

[Assembly Bill 1858](#) (Santiago)

Date: 08/01/16

Program: Business Taxes

Sponsor: State of California Auto Dismantler Association
Board of Equalization (BOE)

Code: Vehicle Code Section 11545

Effective: January 1, 2017

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This analysis is limited to the bill's effect on the BOE-related tax programs

Summary: Requires the Department of Motor Vehicles (DMV) to collaborate with the Board of Equalization (BOE) and several other state agencies to coordinate enforcement and compliance activity related to unlicensed automobile dismantling.

Summary of Amendments: The amendments since the previous analysis replace a task force with a multi-agency enforcement and information sharing work group, add additional agencies to this group, and expand the information provided in the report to the Legislature.

Purpose: To investigate environmental quality issues and tax evasion that occur as a result of unlicensed automobile dismantling activities.

Fiscal Impact Summary: No state or local revenue impact.

Existing Law: Current Vehicle Code Section 11500 requires automobile dismantlers to be licensed with the DMV and have an established place of business. To obtain an automobile dismantler's license with the DMV, the applicant must provide proof of the following: (1) BOE seller's permit number, (2) California Environmental Protection Agency, (CalEPA) identification number, and (3) Franchise Tax Board identification number. The applicant must also provide a statement that he or she either has filed an application for stormwater permit or that it is not required and a similar statement that he or she either has filed a hazardous materials plan or that it is not required.¹

Since 2012, under the Sales and Use Tax Law² there is a presumption that a licensed dismantler or any person selling a vehicle at auction is making a retail sale. The seller may rebut this presumption by accepting a resale certificate from a licensed dealer, dismantler, automotive repair dealer, or scrap metal processor. The intent of this provision is to reduce the tax gap related to the auto auction and dismantling industry. This gap results from unlicensed sellers, repair shops and dismantlers who avoid paying sales or use tax by issuing a resale certificate at the time of purchase at a salvage auto auction.

Part 12.2 (commencing with Section 15910) of Division 3 of Title 2 of the Government Code establishes the Revenue Recovery and Collaborate Enforcement (RRACE) Team as a pilot program. The Team includes the BOE, Franchise Tax Board, Employment Development Department, and Department of Justice who work cooperatively to pursue criminal tax evasion resulting from underground economic activities that evade state taxation. This law authorizes members of the RRACE Team and other participating agencies to exchange information to investigate underground operations that result in state tax evasion. The RRACE Team investigates organized criminal entities and/or serial offenders for violation of tax laws.

Proposed Law: This bill adds Vehicle Code Section 11545 that would require DMV to collaborate with BOE, CalEPA, Department of Toxic substances Control, State Water Resources Control Board, Department of Recycling and Recovery, and the Air Resources Board to review and coordinate enforcement and compliance activity related to unlicensed automobile dismantling, including resulting

¹ Vehicle Code Section 11504(a).

² Revenue and Taxation Code Section 6092.5, as added by AB 2618 (Ma, Ch. 756, Stats. 2012).

tax evasion, environmental impacts, and public health impacts. Until January 1, 2020, the enforcement and information sharing work group tasks include:

- BOE and the other agencies shall provide enforcement and the necessary resources to DMV for the investigation and reporting of activities associated with unlicensed automobile dismantling.
- BOE and the other agencies may collaborate with, and solicit information from, district attorneys, certified unified program agencies, code enforcement agencies, and any other federal, state, or local agencies with jurisdictions over unlicensed, unregulated, and underground automobile dismantlers to achieve the purpose of this bill.
- The DMV, in consultation with the other agencies, shall establish a public outreach effort for soliciting referrals from the public, including, but not limited to, an advertised telephone hotline lead referral form and other methods to identify and report unlicensed activity.
- DMV, in consultation with the other agencies, shall submit a report to the Legislature on or before January 1, 2019, that includes the following information:
 - Number of unlicensed dismantlers investigated and the number of investigations that resulted in an administrative enforcement action, civil enforcement action, or criminal prosecution.
 - Any identified statutory or regulatory gaps for investigating and prosecuting unlicensed automobile dismantlers.
 - Information on how vehicles are acquired by unlicensed dismantlers, places where unlicensed activity are suspected or known to occur, types of facilities where unlicensed activity tends to occur.
 - Summary of the barriers to adequate and efficient enforcement of environmental, tax, and licensing statutes and regulations against unlicensed dismantlers.
 - Proposed strategies for bringing unlicensed dismantlers into compliance through compliance assistance, education and training, or other identified methods.
 - Recommendations for modifying, eliminating, or continuing the coordinated enforcement and compliance activities
 - Recommendations for statutory or regulatory changes, or both, needed to better allow for enforcement against unlicensed automobile dismantlers

This bill also contains legislative findings and declarations.

Background: According to the author's office, out of the 28 million registered vehicles in California, about 1.2 million are disposed of annually. Of these, approximately 360,000, or 30%, of the end-of-life vehicles are being processed through unlicensed and unregulated automobile dismantlers. Unlicensed automobile dismantlers do not follow DMV licensing requirements, comply with tax or environmental laws or regulations.

In General: The BOE is currently involved with various joint agency enforcement programs established to combat the underground economy. These include the RRACE Team, also known as Tax Recovery and Criminal Enforcement (TRaCE) Task Force, Joint Enforcement Strike Force (JESF), and the Labor Enforcement Task Force (LETF). Additional agency efforts include the BOE's Statewide Compliance and Outreach Program and the Contractor State License Board's Statewide Investigative Fraud Team.

Commentary:

1. **Effect of the bill.** This measure creates a joint agency enforcement and information sharing group, led by DMV, to investigate unregulated automobile dismantlers and reduce the unlicensed automobile dismantler economy.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position

2. **The August 1, 2016 amendments**, among other things, (1) convert a task force into an information sharing workgroup, (2) add additional state agencies to the group, (3) add collaboration with federal, state, and local agencies, (4) create an outreach program to solicit referrals from the public and (5) extend the due date for the report to the Legislature. **The May 27, 2016 amendments** truncated the legislative findings and declarations by removing specific statistics and narrowing the language to focus on unlicensed dismantlers instead of the underground economy.
3. **Collaborative efforts could yield positive results.** Through combined efforts with DMV and CalEPA, and the other listed agencies, and those agencies' unique perspectives on unlicensed dismantlers, BOE could develop new methods to investigate and reduce tax evasion by this specific segment of the underground economy.
4. **Current efforts focus on unrelated issues.** The RRACE Team focuses on the underground economy and criminal prosecution of tax evasion. JESF and LETF focus primarily on labor issues. The BOE is an active member of each partnership and has benefited from each.

Administrative Costs: The costs to work with DMV and the other agencies to implement the task force are absorbable.

Revenue Impact: This bill has no direct revenue impact. However, combining efforts with other state agencies to address tax evasion may have a positive effect on state and local revenues.