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SENATE BILL NO. 1364

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend and reenact §§ 46.2-1600, as it is currently effective and as it shall become effective, 46.2-1602.1, 46.2-1603, and 46.2-1603.1 of the Code of Virginia, relating to salvage vehicles.*

Patron—Cosgrove

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1600, as it is currently effective and as it shall become effective, 46.2-1602.1, 46.2-1603, and 46.2-1603.1 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1600. (Effective until July 1, 2021) 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.

"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 any vehicle that has been determined by its insurer or owner to have no value except for use as parts and scrap metal or for which a nonrepairable certificate has been issued or applied for.

"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 or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

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

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

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

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

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

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

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

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

86 **§ 46.2-1600. (Effective July 1, 2021) Definitions.**

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

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

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

95 "Cosmetic damage," as applied to a vehicle, means damage to custom or performance aftermarket
96 equipment, audio-visual accessories, nonfactory-sized tires and wheels, custom paint, and external hail
97 damage. "Cosmetic damage" does not include (i) damage to original equipment and parts installed by
98 the manufacturer or (ii) damage that requires any repair to enable a vehicle to pass a safety inspection
99 pursuant to § 46.2-1157. The cost for cosmetic damage repair shall not be included in the cost to repair
100 the vehicle when determining the calculation for a nonrepairable vehicle.

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

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

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

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

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

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

117 "Major component" means any one of the following subassemblies of a motor vehicle: (i) front clip
118 assembly, consisting of the fenders, grille, hood, bumper, and related parts; (ii) engine; (iii) transmission;
119 (iv) rear clip assembly, consisting of the quarter panels, floor panels, trunk lid, bumper, and related
120 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 and the estimated cost of repair did not exceed 90 percent of its actual cash value or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

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

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

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

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

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

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

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

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

§ 46.2-1602.1. Duties of insurance companies upon acquiring certain vehicles.

Every insurance company ~~which~~ *that* acquires, as a result of the claims process, any late model vehicle titled in the Commonwealth or any recovered stolen vehicle whose estimated cost of repair exceeds ~~seventy-five~~ 75 percent of its actual cash value shall apply to and obtain from the Department either (i) a salvage certificate or certificate of title as provided in § 46.2-1603 or (ii) a nonrepairable certificate as provided in § 46.2-1603.2 for each such vehicle. An insurance company may apply to and obtain from the Department either a salvage certificate as provided in § 46.2-1603 or a nonrepairable certificate as provided in § 46.2-1603.2 for any other vehicle ~~which~~ *that* is determined to be either a salvage vehicle or a nonrepairable vehicle.

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

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

B. Every insurance company or its authorized agent shall apply to the Department and obtain a salvage certificate for each late model vehicle acquired by the insurance company as the result of the claims process if such vehicle is titled in the Commonwealth and is a salvage vehicle. Whenever the

insurance company or its agent makes application for a salvage certificate and is unable to present a certificate of title, the Department may receive the application along with an affidavit indicating that the vehicle was acquired as the result of the claims process and describing the efforts made by the insurance company or its agent to obtain the certificate of title from the previous owner. When the Department is satisfied that the applicant is entitled to the salvage certificate, it may issue a salvage certificate to the person entitled to it. The Commissioner may charge a fee of \$25 for the expense of processing an application under this subsection that is accompanied by an affidavit. Such fee shall be in addition to any other fees required. All fees collected under the provisions of this subsection shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

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

§ 46.2-1603.1. Duties of licensees.

A. If a salvage vehicle is purchased by a salvage dealer and the vehicle is sold as a unit to anyone other than a demolisher, rebuilder, vehicle removal operator, or scrap metal processor, the purchaser shall obtain from the Department a salvage certificate. If the sale is to a demolisher or vehicle removal operator, the salvage vehicle shall be assigned in the space provided for such assignments on the existing salvage certificate. If a vehicle is purchased by a salvage dealer and disassembled for parts only or demolished by a demolisher, the salvage dealer shall immediately and conspicuously indicate on the salvage certificate or title that the vehicle was disassembled for parts only or demolished and immediately forward the salvage certificate or title to the Department for cancellation. The Department shall cancel the title or salvage certificate and issue a nonrepairable certificate for the vehicle to the salvage dealer.

1. If a vehicle for which a title or salvage certificate or other ownership document has been issued by a foreign jurisdiction and is purchased by a salvage dealer or demolisher and disassembled for parts only or demolished by a demolisher, the salvage dealer or demolisher shall immediately and conspicuously indicate on the salvage certificate, title, or other ownership document that the vehicle was disassembled for parts only or demolished and immediately forward the salvage certificate, title or other ownership document to the Department for cancellation. The Department shall cancel the title, salvage certificate, or other ownership document and issue a nonrepairable certificate for the vehicle to the

244 salvage dealer.

245 2. There shall be no fee for the issuance of a nonrepairable certificate.

246 B. If a licensee acquires any late model vehicle *or salvage vehicle*, he shall immediately compare the
247 vehicle identification number assigned by the manufacturer or the Department or the identification
248 number issued or assigned by another state with the title or salvage certificate of the vehicle and shall
249 notify the Department as provided in subsection C. Such comparison and notification shall not be
250 required of a demolisher if the vehicle was acquired from a licensed salvage dealer, rebuilder, salvage
251 pool, or vehicle removal operator and such licensee delivers to the demolisher a title or salvage
252 certificate for the vehicle.

253 C. If the vehicle identification number has been altered, is missing, or appears to have been
254 otherwise tampered with, the licensee shall take no further action with regard to the vehicle except to
255 safeguard it in its then-existing condition and shall promptly notify the Department. The Department
256 shall, after an investigation has been made, notify the licensee whether the vehicle can be freed from
257 this limitation. In no event shall the vehicle be disassembled, demolished, processed, or otherwise
258 modified or removed prior to authorization by the Department. If the vehicle is a motorcycle, the
259 licensee shall cause to be noted on the title or salvage certificate, certifying on the face of the document,
260 in addition to the above requirements, the frame number of the motorcycle and motor number, if
261 available.

262 D. Except as provided in § 46.2-1203, after a vehicle has been demolished, the demolisher shall,
263 within five working days, deliver to the Department the salvage certificate or title, certifying on the face
264 of the document that the vehicle has been destroyed.

265 E. Except as provided in § 46.2-1203, it shall be unlawful for any licensee to purchase, receive, take
266 into inventory, or otherwise accept from any person any late model vehicle, *salvage vehicle*, *or rebuilt*
267 *vehicle* unless, as a part of any such transaction, the licensee also receives a title, salvage certificate,
268 nonrepairable certificate, or other ownership documents, issued by an appropriate regulatory agency
269 within or without the Commonwealth, relating to such vehicle. Every licensee shall maintain as a part of
270 his business records a title, salvage certificate, nonrepairable certificate, or other ownership documents,
271 issued by an appropriate regulatory agency within or without the Commonwealth, pertaining to every
272 late model vehicle, *salvage vehicle*, *or rebuilt vehicle* in his inventory or possession.

273 F. If a licensee intends to utilize machinery to crush, flatten, or otherwise reduce one or more
274 vehicles to a state where it can no longer be considered a vehicle at a location other than the location
275 specified on the license filed with the Department, the licensee shall apply to the Department for a
276 permit of operation in a manner prescribed by the Commissioner. Each permit shall be valid for a period
277 not to exceed 15 days and shall specify the location of intended operation. The cost of each permit shall
278 be \$15.

279 G. The licensee shall comply with all applicable federal title reporting requirements, including the
280 reporting requirements of the National Motor Vehicle Title Information System pursuant to 28 C.F.R.
281 § 25.56.