



1 company or insurer, and upon payment of a total loss claim to ~~any~~  
2 an insured or claimant owner for the purchase of the vehicle, the  
3 insurance company or the insurer, as a condition of the payment,  
4 shall require the owner to surrender the certificate of title:  
5 *Provided*, That an insured or claimant owner may choose to retain  
6 physical possession and ownership of a total loss vehicle. If the  
7 vehicle owner chooses to retain the vehicle and the vehicle has not  
8 been determined to be a cosmetic total loss in accordance with  
9 subsection (d) of this section, the insurance company or insurer  
10 shall also require the owner to surrender the vehicle registration  
11 certificate. The term "total loss" means a motor vehicle which has  
12 sustained damages equivalent to seventy-five percent or more of the  
13 market value as determined by a nationally accepted used car value  
14 guide or meets the definition of a flood-damaged vehicle as defined  
15 in this section.

16 (b) The insurance company or insurer shall, prior to the  
17 payment of the total loss claim, determine if the vehicle is  
18 repairable, cosmetically damaged or nonrepairable. Within ten days  
19 of payment of the total loss claim, the insurance company or  
20 insurer shall surrender the certificate of title, a copy of the  
21 claim settlement, a completed application on a form prescribed by  
22 the commissioner and the registration certificate if the owner has  
23 chosen to keep the vehicle to the Division of Motor Vehicles.

24 (c) If the insurance company or insurer determines that the

1 vehicle is repairable, the division shall issue a "salvage  
2 certificate", on a form prescribed by the commissioner, in the name  
3 of the insurance company, ~~or~~ the insurer or the vehicle owner if  
4 the owner has chosen to retain the vehicle. The certificate shall  
5 contain, on the reverse, ~~thereof~~ spaces for one successive  
6 assignment before a new certificate at an additional fee is  
7 required. Upon the sale of the vehicle, the insurance company, ~~or~~  
8 insurer or ~~the~~ vehicle owner if the owner has chosen to retain the  
9 vehicle, shall complete the assignment of ownership on the salvage  
10 certificate and deliver it to the purchaser. The vehicle ~~shall~~ may  
11 not be titled or registered for operation on the streets or  
12 highways of this state unless there is compliance with subsection  
13 (g) of this section. The division shall charge a fee of \$15 for  
14 each salvage title issued.

15 (d) If the insurance company or insurer determines the damage  
16 to a totaled vehicle is exclusively cosmetic and no repair is  
17 necessary in order to legally and safely operate the motor vehicle  
18 on the roads and highways of this state, the insurance company or  
19 insurer shall, upon payment of the claim, submit the certificate of  
20 title to the division. Neither the insurance company nor the  
21 division may require the vehicle owner to surrender the  
22 registration certificate in the event of a cosmetic total loss  
23 settlement.

24 (1) The division shall, without further inspection, issue a

1 title branded "cosmetic total loss" to the insured or claimant  
2 owner if the insured or claimant owner wishes to retain possession  
3 of the vehicle, in lieu of a "salvage certificate". The division  
4 shall charge a fee of \$5 for each "cosmetic total loss" title  
5 issued. The terms "cosmetically damaged" and "cosmetic total loss"  
6 do not include any vehicle which has been damaged by flood or fire.  
7 The designation "cosmetic total loss" on a title may not be  
8 removed.

9 (2) If the insured or claimant owner elects not to take  
10 possession of the vehicle and the insurance company or insurer  
11 retains possession, the division shall issue a cosmetic total loss  
12 salvage certificate to the insurance company or insurer. The  
13 division shall charge a fee of \$15 for each cosmetic total loss  
14 salvage certificate issued. The division shall, upon surrender of  
15 the cosmetic total loss salvage certificate issued under the  
16 provisions of this paragraph and payment of the five percent  
17 ~~privilege~~ motor vehicle sales tax on the fair market value of the  
18 vehicle as determined by the commissioner, issue a title branded  
19 "cosmetic total loss" without further inspection.

20 (e) If the insurance company or insurer determines that the  
21 damage to a totaled vehicle renders it nonrepairable, incapable of  
22 safe operation for use on roads and highways and ~~which has~~ as  
23 having no resale value except as a source of parts or scrap, the  
24 insurance company or vehicle owner shall, in the manner prescribed

1 by the commissioner, request that the division issue a  
2 nonrepairable motor vehicle certificate in lieu of a salvage  
3 certificate. The division shall issue a nonrepairable motor  
4 vehicle certificate without charge.

5 (f) Any owner who scraps, compresses, dismantles or destroys  
6 a vehicle without further transfer or sale for which a certificate  
7 of title, nonrepairable motor vehicle certificate or salvage  
8 certificate has been issued shall, within twenty days, surrender  
9 the certificate of title, nonrepairable motor vehicle certificate,  
10 or salvage certificate to the division for cancellation.

11 (g) Any person who purchases or acquires a vehicle as salvage  
12 or scrap, to be dismantled, compressed or destroyed, shall, within  
13 twenty days, surrender ~~the certificate to the division.~~ to the  
14 division the certificate of title, nonrepairable motor vehicle  
15 certificate, salvage certificate or a statement of cancellation  
16 signed by the seller, on a form prescribed by the commissioner.  
17 Subsequent purchasers of salvage or scrap are not required to  
18 comply with the notification requirement.

19 ~~(g)~~ (h) If the motor vehicle is a "reconstructed vehicle" as  
20 defined in this section or section one, article one of this  
21 chapter, it may not be titled or registered for operation until it  
22 has been inspected by an official state inspection station and by  
23 the Division of Motor Vehicles. Following an approved inspection,  
24 an application for a new certificate of title may be submitted to

1 the division. ~~however,~~ The applicant ~~shall be~~ is required to retain  
2 all receipts for component parts, equipment and materials used in  
3 the reconstruction. The salvage certificate shall also be  
4 surrendered to the division before a certificate of title may be  
5 issued with the appropriate brand.

6 ~~(h)~~ (i) The owner or title holder of ~~any~~ a motor vehicle  
7 titled in this state which has previously been branded in this  
8 state or another state as "salvage", "reconstructed", "cosmetic  
9 total loss", "cosmetic total loss salvage", "flood" or "fire", ~~or~~  
10 an equivalent term under another state's laws or a term consistent  
11 with the intent of the National Motor Vehicle Title Information  
12 System established pursuant to 49 U.S.C. §30502 shall, upon  
13 becoming aware of the brand, apply for and receive a title from the  
14 Division of Motor Vehicles on which the brand "reconstructed",  
15 "salvage", "cosmetic total loss", "cosmetic total loss salvage",  
16 "flood", ~~or~~ "fire" or other brand is shown. The division shall  
17 charge a fee of \$5 for each title so issued.

18 ~~(i)~~ (j) If application is made for title to a motor vehicle,  
19 the title to which has previously been branded "reconstructed",  
20 "salvage", "cosmetic total loss", "cosmetic total loss salvage",  
21 "flood", ~~or~~ "fire" or other brand by the Division of Motor Vehicles  
22 under this section and said application is accompanied by a title  
23 from another state which does not carry the brand, the division  
24 shall, before issuing the title, affix the brand "reconstructed",

1 "cosmetic total loss", "cosmetic total loss salvage", "flood", ~~or~~  
2 "fire" or other brand to the title. The ~~privilege~~ motor vehicle  
3 sales tax paid on a motor vehicle titled as "reconstructed",  
4 "cosmetic total loss", "flood", ~~or~~ "fire" or other brand under the  
5 provisions of this section shall be based on fifty percent of the  
6 fair market value of the vehicle as determined by a nationally  
7 accepted used car value guide to be used by the commissioner.

8 ~~(j)~~ (k) The division shall charge a fee of \$15 for the  
9 issuance of each salvage certificate or cosmetic total loss salvage  
10 certificate but shall not require the payment of the five percent  
11 ~~privilege~~ motor vehicle sales tax. However, upon application for  
12 a certificate of title for a reconstructed, cosmetic total loss,  
13 flood or fire damaged vehicle or other brand, the division shall  
14 collect the five percent privilege tax on the fair market value of  
15 the vehicle as determined by the commissioner unless the applicant  
16 is otherwise exempt from the payment of such privilege tax. A  
17 wrecker/dismantler/rebuilder, licensed by the division, is exempt  
18 from the payment of the five percent privilege tax upon titling a  
19 reconstructed vehicle. The division shall collect a fee of \$35 per  
20 vehicle for inspections of reconstructed vehicles. These fees  
21 shall be deposited in a special fund created in the State  
22 Treasurer's Office and may be expended by the division to carry out  
23 the provisions of this article: *Provided*, That on and after the  
24 first day of July, 2007, any balance in the special fund and all

1 fees collected pursuant to this section shall be deposited in the  
2 State Road Fund. Licensed wreckers/dismantlers/rebuilders may  
3 charge a fee not to exceed \$25 for all vehicles owned by private  
4 rebuilders which are inspected at the place of business of a  
5 wrecker/dismantler/rebuilder.

6 ~~(k)~~ (l) As used in this section:

7 (1) "Reconstructed vehicle" means the vehicle was totaled  
8 under the provisions of this section or by the provisions of  
9 another state or jurisdiction and has been rebuilt in accordance  
10 with the provisions of this section or in accordance with the  
11 provisions of another state or jurisdiction or meets the provisions  
12 of subsection (m), section one, article one of this chapter.

13 (2) "Flood-damaged vehicle" means that the vehicle was  
14 submerged in water to the extent that water entered the passenger  
15 or trunk compartment.

16 (3) "Other brand" means a brand consistent with the intent of  
17 the National Motor Vehicle Title Information System established  
18 pursuant to 49 U.S.C. §30502 and rules promulgated by the United  
19 States Department of Justice to alert consumers, motor vehicle  
20 dealers or the insurance industry of the history of a vehicle.

21 ~~(l)~~ (m) Every vehicle owner shall comply with the branding  
22 requirements for a totaled vehicle whether or not the owner  
23 receives an insurance claim settlement for a totaled vehicle.

24 ~~(m)~~ (n) A certificate of title issued by the division for a

1 reconstructed vehicle shall contain markings in bold print on the  
2 face of the title that it is for a reconstructed, flood or fire  
3 damaged vehicle.

4       ~~(n)~~ (o) Any person who knowingly provides false or fraudulent  
5 information to the division that is required by this section in an  
6 application for a title, a cosmetic total loss title, a  
7 reconstructed vehicle title or a salvage certificate or who  
8 knowingly fails to disclose to the division information required by  
9 this section to be included in the application or who otherwise  
10 violates the provisions of this section ~~shall be~~ is guilty of a  
11 misdemeanor and, upon conviction thereof, shall for each incident  
12 be fined not less than \$1,000 nor more than \$2,500, or imprisoned  
13 in jail for not more than one year, or both fined and imprisoned.

NOTE: The purpose of this bill is to provide for an alternative means for the initial purchaser of junked vehicles to notify the division in compliance with the National Motor Vehicle Title Information System. The bill also broadens the authority of the division to affix appropriate brands to vehicles to alert consumers, motor vehicle dealers and the insurance industry of a vehicle's history.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.