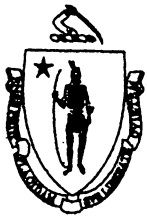


Communication # 1



# The Commonwealth of Massachusetts

## Registry of Motor Vehicles

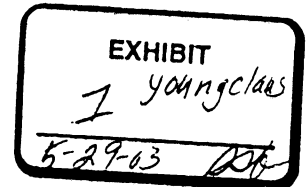
One Copley Place, Boston 02116

Kimberly Hinden  
Registrar

Mail:  
P.O. Box 199100  
Boston, MA 02119-9100  
www.mass.gov/rmv

May 20, 2003

Colonel Thomas J. Foley  
Massachusetts State Police  
State Police Headquarters  
470 Worcester Road  
Framingham, MA 01702



Re: RMV Policy on Salvage Inspections

Dear Colonel Foley:

The purpose of this letter is to inform you that some State Police Officers performing salvage inspections for the RMV are rejecting salvage vehicles in which "used parts" have been installed, solely because the used parts were not purchased from junk dealers possessing a Class 3 license. The State Police Officers are taking the position that only a dealer licensed as a Class 3 Dealer under M.G.L. c. 140, Section 58 may sell used parts. **This is not the policy of the RMV and it is not an accurate reading of state law.** I seek your immediate assistance in ending this practice.

This information came to me as a result of an April deposition of State Police Officers who act as salvage inspectors for the RMV in the case of Automotive Recyclers of Massachusetts v. Registrar of Motor Vehicles. The case is filed in the Superior Court of Bristol County (01-0896). The primary contention of the plaintiffs is that the RMV allows "used parts" procured from sources other than Class 3 Dealers (junk dealers) licensed under the provisions of M.G.L. c.140, Section 58 to be incorporated into salvage vehicles. The *Recyclers* allege that only Class 3 dealers can legally sell "used parts." The RMV does not believe the plaintiff's position has any merit.

Nothing in the provisions of M.G.L. c.140 appears to grant a monopoly to licensed Class 3 junk dealers to sell used parts. My legal staff has concluded that a Class 1 new car dealer or a Class 2 used car dealer is not precluded by law from incidentally selling used parts (as long as the dealer has made proper disclosure of the "used" history of the part). It is not the policy of the RMV to interpret the law in such a way that a particular class of automotive dealer is granted "monopoly status" when no such clear intent is contained in the law. Indeed, an informal review by an Assistant Attorney General familiar with statutory interpretation procedures agreed with our interpretation that no monopoly has been granted by law.

The deposition was held at the Fall River law offices of the plaintiff's attorney, Daniel N. Turcotte, Esq. An RMV staffer who works in the Salvage Title section and several State Police Officers were deposed over a period of two days. Trooper Rodrigues, a State Police Officer who regularly performs salvage inspections, testified under oath that in his opinion and in his practice as a Trooper conducting salvage title inspections, only Class 3 dealers have the legal authority to sell used parts. In fact, he stated that he routinely rejected salvage vehicles where used parts had been derived from a Class 2 dealer, and he specifically noted on his rejections that only Class 3 dealers could sell used parts. Trooper Rodrigues clearly stated under oath that this was not only his interpretation of the salvage inspection laws, but that this interpretation was uniformly accepted by all the Troopers conducting salvage title inspections across the state.


It appears from the information solicited from the State Police Officers at the deposition and the nature of the role that the State Police play in the salvage inspection process that the State Police may well be impleaded into this case by the plaintiff.

My staff is in the process of drafting a written document to incorporate the policies and procedures to be used in the future by State Police Officers performing salvage inspections for the RMV. The content of that policies and procedures document may be incorporated into our regulations at 540 CMR. Unfortunately, I cannot wait for that document to be completed to correct the mistaken beliefs about "used parts" that State Police salvage inspectors are currently enforcing. Their enforcement efforts in this regard are working to the detriment of persons presenting otherwise acceptable salvage vehicles for inspection.

If the State Police can point to a court decision or statute that provides such monopoly status to sell "used parts" to a Class 3 dealer, I would be happy to have my legal staff review it. For the present, however, I would greatly appreciate if you would issue an order through your Command Staff to salvage inspectors. I would request that the order should instruct them not to reject a salvage vehicle **solely** because it contains "used parts" purchased from a source other than a licensed Class 3 dealer. The salvage inspectors should apply the same standard of review of the paperwork that they apply to "new" parts incorporated into salvage vehicles.

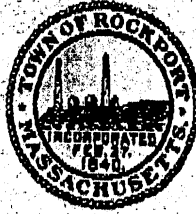
I thank you for your anticipated cooperation.

Very truly yours,

  
Kimberly Hinden  
Registrar

cc. Susan Prosnitz, General Counsel, EOPS  
Eleanor Sinnott, General Counsel, SP  
Lt. Kenneth Jenkins, Salvage Inspection, SP  
Erin Deveney, General Counsel, RMV  
Charles LaRocca, Dir. Titles, RMV

TOWN OF



ROCKPORT

OFFICE OF THE TOWN ADMINISTRATOR

TOWN OFFICE BUILDING, 34 BROADWAY, ROCKPORT, MA 01966-1537

MICHAEL J. RACICOT  
TOWN ADMINISTRATOR

MRACICOT@Townofrockport.Com

PHONE (978) 546-5183  
FAX (978) 546-2881

June 24, 2003

Daniel N. Turcotte, Esq.  
Daniel N. Turcotte & Associates, P.C.  
154 North Main Street, 3<sup>rd</sup> Floor  
Fall River, Massachusetts 02720

RE: USED MOTOR VEHICLE PARTS

Dear Attorney Turcotte:

The Board is in receipt of your letter dated June 18, 2003, concerning the RMV policy statement pertaining to Class 1, 2 and 3 dealers. Your letter was well written and the points you brought up were very well thought out. The concerns you raised are valid one and your course of action appears to be sound.

The Board will review your letter and act as it is deemed appropriate. Once again, thank you for contacting the Board concerning these matters

Please feel free to contact this office if you have any further questions or wish to relay further information.

Sincerely yours,

Michael J. Racicot  
Town Administrator

Cc: Board of Selectmen

Office of  
SELECTMEN  
148R Peck Street  
Rehoboth, MA 02769



Tel.: (508) 252-3758  
Fax: (508) 252-5342

July 30, 2003

Senator JoAnn Sprague  
State House  
Room 206  
Boston, MA 02133-1053


Dear Senator Sprague:

The Board of Selectmen at their meeting on July 28, 2003 voted unanimously to offer their support of House Bill No. 548; an act relative to the aftermarket business of automobile dealers.

The Board of Selectmen on behalf of the Town of Rehoboth, urges you to support House Bill No. 548 which would amend M.G.L. c. 140, sec. 58.

The Board of Selectmen would like to take this opportunity to thank you for your service to the Town of Rehoboth.

Sincerely,

  
David M. Amadio, Esq.  
Executive Secretary

Cc: Kimberly Hinden, Register R/MV  
Col. Thomas J. Foley, Mass State Police  
Atty. Daniel N. Turcotte  
Representative Travis



Commonwealth of Massachusetts

BRISTOL COUNTY SELECTMEN'S ASSOCIATION

ORGANIZED APRIL 1923

August 13, 2003

Senator Michael W. Morrissey, Senate Chair  
Representative Daniel E. Bosley, House Chair  
Joint Committee on Government Regulations  
State House, Room 472  
Boston, MA 02133

**RE: House 548, An Act Relative To The Aftermarket Business Of Automobile Dealers**

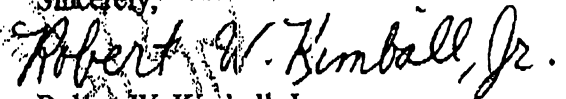
Dear Honorable Chairmen and Committee Members,

The Bristol County Selectmen's Association, at their quarterly meeting held on August 7, 2003, unanimously voted to support the above referenced House 548, as sponsored by Representative Philip Travis.

The members of the Bristol County Selectmen's Association respectfully request that this legislation be given a favorable report after it's public hearing. This matter is of the utmost concern to the communities that we represent.

On behalf of the Association members from the sixteen towns in Bristol County, I thank you for your thoughtful attention to this request.

Sincerely,



Robert W. Kimball, Jr.  
President

cc: Kimberly Hinden, Registrar of Motor Vehicles  
Representative Philip Travis  
Attorney Daniel N. Turcotte

TOWNS OF

ACUSHNET • BERKLEY • DARTMOUTH • DIGHTON • EASTON • FAIRHAVEN • FREETOWN • MANSFIELD  
NO. ATTLEBORO • NORTON • RAYNHAM • REHOBOTH • SEEKONK • SOMERSET • SWANSEA • WESTPORT



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1054*

**DR. JENNIFER CALLAHAN**  
STATE REPRESENTATIVE  
SERVING THE PEOPLE OF THE  
18TH WORCESTER DISTRICT

BELINGHAM • BLACKSTONE •  
MILLVILLE • SUTTON (PCTS 1 & 2) •  
UXBRIDGE (PCTS 1, 2 & 4)

COMMITTEES:  
Commerce & Labor  
Long Term Debt &  
Capital Expenditures

ROOM 238, 2ND FLOOR  
(617) 722-2430  
FAX (617) 722-2346  
(508) 855-7788

Rep.JenniferCallahan@hou.state.ma.us

September 24, 2003

Mr. Henry Lemire  
Phil's Auto Parts  
356 Main Street  
Blackstone, MA 01504

Dear Henry:

I received your letter as well as the letters from the Registry of Motor Vehicles and the Massachusetts State Police. Thank you for letting me know about the House Bill 548, "An Act Relative to the Aftermath Business of Automobile Dealers."

After looking over the information you sent, I have decided to support the bill. I have contacted Representative Travis, the original sponsor of the bill, as well as the House Clerk's Office in order to sign on as an official co-sponsor and supporter of the legislation. I agree with you that we should preserve the clear delineation between class licenses for dealers.

Thanks again for following up with my office about this.

Sincerely,

Dr. Jennifer M. Callahan  
State Representative  
18<sup>th</sup> Worcester District



**Introduction to the Statement presented to the Town of Rehoboth  
Board of Selectman by State Representative Philip Travis  
(July 28, 2003)**

The recording that you are about to hear is a statement made by State Representative Philip Travis that explains his reasons for requesting that the towns and cities in the Commonwealth of Massachusetts support passage of a bill (HR 548) co-sponsored by him and currently awaiting a scheduled hearing date.

House Bill 548 is a proposed bill that would amend G.L. c. 140, sec. 58 by specifically prohibiting anyone other than licensed Class 3 dealers from dismantling salvage automobiles for the purpose of selling second hand motor vehicle parts. This bill was introduced as a direct result of a policy letter issued by Kimberly Hinden, the Registrar of Motor Vehicles, to Colonel Foley of the Massachusetts State Police, directing the state police at Salvage Inspection facilities to accept bills of sale for used auto parts utilized in the reconstruction of salvage vehicles from any unlicensed person.

It is the position of the Automobile Recyclers Association of Massachusetts that for all of the reasons stated in Mr. Travis' presentation to the Town of Rehoboth Selectmen, that all of the 351 cities and towns of Massachusetts should contact their state representatives and senators and urge that they vote in favor of the passage of the bill HR 548.

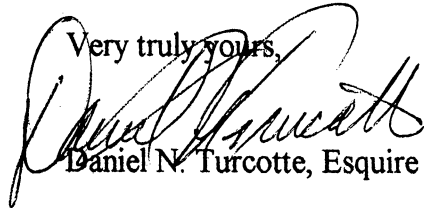
Thank you for your attention to this most important issue.

Automobile Recyclers Association of Massachusetts.

I invite any local official who may have questions regarding any issues concerning automobile salvage operations in Massachusetts to contact me at 508-678-6170.

Thank you for your attention and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel N. Turcotte". The signature is fluid and cursive, with a large initial "D".

Daniel N. Turcotte, Esquire

DNT/jlc  
Enclosure(s)

It is the legal position of the Automotive Recyclers Association that the legislature specifically intended in Mass. G.L. c140, secs.57, 58 et seq. to prohibit the sale of second motor vehicle parts by anyone other than those persons who had applied for and were granted Class 3 licenses by the appropriate licensing authorities of the cities and towns.

The Registry's policy letter creates a very serious problem for the local licensing authorities in that the RMV considers it acceptable for used car dealers and body shops to purchase scrap automobiles for the purpose of dismantling and selling second hand parts without having to undergo the public hearing process as required by sec. 59 of chapter 140. Whereas some cities and towns presently may have only one or two salvage yards, the Registry's current policy gives regulatory blessing to unlicensed "salvage" operations by auto body repair shops, garages and private individuals.

The communities of Massachusetts have historically had to deal with the concern of illegally discarded tires disposed of on the back roads of the towns and in the alleyways of the cities. They have also had to address the issues of illegally disposed hazardous waste such as used motor oil and gasoline, lead batteries, mercury and antifreeze. The communities of Massachusetts will not only have to contend with an increase in improperly disposed tires and other waste, but they will also have to deal with an increase in the number of salvage operations without much control over them.

In an attempt to clarify the M.G.L. c.140, sec. 58, the Automotive Recyclers Association introduced a bill into the House, Bill # 548 that contained specific language intended to prohibit the sale of second hand motor vehicle parts by any unlicensed person. ARM, feels that without this bill, the Registrar's position will lead to an increase in auto theft and the trafficking of stolen motor vehicle parts. The Massachusetts State Police have testified that the Registrar's policy letter will have the effect of severely diminishing the ability of law enforcement to regulate illegal activity.

The Automotive Recyclers Association urges each community to contact their local state Representative and Senators and urges them to vote to approve this Bill. See attached copy.

I invite any local official who may have questions regarding any issues concerning automobile salvage operations in Massachusetts to contact me at 508-678-6170.

Thank you for your attention and consideration.

Very truly yours,

Law Offices of  
*Daniel N. Turcotte & Associates P.C.*

154 North Main Street, 3rd Floor  
Fall River, Massachusetts 02726

Tel No. (508) 678-6170  
Fax No. (508) 678-4285  
E-mail: Dturcot@aol.com

2003 OCT 31 A 10-31  
OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

Daniel N. Turcotte, Esq.  
Randall B. Johnson, Esq.

October 10, 2003

Dear Council Members/Selectmen:

This letter is sent to you as a courtesy of the Automotive Recyclers Association of Massachusetts (ARM) and is intended to inform you of a recent policy statement issued by the Registrar of Motor Vehicles (RMV) pertaining to Class 1, Class 2 and Class 3 dealers. A copy of the letter is enclosed for your reference.

I request that my letter and the Registrar's letter be read into the record of your next public meeting.

It is the opinion of the Automotive Recycler's Association (ARM) that the Registry of Motor Vehicles is engaging in conduct in violation of Mass.G.L. c140, secs. 57 and 58. The RMV has taken the position, unofficially until the recent distribution of the Registrar's letter (see enclosed letter of Kimberly Hinden), that any person can sell second hand motor vehicle parts without having to obtain a Class 3 (Motor vehicle junk license).

During the last several years ARM has attempted to educate the Registry about the detrimental impact that the Registry's policy would have upon the communities of Massachusetts. All of ARM's efforts have failed and ARM was compelled to initiate a lawsuit in July 2001 in an attempt to prevent the Registry from allowing unlicensed persons to sell used automobile parts in the Commonwealth of Massachusetts. The Registry has informed the Association that it is solely the responsibility of the cities and towns to prosecute violators.

The problem of the RMV's policy came to light when ARM investigated the salvage inspection procedures regulated by the Registry of Motor Vehicles. The investigation revealed that the RMV is accepting bills of sales from unlicensed persons as proof of purchase of second hand motor vehicle parts for vehicles inspected by RMV officials at salvage inspection stations. This policy of accepting bills of sales from unlicensed persons violates the licensing requirements of G.L. c. 140, for Class 3 dealers. By allowing this practice the RMV creates an economic incentive for any unlicensed person to dismantle automobiles for the purpose of selling used parts without having to comply with any of the federal, state or municipal statutes or regulations governing sales tax, environmental protection, zoning, hazardous waste disposal, etc.

9356

**Communication #1**

A communication was received from Daniel N. Turcotte, Esquire, transmitting information of a recent policy statement issued by the Registrar of Motor Vehicles pertaining to Class 1, Class 2 and Class 3 dealers.

**In City Council November 17, 2003**

**PLACED ON FILE**