WHO REALLY BENEFITS FROM THE 25-YEAR IMPORT RULE?

The boom and bust of America's grey market automobile import business

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It's true that Americans can legally import, own and drive any foreign-market car they want—so long as it is more than 25 years old. Sidestep the rules and you're liable to have your car seized, and even destroyed, by United States Customs and Border Protection.

In two memorable instances, the agency crushed an illicit late-model Land Rover Defender (in 2013) and 2000 Mini Cooper (in 2014)—never mind that these were newer, arguably safer and more efficient versions of cars once legally sold here without issue. Dramatic photos of the carnage were then shared, as if to serve as a warning for would-be automotive bootleggers. Clearly someone thinks this is a matter of national security—or acts that way for the cameras.

The basis for this enforcement? The Imported Vehicle Safety Compliance Act, commonly known as the 25-year import rule. It prevents individuals from importing new foreign-market vehicles without undertaking a lengthy—and costly—testing and federalization process.

Proponents of the legislation claim the IVSCA keeps American drivers safe. Opponents note it was largely automakers, not consumer advocates, lobbying in the law's favor. Often lost in the argument: It wasn't always this way. America once enjoyed a thriving automotive gray market.

CLASSIC CARS
PROPOSED AUTOMOTIVE TARIFF WOULD SLAP A 25 PERCENT IMPORT DUTY ON CLASSIC CARS

Boom.

The early 1980s were a golden time for Douglas de Board. The romance of being a young American expatriate living in Southern Germany was enriched by the lucrative automotive gray market.

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As the decade began, Americans were avidly seeking out German-market Mercedes 500SELs and 280s, and de Board was selling them as fast as he could.

“I had so many orders to fill, I couldn’t keep up,” he says. “I was selling high-dollar cars to people paying in advance. I had a good reputation, and they kept coming.”

They kept coming because German-spec Mercedes offered horsepower and features not available in American-market Mercedes. Unlike today, there was no prohibition on importing a new Euro-Benz.

Better yet, they were cheap. The stagflation crisis of the 1970s pushed U.S. Federal Reserve Chairman Paul Volcker to dramatically raise interest rates. By March 1980, the federal funds rate was 20 percent. As a result, the dollar appreciated nearly 50 percent against the yen, deutsche mark and other European currencies. Bypassing the local dealer and ordering a gray market car from overseas was a deal too good to resist for savvy American enthusiasts—and for European dealers.

De Board advertised gray market Mercedes in Autoweek in the early 1980s. One of his earliest transactions involved buying 10 W123 sedans for an American client from Munich’s well-known Arnulfstrasse Mercedes dealer.

“My (American) customer was with me. We went in to talk to the sales manager, and he immediately said: ‘This is not allowed! We can’t do this!’ My customer was getting red in the face, saying, ‘You’re wasting my time.’ ‘Hold on,’ I said. ‘Let’s go out to lunch and don’t worry about it.’

“As we went to the parking lot, all 10 of the cars were there. They were already starting to come into the shop to get air conditioning and other options. I said to my guy, ‘He wants to sell you this 10-car package more than you can believe, but he’s got to hold the official line.’ We went through the hoops and we got the cars. That’s how it worked.”

With a bonus for the dealer, de Board had the cars trucked to Bremerhaven, loaded on a ship and sent to Baltimore or Los Angeles, where an importer picked them up and delivered them to a shop to modify the cars to U.S.-spec for their new owners. The gray market had a major impact on de Board’s career, later leading to a Mercedes-based tour business.

The trade had even more impact on manufacturers and their dealers. In 1980, 1,500 gray market cars entered the U.S. By 1985, the number was more than 60,000, with approximately 20,000 being Mercedes. They represented an estimated $300 million loss to the company’s American arm. (Though they still counted toward Daimler-Benz’s overall bottom line.) For European manufacturers selling here, the status quo was unacceptable.

In 1984, Mercedes began a public relations effort, warning consumers that savings from purchasing a gray market Merc (anywhere from $7,000 to $10,000) could be erased by unscrupulous conversion shops failing to bring cars into compliance, creating additional expenses and headaches. Mercedes spokesman A.B. Schuman told the Chicago Tribune, “Manufacturers are trying to warn gray market customers of the pitfalls.”

The company had a point, Dick Fritz concedes. Fritz founded Amerispec Corp. in Danville, Connecticut, in 1976. He says it was the U.S.'s first gray market conversion firm. In fact, Fritz helped NHTSA and the EPA craft testingmethods to certify that gray market cars met U.S. safety and emissions standards. Amerispec specialized in federalizing Ferraris and was among just a few not cheating the process, Fritz says.

"It was absurd what people were submitting," he says.

Fritz cites examples in which shops placed cars on the dyno for EPA testing (a 1.6-liter Honda, for example) different from those they were actually submitting for certification. One firm submitted photo documentation for a U.S.-spec bumper conversion cribbed from a Mercedes advertising poster. Another claimed it had emissions-tested a dozen cars in one day. If Amerispec completed three emissions tests a day, it was newsworthy, Fritz says.

Mercedes itself purchased a gray market 500 SEL identified as a 1985 model with airbags. The sedan was actually a 1984 SEL with no airbags, according to the company, and its add-on catalytic converter was installed perilously close to the gas tank. Public safety was at risk—not to mention hundreds of millions of dollars.

Bust.

From 2007 to 2017, Daimler AG spent an average $2.1 million per year lobbying the U.S. government on a variety of issues, but in a 1985-1986 lobbying campaign to spur gray market legislation, the company reportedly spent "millions." The precise figure is unknown, but with inflation, an equivalent 2017 outlay would be more than double that.

Other manufacturers joined Mercedes in lobbying for what became 1988's suggestively named Imported Vehicle Safety Compliance Act. Gray market importers in California, Florida, New York and Texas formed their own Automotive Importers Compliance Association to lobby against the bill but couldn't match OEM resources.

U.S. Rep. Robert Walker of Pennsylvania questioned the legislation's intent in a congressional hearing, saying that its purpose was to help automakers rather than to protect the public. Walker even cited an enthusiast automotive magazine that dubbed it "the Mercedes-Benz dealers bill."

Nevertheless, the IVSCA passed, allowing registered importers to sell foreign-market cars in the U.S. only if those vehicles fully met American safety and emissions standards—requiring stringent new certification procedures, including crash-testing more than 10 examples of a vehicle.

The new certification requirements did not apply to cars 25 years or older. They were viewed as collectibles, even though they had no safety or emissions equipment. The provision inspired the popular "25-Year Rule" name for IVSCA. No matter what you called it, for all but the most expensive exotics, gray market importing no longer made financial sense.

CAR LIFE

THROTTLE-BACK THURSDAY: THE GREY MARKET CITROEN CX PACKED 'THE IMPACT OF GRACE JONES RIDING A HOVERCRAFT DOWN MAPLE STREET'

But the new legislation wasn't the only reason. In 1986, exchange rates swung dramatically again, the dollar dropping 30 percent against European currencies. The gray market was no longer a deal.

Further, solidarity among American Ferrari, Porsche and Mercedes dealers who refused to warranty, service, supply parts for or take gray market cars as trade-ins depressed resale values. By 1990, fewer than 300 gray market cars came here.

Fritz saw his fellow importers drop like flies. Amerispec's focus on Ferrari kept it going, however. In the decade following IVSCA, Fritz converted a large number of GTOs to U.S. specifications. Despite OEMs claiming it was too expensive for them to sell desirable overseas models in America, Fritz says if he could make them compliant profitably, surely the automakers could.

"They said, 'We can't meet the U.S. safety and emissions standards. That's why we're not bringing (some models) in' ... the biggest thing I ever did was to show that if I could (federalize a car) legitimately, they could do it."

JUNKYARD TREASURES

JUNKYARD TREASURE, GRAY MARKET EDITION: 1988 MERCEDES-BENZ 230 CE

Crushed Dreams.

The gray market was largely forgotten until the late '90s, but a booming economy and a two-year waiting list for Ferrari 360s and 550s created a pool of American buyers willing to pay to federalize cars purchased in Europe.

After considerable effort by enthusiasts, DOT announced the Show & Display Rule, permitting low-volume vehicles of "unusual historical or technological significance" to be imported without alteration if driven less than 2,500 miles a year.

While McLarens and Ferraris got the attention of the well-heeled, unobtainable rides like Audi's RS2 Avant captivated average car guys. Petrolicious contributor Benjamin Shahrabani looked into importing an RS2 in the early 2000s, but one of the few remaining registered importers was told the bill would be a whopper.

"What's the benefit of federalizing RS2s?" he asks. "Most of these cars built to European standards meet or exceed U.S. safety standards. You're not buying a death trap."

The federal government disagrees. In the last decade, it has made high-profile seizures—gray market Land Rover Defenders, Mini Coopers and Nissan Skylines, showing them crushed in videos. Enthusiasts decrying their seizure and destruction have also noted Canada has a similar gray market rule but limited it to 15 years.

Shahrabani and Petrolicious were among several groups who sought to petition the Obama administration via its petitions.whitehouse.gov website to reduce the 25-Year Rule to 15 years. No petition gained the 100,000 signatures (Petrolicious reached 60,401) needed to be considered.

But they reminded enthusiasts of a question they've been asking for years: Are globally produced cars really that different?

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DUNCAN IMPORTS DEALS CLASSIC JAPANESE CARS ON AN UNIMAGINABLE SCALE

Harmonization.

There's an argument that increasingly common standards and digitization mean cars built around the world are technically more alike than ever. Modifying car A for market B is now easier and cheaper than in the historical past. Is that right?

Some background sources we interviewed say no, that bringing a foreign-market car from the last two decades up to American safety/emissions compliance remains too expensive given modern complexity. For example, if an EPA-compliant ECU isn't in a car, it's estimated an importer would need about $250,000 to develop one. The problem is international standards are not the same, and making them uniform in a world where Canada and the U.S. can't even agree on airbag or seatbelt standards is "fantasy."

If so, it's been a long-held fantasy. The Untied Nations' World Forum for Harmonization of Vehicle Regulations (WP.29) began work in 1958. Today, WP.29 harmonization of vehicle safety, environmental protection, energy efficiency and theft-resistance standards is more thorough than ever, and 60-plus countries recognize WP.29, permitting the import, registration and use of U.N.-type approved vehicles.

There are only two major exceptions: the U.S. and Canada. With WP.29 in place for six decades, it's reasonable to assume that, say, a 2003 Belgian-spec car would comply with most American safety/emissions requirements with zero modification.

CAR NEWS

A LOOK AT THE MURKY WORLD OF GREY MARKET AND COUNTERFEIT CAR PARTS

There's also modularity. Over the last decade, automakers have touted their "world car" platforms, common modular architectures forming the basis for different models within the same brand sold in different markets. Volkswagen's MQB is perhaps the best known of these.

MQB facilitates building different cars on the same assembly line for different markets. Interchangeable lighting and ECUs, for example, simplify altering them to suit local safety/emissions regulations. With more than 20 years of modular design under their belts, couldn't automakers supply the relatively few parts and software changes required to make gray market cars compliant for reasonable cost?

We asked Mercedes, Audi and Porsche. None would comment. Nor would they answer any other questions related to this article. We put several questions to NHTSA and the Society of Automotive Engineers, as well. The former couldn't get responses approved by our deadline. The latter could not find an expert to weigh in.

Fritz isn't as wary. Gray market regulations have largely been about creating barriers to market entry, he says. "A 1980s Mercedes sold in Europe may not have met the (U.S.) 5-mph bumper standard, but it wasn't unsafe." The same holds now, he says.

"There may be different ECUs to trigger the airbags slightly differently in America than in Europe, but the airbags would still go off. The European emissions testing method is different than ours, but I'd bet that if you brought in a new (European) Mercedes, it would mostly pass our standards."

If cars are technically closer, interest rates are low and the dollar is still relatively weak, why prohibit gray market cars? The obvious answer: The automakers, their dealers and franchisees still see these cars as unwanted competition.

As recently as 2015, Mercedes and BMW saw gray market imports challenge their interests and bottom lines. They pressured American dealers and local authorities to curb gray market imports. "We nipped it in the bud," then-Mercedes Benz USA CEO Steve Cannon confidently told Reuters.

But even if profit is such a concern, couldn't America just match Canada and relax the 25-Year Rule to 15 years? As Fritz says, "If you're worried about competing with a 15-year-old car, you've got a lot bigger problems."

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By Eric Tegler

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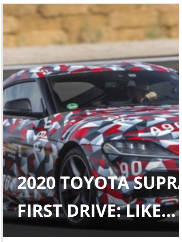

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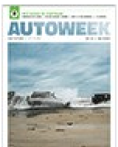

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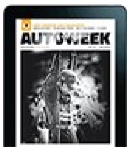

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