

1-1 By: Carona S.B. No. 1095
1-2 (In the Senate - Filed February 24, 2009; March 13, 2009, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 8, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 8, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1095 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the licensing and regulation of used automotive parts
1-11 recyclers; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivision (6), Section 2302.001, Occupations
1-14 Code, is amended to read as follows:

1-15 (6) "Salvage vehicle agent" means a person who
1-16 acquires, sells, or otherwise deals in nonrepairable or salvage
1-17 motor vehicles [~~or used parts~~] in this state as directed by the
1-18 salvage vehicle dealer under whose license the person operates.
1-19 The term does not include a person who:

1-20 (A) is a licensed salvage vehicle dealer or a
1-21 licensed used automotive parts recycler;

1-22 (B) is a partner, owner, or officer of a business
1-23 entity that holds a salvage vehicle dealer license or a used
1-24 automotive parts recycler license;

1-25 (C) is an employee of a licensed salvage vehicle
1-26 dealer or a licensed used automotive parts recycler; or

1-27 (D) only transports salvage motor vehicles for a
1-28 licensed salvage vehicle dealer or a licensed used automotive parts
1-29 recycler.

1-30 SECTION 2. Subsection (b), Section 2302.006, Occupations
1-31 Code, is amended to read as follows:

1-32 (b) This chapter applies to a transaction in which a motor
1-33 vehicle:

1-34 (1) is sold, transferred, released, or delivered to a
1-35 metal recycler for the purpose of reuse or resale as a motor vehicle
1-36 [~~or as a source of used parts~~]; and

1-37 (2) is used for that purpose.

1-38 SECTION 3. Subchapter A, Chapter 2302, Occupations Code, is
1-39 amended by adding Section 2302.008 to read as follows:

1-40 Sec. 2302.008. APPLICABILITY OF CHAPTER TO USED AUTOMOTIVE
1-41 PARTS RECYCLERS. This chapter does not apply to a used automotive
1-42 parts recycler licensed under Chapter 2309.

1-43 SECTION 4. Subsection (b), Section 2302.103, Occupations
1-44 Code, is amended to read as follows:

1-45 (b) An applicant may apply for a salvage vehicle dealer
1-46 license with an endorsement in one or more of the following
1-47 classifications:

1-48 (1) new automobile dealer;

1-49 (2) used automobile dealer;

1-50 (3) [~~used vehicle parts dealer;~~

1-51 [~~4~~] salvage pool operator;

1-52 (4) [~~5~~] salvage vehicle broker; or

1-53 (5) [~~6~~] salvage vehicle rebuilder.

1-54 SECTION 5. Subsection (d), Section 2302.107, Occupations
1-55 Code, is amended to read as follows:

1-56 (d) A salvage vehicle agent may acquire, sell, or otherwise
1-57 deal in, nonrepairable or salvage motor vehicles [~~or used parts~~] as
1-58 directed by the authorizing dealer.

1-59 SECTION 6. Section 2302.202, Occupations Code, is amended
1-60 to read as follows:

1-61 Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle
1-62 dealer shall maintain a record of each salvage motor vehicle [~~and~~
1-63 ~~each used part~~] purchased or sold by the dealer.

2-1 SECTION 7. Subtitle A, Title 14, Occupations Code, is
2-2 amended by adding Chapter 2309 to read as follows:

2-3 CHAPTER 2309. USED AUTOMOTIVE PARTS RECYCLERS

2-4 SUBCHAPTER A. GENERAL PROVISIONS

2-5 Sec. 2309.001. SHORT TITLE. This chapter may be cited as
2-6 the Texas Used Automotive Parts Recycling Act.

2-7 Sec. 2309.002. DEFINITIONS. In this chapter:

2-8 (1) "Insurance company," "metal recycler," "motor
2-9 vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle
2-10 title," "salvage motor vehicle," "salvage vehicle title," and
2-11 "salvage vehicle dealer" have the meanings assigned by Section
2-12 501.091, Transportation Code.

2-13 (2) "Commission" means the Texas Commission of
2-14 Licensing and Regulation.

2-15 (3) "Department" means the Texas Department of
2-16 Licensing and Regulation.

2-17 (4) "Executive director" means the executive director
2-18 of the department.

2-19 (5) "Used automotive part" has the meaning assigned to
2-20 "used part" by Section 501.091, Transportation Code.

2-21 (6) "Used automotive parts recycler" means a person
2-22 licensed under this chapter to operate a used automotive parts
2-23 recycling business.

2-24 (7) "Used automotive parts recycling" means the
2-25 dismantling and reuse or resale of used automotive parts and the
2-26 safe disposal of salvage motor vehicles or nonrepairable motor
2-27 vehicles, including the resale of those vehicles.

2-28 Sec. 2309.003. APPLICABILITY OF CHAPTER TO METAL RECYCLERS.

2-29 (a) Except as provided by Subsection (b), this chapter does not
2-30 apply to a transaction to which a metal recycler is a party.

2-31 (b) This chapter applies to a transaction in which a motor
2-32 vehicle:

2-33 (1) is sold, transferred, released, or delivered to a
2-34 metal recycler as a source of used automotive parts; and

2-35 (2) is used as a source of used automotive parts.

2-36 Sec. 2309.004. APPLICABILITY OF CHAPTER TO SALVAGE VEHICLE
2-37 DEALERS. (a) Except as provided by Subsection (b), this chapter
2-38 does not apply to a transaction in which a salvage vehicle dealer is
2-39 a party.

2-40 (b) This chapter applies to a salvage vehicle dealer who
2-41 deals in used automotive parts as more than an incidental part of
2-42 the salvage vehicle dealer's primary business.

2-43 Sec. 2309.005. APPLICABILITY OF CHAPTER TO INSURANCE
2-44 COMPANIES. This chapter does not apply to an insurance company.

2-45 [Sections 2309.006-2309.050 reserved for expansion]

2-46 SUBCHAPTER B. ADVISORY BOARD

2-47 Sec. 2309.051. USED AUTOMOTIVE PARTS RECYCLING ADVISORY
2-48 BOARD. (a) The advisory board consists of five members
2-49 representing the used automotive parts industry in this state
2-50 appointed by the presiding officer of the commission with the
2-51 approval of the commission.

2-52 (b) The advisory board shall include members who represent
2-53 used automotive parts businesses owned by domestic entities, as
2-54 defined by Section 1.002, Business Organizations Code.

2-55 (c) The advisory board shall include one member who
2-56 represents a used automotive parts business owned by a foreign
2-57 entity, as defined by Section 1.002, Business Organizations Code.

2-58 (d) Appointments to the advisory board shall be made without
2-59 regard to the race, color, disability, sex, religion, age, or
2-60 national origin of the appointee.

2-61 Sec. 2309.052. TERMS; VACANCIES. (a) Advisory board
2-62 members serve terms of six years, with the terms of one or two
2-63 members expiring on February 1 of each odd-numbered year.

2-64 (b) A member may not serve more than two full consecutive
2-65 terms.

2-66 (c) If a vacancy occurs during a term, the presiding officer
2-67 of the commission shall appoint a replacement who meets the
2-68 qualifications of the vacated position to serve for the remainder
2-69 of the term.

3-1 Sec. 2309.053. PRESIDING OFFICER. The presiding officer of
3-2 the commission shall appoint one of the advisory board members to
3-3 serve as presiding officer of the advisory board for a term of one
3-4 year. The presiding officer of the advisory board may vote on any
3-5 matter before the advisory board.

3-6 Sec. 2309.054. POWERS AND DUTIES OF ADVISORY BOARD. The
3-7 advisory board shall provide advice and recommendations to the
3-8 department on technical matters relevant to the administration and
3-9 enforcement of this chapter, including licensing standards,
3-10 continuing education requirements, and examination content, if
3-11 applicable.

3-12 Sec. 2309.055. COMPENSATION; REIMBURSEMENT OF EXPENSES.
3-13 Advisory board members may not receive compensation but are
3-14 entitled to reimbursement for actual and necessary expenses
3-15 incurred in performing the functions of the advisory board, subject
3-16 to the General Appropriations Act.

3-17 Sec. 2309.056. MEETINGS. The advisory board shall meet
3-18 twice annually and may meet at other times at the call of the
3-19 presiding officer of the commission or the executive director.

3-20 [Sections 2309.057-2309.100 reserved for expansion]

3-21 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

3-22 Sec. 2309.101. GENERAL POWERS AND DUTIES. The executive
3-23 director or commission, as appropriate, may take action as
3-24 necessary to administer and enforce this chapter.

3-25 Sec. 2309.102. RULES. (a) The commission shall adopt
3-26 rules for licensing used automotive parts recyclers and used
3-27 automotive parts employees.

3-28 (b) The commission by rule shall adopt standards of conduct
3-29 for license holders under this chapter.

3-30 Sec. 2309.103. EXAMINATION OF CRIMINAL CONVICTION. The
3-31 department may conduct an examination of any criminal conviction or
3-32 deferred adjudication of an applicant, including by obtaining any
3-33 criminal history record information permitted by law.

3-34 Sec. 2309.104. FEES. The commission shall establish and
3-35 collect reasonable and necessary fees in amounts sufficient to
3-36 cover the costs of administering this chapter.

3-37 Sec. 2309.105. RULES RESTRICTING ADVERTISING OR
3-38 COMPETITIVE BIDDING. (a) The commission may not adopt a rule
3-39 restricting advertising or competitive bidding by a person who
3-40 holds a license issued under this chapter except to prohibit false,
3-41 misleading, or deceptive practices by the person.

3-42 (b) The commission may not include in its rules to prohibit
3-43 false, misleading, or deceptive practices a rule that:

3-44 (1) restricts the use of any advertising medium;

3-45 (2) restricts the person's personal appearance or use
3-46 of the person's voice in an advertisement;

3-47 (3) relates to the size or duration of an
3-48 advertisement by the person; or

3-49 (4) restricts the use of a trade name in advertising by
3-50 the person.

3-51 Sec. 2309.106. PERIODIC AND RISK-BASED INSPECTIONS.
3-52 (a) The department shall inspect each used automotive parts
3-53 recycling facility at least once every two years.

3-54 (b) The department may enter and inspect at any time during
3-55 business hours:

3-56 (1) the place of business of any person regulated
3-57 under this chapter; or

3-58 (2) any place in which the department has reasonable
3-59 cause to believe that a license holder is in violation of this
3-60 chapter or in violation of a rule or order of the commission or
3-61 executive director.

3-62 (c) The department shall conduct additional inspections
3-63 based on a schedule of risk-based inspections using the following
3-64 criteria:

3-65 (1) the type and nature of the used automotive parts
3-66 recycler;

3-67 (2) the inspection history;

3-68 (3) any history of complaints involving a used
3-69 automotive parts recycler; and

4-1 (4) any other factor determined by the commission by
4-2 rule.

4-3 (d) A used automotive parts recycler shall pay a fee for
4-4 each risk-based inspection performed under this section. The
4-5 commission by rule shall set the amount of the fee.

4-6 (e) In conducting an inspection under this section, the
4-7 department may inspect a facility, a used automotive part, a
4-8 business record, or any other place or thing reasonably required to
4-9 enforce this chapter or a rule or order adopted under this chapter.

4-10 Sec. 2309.107. PERSONNEL. The department may employ
4-11 personnel necessary to administer and enforce this chapter.

4-12 [Sections 2309.108-2309.150 reserved for expansion]

4-13 SUBCHAPTER D. LICENSE REQUIREMENTS

4-14 Sec. 2309.151. USED AUTOMOTIVE PARTS RECYCLER LICENSE
4-15 REQUIRED. (a) Unless the person holds a used automotive parts
4-16 recycler license issued under this chapter, a person may not own or
4-17 operate a used automotive parts recycling business or sell used
4-18 automotive parts.

4-19 (b) A used automotive parts recycler license:

4-20 (1) is valid only with respect to the person who
4-21 applied for the license; and

4-22 (2) authorizes the license holder to operate a used
4-23 automotive parts recycling business only at the one facility listed
4-24 on the license.

4-25 Sec. 2309.152. GENERAL LICENSE APPLICATION REQUIREMENTS.
4-26 An applicant for a used automotive parts recycler license under
4-27 this chapter must submit to the department:

4-28 (1) a completed application on a form prescribed by
4-29 the executive director;

4-30 (2) the required fees; and

4-31 (3) any other information required by commission rule.

4-32 Sec. 2309.153. LICENSE REQUIREMENTS. An applicant for a
4-33 used automotive parts recycler license under this chapter must
4-34 provide in a manner prescribed by the executive director:

4-35 (1) a federal tax identification number;

4-36 (2) proof of insurance in the amount prescribed by the
4-37 executive director;

4-38 (3) proof of ownership or lease of the property where
4-39 the applicant will operate a used automotive parts recycling
4-40 facility; and

4-41 (4) proof of a storm water permit if the applicant is
4-42 required by the Texas Commission on Environmental Quality to obtain
4-43 a permit.

4-44 Sec. 2309.154. USED AUTOMOTIVE PARTS EMPLOYEE LICENSE
4-45 REQUIRED. (a) A person employed by a used automotive parts
4-46 recycler may not in the scope of the person's employment acquire a
4-47 vehicle or used automotive parts and may not sell used automotive
4-48 parts unless the person holds a used automotive parts employee
4-49 license issued under this chapter.

4-50 (b) The commission by rule shall adopt requirements for the
4-51 application for and issuance of a used automotive parts employee
4-52 license under this chapter.

4-53 Sec. 2309.155. NONTRANSFERABILITY OF LICENSE. A license
4-54 issued by the executive director is valid throughout this state and
4-55 is not transferable.

4-56 Sec. 2309.156. LICENSE RENEWAL. (a) A license issued
4-57 under this chapter is valid for one year. The department may adopt
4-58 a system under which licenses expire at different times during the
4-59 year.

4-60 (b) The department shall notify the license holder at least
4-61 30 days before the date a license expires. The notice must be in
4-62 writing and sent to the license holder's last known address
4-63 according to the records of the department.

4-64 (c) The commission by rule shall adopt requirements to renew
4-65 a license issued under this chapter.

4-66 [Sections 2309.157-2309.200 reserved for expansion]

4-67 SUBCHAPTER E. LOCAL REGULATION

4-68 Sec. 2309.201. APPLICABILITY OF CERTAIN MUNICIPAL
4-69 ORDINANCES, LICENSES, AND PERMITS. (a) The requirements of this

5-1 chapter apply in addition to the requirements of any applicable
5-2 municipal ordinance relating to the regulation of a person who
5-3 deals in nonrepairable or salvage motor vehicles or used automotive
5-4 parts.

5-5 (b) This chapter does not prohibit the enforcement of an
5-6 applicable municipal license or permit requirement that is related
5-7 to an activity regulated under this chapter.

5-8 [Sections 2309.202-2309.250 reserved for expansion]

5-9 SUBCHAPTER F. ENFORCEMENT

5-10 Sec. 2309.251. ADMINISTRATIVE PENALTY. (a) The
5-11 commission may impose an administrative penalty on a person under
5-12 Subchapter F, Chapter 51, regardless of whether the person holds a
5-13 license under this chapter, if the person violates:

5-14 (1) this chapter or a rule adopted under this chapter;
5-15 or

5-16 (2) a rule or order of the executive director or
5-17 commission.

5-18 (b) An administrative penalty may not be imposed unless the
5-19 person charged with a violation is provided the opportunity for a
5-20 hearing.

5-21 Sec. 2309.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL
5-22 PENALTY. (a) The executive director may issue a cease and desist
5-23 order as necessary to enforce this chapter if the executive
5-24 director determines that the action is necessary to prevent a
5-25 violation of this chapter and to protect public health and safety.

5-26 (b) The attorney general or executive director may
5-27 institute an action for an injunction or a civil penalty under this
5-28 chapter as provided by Section 51.352.

5-29 Sec. 2309.253. SANCTIONS. The department may impose
5-30 sanctions as provided by Section 51.353.

5-31 Sec. 2309.254. CRIMINAL PENALTY; LICENSING. (a) A person
5-32 commits an offense if the person:

5-33 (1) violates the licensing requirements of this
5-34 chapter;

5-35 (2) deals in used parts without a license required by
5-36 this chapter; or

5-37 (3) employs an individual who does not hold the
5-38 appropriate license required by this chapter.

5-39 (b) An offense under this section is a Class C misdemeanor.

5-40 [Sections 2309.255-2309.300 reserved for expansion]

5-41 SUBCHAPTER G. CONDUCTING BUSINESS

5-42 Sec. 2309.301. DUTIES ON ACQUISITION OF SALVAGE MOTOR
5-43 VEHICLE. (a) A used automotive parts recycler who acquires
5-44 ownership of a salvage motor vehicle shall obtain a properly
5-45 assigned title from the previous owner of the vehicle.

5-46 (b) A used automotive parts recycler who acquires ownership
5-47 of a motor vehicle, nonrepairable motor vehicle, or salvage motor
5-48 vehicle for the purpose of dismantling, scrapping, or destroying
5-49 the motor vehicle, shall, before the 61st day after the date of
5-50 acquiring the motor vehicle, submit to the Texas Department of
5-51 Transportation a report stating that the motor vehicle will be
5-52 dismantled, scrapped, or destroyed. The recycler shall:

5-53 (1) submit the report on a form prescribed by the Texas
5-54 Department of Transportation; and

5-55 (2) submit with the report a properly assigned
5-56 manufacturer's certificate of origin, regular certificate of
5-57 title, nonrepairable vehicle title, salvage vehicle title, other
5-58 ownership document, or comparable out-of-state ownership document
5-59 for the motor vehicle.

5-60 (c) After receiving the report and title or document, the
5-61 Texas Department of Transportation shall issue the used automotive
5-62 parts recycler a receipt for the manufacturer's certificate of
5-63 origin, regular certificate of title, nonrepairable vehicle title,
5-64 salvage vehicle title, other ownership document, or comparable
5-65 out-of-state ownership document.

5-66 (d) The recycler shall comply with Subchapter E, Chapter
5-67 501, Transportation Code.

5-68 Sec. 2309.302. RECORDS OF PURCHASES. A used automotive
5-69 parts recycler shall maintain a record of each motor vehicle,

6-1 salvage motor vehicle, nonrepairable motor vehicle, and used
 6-2 automotive part purchased.

6-3 Sec. 2309.303. REGISTRATION OF NEW BUSINESS LOCATION.
 6-4 Before moving a place of business, a used automotive parts recycler
 6-5 must notify the department of the new location. The used automotive
 6-6 parts recycler shall provide a storm water permit for the location
 6-7 if a permit is required by the Texas Commission on Environmental
 6-8 Quality.

6-9 [Sections 2309.304-2309.350 reserved for expansion]

6-10 SUBCHAPTER H. ADDITIONAL DUTIES OF USED AUTOMOTIVE PARTS RECYCLER
 6-11 IN CONNECTION WITH MOTOR VEHICLE COMPONENT PARTS

6-12 Sec. 2309.351. DEFINITIONS. In this subchapter:

6-13 (1) "Component part" means a major component part as
 6-14 defined by Section 501.091, Transportation Code, or a minor
 6-15 component part.

6-16 (2) "Interior component part" means a motor vehicle's
 6-17 seat or radio.

6-18 (3) "Minor component part" means an interior component
 6-19 part, a special accessory part, or a motor vehicle part that
 6-20 displays or should display at least one of the following:

6-21 (A) a federal safety certificate;

6-22 (B) a motor number;

6-23 (C) a serial number or a derivative; or

6-24 (D) a manufacturer's permanent vehicle
 6-25 identification number or a derivative.

6-26 (4) "Special accessory part" means a motor vehicle's
 6-27 tire, wheel, tailgate, or removable glass top.

6-28 Sec. 2309.352. REMOVAL OF LICENSE PLATES. Immediately on
 6-29 receipt of a motor vehicle, a used automotive parts recycler shall:

6-30 (1) remove any unexpired license plates from the
 6-31 vehicle; and

6-32 (2) place the license plates in a secure place until
 6-33 destroyed by the used automotive parts recycler.

6-34 Sec. 2309.353. RECEIPT OF MOTOR VEHICLE. A used automotive
 6-35 parts recycler may not take delivery of a motor vehicle unless the
 6-36 recycler first obtains:

6-37 (1) a certificate of authority to dispose of the
 6-38 vehicle, a sales receipt, or a transfer document for the vehicle
 6-39 issued under Chapter 683, Transportation Code; or

6-40 (2) a certificate of title showing that there are no
 6-41 liens on the vehicle or that all recorded liens have been released.

6-42 Sec. 2309.354. RECORD OF PURCHASE; INVENTORY OF PARTS.

6-43 (a) A used automotive parts recycler shall keep an accurate and
 6-44 legible inventory of each used component part purchased by or
 6-45 delivered to the recycler. The inventory must contain a record of
 6-46 each part that includes:

6-47 (1) the date of purchase or delivery;

6-48 (2) the driver's license number of the seller and a
 6-49 legible photocopy of the seller's driver's license;

6-50 (3) the license plate number of the motor vehicle in
 6-51 which the part was delivered;

6-52 (4) a complete description of the part and, if
 6-53 applicable, the make, model, color, and size of the part; and

6-54 (5) the vehicle identification number of the motor
 6-55 vehicle from which the part was removed.

6-56 (b) As an alternative to the information required by
 6-57 Subsection (a), a used automotive parts recycler may record:

6-58 (1) the name of the person who sold the part or the
 6-59 motor vehicle from which the part was obtained; and

6-60 (2) the Texas certificate of inventory number or the
 6-61 federal taxpayer identification number of the person.

6-62 (c) The department shall prescribe the form of the record
 6-63 required by Subsection (a) and shall make the form available to used
 6-64 automotive parts recyclers.

6-65 (d) This section does not apply to:

6-66 (1) an interior component part or special accessory
 6-67 part from a motor vehicle more than 10 years old; or

6-68 (2) a part delivered to a used automotive parts
 6-69 recycler by a commercial freight line, commercial carrier, or

7-1 licensed used automotive parts recycler.

7-2 Sec. 2309.355. ASSIGNMENT OF INVENTORY NUMBER. (a) A used
 7-3 automotive parts recycler shall:

7-4 (1) assign a unique inventory number to each
 7-5 transaction in which the recycler purchases or takes delivery of a
 7-6 component part;

7-7 (2) attach that inventory number to each component
 7-8 part the recycler obtains in the transaction; and

7-9 (3) retain each component part in its original
 7-10 condition on the business premises of the recycler for at least
 7-11 three calendar days, excluding Sundays, after the date the recycler
 7-12 obtains the part.

7-13 (b) An inventory number attached to a component part under
 7-14 Subsection (a) may not be removed while the part remains in the
 7-15 inventory of the used automotive parts recycler.

7-16 (c) This section does not apply to the purchase by a used
 7-17 automotive parts recycler of a nonoperational engine,
 7-18 transmission, or rear axle assembly from another used automotive
 7-19 parts recycler or an automotive-related business.

7-20 Sec. 2309.356. MAINTENANCE OF RECORDS. A used automotive
 7-21 parts recycler shall keep a record required under this subchapter
 7-22 on a form prescribed by the department or the Texas Department of
 7-23 Transportation. The recycler shall maintain copies of each record
 7-24 required under this subchapter until the first anniversary of the
 7-25 purchase date of the item for which the record is maintained.

7-26 Sec. 2309.357. SURRENDER OF CERTAIN DOCUMENTS OR LICENSE
 7-27 PLATES. (a) On demand, a used automotive parts recycler shall
 7-28 surrender to the Texas Department of Transportation for
 7-29 cancellation a certificate of title or authority, sales receipt or
 7-30 transfer document, license plate, or inventory list that the
 7-31 recycler is required to possess or maintain.

7-32 (b) The Texas Department of Transportation shall provide a
 7-33 signed receipt for a surrendered certificate of title.

7-34 Sec. 2309.358. RESALE OF SALVAGE MOTOR VEHICLES OR
 7-35 NONREPAIRABLE MOTOR VEHICLES. (a) A used automotive parts
 7-36 recycler may sell salvage or nonrepairable vehicles only at:

7-37 (1) a used automotive parts recycling facility;

7-38 (2) a salvage pool operator's facility; or

7-39 (3) a metal recycling facility.

7-40 (b) Before reselling a salvage motor vehicle or
 7-41 nonrepairable motor vehicle at a used automotive recycling
 7-42 facility, a used automotive parts recycler must post notice on the
 7-43 vehicle of the type of title appropriate to the vehicle.

7-44 Sec. 2309.359. INSPECTION OF RECORDS. (a) A peace officer
 7-45 at any reasonable time may inspect a record required to be
 7-46 maintained under this subchapter, including an inventory record.

7-47 (b) On demand by a peace officer, a used automotive parts
 7-48 recycler shall provide to the officer a copy of a record required to
 7-49 be maintained under this subchapter.

7-50 (c) A peace officer may inspect the inventory on the
 7-51 premises of a used automotive parts recycler at any reasonable time
 7-52 to verify, check, or audit the records required to be maintained
 7-53 under this subchapter.

7-54 (d) A used automotive parts recycler or an employee of the
 7-55 recycler shall allow and may not interfere with a peace officer's
 7-56 inspection of the recycler's inventory, premises, or required
 7-57 inventory records.

7-58 [Sections 2309.360-2309.400 reserved for expansion]

7-59 SUBCHAPTER I. MOTOR VEHICLE SALVAGE YARDS IN CERTAIN COUNTIES

7-60 Sec. 2309.401. APPLICABILITY OF SUBCHAPTER. This
 7-61 subchapter applies only to a used automotive parts facility located
 7-62 in a county with a population of 2.8 million or more.

7-63 Sec. 2309.402. LIMITS ON OPERATION OF HEAVY MACHINERY.

7-64 (a) A used automotive parts recycler may not operate heavy
 7-65 machinery in a used automotive parts recycling facility between the
 7-66 hours of 7 p.m. of one day and 7 a.m. of the following day.

7-67 (b) This section does not apply to conduct necessary to a
 7-68 sale or purchase by the recycler.

7-69 SECTION 8. Section 501.091, Transportation Code, is amended

8-1 by amending Subdivision (17) and adding Subdivision (20) to read as
8-2 follows:

8-3 (17) "Salvage vehicle dealer" means a person engaged
8-4 in this state in the business of acquiring, selling, ~~[dismantling,~~
8-5 repairing, rebuilding, reconstructing, or otherwise dealing in
8-6 nonrepairable motor vehicles, salvage motor vehicles, or, if
8-7 incidental to a salvage motor vehicle dealer's primary business,
8-8 used automotive parts. The term does not include a person who
8-9 casually repairs, rebuilds, or reconstructs fewer than five ~~[three]~~
8-10 salvage motor vehicles in the same calendar year or, except as
8-11 provided by Paragraph (C), a used automotive parts recycler. The
8-12 term includes a person engaged in the business of:

8-13 (A) a salvage vehicle dealer, regardless of
8-14 whether the person holds a license issued by the department to
8-15 engage in that business;

8-16 (B) dealing in nonrepairable motor vehicles or
8-17 salvage motor vehicles ~~[, regardless of whether the person deals in~~
8-18 ~~used parts];~~ or

8-19 (C) a used automotive parts recycler if the sale
8-20 of repaired, rebuilt, or reconstructed nonrepairable motor
8-21 vehicles or salvage motor vehicles is more than an incidental part
8-22 of the used automotive parts recycler's business ~~[dealing in used~~
8-23 ~~parts regardless of whether the person deals in nonrepairable motor~~
8-24 ~~vehicles or salvage motor vehicles].~~

8-25 (20) "Used parts dealer" and "used automotive parts
8-26 recycler" have the meaning assigned to "used automotive parts
8-27 recycler" by Section 2309.002, Occupations Code.

8-28 SECTION 9. Subsection (d), Section 501.092, Transportation
8-29 Code, is amended to read as follows:

8-30 (d) An insurance company may sell a motor vehicle to which
8-31 this section applies, or assign a salvage vehicle title or a
8-32 nonrepairable vehicle title for the motor vehicle, only to a
8-33 salvage vehicle dealer, an out-of-state buyer, a buyer in a casual
8-34 sale at auction, ~~[or]~~ a metal recycler, or a used automotive parts
8-35 recycler. If the motor vehicle is not a salvage motor vehicle or a
8-36 nonrepairable motor vehicle, the insurance company is not required
8-37 to surrender the regular certificate of title for the vehicle or to
8-38 be issued a salvage vehicle title or a nonrepairable vehicle title
8-39 for the motor vehicle.

8-40 SECTION 10. Subsections (a) and (b), Section 501.095,
8-41 Transportation Code, are amended to read as follows:

8-42 (a) If the department has not issued a nonrepairable vehicle
8-43 title or salvage vehicle title for the motor vehicle and an
8-44 out-of-state ownership document for the motor vehicle has not been
8-45 issued by another state or jurisdiction, a business or governmental
8-46 entity described by Subdivisions (1)-(3) may sell, transfer, or
8-47 release a nonrepairable motor vehicle or salvage motor vehicle only
8-48 to a person who is:

8-49 (1) a licensed salvage vehicle dealer, a used
8-50 automotive parts recycler under Chapter 2309, Occupations Code, or
8-51 a metal recycler under Chapter 2302, Occupations Code;

8-52 (2) an insurance company that has paid a claim on the
8-53 nonrepairable or salvage motor vehicle;

8-54 (3) a governmental entity; or

8-55 (4) an out-of-state buyer.

8-56 (b) A person, other than a salvage vehicle dealer, a used
8-57 automotive parts recycler, or an insurance company licensed to do
8-58 business in this state, who acquired ownership of a nonrepairable
8-59 or salvage motor vehicle that has not been issued a nonrepairable
8-60 vehicle title, salvage vehicle title, or a comparable ownership
8-61 document issued by another state or jurisdiction shall, before
8-62 selling the motor vehicle, surrender the properly assigned
8-63 certificate of title for the motor vehicle to the department and
8-64 apply to the department for:

8-65 (1) a nonrepairable vehicle title if the vehicle is a
8-66 nonrepairable motor vehicle; or

8-67 (2) a salvage vehicle title if the vehicle is a salvage
8-68 motor vehicle.

8-69 SECTION 11. Section 501.105, Transportation Code, is

9-1 amended to read as follows:

9-2 Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN
9-3 CASUAL SALES. Each licensed salvage vehicle dealer, used
9-4 automotive parts recycler, or insurance company that sells a
9-5 nonrepairable motor vehicle or a salvage motor vehicle at a casual
9-6 sale shall keep on the business premises of the dealer or the
9-7 insurance company a list of all casual sales made during the
9-8 preceding 36-month period that contains:

9-9 (1) the date of the sale;

9-10 (2) the name of the purchaser;

9-11 (3) the name of the jurisdiction that issued the
9-12 identification document provided by the purchaser, as shown on the
9-13 document; and

9-14 (4) the vehicle identification number.

9-15 SECTION 12. Section 2302.253, Occupations Code, is
9-16 repealed.

9-17 SECTION 13. Not later than January 1, 2010, the Texas
9-18 Commission of Licensing and Regulation shall adopt rules under
9-19 Section 2309.102, Occupations Code, as added by this Act.

9-20 SECTION 14. (a) Except as provided by Subsection (b) of
9-21 this section, this Act takes effect September 1, 2009.

9-22 (b) Sections 2309.151 and 2309.154, Occupations Code, as
9-23 added by this Act, and Subchapter F, Chapter 2309, Occupations
9-24 Code, as added by this Act, take effect September 1, 2010.

9-25

* * * * *