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## FISCAL IMPACT REPORT

SPONSOR Hanosh DATE TYPED 3/07/05 HB 475/aHBIC/aHJC  
 SHORT TITLE Auto Recycler License SB \_\_\_\_\_  
 ANALYST Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General (AGO)  
 Department of Public Safety (DPS)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee Amendment corrects the title of the bill to reflect the HBIC amendment and makes a technical correction.

#### Synopsis of HBIC Amendment

The House Business and Industry Committee amendment removes the date restrictions to apply for an auto recycler license, and removes the requirement that an individual be a licensed wrecker of vehicles as of July 1, 2005 to be eligible for an auto recyclers license. The amendment also removes the provision prohibiting a license being issued to an individual with a felony conviction.

The committee amendment adds a provision for the transition of existing licenses to the new auto recycler license, requiring that on or after July, 2005, a holder of a wrecker of vehicles license who wishes to renew the license shall apply for an auto recycler license at the time s/he otherwise would have applied for renewal.

The amendments separate the record keeping requirements that apply to auto dealers and to auto recyclers. Auto dealers shall be required to keep records of the sale of vehicles subject to a type of registration. Auto recyclers shall be required to keep records of all vehicles dismantled or destroyed, as well as all motor vehicle body, chassis, or engine sold or otherwise disposed of.

### Synopsis of Original Bill

House Bill 475 creates a new auto recycler license to replace the existing wreckers of vehicles license, requires currently licensed operations to apply for a new license by October 28, 2005, limits auto recycler licenses to those operations licensed as of July 1, 2005, prohibits an auto recycler license from being issued to an applicant with a felony conviction, and prohibits auto recyclers from selling vehicles subject to a type of registration under the Motor Vehicle Code.

### Significant Issues

By limiting the new license to only those individuals with a wrecker of vehicles license as of July 1, 2005, the bill would prohibit any new applicants from entering the business of auto recycling. This would likely create a shortage of supply which would increase prices and would be a detriment to consumers and to future auto recyclers. Moreover, the provision may violate the state constitution. As the AGO notes, Article IV Section 26 of the New Mexico Constitution provides: "The legislature shall not grant to any corporation or person, any rights, franchises, privileges, immunities or exemptions, which shall not, upon the same terms and under like conditions, inure equally to all persons or corporations; no exclusive right, franchise, privilege or immunity shall be granted by the legislature or any municipality in this state."

House Bill 475 creates a deadline of October 28, 2005 by which time all currently licensed wreckers of vehicles must apply for a new license. However, the bill does not provide that any notice be given to license-holders. This creates a risk that legitimate license holders will be put out of business for inadvertently missing the deadline.

TRD notes that changing the license from wrecker of vehicles to auto recyclers brings the industry into alignment with national associations such as the National Auto Recyclers Association.

### **FISCAL IMPLICATIONS**

The bill will result in minor, non-recurring costs to the TRD to update forms and systems and train staff.

### **TECHNICAL ISSUES**

AGO notes that the prohibition against an applicant having any felony conviction is unclear as it may be read to apply only to those who have no convictions as of July 1, 2005. Conceivably, an applicant could be convicted of a felony between July 1, 2005 and October 28, 2005 and still be eligible for a license.

The AGO also notes that the Motor Vehicle Code (Section 66-4-5 NMSA 1978) allows current wreckers of vehicles to sell vehicles subject to registration. This bill would prohibit these sales for licensees under the new requirements but does not make conforming changes to the other code sections.

**OTHER SUBSTANTIVE ISSUES**

The AGO notes that the bill conflicts with existing law, Sections 28-2-4A NMSA 1978, which sets forth criteria to be considered before a business license may be denied based upon a felony conviction.

The bill creates significant barriers to entry in this industry, thereby creating an artificial benefit to existing licensees at the expense of consumers and potential auto recyclers. Furthermore, the bill makes no provision for the issuance of future licenses as existing licensees retire from the industry. The bill does not lay out the state's interest in limiting the number of individuals in the auto recycling industry.

**POSSIBLE QUESTIONS**

What is the need for restricting entrants into the industry of auto recycling?

How will currently licensed operators know to apply for a new license?

Do the provisions of House bill 475 violate the New Mexico constitution?

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