

**OPINION NO. 95-043****Syllabus:**

When a board of township trustees has removed a motor vehicle from private property under the provisions of R.C. 505.87, the owner of the storage facility to which the vehicle has been removed may obtain a certificate of title as provided in R.C. 4505.101.

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**To: James J. Mayer, Jr., Richland County Prosecuting Attorney, Mansfield, Ohio**  
**By: Betty D. Montgomery, Attorney General, December 20, 1995**

I have before me your request for an opinion regarding obtaining certificates of title for junk motor vehicles. Specifically you have asked how the title of a motor vehicle may be transferred to a salvage dealer after a township has removed the vehicle from private property under the provisions of R.C. 505.87.

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R.C. 505.87 provides a procedure by which a board of township trustees may remove "garbage, refuse, and other debris" from private property, if the board has determined the maintenance of the "garbage, debris, and other refuse" constitutes a nuisance. In 1990 Op. Att'y Gen. No. 90-020, one of my predecessors concluded that under appropriate circumstances junk automobiles could be debris or other refuse for purposes of R.C. 505.87. A board of township trustees in your county is interested in utilizing R.C. 505.87 in the manner suggested by Op. No. 90-020. That opinion, however, did not discuss how to transfer the title of the vehicles, once removed. As discussed below, I believe the procedure set out at R.C. 4505.101 is applicable.

A motor vehicle cannot be acquired or disposed of without obtaining a certificate of title. R.C. 4505.03; *see also* R.C. 4505.04. In instances where a motor vehicle has lost its character as a motor vehicle, it is still necessary to surrender the certificate of title to the clerk of the appropriate court of common pleas or to assign the certificate of title to a salvage dealer. R.C. 4505.11. Thus, even though a vehicle may have deteriorated to the condition of "debris or other refuse" for purposes of R.C. 505.87, either the board of township trustees, or the salvage dealer who has custody of the vehicle on their behalf, must obtain the certificate of title in order to dispose of the vehicle after removal. Until the certificate of title is obtained or the owner reclaims the vehicle, the vehicle must remain in storage.

I note initially that the cost of storing vehicles removed pursuant to R.C. 505.87 may be entered on the tax duplicate as a lien on the land from which they were removed. This provides a powerful incentive for the owner to either surrender title voluntarily or to reclaim the vehicles involved and dispose of them properly. The board of township trustees is not without other recourse, however, should the vehicle owner be recalcitrant.

R.C. 4505.101 provides a procedure by which the owner of a repair garage or place of storage can obtain a certificate of title to an unclaimed motor vehicle with a value of under three hundred dollars. This procedure can be used by a salvage dealer or any owner of a garage or storage place to which the township has had the vehicle removed, or by the township itself, if the township chooses to have the vehicles removed to a storage place owned by the township. Under R.C. 4505.101, if the vehicle has been left at the garage or storage place for fifteen days, the owner of the garage or storage place may send notice to the vehicle owner to remove it. If the vehicle is not claimed in fifteen days of the mailing of the notice, and if any lienholders discovered through a search of bureau of motor vehicle records have been given notice and opportunity to claim the vehicle, the owner of the garage or storage place may apply for a certificate of title.

I am aware that the use of R.C. 4505.101 has certain drawbacks. The statute requires that a vehicle be held thirty days at a minimum and possibly longer, the cost of which initially would be borne by either the township or the owner of the garage or place of storage. The statute also imposes the administrative burdens of giving notice and the costs of obtaining the title on the owner of the garage or place of storage. The ability to utilize R.C. 4505.101 may be limited, therefore, by the financial circumstances of the township or the willingness of a salvage dealer to accept vehicles under the conditions imposed by R.C. 4505.101.

In situations where the difficulties of obtaining a certificate of title make the use of R.C. 505.87 impractical, the board of township trustees may wish to consider other statutory mechanisms for dealing with junk vehicles. Because R.C. 505.87 requires a finding of nuisance

as a basis for removing the property, the same facts which would support a summary abatement of nuisance under R.C. 505.87 should also support a nuisance action under R.C. 3767.03 and an order for abatement under R.C. 3767.06. When a vehicle is seized pursuant to an order of abatement, certificates of title for the vehicle can be obtained as provided in R.C. 4505.10, which governs transfers by operation of law. In addition, a relatively new statute, R.C. 505.173, permits a board of township trustees to adopt resolutions regulating the storage of junk motor vehicles and to enforce such resolutions through injunction, mandamus, abatement, or other appropriate actions. Other options include the enactment and enforcement of appropriate zoning regulations under R.C. Chapter 519 or the imposition of fines pursuant to R.C. 4513.65. *See generally* 1991 Op. Att'y Gen. No. 91-018.

It is, therefore, my opinion and you are hereby advised that when a board of township trustees has removed a motor vehicle from private property under the provisions of R.C. 505.87, the owner of the storage facility to which the vehicle has been removed may obtain a certificate of title as provided in R.C. 4505.101.