motor vehicle parts without first obtaining a motor vehicle salvage dealer's license pursuant to this chapter.	198 199 200 201 202
(B) (1) Except as provided in divisions (C) and (E) of this section, no person shall engage in the business of selling at retail salvage motor vehicles nor, other than as a lessor, provide a location or a space for the sale of salvage motor vehicles without first obtaining a motor vehicle salvage dealer's license, a salvage motor vehicle auction license, or a salvage motor vehicle pool license pursuant to this chapter.	203 204 205 206 207 208 209
(2) Notwithstanding division (B) (1) of this section, a person may sell salvage motor vehicles at retail to or through a salvage motor vehicle auction or salvage motor vehicle pool without obtaining any license pursuant to this chapter if both of the following apply:	210 211 212 213 214
(a) The acquisition of salvage motor vehicles is incidental to the primary business of the person.	215 216
(b) The disposal of those salvage motor vehicles is incidental to the primary business of the person.	217 218
(C) No person shall make more than five <u>three</u> casual sales of salvage motor vehicles in a calendar year.	219 220
(D) Except as provided in division (E) of this section, no person shall operate as a salvage motor vehicle auction or salvage motor vehicle pool without first obtaining the appropriate license pursuant to this chapter.	221 222 223 224

(E) In case of the dissolution of a partnership by death, 225
the surviving partner may operate under any license obtained by 226
the partnership pursuant to this chapter for a period of sixty 227
days and the heirs or representatives of deceased persons and 228
receivers or trustees in bankruptcy appointed by any competent 229
authority may operate under the license of the person succeeded 230
in possession by the heir, representative, receiver, or trustee 231
in bankruptcy. 232

(F) Nothing in this chapter applies to any public officer 233
performing his official duties. 234

Sec. 4738.99. (A) Whoever knowingly violates section 235
4738.02 or violates section 4738.03 of the Revised Code is 236
guilty of ~~a~~ an unclassified misdemeanor ~~of the second degree~~ on 237
a first offense and shall be subject to a mandatory fine of four 238
hundred dollars; on each subsequent offense, such person is 239
guilty of a ~~misdemeanor~~ felony of the ~~first~~ fifth degree. 240

(B) Whoever violates section 4738.01, sections 4738.04 to 241
4738.13, or division (B) of section 4738.16 of the Revised Code 242
is guilty of ~~a~~ an unclassified misdemeanor ~~of the fourth~~ 243
~~degree~~ and shall be subject to a mandatory fine of four hundred 244
dollars. 245

(C) Whoever violates section 4738.031, 4738.14, or 4738.15 246
of the Revised Code is guilty of a minor misdemeanor. 247

Section 2. That existing sections 4517.02, 4738.01, 248
4738.02, and 4738.99 of the Revised Code are hereby repealed. 249