

The Texas Automotive Recyclers Association (TARA) is the statewide organization of professional automotive recyclers and the state chapter of the international Automotive Recyclers Association. Since 1965, TARA has represented an industry dedicated to safe and environmentally responsible removal, reuse and disposal of automotive parts and inoperable motor vehicles. Nationally, automotive parts recyclers process over 12 million vehicles per year, making automobiles the most recycled item in the United States. The automotive recycling industry is the 16th largest in the United States, valued at an estimated \$32 billion dollars annually. Automotive recycling businesses employ over 140,000 people at more than 9,000 locations around the country.

TARA strongly disagrees with Recommendation 5.1 to transfer the regulation of Used Automotive Parts Recyclers (UAPR) from the Texas Department of Licensing & Regulation (TDLR) to the Texas Department of Motor Vehicles (TxDMV); and consolidate the UAPR and salvage dealer licenses into a single license.

TARA went to the Legislature in 2009 and asked that regulation of the used automotive parts recycling industry be moved from the Texas Department of Transportation (TXDOT) to TDLR in order to ensure meaningful regulation of the used automotive parts industry. The experience at TDLR has been positive and TARA believes it has curtailed nefarious activities within the industry. TDLR is the State's occupational regulatory agency and TARA members believe it is the appropriate regulator of our industry.

Furthermore, the used automotive parts recycling is an independent industry that is very different from salvage pools, salvage dealers and rebuilders and should be regulated as such. In the report, staff inaccurately references reuniting the UAPR with the salvage industry but even when UAPR was regulated at TxDOT there were separate license endorsements and requirements for UAPR and other salvage sectors.

About the Used Automotive Parts Recycling Industry

From the earliest days of motorized travel, automotive recyclers have been leaders in the industry. These entrepreneurs developed a disassembly process for salvaged automobiles in order to reclaim reusable parts and components, and, thus, established an efficient automotive recycling system. For more than 75 years, automotive parts recyclers have been providing local employment, consumer service, and environmental conservation, worldwide.

Automotive parts recycling serves a vital role in preserving natural resources and reducing the demand for scarce landfill space. For example, each year approximately 95 percent of vehicles retired from use are processed for recycling. The recycling of these vehicles saves an estimated 85 million barrels of oil that would have been used in the manufacturing of new or replacement parts. Additional energy and resource conservation are realized by recycling rebuildable "core" parts to the automotive parts rebuilding industry.

In addition to conserving natural resources, automotive recycling plays an important role in reducing air and water pollution, and solid waste generation. Automotive recyclers must abide by stringent local and national regulations on dealing with waste generated by salvaged automobiles. Many individual

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automotive recyclers have also instituted their own unique programs to further reduce the potential effects of harmful materials to their businesses and communities.

Used automotive parts recycling has evolved into a sophisticated market and technology-driven industry that constantly changes to keep abreast of innovations in automotive technology and manufacturing techniques. Rather than merely crushing wrecked, abandoned, and mechanically disabled motor vehicles, today's modern recycling facilities have a definitive operational scheme that maximizes the vehicle's true market value, all the while providing an economic and environmental benefit to the community.

In a typical modern recycling business, inoperative motor vehicles are brought into a facility where the hazardous and recyclable fluids are drained and disposed of properly. Undamaged parts are then dismantled from the vehicle, cleaned, tested, inventoried, and stored in a warehouse until sold. The remaining vehicle is then prepared for scrapping.

Automotive parts recyclers are a valuable source for economical and often hard to find used motor vehicle replacement parts. Professional auto recyclers use computer and satellite communication systems that enable direct inventory assessment and locate parts across town or across the continent, by simply entering the appropriate data into their computer system. This technology allows recyclers to maximize their inventories and provide quick and efficient service to their customers.

UAPR v. Salvage Dealers

UAPR's primary business is the dismantling vehicles and selling safe automotive parts.	Salvage dealer's primary business is the buying, selling or rebuilding vehicles.
UAPR are dismantling facilities that are required to meet environmental requirements established by the U.S. Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ).	Salvage dealers do not have the facilities to operate a dismantling operation meeting federal and state environmental requirements. For instance, salvage dealers do not have facilities or training in properly handling hazardous fluids.
UAPR are required to have a Stormwater permit required by the EPA and issued by the TCEQ.	Salvage dealers are not required to have a Stormwater permit.
UAPR have tracking systems to appropriately handle recalls of unsafe automotive parts such as Takata airbags.	Salvage dealers do not have tracking systems in place or experience with handling recalls of unsafe automotive parts.
UAPR are trained and experienced in selling safe used automotive parts with warranty and accountability of ownership.	Salvage dealers are not trained or experienced in the selling of used automotive parts and do not provide warranty and accountability of used automotive parts.

Comments on Issue 5

Background

While the moving of UAPR regulation from TxDOT to TDLR was included in the TxDOT sunset bill in 2009 (HB 3097 81R by McClendon/Carona), the transfer was initiated in a stand-alone legislation (SB 1095 81 R by Carona/S. Thompson) that was also passed by the 81st Legislature. As stated above, TARA

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requested the move. We think this is an important distinction to make, as the used automotive parts industry asked the Legislature for real regulation by the State's occupational regulatory agency.

Finding 1 *TDLR's regulation of UAPRs is not designed to focus on fraud prevention or protecting the public as part of broader motor vehicle regulation.*

TARA disagrees with the premise that *consumer protections intended by regulating UAPRs rely on the state classifying dismantled vehicles as "nonrepairable" in the state's vehicle titling system and cross-checking that data with national titling databases.* Protecting the public from unscrupulous used automotive parts recyclers is far more than classifying dismantled vehicles as "nonrepairable". Protecting the public also involves ensuring the legitimacy of the businesses operating as UAPR and ensuring that every UAPR has a stormwater permit to protect the environment when dismantling vehicles. Illegitimate used automotive parts businesses not only deal in stolen parts but also in damaged parts such as recalled airbags. Moreover, illegitimate UAPR do not comply with local, state and federal environmental laws, health and safety codes, or zoning and visual blight ordinances. Further, unlicensed and unregulated UAPR harm the legitimate industry as well as the public. The cost of environmental compliance is expensive and those who do not comply have a clear competitive advantage.

TARA also disagrees with staff criticism that *TDLR took only seven disciplinary actions against UAPRs in fiscal year 2019, but the exact cause of this low level of enforcement activity is unclear, as TDLR's regulatory jurisdiction is primarily restricted to an administrative review of paperwork, likely limiting the agency's ability to identify bad actors.* TDLR has investigated 1714 complaints (including complaints from inspectors referred to enforcement); taken disciplinary actions against 333 UAPR; and, revoked 20 UAPR licenses. In looking at the history of complaints and disciplinary history over the years both have decreased which TARA views as an indication that TDLR regulation is working, furthermore, we believe that showing a high-level of compliance with laws and rules is a positive reflection of the industry as well as the agency. However, TARA would be most interested in hearing recommendations from staff to enhance TDLR's ability to go after bad actors.

Finding 2 *Our members also disagree that TxDMV, as custodian of the state's vehicle titling and registration data and regulator of the entire automotive industry, is better positioned to oversee used automotive parts recyclers.* TxDMV does not regulate all other aspects of the automotive industry as the towing and vehicle storage industry is regulated by TDLR nor does TxDMV regulate all other aspects of the end-of-life vehicle market as metal recyclers are regulated by the Texas Department of Public Safety. Each sector of the motor vehicle industry is unique and should be regulated as such. Staff also cited regulatory overlap stating nearly half of UAPRs are also licensed as salvage dealers under TxDMV and again we do not view this as a negative. If UAPR are in a different business selling and/or rebuilding salvage vehicles they should have a salvage license. As far as UAPR not having formal direct input to TxDMV, TARA advocates on behalf of the UAPR industry at TxDMV but the agency has not reached-out to the association about participating in its advisory committees.

Finding 3 *TARA members disagree with the statement that regulating UAPRs and salvage dealers as one industry will enhance public protections, increase opportunities for businesses, and improve regulatory administration.* Staff cites *enhanced law enforcement* under this finding, but we do not believe that enforcement will be enhanced by combining regulation of the UAPR industry and salvage industry at TxDMV given our experience with both agencies. UAPR currently has three entities looking at their

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activities – TDLR, TxDMV and law enforcement – and each of these entities have their own focus and strengths. We believe that checks and balances in government is positive.

Lower costs, increased opportunities for businesses and more choices for consumers is another reason given for this major change for the UAPR industry. Under this bullet point, staff talks about reuniting the industry, but the two distinct industries were always licensed separately; UAPR had a license endorsement under TxDOT. As far as saving on licensing fees, the UAPR fee is only \$75 and the salvage dealer fee is only \$95; paying both fees is not burdensome to a legitimate UAPR business. We also disagree with the statement that the \$250,000 general liability insurance requirement for UAPR is an unnecessary burden and a barrier to entry into the industry. A \$250,000 general liability policy for a UAPR is \$1500-\$2000 per year and should not pose a burden on any legitimate business. Under this finding, staff also states that it would be beneficial to consumers and again our members disagree, these are two distinctly different businesses. Just as new car parts businesses are not authorized to sell new cars there is no reason to allow used parts businesses to sell salvage vehicles (except as an incidental part of business as is currently allowed in statute and visa-versa for salvage dealers); and, the environmental risk of allowing salvage dealers to dismantle vehicles to retrieve parts is simply too great.

Under the third bullet point, staff says that combining the licenses under TxDMV would improve administration for businesses and TxDMV. TARA does not agree that this would be an improvement for UAPR businesses, and it is unclear how adding an occupational regulatory responsibility to the TxDMV would improve administration. Dealing with the agency on a daily basis, we believe TxDMV should be allowed to focus more on its responsibilities associated with vehicle titling and registration. Further, TARA disagrees with complaint-based only inspections as the periodic inspection of UAPR ensure regular compliance with laws and regulations intended to protect the public. In conducting periodic inspections, checks compliance with 23 specific laws and regulations. Additionally, it is unclear how doing away with the UAPR Advisory Board provides more input of stakeholders into rulemaking processes.

Comments on Recommendation 5.1

Transfer the regulation of UAPRs from TDLR to TxDMV and consolidate the UAPR and salvage dealer licenses into a single license.

It is difficult to express how strongly TARA disagrees with this recommendation. We have laid out our objections to the findings and below outline our concerns with each individual recommendation.

a. *Eliminate the UAPR advisory board and incorporate UAPR representation into TxDMV advisory boards.*

Having the UAPR Advisory Board has been one of the greatest strengths of regulation at TDLR and has been a benefit to both the industry and the agency. TxDMV does not have robust advisory board process and has no industry specific advisory boards but instead has only five multi-industry committees. In looking at the TxDMV website, one cannot even find who sits on these advisory committees or what industries are represented. It is unclear how eliminating an industry specific advisory board would be positive for the UAPR industry.

b. *Maintain existing salvage dealer license application.*

TARA believes it is a big mistake to not require proof of a stormwater permit in the application process especially with the recommended elimination of regular inspections. Prior to the

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statute requiring this for UAPR, there was only 20% compliance with the stormwater permit requirement administered by the Texas Commission on Environmental Quality.

c. Eliminate UAPR general liability insurance requirement.

As previously stated, TARA disagrees with eliminating this requirement. A \$250,000 general liability policy for a UAPR is \$1500-\$2000 per year and should not pose a burden on any legitimate business. Several other businesses regulated under the Occupations Code have a general liability policy requirement.

d. Maintain existing federal and state requirements.

TARA agrees with maintaining existing federal and state requirements but again we warn against eliminating the requirement that UAPR provide proof of a stormwater permit in the application process.

e. Eliminate inefficient inspections.

TARA disagrees with moving to only complaint-based inspections as the periodic inspection of UAPR ensure regular compliance with laws and regulations intended to protect the public. It should also be noted that local law enforcement does inspect UAPR now regarding titles and registrations, but if statute is not clear on this authority, TARA would support an amendment to Chapter 2309, Occupations Code.

f. Expand proof of ownership documentation.

TARA supports this recommendation.

g. Eliminate license plate inventory requirement.

TARA supports this recommendation.

h. Require consistent automotive parts documentation and inventory.

TARA supports this recommendation except for the suggestion relating to a standardized numbering system for used automotive parts. Modern used automotive parts recyclers are quite sophisticated technology-driven businesses with highly developed inventory systems. We do not think there is a need to develop a government numbering system and believe it would be an extremely expensive undertaking for both the agency and the industry with little public benefit.

i. Apply criminal penalties for salvage dealers.

TARA supports this recommendation.

j. Authorize state injunctive relief.

TARA supports this recommendation.

TARA would also like to offer comments on several other staff recommendations not specifically related to UAPR.

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Recommendation 1.1

TARA supports Recommendation 1.1 to continue TDLR for 12 years.

Recommendation 1.2

TARA opposes Recommendation 1.2 to remove advisory board meeting requirements from statute authorizing TDLR to call meetings as needed. Having the UAPR Advisory Board has been one of the greatest strengths of regulation at TDLR. With regular expert input and guidance TDLR has been able to learn the industry and provide meaningful regulation. TARA believes having a statutory requirement for two meetings a year is important for the future.

Recommendation 6.1

TARA disagrees with requiring TDLR to establish a risk-based only approach to inspections as the periodic inspection of UAPRs ensure regular compliance with laws and regulations intended to protect the public.