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SENATE BILL NO. 1069

Offered January 11, 2017

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A *BILL to amend and reenact §§ 46.2-1600, 46.2-1603, 46.2-1603.2, 46.2-1604, 46.2-1605, and 46.2-1606 of the Code of Virginia, relating to titling salvage vehicles.*

Patron—Deeds

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1600, 46.2-1603, 46.2-1603.2, 46.2-1604, 46.2-1605, and 46.2-1606 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.

"Cosmetic damage," as applied to a vehicle, means damage to custom or performance aftermarket 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.

"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, bale, shred, log, 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 cost to repair cosmetic damages, exceeds 90 percent of its actual cash value prior to damage; (ii) any vehicle that 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 that 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 more salvage vehicles within a 12-month period.

"Rebuilt vehicle" means (i) any salvage vehicle that has been repaired for use on the public highways

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59 and the estimated cost of repair did not exceed 90 percent of its actual cash value or (ii) any late model
60 vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash
61 value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

62 "Repairable vehicle" means a late model vehicle that is not a rebuilt vehicle, but is repaired to its
63 pre-loss condition by an insurance company and is not accepted by the owner of said vehicle
64 immediately prior to its acquisition by said insurance company as part of the claims process.

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

67 "Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts
68 thereof *or who acquires and sells any salvage vehicle as a unit except as permitted by subdivision B 2*
69 *of § 46.2-1602.*

70 "Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable
71 vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or
72 nonrepairable vehicles, but this definition shall not apply to an insurance company that stores and
73 displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two
74 or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same
75 facilities, shall be considered a salvage pool.

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

85 "Scrap metal processor" means any person who acquires one or more whole vehicles to process into
86 scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for
87 processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose
88 principal product is metallic scrap.

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

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

94 **§ 46.2-1603. Obtaining salvage certificate or certificate of title for an unrecovered stolen vehicle.**

95 A. The owner of any vehicle titled in the Commonwealth may declare such vehicle to be a salvage
96 vehicle and apply to the Department and obtain a salvage certificate for that vehicle.

97 B. Every insurance company or its authorized agent shall apply to the Department and obtain a
98 salvage certificate for each late model vehicle acquired by the insurance company as the result of the
99 claims process if such vehicle is titled in the Commonwealth and is a salvage vehicle. Whenever the
100 insurance company or its agent makes application for a salvage certificate and is unable to present a
101 certificate of title, the Department may receive the application along with an affidavit indicating that the
102 vehicle was acquired as the result of the claims process and describing the efforts made by the insurance
103 company or its agent to obtain the certificate of title from the previous owner. When the Department is
104 satisfied that the applicant is entitled to the ~~title~~ *salvage certificate*, it may issue a *salvage certificate of*
105 ~~title~~ to the person entitled to it. The Commissioner may charge a fee of \$25 for the expense of
106 processing an application under this subsection that is accompanied by an affidavit. Such fee shall be in
107 addition to any other fees required. All fees collected under the provisions of this subsection shall be
108 paid into the state treasury and set aside as a special fund to be used to meet the expenses of the
109 Department.

110 C. Every insurance company or its authorized agent shall apply to the Department and obtain a
111 certificate of title for each stolen vehicle acquired by the insurance company as the result of the claims
112 process if such vehicle is titled in the Commonwealth and has not been recovered at the time of
113 application to the Department. For each recovered stolen vehicle, acquired as a result of the claims
114 process, whose estimated cost of repair exceeds ~~seventy-five~~ 75 percent of its actual cash value, the
115 insurance company or its authorized agent shall apply to the Department and obtain a salvage certificate.
116 The application shall be accompanied by the vehicle's title certificate and shall contain a description of
117 the damage to the salvage vehicle and an itemized estimate of the cost of repairs up to the point where
118 a nonrepairable certificate would be issued. Application for the certificate of title shall be made within
119 ~~fifteen~~ 15 days after payment has been made to the owner, lienholder, or both. Application for the
120 salvage certificate shall be made within ~~fifteen~~ 15 days after the stolen vehicle is recovered.

D. Every insurance company or its authorized agent shall notify the Department of each late model vehicle titled in the Commonwealth on which a claim for damage to the vehicle has been paid by the insurance company if (i) the estimated cost of repair exceeds ~~seventy-five~~ 75 percent of actual cash value of the vehicle and (ii) the vehicle is to be retained by its owner. No such notification shall be required for a vehicle when a supplemental claim has been paid for the cost of repairs to the engine, transmission, or drive axle assembly if such components are replaced by components of like kind and quality.

E. Every owner of an uninsured or self-insured late model vehicle *titled in the Commonwealth* ~~which~~ *that* sustains damage to such an extent that the estimated cost of repairs exceeds ~~seventy-five~~ 75 percent of the actual cash value of the vehicle prior to being damaged shall similarly apply for and obtain a salvage certificate. If no estimated cost of repairs is available from an insurance company, the owner of the vehicle may provide an estimate from an independent appraisal firm. Any such estimate from an independent appraisal firm shall be verified by the Department in such a manner as may be provided for by Department regulations.

F. The fee for issuance of the salvage certificate shall be \$10. If a salvage vehicle is sold after a salvage certificate has been issued, the owner of the salvage vehicle shall make proper assignment to the purchaser.

G. The Department, upon receipt of an application for a salvage 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 D of this section, shall cause the title of such vehicle to be cancelled and the appropriate certificate issued to the vehicle's owner.

H. All provisions of this Code applicable to a motor vehicle certificate of title shall apply, mutatis mutandis, to a salvage certificate, except that no registration or license plates shall be issued for the vehicle described in the salvage certificate. A vehicle for which a salvage certificate has been issued may be retitled for use on the highways in accordance with the provisions of § 46.2-1605.

§ 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. *The application shall be accompanied by the vehicle's title certificate or salvage 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. Application for the nonrepairable certificate shall be made within 15 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~~ *Except as otherwise provided in this chapter,* 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.

F. *For purposes of this chapter, any vehicle for which a brand or indicator has been issued by another state as reported to the National Motor Vehicle Title Information System or has been printed or stamped on the vehicle's out-of-state title or other document proving ownership issued by that state identifying such vehicle as "junk," "for destruction," "for parts only," "not to be repaired," or other similar designation shall be deemed to have been issued a nonrepairable certificate by that state.*

§ 46.2-1604. Rebuilders required to possess certificate of title or salvage certificate.

Each rebuilder shall have in his possession a certificate of title *or salvage certificate* assigned to him for each vehicle in his inventory for resale. If a rebuilder purchases a salvage vehicle to be used or sold for parts only, he shall conspicuously indicate on the salvage certificate that the vehicle will be sold or used as parts only and immediately forward the salvage certificate to the Department for cancellation. The Department shall issue a nonrepairable certificate for that vehicle.

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

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; all documentation for the parts and labor used for the repair of the salvage vehicle; and verification of the vehicle's identification number, confidential number, 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 pools, licensed auto recyclers, or vehicle removal operators. The Commissioner may charge a fee of \$125 per vehicle, for the examination of rebuilt vehicles.

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 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 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 rebuilt vehicle shall be permanently branded to indicate that it is a rebuilt vehicle. All rebuilt vehicles shall be subject to all safety equipment requirements provided by law. *No Except as otherwise provided in this chapter, 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~~ *Notwithstanding § 46.2-1550, a licensed salvage dealer or rebuilder who is also licensed as a motor vehicle dealer pursuant to Chapter 15 (§ 46.2-1500 et seq.) may use dealer's license plates for the sole purpose of transporting a rebuilt salvage vehicle to and from an official safety inspection station. Such dealer's license plates may not be used on any vehicle not owned by the licensed salvage dealer or rebuilder. For all other rebuilt salvage vehicles, when necessary and upon application, the Department shall issue temporary trip permits in accordance with § 46.2-651 for the this purpose of transporting the rebuilt salvage vehicle to and from an official Virginia safety inspection station.*

§ 46.2-1606. Certificates of title issued by other states; nonnegotiable titles.

A. The Commissioner may accept certificates of titles for salvage vehicles or other documents deemed appropriate by the Department issued by other states indicating a vehicle has been declared salvage, and shall carry forward all appropriate brands or indicators. If the vehicle has not been rebuilt and the requirements of § 46.2-1605 have not been met, the Department shall issue a salvage certificate for the vehicle.

B. *The Department shall issue a nonnegotiable title for a vehicle that has been rebuilt, titled, and registered out of state when (i) an application for title has been received for a vehicle for which the National Motor Vehicle Title Information System or the vehicle's current out-of-state title or other document proving ownership issued by another state indicates that a brand or indicator has been issued by another state identifying such vehicle as "junk," "for destruction," "for parts only," "not to be repaired," or other similar designation and (ii) documentation to show such repairs accompanies the application. Any negotiable security interests in the vehicle shall be shown on the face of the*

244 nonnegotiable title. The provisions of §§ 46.2-636, 46.2-636.1, 46.2-637, 46.2-638, 46.2-639, 46.2-640,
245 46.2-640.1, 46.2-641, 46.2-642, and 46.2-643 shall apply to nonnegotiable titles. However, no negotiable
246 title shall ever be issued for such vehicle. At any time, the vehicle owner may declare a vehicle titled
247 under this subsection to be nonrepairable, in accordance with § 46.2-1603.2.

248 A nonnegotiable title issued under this subsection shall not be transferred except as provided in §§
249 46.2-633, 46.2-633.2, or 46.2-634 or when the vehicle is acquired by an insurance company as the
250 result of the claims process. The transferee may not add as a co-owner an individual not entitled to
251 possession of the vehicle under §§ 46.2-633, 46.2-633.2, or 46.2-634. If the vehicle will not be
252 registered for use by the transferee, the transferee shall declare the vehicle to be nonrepairable by
253 applying for a nonrepairable certificate in accordance with § 46.2-1603.2.

254 Any vehicle for which a nonnegotiable title has been issued pursuant to this section may be
255 registered for use on the highways in the Commonwealth.