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SENATE BILL NO. 1259

Offered January 14, 2015

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A *BILL to amend and reenact §§ 46.2-1600, 46.2-1601, 46.2-1602, 46.2-1603.2, 46.2-1605, 46.2-1608, and 46.2-1608.2 of the Code of Virginia, relating to salvage, nonrepairable, and rebuilt vehicles; penalty.*

Patron—Newman

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1600, 46.2-1601, 46.2-1602, 46.2-1603.2, 46.2-1605, 46.2-1608, and 46.2-1608.2 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1600. Definitions.

The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates otherwise:

"Actual cash value," as applied to a vehicle, means the retail cash value of the vehicle prior to damage as determined, using recognized evaluation sources, either (i) by an insurance company responsible for paying a claim or (ii) if no insurance company is responsible therefor, by the Department.

"Auto recycler" means any person licensed by the Commonwealth to engage in business as a salvage dealer, rebuilder, demolisher, or scrap metal processor, as defined in this section.

"Cosmetic damage," as applied to a vehicle, means damage to non-original manufacturer equipment, audio-visual accessories, nonfactory-sized tires and wheels, custom paint, and external hail damage.

"Cosmetic damage" does not include (i) damage to original equipment and parts installed by the manufacturer or (ii) damage that requires any repair to enable a vehicle to pass a safety inspection pursuant to § 46.2-1157. The cost for cosmetic damage repair shall not be included in the cost to repair the vehicle when determining the calculation for a nonrepairable vehicle as defined in this section.

"Current salvage value," as applied to a vehicle, means (i) the salvage value of the vehicle, as determined by the insurer responsible for paying the claim or (ii) if no insurance company is responsible therefor, 25 percent of the actual cash value.

"Demolisher" means any person whose business is to crush, flatten, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle.

"Diminished value compensation" means the amount of compensation that an insurance company pays to a third party vehicle owner, in addition to the cost of repairs, for the reduced value of a vehicle due to damage.

"Independent appraisal firm" means any business providing cost estimates for the repair of damaged motor vehicles for insurance purposes and having all required business licenses and zoning approvals. This term shall not include insurance companies that provide the same service, nor shall any such entity be a rebuilder or affiliated with a rebuilder.

"Late model vehicle" means the current-year model of a vehicle and the five preceding model years, or any vehicle whose actual cash value is determined to have been at least \$10,000 prior to being damaged.

"Licensee" means any person who is licensed or is required to be licensed under this chapter.

"Major component" means any one of the following subassemblies of a motor vehicle: (i) front clip assembly, consisting of the fenders, grille, hood, bumper, and related parts; (ii) engine; (iii) transmission; (iv) rear clip assembly, consisting of the quarter panels, floor panels, trunk lid, bumper, and related parts; (v) frame; (vi) air bags; and (vii) any door that displays a vehicle identification number.

"Nonrepairable certificate" means a document of ownership issued by the Department for any nonrepairable vehicle upon surrender or cancellation of the vehicle's title and registration or salvage certificate.

"Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose estimated cost of repair, *excluding the costs to repair cosmetic damages*, exceeds 90 percent of its actual cash value prior to damage, or (ii) any vehicle which has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable certificate has been issued or applied for, or (iii) any other vehicle which has been damaged, is inoperable, and has no value except for use as parts and scrap metal.

"Rebuilder" means any person who acquires and repairs, for use on the public highways, two or

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59 more salvage vehicles within a 12-month period.

60 "Rebuilt vehicle" means (i) any salvage vehicle that has been ~~damaged as a result of collision, fire,~~
61 ~~flood, accident, trespass, or any other occurrence and has been repaired for use on the public highways~~
62 and the estimated cost of repair ~~exceeded 75~~ *did not exceed 90* percent of its actual cash value, ~~for use~~
63 ~~on the public highways~~ or (ii) any late model vehicle which has been repaired and the estimated cost of
64 repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine,
65 transmission, or drive axle assembly.

66 "Repairable vehicle" means a late model vehicle that is ~~neither not~~ a rebuilt ~~nor a repaired~~ vehicle,
67 but is repaired to its pre-loss condition by an insurance company and is not accepted by the owner of
68 said vehicle immediately prior to its acquisition by said insurance company as part of the claims
69 process.

70 "Repaired vehicle" means any salvage vehicle that has had repairs less than the amount necessary to
71 make it a rebuilt vehicle.

72 "Salvage certificate" means a document of ownership issued by the Department for any salvage
73 vehicle upon surrender or cancellation of the vehicle's title and registration.

74 "Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts
75 thereof.

76 "Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable
77 vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or
78 nonrepairable vehicles, but this definition shall not apply to an insurance company which stores and
79 displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two
80 or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same
81 facilities, shall be considered a salvage pool.

82 "Salvage vehicle" means (i) any late model vehicle which has been (a) acquired by an insurance
83 company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of
84 collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost
85 of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment
86 for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii)
87 any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose
88 estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle which is
89 determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage
90 certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.

91 "Scrap metal processor" means any person who is ~~engaged in the business of processing~~ *acquires*
92 *one or more whole vehicles to process* into scrap for remelting purposes who, from a fixed location,
93 utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic
94 scrap into prepared grades, and whose principal product is metallic scrap.

95 "Vehicle" shall have the meaning ascribed to it in § 46.2-100. A vehicle that has been demolished or
96 declared to be nonrepairable pursuant to this chapter shall no longer be considered a vehicle. For the
97 purposes of this chapter, a major component shall not be considered a vehicle.

98 "Vehicle removal operator" means any person who acquires a vehicle for the purpose of reselling it
99 to a demolisher, scrap metal processor, or salvage dealer.

100 § 46.2-1601. Licensing of dealers of salvage vehicles; fees.

101 A. It shall be unlawful for any person to engage in business in the Commonwealth as a ~~demolisher,~~
102 ~~rebuilder, salvage dealer~~ *an auto recycler*, salvage pool, or vehicle removal operator without first
103 acquiring a license issued by the Commissioner for each such business at each location. The fee for the
104 first such license issued or renewed under this chapter shall be \$100 per license year or part thereof.
105 The fee for each additional license issued or renewed under this chapter for the same location shall be
106 \$25 per license year or part thereof. However, no fee shall be charged for supplemental locations of a
107 business located within 500 yards of the licensed location.

108 B. No license shall be issued or renewed for any person unless (i) the licensed business contains at
109 least 600 square feet of enclosed space, (ii) the licensed business is shown to be in compliance with all
110 applicable zoning ordinances, and (iii) the applicant may (a) certify to the Commissioner that the
111 licensed business is permitted under a Virginia Pollutant Discharge Elimination System individual or
112 general permit issued by the State Water Control Board for discharges of storm water associated with
113 industrial activity and provides the permit number(s) from such permit(s) or (b) certify to the
114 Commissioner that the licensed business is otherwise exempt from such permitting requirements.
115 Nothing in this section shall authorize any person to act as a motor vehicle dealer or salesperson without
116 being licensed under Chapter 15 (§ 46.2-1500 et seq.) and meeting all requirements imposed by such
117 chapter.

118 C. Licenses issued under this section shall be deemed not to have expired if the renewal application
119 and required fees as set forth in subsection A are received by the Commissioner or postmarked not more
120 than 30 days after the expiration date of such license. Whenever the renewal application is received by

the Commissioner or postmarked not more than 30 days after the expiration date of such license, the license fees shall be 150 percent of the fees provided for in subsection A.

D. The Commissioner may offer an optional multiyear license for any license set forth in this section. When such option is offered and chosen by the licensee, all fees due at the time of licensing shall be multiplied by the number of years for which the license will be issued.

§ 46.2-1602. Certain sales prohibited; exceptions.

A. It shall be unlawful:

1. For any scrap metal processor to sell a vehicle or vehicle components or parts;

2. For any salvage pool to sell *either in person or through any Internet auction* a salvage vehicle *stored in the Commonwealth* to any person who is not a ~~scrap metal processor or licensed as a salvage dealer, rebuilder, demolisher~~ *licensed as an auto recycler*, motor vehicle dealer, or vehicle removal operator *by the Commonwealth or regulated as a similar business under the laws of another state or jurisdiction*;

3. For any person to sell a nonrepairable vehicle to any person who is not a ~~scrap metal processor or licensed as a salvage dealer, demolisher~~ *licensed as an auto recycler* or vehicle removal operator *by the Commonwealth or regulated as a similar business under the laws of another state or jurisdiction*; or

4. For any person to sell a rebuilt vehicle without first having disclosed the fact that the vehicle is a rebuilt vehicle to the buyer in writing on a form prescribed by the Commissioner.

B. Notwithstanding the provisions of subsection A of this section, it shall not be unlawful:

1. For a salvage dealer to sell vehicle components or parts to unlicensed persons; or

2. For an individual to dispose of a salvage vehicle acquired or retained for his own use when it has been acquired or retained and used in good faith and not for the purpose of avoiding the provisions of this chapter.

§ 46.2-1603.2. Owner may declare vehicle nonrepairable; insurance company required to obtain a nonrepairable certificate; applicability of certain other laws to nonrepairable certificates; titling and registration of nonrepairable vehicle prohibited.

A. The owner of any vehicle titled in the Commonwealth may declare such vehicle to be a nonrepairable vehicle by applying to the Department for a nonrepairable certificate.

B. Every insurance company or its authorized agent shall apply to the Department and obtain a nonrepairable certificate for each vehicle acquired by the insurance company as a result of the claims process if such vehicle is titled in the Commonwealth and is (i) a late model nonrepairable vehicle or (ii) a stolen vehicle that has been recovered and determined to be a nonrepairable vehicle. The application shall be accompanied by the vehicle's title certificate or salvage certificate ~~and shall contain a description of the damage to the nonrepairable vehicle~~. Application for the nonrepairable certificate shall be made within fifteen days after payment has been made to the owner, lienholder, or both.

C. Every insurance company or its authorized agent shall notify the Department of each late model vehicle titled in the Commonwealth upon which a claim has been paid if such vehicle is a nonrepairable vehicle that is retained by its owner.

D. The Department, upon receipt of an application for a nonrepairable certificate for a vehicle titled in the Commonwealth, or upon receipt of notification from an insurance company or its authorized agent as provided in subsection C of this section that a vehicle registered in the Commonwealth has become a nonrepairable vehicle, shall cause the title of such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

There shall be no fee for the issuance of a nonrepairable certificate. All provisions of this Code applicable to a motor vehicle certificate of title shall apply, mutatis mutandis, to a nonrepairable certificate, except that no registration or license plates shall be issued for the vehicle described in a nonrepairable certificate. No vehicle for which a nonrepairable certificate has been issued shall ever be titled or registered for use on the highways in the Commonwealth.

E. The Department, upon receipt of a title, salvage certificate, or other ownership document from a licensed salvage dealer or demolisher pursuant to subdivision A 1 of § 46.2-1603.1, shall cause the title, salvage certificate, or other ownership document to such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

§ 46.2-1605. Vehicles rebuilt for highway use; examinations; branding of titles.

~~Each salvage vehicle that has been repaired or rebuilt for use on the highways shall be examined by the Department or by a local law-enforcement official prior to the issuance of a title for the vehicle. A. Each salvage vehicle that has been rebuilt for use on the highways shall be submitted for a state safety inspection in accordance with § 46.2-1157. The inspection shall be conducted by an inspector wholly unaffiliated with the person requesting the inspection of the vehicle.~~

~~B. Upon passage of a state safety inspection, each rebuilt vehicle shall be examined by the Department prior to the issuance of a title for the vehicle. The examination by the Department shall include a review of video or photographic images of the vehicle prior to being rebuilt, if available, and~~

all documentation for the parts and labor used for the repair of the salvage vehicle and a verification of the vehicle's identification number, confidential number, ~~and~~ odometer reading, ~~and engine, transmission, or electronic modules, if applicable.~~ This inspection shall serve as an antitheft and antifraud measure and shall not certify the safety or roadworthiness of the vehicle. The Commissioner shall ensure that, in scheduling and performing examinations of salvage vehicles under this section, single vehicles owned by private owner-operators are afforded no lower priority than examinations of vehicles owned by motor vehicle dealers, ~~salvage dealers, demolishers, rebuilders,~~ salvage pools, *licensed auto recyclers*, or vehicle removal operators. The Commissioner may charge a fee of \$125 per vehicle, for the examination of rebuilt vehicles. ~~When the examination is conducted by a local law-enforcement official, the Department shall reimburse the local law-enforcement department \$75 for its costs in conducting the examination and reporting its findings to the Department.~~

C. Any salvage vehicle whose vehicle identification number or confidential number has been altered, is missing, or appears to have been tampered with may be impounded by the Department ~~or a local law-enforcement official~~ until completion of an investigation by the Department. The vehicle may not be moved, sold, or tampered with until the completion of this investigation. Upon completion of an investigation by the Department, if the vehicle identification number is found to be missing or altered, a new vehicle identification number may be issued by the Department. If the vehicle is found to be a stolen vehicle and its owner can be determined, the vehicle shall be returned to him. If the owner cannot be determined or located and the person seeking to title the vehicle has been convicted of a violation of § 46.2-1074 or 46.2-1075, the vehicle shall be deemed forfeited to the Commonwealth and said forfeiture shall proceed in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

D. If the Department's examination of a ~~repaired or~~ rebuilt salvage vehicle indicates no irregularities, a title and registration may be issued for the vehicle upon application therefor to the Department by the owner of the salvage vehicle. The title issued by the Department and any subsequent title thereafter issued for the ~~repaired or~~ rebuilt vehicle shall be permanently branded to indicate that it is a repaired or rebuilt vehicle. All ~~repaired and~~ rebuilt vehicles shall be subject to all safety equipment requirements provided by law. No title or registration shall be issued by the Department for any *rebuilt vehicle that has not first passed a safety inspection or for any vehicle for which a nonrepairable certificate has ever been issued.*

E. *If the Department's examination of a rebuilt salvage vehicle reveals irregularities in the required documentation or obvious defects, the Department shall identify to the owner the irregularities and defects that must be corrected before the Department's examination can be completed.*

F. *When necessary and upon application, the Department shall issue temporary trip permits in accordance with § 46.2-651 for the purpose of transporting the rebuilt salvage vehicle to and from an official Virginia safety inspection station.*

§ 46.2-1608. Maintenance and contents of records.

A. Each licensee shall maintain a record of the receipt of any vehicle. Such record shall be maintained at the licensee's place of business. The record, at a minimum, shall contain:

1. A description of each vehicle purchased, exchanged, or acquired by the licensee, including, but not limited to, the model, make, year of the vehicle as well as the vehicle's title number with state of issuance and vehicle identification number;

2. The price paid for each vehicle;

3. The name and address of the seller from whom each vehicle is purchased, exchanged, or acquired *and the name and address of the buyer to whom the vehicle is sold;*

4. The date and hour the purchase, exchange, or acquisition was made;

5. A photocopy of the seller's driver's license, state identification card, official United States military identification card, or any other form of personal identification with photograph;

6. ~~A digital photograph~~ *For the sale of nonrepairable vehicles, a photocopy of the buyer's business license if the buyer is authorized to purchase a vehicle under § 46.2-1602 or, if the buyer represents a third party authorized to purchase a vehicle under § 46.2-1602, then a photocopy of the third party's business license and documentation that the buyer is authorized to act on behalf of that third party;*

7. *Digital photographs of the seller, along with the buyer, and the vehicle that he is selling or exchanging with the licensee being purchased, sold, exchanged, or acquired through or from the licensee; and*

~~7.~~ 8. The signature of the licensee ~~and~~, the seller, *and the buyer* as executed at the time of the purchase, exchange, or acquisition of the vehicle by the licensee.

B. If any major component, as defined in § 46.2-1600, is sold, the salvage dealer shall provide, upon request of any law-enforcement official, the information required by this section as to the vehicle from which the part was taken.

C. The provisions of subdivisions A 5 ~~and~~, A 6, *and A 7* shall not apply to vehicles when the licensee maintains a photocopy or electronic copy of one of the documents set out in § 46.2-1206 or this chapter.

D. The provisions of this section shall not apply to salvage pools as defined in § 46.2-1600, except that salvage pools shall maintain a record of the receipt of any vehicle that contains (i) the date of receipt of the vehicle; *and its make, year, model, and identification number;* (ii) *the name, and address of the person from whom it was acquired;* (iii) *the name and address of the buyer as well as (a) a photocopy of the buyer's driver's license, state identification card, official United States military identification card, employer-issued identification card, or any other form of personal identification with photograph and (b) a photocopy of the buyer's business license or, if the buyer represents a third party authorized to purchase the vehicle under § 46.2-1602, then a photocopy of the third party's business license and documentation that the buyer is authorized to act on behalf of the third party; and (iv) the vehicle's title number, and state of issuance.*

§ 46.2-1608.2. Licensees to update records of the Department for motor vehicles that are to be demolished or dismantled.

A. A licensee or scrap metal processor may be exempted from the waiting period in subsection B of § 46.2-1608.1 by:

1. Entering into a contractual agreement with the Department to update records of motor vehicles to be demolished or dismantled if such motor vehicles have either been issued a certificate of title, salvage certificate, or nonrepairable certificate in the Commonwealth or are titled in a foreign jurisdiction. In addition to the contractual agreement, the ~~licensee or scrap metal processor~~ *licensed auto recycler* shall be required to comply with the Department's procedures for securely accessing and updating the Department's records; and

2. Notifying the Department that a motor vehicle is being demolished or dismantled or of the intention to demolish, dismantle, or reduce the motor vehicle to a state where it can no longer be considered a motor vehicle. Licensees or scrap metal processors shall electronically notify the Department of the demolished or dismantled vehicle's certificate of title, salvage certificate, or nonrepairable certificate number and vehicle identification number.

B. Licensees or scrap metal processors in possession of the certificate of title, salvage certificate, or nonrepairable certificate from the Commonwealth may demolish or dismantle the subject motor vehicle. ~~Licensees or scrap metal processors~~ *Licensed auto recyclers* shall electronically notify the Department of the demolished or dismantled vehicle's certificate of title, salvage certificate, or nonrepairable certificate number and vehicle identification number within required time frames pursuant to subsection D of § 46.2-1603.1.

C. ~~Licensees or scrap metal processors~~ *Licensed auto recyclers* in possession of a certificate of title issued by a foreign jurisdiction may demolish or dismantle the subject motor vehicle. ~~Licensees or scrap metal processors~~ *Licensed auto recyclers* shall electronically notify the Department of the demolished or dismantled vehicle's certificate of title number, vehicle identification number, year, make, and model within required time frames pursuant to subsection D of § 46.2-1603.1.

D. ~~Licensees or scrap metal processors~~ *Licensed auto recyclers* that do not possess a certificate of title, salvage certificate, or nonrepairable certificate may demolish the subject motor vehicle if the motor vehicle is a model year that is at least 10 years older than the current model year. The ~~licensee or scrap metal processor~~ *licensed auto recycler* shall provide electronically to the Department the vehicle identification number and the year, make, and model of the motor vehicle and shall remit to the Department the fees set out in § 46.2-627 and an additional \$10 transaction fee. Upon receipt of such notification, the Department shall check the records of nationally recognized databases. The ~~licensee or scrap metal processor~~ *licensed auto recycler* may not demolish or dismantle the vehicle until the Department has notified the ~~licensee or scrap metal processor~~ *licensed auto recycler* of the results of that inquiry. If a ~~licensee or scrap metal processor~~ *licensed auto recycler* is not in possession of the certificate of title, salvage certificate, or nonrepairable certificate and the subject motor vehicle is of the current model year or of a model year that is nine years old or less, that vehicle shall be processed in accordance with § 46.2-1202.

E. Nothing in this section shall release a ~~licensee or scrap metal processor~~ *licensed auto recycler* from complying with the provisions of §§ 46.2-1603.1, 46.2-1608, and 46.2-1608.1.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.