



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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S.B. 334

131st General Assembly
(As Introduced)

Sen. Eklund

BILL SUMMARY

- Reduces the maximum number of casual sales of motor vehicles that a person may make in a one-year period without a license as a motor vehicle dealer from five to three.
- Reduces the maximum number of casual sales of salvage motor vehicles that a person may make in a calendar year without a license as a motor vehicle salvage dealer from five to three.
- Changes the definition of "salvage motor vehicle" for purposes of the Motor Vehicle Salvage Dealers Law.
- Makes changes to the penalties for violations of certain continuing law provisions of the Motor Vehicle Dealers Law and the Motor Vehicle Salvage Dealers Law.

CONTENT AND OPERATION

Number of casual sales allowed without a license

The bill reduces the maximum number of casual sales of motor vehicles that a person may make in a one-year period without a license as a motor vehicle dealer from five to three. The bill also reduces the maximum number of casual sales of salvage motor vehicles that a person may make in a calendar year without a license as a motor vehicle salvage dealer from five to three. Under continuing law, a person is prohibited from making more casual sales than the specified maximum without a license as a

motor vehicle dealer or motor vehicle salvage dealer, respectively.¹ Violators of the prohibition are subject to a criminal penalty and fine (see "**Penalty changes**," below).

Under continuing law, a "casual sale" generally means any transfer of a vehicle by a person other than a dealer or other specified persons in the business of selling vehicles, to a person who purchases the vehicle for use as a consumer.²

Definition – salvage motor vehicle

The bill changes the definition of "salvage motor vehicle" for purposes of the Motor Vehicle Salvage Dealers Law³ to mean any motor vehicle that has been determined to be unfit for operation as a motor vehicle, has been declared a total loss by an insurer or owner, has been wrecked, destroyed, or damaged by collision, flood, fire, water, or other occurrence to such an extent that the owner or, if the vehicle was insured, the insurer considers it uneconomical to repair. Under current law, "salvage motor vehicle" is defined as any motor vehicle which is in a wrecked, dismantled, or worn out condition, or unfit for operation as a motor vehicle.⁴ Thus, the bill explicitly includes a vehicle declared a "total" loss as a salvage motor vehicle.

Penalty changes

Motor vehicle dealers, auction owners, and salespersons

Under continuing law, a person is prohibited from operating as a motor vehicle dealer, salesperson, auction owner, construction equipment auction licensee, or distributor without the applicable license.⁵ Continuing law also prohibits remanufacturers from selling at retail any new motor vehicle unless certain requirements are met.⁶ The following table compares the penalty imposed on whoever violates any of those prohibitions under the bill and current law:

¹ R.C. 4517.02(A)(6) and 4738.02(C).

² R.C. 4517.01(O), not in the bill, and 4738.01(I).

³ R.C. 4738.01 to 4738.16.

⁴ R.C. 4738.01(B).

⁵ R.C. 4517.02(A).

⁶ R.C. 4517.02(E).



Comparison of penalties under the bill and current law⁷		
	Under the bill	Under current law
First time offender	Guilty of an unclassified misdemeanor and subject to a mandatory fine of \$1,000	Guilty of a minor misdemeanor and subject to a mandatory fine of \$100
If the offender previously has been convicted of or pleaded guilty to any of the prohibitions	Guilty of a fifth degree felony and subject to a mandatory fine of \$2,000	Guilty of a first degree misdemeanor and subject to a mandatory fine of \$1,000

Mental state required to violate certain prohibitions and increased fine

The bill makes knowingly, instead of recklessly as under current law, the required mental state that a person must have to violate the following continuing law prohibitions:

- Making more than the maximum number of casual sales that a person may make in a one-year period without obtaining a license as a motor vehicle dealer.
- Providing a location or space for the sale of motor vehicles at a flea market without obtaining a license as a motor vehicle dealer.⁸

Additionally, the bill increases the mandatory fine for violations of those prohibitions to be the amount of the applicable mandatory fine specified in the table above multiplied by three less than the total number of vehicles sold.⁹ For example, if a person made seven casual sales without the appropriate license, for the first offense the person would be fined \$4,000 ($\$1,000 \times (7-3)$).

Motor vehicle salvage dealers

Under continuing law, a person is prohibited from operating as a motor vehicle salvage dealer, auction, or pool licensee without the applicable license.¹⁰ Additionally, continuing law prohibits certain activities by motor vehicle salvage dealers, auction, or

⁷ R.C. 4517.02(F).

⁸ R.C. 4517.02(A)(6).

⁹ R.C. 4517.02(F)(2).

¹⁰ R.C. 4738.02(A), (B), and (D).



pool licensees.¹¹ The bill makes knowingly, instead of recklessly as under current law, the required mental state that a person must have to violate those continuing law prohibitions.¹² The following table compares the penalty imposed on whoever violates any of those prohibitions under the bill and current law:

Comparison of penalties under the bill and current law¹³		
	Under the bill	Under current law
First time offender	Guilty of an unclassified misdemeanor and subject to a mandatory fine of \$400	Guilty of a second degree misdemeanor
On each subsequent offense	Guilty of a fifth degree felony	Guilty of a first degree misdemeanor

In addition, the bill changes the penalty for whoever violates other specified continuing law provisions of the Motor Vehicle Salvage Dealers Law related to the application for, issuance of, and maintenance of a license issued under the Law as follows:

Comparison of penalties under the bill and current law¹⁴		
	Under the bill	Under current law
Whoever violates any of the specified provisions	Guilty of an unclassified misdemeanor and subject to a mandatory fine of \$400	Guilty of a fourth degree misdemeanor

HISTORY

ACTION	DATE
Introduced	05-24-16

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¹¹ R.C. 4738.03.

¹² R.C. 4738.99(A).

¹³ R.C. 4738.99(A).

¹⁴ R.C. 4738.99(B), by reference to R.C. 4738.01 and R.C. 4738.04 to 4738.13 and 4738.16(B), not in the bill.

