

Date of Hearing: July 5, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

SB 366 (Umberg) – As Amended June 22, 2021

SENATE VOTE: 39-0

SUBJECT: Automobile dismantling: task force

SUMMARY: Reestablishes the Vehicle Dismantler Industry Strike Team (VDIST), enhances fines for unlicensed vehicle dismantlers, and declares unlicensed dismantlers a public nuisance. Specifically, **this bill:**

- 1) Recreates VDIST with the same duties and sunsets VDIST on January 1, 2025.
- 2) Requires VDIST to submit a report to the Legislature including the number of unlicensed dismantlers investigated and the number of investigations that resulted in enforcement actions; compliance progress; and any additional recommendations.
- 3) Requires VDIST to report the number of investigations that resulted in an enforcement action for theft of a catalytic converter or purchase, receipt, possession, or sale of a stolen catalytic converter.
- 4) Deletes a conflicting statute, specifying that the Department of Motor Vehicles (DMV) does not have a duty to investigate alleged violations, as recommended by the strike team report.
- 5) Changes the fine structure to set minimum fines of \$500 and \$1,000 for second and subsequent violations.
- 6) Specifies that a building or place used for the purpose of unlawful auto dismantling is a public nuisance subject to being enjoined, abated, and prevented, and for which damages may be recovered by a public officer.

EXISTING LAW:

- 1) Required DMV to collaborate with the State Board of Equalization, the California Environmental Protection Agency (CalEPA), the Department of Toxic Substances Control, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and the State Air Resources Board (VDIST) to investigate occurrences of unlicensed automobile dismantling, including resulting tax evasion and environmental damage. VDIST sunset on January 1, 2020.
- 2) Required VDIST to submit a report to the Legislature by January 1, 2019.
- 3) Defines an “automobile dismantler,” as a person who dismantles three or more personal vehicles within any 12-month period, and prohibits any person from acting as an automobile dismantler without first having procured a license or temporary permit issued by DMV.

- 4) Requires an applicant for an auto dismantler's license to provide DMV with information as to his or her character, honesty, integrity, and reputation, as DMV may consider necessary.
- 5) Requires an applicant for a new license or the renewal of a license to submit all of the following information as part of the application, if the applicant is required by other provisions of law to have the following permits, numbers, or plans:
 - a) Board of Equalization (BOE) resale permit number;
 - b) Identification number issued by CalEPA;
 - c) A statement indicating that the applicant has either filed an application for a stormwater permit or is not required to obtain a stormwater permit;
 - d) A statement indicating that the applicant has either filed a hazardous materials business plan or is not required to file that plan; and,
 - e) The tax identification number assigned by the Franchise Tax Board.
- 6) Requires the Department of the California Highway Patrol to inspect vehicles previously declared a total loss during the dismantling process when such vehicles are later presented to DMV for registration after reconstruction.
- 7) Specifies that, unless a different penalty is provided, every person convicted of a misdemeanor for a violation of the vehicle code shall be punished by a fine of up to one thousand dollars and/or by imprisonment for up to six months.

FISCAL EFFECT: Unknown.

COMMENTS: An estimated 1.2 million vehicles are disposed of annually in California. DMV estimates that 360,000 of these vehicles will be disposed of by unlicensed and unregulated vehicle dismantlers. According to DMV, these vehicles are dismantled in private garages, industrial areas, residential neighborhoods, near parks, schools, and vulnerable waterways, such as storm drains. DMV is concerned that unlicensed dismantlers typically do not dispose of chemicals such as engine oil and transmission and radiator fluids, which often wind up in rivers and streams, contaminating public drinking water. DMV believes that these dismantlers also cost the state millions of dollars in lost sales tax revenues.

In 2016, the Legislature passed AB 1858 (Santiago), Chapter 449, which required DMV to collaborate with various other agencies to review and coordinate enforcement and compliance activity related to unlicensed and unregulated automobile dismantling, including resulting tax evasion, environmental impacts, and public health impacts. This coordinated effort was referred to as VDIST, and their authority to operate expired on January 1, 2020.

According to the author, "Unlicensed auto dismantling is a sleeper environmental, environmental justice, economic, and public health issue. The resulting environmental and public health damage to our communities called for an urgent action from the Legislature in 2016, which resulted in the signing of AB 1858 (Santiago). This measure required the DMV to coordinate enforcement and compliance activity related to unlicensed vehicle dismantling with

other state agencies. Since then, there have been over 40 operations throughout California, which have resulted in the identification of 824 unlicensed dismantlers.”

VDIST’s January 21, 2020 report to the Legislature found that the collaboration effort on enforcement generated 605 cases of allegations of unlicensed vehicle dismantlers and an additional 101 cases that were categorized as allegations of violations associated with unlicensed dismantling. DMV issued a total of 369 citations for multiple violations of unlicensed dismantler activity and related violations.

VDIST identified several areas of law that were a barrier to effective action. The VDIST report indicated that the misdemeanor violation often resulted in District Attorney’s refusal to file charges. The report also noted that DMV is also prohibited from investigating automobile dismantler cases unless a case has been referred to them by a district attorney, county counsel, city attorney, or other duly constituted law enforcement agencies. DMV noted that this provision was in direct conflict with their leading role in the created task force. Finally, the report noted that there was a lack of authority to shut down an unlicensed dismantler that poses an immediate threat to public health and safety, allowing the unlicensed automobile dismantler to continue their operation after the inspection.

This bill addresses the above changes from that report in several ways. First, the bill declares an unlicensed automobile dismantler a public nuisance subject to being enjoined, abated, and prevented, which would authorize a public body or officer to shut down an unlicensed facility.

It is unclear from the report if district attorneys were unwilling to file charges against unlicensed dismantler’s because they were reluctant to bring charges that included jail time, or if the penalty was too low to spend resources on. The report recommends enhancing fines for unlicensed dealers.

The bill enhances the criminal fines and fees for second and third convictions of the crime. Today, a fine of at least \$250 may be added to a misdemeanor charge. This bill provides that a second offense comes with a fine of at least \$500 and a third violation comes with a fine of \$1,000. It is important to note that these are the base fines, and that additional assessments will be added to those base fines. For example, the current \$250 fine actually becomes \$1,105 with additional assessments. A \$500 base fine would become \$2,130 and a \$1000 base fine would become \$4,180 with additional assessments.

The bill reinstates VDIST, which terminated in 2020, and requests an additional report from DMV on its collaboration efforts. Finally, the bill adds a new requirement that DMV report on the number of investigations that resulted in an enforcement action for theft of a catalytic converter or purchase, receipt, possession, or sale of a stolen catalytic converter. The Los Angeles Police Department reported a 165% increase in catalytic converter thefts in 2020. The Los Angeles Sheriff’s Department reported catalytic converter thefts “leaped” in their jurisdiction, from 741 in 2019 to 2,767 in 2020.

Californians Against Waste, writing in support of this bill, argue, “It is estimated that annually California at least 40 percent, or 480,000 End-of-Life-Vehicles (ELVs), are being acquired by unlicensed and unregulated automobile dismantlers. These vehicles are projected to account for over 2 million gallons of hazardous fluids, 2 million used tires, and other wastes. Licensed dismantlers are required to properly remove, collect, manifest, and recycle most of these materials and fluids including lead acid batteries, mercury switches, catalytic convertors, coolant

lithium-ion batteries and freon. Additionally, these unaccounted vehicles represent nearly \$100 million in uncollected sales taxes and fees.

VDIST was charged with investigating violations of environmental laws, non-payment of taxes and fees due the state and local jurisdictions and vehicle code violations, resulting in harm to the environment, public health and creating an un-level playing field for the licensed automobile dismantler community. VDIST conducted numerous successful enforcement operations.”

Previous legislation:

AB 1858 (Santiago) Chapter 449, Statutes of 2016), Established VDIST and sunset its authority on January 1, 2020

AB 238 (Santiago) of 2019, would have reinstated VDIST until 2024. This bill was held on suspense in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

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Opposition

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