

MONTANA CODE ANNOTATED 2005

75-10-501. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

- (1) "Board" means the board of environmental review provided for in [2-15-3502](#).
- (2) "Component part" means any identifiable part of a discarded, ruined, wrecked, or dismantled motor vehicle, including but not limited to fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures.
- (3) "Department" means the department of environmental quality provided for in [2-15-3501](#).
- (4) "Junk vehicle" means a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, that is not lawfully and validly licensed and remains inoperative or incapable of being driven.
- (5) "Motor vehicle graveyard" means a collection point established by a county for junk motor vehicles prior to their disposal.
- (6) "Motor vehicle wrecking facility" means:
 - (a) a facility buying, selling, or dealing in four or more vehicles per year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or
 - (b) a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification. The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard.
- (7) "Person" means any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.
- (8) "Public view" means any point 6 feet above the surface of the center of a public road from which junk vehicles can be seen.
- (9) "Shielding" means the construction or use of fencing or manmade or natural barriers to conceal junk vehicles from public view.

History: En. Sec. 1, Ch. 410, L. 1973; amd. Sec. 1, Ch. 251, L. 1977; amd. Sec. 1, Ch. 252, L. 1977; R.C.M. 1947, 69-6801; amd. Sec. 1, Ch. 28, L. 1983; amd. Sec. 1, Ch. 572, L. 1991; amd. Sec. 196, Ch. 418, L. 1995; amd. Secs. 529, 568, Ch. 546, L. 1995.

75-10-502. Possession of junk vehicles as prima facie evidence of motor vehicle wrecking facility.

Possession at a single location of four or more junk vehicles of a type required to be licensed is prima facie evidence that the possessor is operating a motor vehicle wrecking facility.

History: En. Sec. 3, Ch. 410, L. 1973; amd. Sec. 3, Ch. 252, L. 1977; R.C.M. 1947, 69-6803.

75-10-503. Adoption of rules. (1) The department shall adopt rules necessary for the administration of this part, except [75-10-520](#), including but not limited to rules pertaining to:

- (a) the establishment, control, operation, and licensing of motor vehicle wrecking facilities and graveyards;
- (b) the control of junk vehicles in locations other than motor vehicle wrecking facilities and graveyards;
- (c) the inspection and evaluation of premises and records subject to or required by this part;
- (d) the development of budget and fiscal forms and procedures for counties;
- (e) the review, approval, and control procedures for county motor vehicle graveyards developed under this part; and

(f) the shielding of a junk vehicle and motor vehicle wrecking facility and graveyard from public view. The department may not adopt a rule that requires any motor vehicle wrecking facility that existed prior to July 1, 1973, and that has been continuously used as a motor vehicle wrecking facility to construct a fence or barrier that would be in excess of 12 feet in height.

(2) The department shall adopt rules authorizing the sale of junk vehicles by county motor vehicle graveyards to licensed motor vehicle wrecking facilities.

(3) The department shall adopt rules providing for the reimbursement of hired removal charges of certain abandoned vehicles in accordance with [61-12-401](#).

History: (1)En. Sec. 8, Ch. 410, L. 1973; amd. Sec. 6, Ch. 252, L. 1977; R.C.M. 1947, 69-6808(part); amd. Sec. 2, Ch. 28, L. 1983; (2)En. Sec. 1, Ch. 698, L. 1989; amd. Sec. 2, Ch. 572, L. 1991; amd. Sec. 197, Ch. 418, L. 1995; amd. Sec. 5, Ch. 513, L. 1999.

75-10-504. Shielding -- new facility. A motor vehicle wrecking facility or graveyard site established or proposed on or after July 1, 1973, may not be approved for use or licensed if the proposed facility cannot be shielded from public view on the date it is initially established or proposed to the department for licensure. The prohibition concerning approval of a new motor vehicle wrecking facility or graveyard site does not apply to a facility site that was licensed as such at any time within the 18 months immediately preceding the date an application is made for licensure of such site.

History: En. Sec. 8, Ch. 410, L. 1973; amd. Sec. 6, Ch. 252, L. 1977; R.C.M. 1947, 69-6808(part); amd. Sec. 3, Ch. 28, L. 1983.

75-10-505. Shielding and removal of junk vehicles generally. Notwithstanding the provisions of this part, any person possessing one or more junk vehicles, regardless of ownership, shall shield the vehicles from public view or remove the vehicles to a licensed motor vehicle wrecking facility or to a licensed motor vehicle graveyard after the vehicles are released from the owner. Small accumulations of salvageable vehicles or component parts, none of which are offered for sale, retained by active farming or ranching operations for repair and maintenance of vehicles, or agricultural equipment used in their operations, are exempted from this requirement.

History: En. Sec. 6, Ch. 572, L. 1991.

75-10-506 through 75-10-510 reserved.

75-10-511. Motor vehicle wrecking facility and motor vehicle graveyard licenses. (1) A person may not conduct, maintain, or operate a motor vehicle wrecking facility or motor vehicle graveyard without a license issued by the department.

(2) Application for the license must be made on forms furnished by the department.

(3) An annual fee of \$100 must be paid to the department for the license. The fee may be quarterly prorated for new facilities.

(4) A motor vehicle graveyard is excluded from paying the annual license fee but must meet all other requirements of this part.

(5) A license must be displayed in a prominent place in the licensed facility or graveyard.

(6) The license expires on December 31 of the year issued.

(7) If a motor vehicle wrecking facility ceases to do business, the license must be surrendered to the department. The license is not transferable.

History: En. Sec. 2, Ch. 410, L. 1973; amd. Sec. 2, Ch. 252, L. 1977; R.C.M. 1947, 69-6802(1) thru (6); amd. Sec. 2, Ch. 317, L. 2001.

75-10-512. Records required of facilities. (1) Each motor vehicle wrecking facility shall maintain books or files in which are kept a record and description of every junk vehicle obtained by it, together with the name and address of the person from whom the vehicle was purchased.

(2) This record must also contain:

(a) the certificate of title, sheriff's certificate of sale, notarized bill of sale from the former owner or person selling the vehicle, release of ownership or interest in the motor vehicle, or sheriff's release;

(b) the name of the state where the vehicle was last registered;

(c) the make of the vehicle;

(d) the vehicle identification number, as defined in [61-3-210](#), or the motor number, identification number, or serial number;

(e) the date purchased;

(f) the disposition of the vehicle.

(3) An authorized representative of the department of justice who presents credentials may also inspect, have access to, and copy records required under this section.

History: En. Sec. 4, Ch. 410, L. 1973; R.C.M. 1947, 69-6804(1), (2); amd. Sec. 1, Ch. 427, L. 1985; amd. Sec. 5, Ch. 725, L. 1991; amd. Sec. 76, Ch. 10, L. 1993; amd. Sec. 79, Ch. 477, L. 2003.

75-10-513. Disposal of junk vehicles -- records. (1) When a motor vehicle wrecking facility submits a junk vehicle to the disposal program, the vehicle is then the property of the state.

(2) Quarterly, each motor vehicle wrecking facility shall mail to the department of justice, on a form approved by the department of justice, a list of all junk vehicles received by the motor vehicle wrecking facility during the quarter, stating the year, make, and complete identification number of each vehicle. If a certificate of title is received for a junk vehicle on the list, that certificate of title must accompany the list. The department of justice shall issue a receipt for the certificate of title if requested by the licensed facility, and the receipt may serve as an instrument for reclaiming the certificate of title if the vehicle is rebuilt.

(3) A motor vehicle graveyard shall submit to the department the records, documents, and other information concerning junk vehicles received by it that are required by rules of the department.

History: En. Sec. 4, Ch. 410, L. 1973; R.C.M. 1947, 69-6804(3); amd. Sec. 2, Ch. 427, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 69, Ch. 18, L. 1995; amd. Sec. 1, Ch. 281, L. 2003; amd. Sec. 80, Ch. 477, L. 2003.

75-10-514. Denial, suspension, or revocation of license -- grounds. (1) The department may deny or suspend a motor vehicle wrecking facility's license on any of the following grounds:

(a) The applicant or licensee sold or otherwise disposed of a motor vehicle, trailer, or any part of a motor vehicle or trailer when it knew the vehicle or part was stolen or was appropriated without the consent of the owner.

(b) The applicant or licensee committed forgery on a certificate of title covering a vehicle that has been reassembled from parts obtained from the disassembling of other vehicles.

(c) The applicant or licensee committed any illegal act or omission that has caused loss as the result of a sale of a motor vehicle, trailer, or part of a motor vehicle or trailer.

(d) The applicant or licensee failed to comply with this part or with a rule of the department.

(e) The applicant or licensee obtained a license fraudulently.

(2) The department may revoke a motor vehicle wrecking facility's license on the following grounds:

(a) the license was suspended pursuant to subsection (1)(d) and the facility failed to cure the defect or defects underlying the suspension during the period of suspension; or

(b) the license was suspended pursuant to subsection (1)(a), (1)(b), (1)(c), or (1)(e) and, after suspension, the

licensee performed an act that is grounds for suspension pursuant to subsections (1)(a) through (1)(e) at any time during the remaining active life of the facility.

History: En. Sec. 9, Ch. 410, L. 1973; R.C.M. 1947, 69-6809; amd. Sec. 2, Ch. 213, L. 1997.

75-10-515. Appeals. A decision by the department to issue, deny, or revoke a motor vehicle wrecking facility or graveyard license may be appealed to the board within 30 days after receipt of official notice of the department's decision.

History: En. Sec. 2, Ch. 410, L. 1973; amd. Sec. 2, Ch. 252, L. 1977; R.C.M. 1947, 69-6802(7).

75-10-516. Motor vehicle wrecking facilities and motor vehicle graveyards -- licensing process -- decision criteria. (1) When an application for a motor vehicle wrecking facility or motor vehicle graveyard is filed with the department, the department shall notify by mail:

- (a) each owner of property adjoining the proposed facility;
- (b) the governing body of the county in which the proposed facility is to be located; and
- (c) a newspaper of general circulation in the area where the proposed facility is to be located.

(2) Within 30 days of receipt of the notification in subsection (1)(b), the governing body of the county may:

- (a) conduct a public hearing to determine whether the proposed facility will significantly affect the quality of life of adjoining landowners and the surrounding community; and
- (b) adopt a resolution in support of or opposition to the location of the proposed facility and transmit a copy of the resolution to the department.

(3) The department may not grant a license to a facility that a governing body has opposed under subsection (2)(b).

(4) In making its decision to grant or deny a license application, the department shall consider the effect of the proposed facility on adjoining landowners and land uses.

History: En. Sec. 1, Ch. 607, L. 1991.

75-10-517 through 75-10-519 reserved.

75-10-520. Disposal of damaged vehicle when insurance company settles at total loss. An insurance company settling an insurance claim on a damaged motor vehicle as a total loss less salvage may dispose of the motor vehicle at a motor vehicle wrecking facility only if it is licensed under the provisions of [75-10-511](#).

History: En. Sec. 1, Ch. 244, L. 1979.

75-10-521. Powers and duties of county motor vehicle recycling and disposal programs. (1) (a) Each county shall acquire, develop, and maintain property for free motor vehicle graveyards. The property may be acquired by purchase, lease, or otherwise.

- (b) As an alternative, the county may contract for the maintenance and operation of a motor vehicle graveyard or graveyards, but any such contract may be entered into only with a motor vehicle wrecking facility licensed under the provisions of this part.

(2) Two or more counties may join to form a district for the purpose stated in this section. If a district is formed, all provisions of this part pertaining to a county also apply to a district formed under this subsection.

(3) When there is an accumulation of at least 200 junk vehicles in the graveyard, the county shall notify the department for disposal purposes.

(4) The county commissioners of each county shall designate a representative to be responsible for implementing this part.

(5) Each county, through its designated representative, shall inspect each licensed motor vehicle wrecking facility within its boundaries, consistent with rules adopted by the department.

(6) Each county may sell junk vehicles from the motor vehicle graveyard to licensed motor vehicle wrecking facilities. The sales may be conducted only pursuant to a plan that has been approved by the department for consistency with its rules.

(7) A county shall submit to the department for approval a plan for the collection of junk vehicles and the establishment and operation of the motor vehicle graveyard.

(8) The county shall submit to the department for approval a proposed budget for the succeeding fiscal year. The budget shall be for the amounts required by the county for collection costs, acquisition, maintenance, and operation of the graveyard and for other duties relating to implementation of this part. Any proposed change in the budget or plan must be approved by the department.

History: En. Sec. 5, Ch. 410, L. 1973; amd. Sec. 2, Ch. 251, L. 1977; R.C.M. 1947, 69-6805; amd. Sec. 3, Ch. 572, L. 1991.

75-10-522. Use of motor vehicle graveyards by individuals. An individual may dispose of a junk vehicle by delivering the vehicle to a motor vehicle graveyard and by delivering to the department the certificate or evidence of title to the vehicle or a written release of the vehicle.

History: En. Sec. 6, Ch. 410, L. 1973; amd. Sec. 1, Ch. 520, L. 1975; amd. Sec. 4, Ch. 252, L. 1977; R.C.M. 1947, 69-6806(4).

75-10-523 through 75-10-530 reserved.

75-10-531. Crushing and recycling of junk vehicles. (1) The department shall contract for final disposition of junk vehicles accumulated in motor vehicle graveyards and shall provide for crushing and recycling the material from the vehicles.

(2) The department may also contract to dispose of, by crushing and recycling, junk vehicles accumulated in the yard of a motor vehicle wrecking facility. The department may so contract only upon the request of the facility and only if there is an accumulation of at least 200 vehicles at the facility.

History: En. Sec. 6, Ch. 410, L. 1973; amd. Sec. 1, Ch. 520, L. 1975; amd. Sec. 4, Ch. 252, L. 1977; R.C.M. 1947, 69-6806(1), (2).

75-10-532. Disposition of money collected. All money received from the sale of junk vehicles or from recycling of the material and all motor vehicle wrecking facility license fees must be remitted to the state, as provided in [15-1-504](#). The money must be used for the control, collection, recycling, and disposal of junk vehicles and component parts and for the removal of abandoned vehicles.

History: Ap. p. Sec. 6, Ch. 410, L. 1973; amd. Sec. 1, Ch. 520, L. 1975; amd. Sec. 4, Ch. 252, L. 1977; Sec. 69-6806, R.C.M. 1947; Ap. p. Sec. 7, Ch. 410, L. 1973; amd. Sec. 1, Ch. 52, L. 1975; amd. Sec. 2, Ch. 520, L. 1975; amd. Sec. 18, Ch. 140, L. 1977; amd. Sec. 5, Ch. 252, L. 1977; Sec. 69-6807, R.C.M. 1947; R.C.M. 1947, 69-6806(3), 69-6807(1); amd. Sec. 5, Ch. 241, L. 1983; amd. Sec. 4, Ch. 633, L. 1985; amd. Sec. 2, Ch. 718, L. 1985; amd. Sec. 198, Ch. 418, L. 1995; amd. Sec. 6, Ch. 513, L. 1999; amd. Sec. 38, Ch. 257, L. 2001; amd. Sec. 3, Ch. 317, L. 2001; amd. Sec. 2, Ch. 281, L. 2003; amd. Sec. 235, Ch. 542, L. 2005.

75-10-533. Department to report fees. The department shall report to the office of budget and program planning, as a part of the information required by [17-7-111](#), the amount collected under this part and the cost of administration of this part, except [75-10-520](#), to date so that any necessary adjustment of the amount of the fee may be made to ensure that no more than the actual cost of operation of the program is collected.

History: En. Sec. 7, Ch. 410, L. 1973; amd. Sec. 1, Ch. 52, L. 1975; amd. Sec. 2, Ch. 520, L. 1975; amd. Sec. 18, Ch. 140, L. 1977; amd. Sec. 5, Ch. 252, L. 1977; R.C.M. 1945, 69-6807(3); amd. Sec. 50, Ch. 112, L. 1991; amd. Sec. 44, Ch. 349, L. 1993; amd. Sec. 188, Ch. 574, L. 2001.

75-10-534. Department to pay approved county budget. The department shall pay to a county the amount of the approved junk vehicle collection and graveyard budget of the county. The yearly payment may not exceed \$1.25 for each motor vehicle under 8,001 pounds gross vehicle weight that is licensed in that county. However, for those counties that have fewer than 5,000 motor vehicles under 8,001 pounds gross vehicle weight, the department may pay up to \$6,250 if the county can justify this payment. Counties realizing revenue from the sale of junk vehicles shall return to the state junk vehicle program revenue account money equal to the salvage value of each vehicle sold. The salvage value of a vehicle must be the average contract value of a crushed ton of junk vehicles as determined by the statewide salvage bids received by the department during the current fiscal year. Any additional revenue realized from the sale of junk vehicles may be retained by the county for use in the county's junk vehicle program in addition to the approved junk vehicle collection and graveyard budget of the county.

History: En. Sec. 7, Ch. 410, L. 1973; amd. Sec. 1, Ch. 52, L. 1975; amd. Sec. 2, Ch. 520, L. 1975; amd. Sec. 18, Ch. 140, L. 1977; amd. Sec. 5, Ch. 252, L. 1977; R.C.M. 1945, 69-6807(4); amd. Sec. 4, Ch. 572, L. 1991; amd. Sec. 1, Ch. 200, L. 2003.

75-10-535 through 75-10-539 reserved.

75-10-540. Administrative enforcement. (1) When the department determines that a violation of this part, a violation of a rule adopted or an order issued under this part, or a violation of a license provision has occurred, it may serve written notice of the violation on the alleged violator or the violator's agent. The notice must specify the law, rule, or license provision alleged to be violated and the facts alleged to constitute a violation and may include an order to take necessary corrective action within a reasonable period of time, an order assessing an administrative penalty pursuant to [75-10-542](#), or both. The order becomes final 30 days after the notice is served unless the person named requests, in writing, a hearing before the board. On receipt of the request for a hearing, the board shall schedule a hearing. Service by mail is complete on the date of mailing.

(2) If, after a hearing held under subsection (1), the board finds that a violation has occurred, it shall either affirm or change the department's order. An order may prescribe the date by which the violation must cease and may prescribe time limits for particular action. If, after a hearing, the board finds that a violation has not occurred, it shall rescind the department's order.

(3) The department shall make efforts to obtain voluntary compliance through warning, conference, or any other appropriate means before issuing an order pursuant to subsection (1).

(4) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing held under this section.

History: En. Sec. 1, Ch. 213, L. 1997; amd. Sec. 3, Ch. 443, L. 2005.

75-10-541. Injunction -- action to collect civil penalty -- authority of department of justice. (1) The department may sue to enjoin the operation or maintenance of a motor vehicle wrecking facility or graveyard either permanently or until compliance with this part, the rules of the department, or an order issued pursuant to this part has been demonstrated.

(2) The department may sue in district court to collect a civil penalty as provided in [75-10-542](#).

(3) Upon request of the department, the attorney general or the county attorney of the county in which a motor vehicle wrecking facility or graveyard is located may petition the district court to enjoin further operation or maintenance of a motor vehicle wrecking facility or graveyard or to impose, assess, and recover a civil

penalty, as appropriate.

(4) The department of justice, through the attorney general or the county attorney of the county in which a facility is located, may sue in district court to collect a civil penalty as provided in [75-10-542](#) for violations of [75-10-512](#) or [75-10-513](#)(2) discovered during department of justice inspections.

History: En. Sec. 10, Ch. 410, L. 1973; amd. Sec. 7, Ch. 252, L. 1977; R.C.M. 1947, 69-6810; amd. Sec. 5, Ch. 572, L. 1991; amd. Sec. 6, Ch. 725, L. 1991.

75-10-542. Penalties. (1) A person who purposely or knowingly violates this part, except [75-10-520](#), is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$250, be imprisoned in the county jail for a term not to exceed 30 days, or both.

(2) A person who violates a provision of this part, except [75-10-520](#), a rule of the department, or an order issued as provided in this part is subject to an administrative penalty of not more than \$50 or a civil penalty of not more than \$250. Each day upon which a violation of this part, a rule, or an order occurs is a separate violation.

(3) Penalties assessed under subsection (2) must be determined in accordance with the penalty factors in [75-1-1001](#). The penalties provided for in this section are recoverable in an enforcement or collection action brought by the department. An action to recover penalties must be brought in the district court of the county in which the violation occurred or, if mutually agreed on by the parties in the action, in the district court of the first judicial district, Lewis and Clark County.

History: En. 69-6812 by Sec. 2, Ch. 112, L. 1975; amd. Sec. 8, Ch. 252, L. 1977; R.C.M. 1947, 69-6812; amd. Sec. 10, Ch. 443, L. 2005.