



The Commonwealth of Massachusetts

Registry of Motor Vehicles

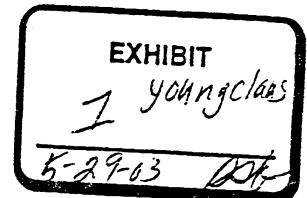
One Copley Place, Boston 02116

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

HOUSE No. 548

HOUSE, No. 548

By Mr. Travis of Rehoboth, petition of Philip Travis and another relative to the licensing and regulation of second hand motor vehicle dealers. Government Regulations.

**The Commonwealth of Massachusetts**

In the Year Two Thousand and Three.

AN ACT RELATIVE TO THE AFTERMARKET BUSINESS OF AUTOMOBILE DEALERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

M.G.L. c. 140, sec. 58, shall be amended as follows:

The following paragraph shall be inserted immediately after the paragraph defining Class 2 licenses. No person, including Class 1 and Class 2 dealers defined herein this section, shall engage in the business of buying second hand motor vehicles for the purpose of taking apart and selling, exchanging, assembling or otherwise disposing of second hand motor vehicles or parts thereof.

The following paragraph shall be inserted immediately after the paragraph defining Class 3 licenses. Class 3 license holders shall be exempt from the warranty provisions of chapter ninety, section seven N1/4 for any salvage vehicle sold by a Class 3 license holder that has not been restored to its operating condition which existed prior to the event which caused a salvage title to issue; and which has not been issued a reconstructed title in accordance with the provisions of chapter 90D, section 20D.

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

154 North Main Street, 3rd Floor
Fall River, Massachusetts 02720

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

2003 JUN 23 A 11: 35

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

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

June 18, 2003

City of Cambridge, Clerk
City Hall
795 Massachusetts Ave.
Cambridge MA 02139

Dear Selectpersons:
Council Members/Selectmen:

This letter is sent to you as a courtesy of the Automobile Recyclers Association of Massachusetts (ARM) and is intended to inform you of a recent policy statement issued by the Registrar of Motor Vehicles 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 Automobile Recycler's Association that the Registry of Motor Vehicles is engaging in conduct in violation of Mass.G.L. c140, secs. 57 and 58. In particular, the RMV has taken the position, unofficially until the distribution of the Registry's letter enclosed, that any person can sell second hand motor vehicle parts without having to obtain a Class 3 (Motor vehicle junk license).

The Automobile Recyclers Association attempted for the past several years to educate the Registry about the significant detrimental impact that the Registry's policy would have upon cities and towns of Massachusetts. All of the efforts of the Association failed and the Automobile Recyclers Association 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.

Currently, the Registry of Motor Vehicles 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.

It is the legal position of the Automobile Recyclers Association that the legislature specifically intended in Mass. G.L. c140, sec.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 Registry 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.

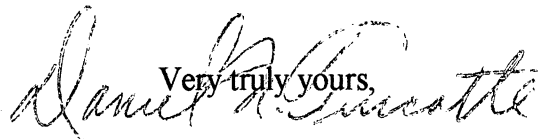
The communities of Massachusetts have historically had to deal with the concern of illegally discarded tires disposed of on the backroads of the towns and in the alleyways of the city. They have also had to address the issues of illegally disposed hazardous waste such as used motor oil and gasoline,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

In an attempt to clarify the M.G.L. c.140, sec. 58, the Automobile 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 Automobile Recyclers Association urges each community to contact their local state Representative and Senators and urge 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,
Daniel N. Turcotte, Esquire

DNT/jlc
Enclosure(s)

5240

Communication #2

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

In City Council August 4, 2003

PLACED ON FILE