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SB-366 Automobile dismantling: task force. (2021-2022)

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Senate Bill No. 366

CHAPTER 601

An act to amend Section 11500 of, to add and repeal Section 11545 of, and to repeal Section 1662 of, the Vehicle Code, relating to vehicle dismantling.

[Approved by Governor October 06, 2021. Filed with Secretary of State October 06, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 366, Umberg. Automobile dismantling: task force.

Existing law makes it unlawful for any person to act as an automobile dismantler without having an established place of business, meeting specified requirements, and having a current, valid license or temporary permit issued by the Department of Motor Vehicles. A violation of this provision is a misdemeanor, punishable by a fine not exceeding \$1,000 or by imprisonment in the county jail not exceeding 6 months, or by both the fine and imprisonment.

The bill would make a violation of this provision punishable by specified fines for the first, 2nd, and 3rd and subsequent violations, ranging from \$250 to \$1,000. The bill would declare a building or place used for the purpose of automobile dismantling in violation of those requirements for operation to be a public nuisance, as specified, and would authorize a public body, as defined, to seek certain remedies.

Existing law provides that the department has no duty to investigate violations of automobile dismantling provisions unless notified by a law enforcement agency of a violation.

This bill would repeal this provision.

Prior law, which was repealed on January 1, 2020, required the department to collaborate with the California Department of Tax and Fee Administration, the California Environmental Protection Agency, the Department of Toxic Substances Control, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, the State Air Resources Board, and the California Department of Tax and Fee Administration, 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 bill would reenact those provisions, as modified. This bill would require the Department of Motor Vehicles, in consultation with those agencies, on or before January 1, 2024, to submit a report to the Legislature including specified information. The bill would repeal these provisions on January 1, 2025.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to enact legislation to continue the work of the Vehicle Dismantling Industry Strike Team and to implement the January 21, 2020, recommendations of the strike team to address the problem of unlicensed automobile dismantling and to require state agencies to continue in their collaboration to combat unlicensed and unregulated automobile dismantling for the purposes of investigating environmental impacts, public health impacts, and tax evasion that is occurring as a result of this activity, and to implement strategies to bring unlicensed automobile dismantlers into compliance through compliance assistance, education, training, and other methods.

(b) The Vehicle Dismantling Industry Strike Team was established in 2017, and was composed of the Department of Motor Vehicles, California Environmental Protection Agency, Department of Toxic Substances Control, State Water Resources Control Board, State Board of Equalization, State Air Resources Board, and Department of Resources Recycling and Recovery.

(c) The Vehicle Dismantling Industry Strike Team found that unlicensed automobile dismantling occurs not just in private garages and industrial areas, but also in residential neighborhoods, near parks, schools, and vulnerable waterways.

(d) The Vehicle Dismantling Industry Strike Team found that unlicensed automobile dismantlers, unlike licensed automobile dismantlers, harm the environment and public health, have unsafe workplaces, sell defective parts, create a strain on the economy due to millions of dollars lost in uncollected taxes and fees, pay salaries under the table, and put employees at risk by not providing workers' compensation insurance.

(e) The Vehicle Dismantling Industry Strike Team as of January 1, 2020, generated 1,105 cases that included identifying 824 unlicensed automobile dismantlers, issued 566 citations, and referred 202 cases to allied state environmental agencies and 81 cases to the California Department of Tax and Fee Administration for further investigation and enforcement.

(f) The Vehicle Dismantling Industry Strike Team's January 21, 2020, report highlighted the importance and beneficial work of coordinated enforcement and compliance activities associated with the strike team, which was instrumental in persuading violators to comply with licensing requirements, enforcing public nuisance and abatement laws, assessing fines and penalties for noncompliance, and, overall, ensuring the protection of public health and the environment.

(g) Further, the Vehicle Dismantling Industry Strike Team's January 21, 2020, report included a number of specific recommendations to maintain the momentum in addressing unregulated, unlicensed automobile dismantling operations, including continuation of the coordinated enforcement and compliance activities of the strike team and with providing the authority to utilize public nuisance and abatement laws to shutter those operations as well as authority to increase fines on unlicensed automobile dismantlers for noncompliance.

SEC. 2. Section 1662 of the Vehicle Code is repealed.

SEC. 3. Section 11500 of the Vehicle Code is amended to read:

11500. (a) (1) It shall be unlawful for any person to act as an automobile dismantler without first having an established place of business that meets the requirements set forth in Section 11514 and without first having procured a license or temporary permit issued by the department, or when such license or temporary permit has been canceled, suspended, revoked, invalidated, expired, or the terms and conditions of an agreement effected pursuant to Section 11509.1 have not been fulfilled. A violation of this subdivision is a misdemeanor, and is subject to the penalties described in paragraph (2).

(2) Notwithstanding Section 42002, a person convicted of a first violation of subdivision (a) shall be punished by a fine of not less than two hundred fifty dollars (\$250). A person convicted of a second separate violation of subdivision (a) shall be punished by a fine of not less than five hundred dollars (\$500). A person convicted of a third or subsequent violation of subdivision (a) shall be punished by a fine of not less than one thousand dollars (\$1,000).

(b) (1) A building or place used for the purpose of automobile dismantling in violation of subdivision (a) is a public nuisance subject to being enjoined, abated, and prevented, and for which damages may be recovered by any public body or officer.

(2) As used in this section, "public body" means any state agency, county, city, district, or any other political subdivision of the state.

SEC. 4. Section 11545 is added to the Vehicle Code, to read:

11545. (a) The department shall collaborate with the California Department of Tax and Fee Administration, the California Environmental Protection Agency, 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 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.

(b) The department, along with the agencies listed in subdivision (a), 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 and unregulated automobile dismantlers to achieve the purposes of this section.

(c) (1) On or before January 1, 2024, the department, in collaboration with the agencies listed in subdivision (a), shall submit a report to the Legislature including, but not limited to, the following:

(A) The number of unlicensed automobile dismantlers investigated and the number of investigations that resulted in an administrative enforcement action, a civil enforcement action, criminal prosecution, or compliance assistance activity.

(B) The number of unlicensed automobile dismantlers investigated and 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.

(C) The number of locations used for unlicensed automobile dismantling that were determined to be a public nuisance and the number of actions taken to enjoin, abate, or prevent the illegal activity from continuing.

(D) Progress made to bring unlicensed automobile dismantlers into compliance through the adoption and implementation of the recommendations from the January 21, 2020, report submitted to the Legislature pursuant to Assembly Bill 1858 of the 2015–16 Regular Session.

(E) Remaining statutory, administrative, or regulatory gaps for investigating and prosecuting unlicensed automobile dismantlers.

(F) Recommendations for additional strategies for bringing unlicensed automobile dismantlers into compliance through compliance assistance, education, training, or other identified methods.

(G) Recommendations for modifying, eliminating, or continuing the coordinated enforcement and compliance activities pursuant to this section.

(2) The report required by this subdivision shall be submitted to the Legislature pursuant to Section 9795 of the Government Code.

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2025, deletes or extends that date.