

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

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

1 chosen to keep the vehicle to the Division of Motor Vehicles.

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

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

1 settlement.

2 (1) The division shall, without further inspection, issue a
3 title branded "cosmetic total loss" to the insured or claimant
4 owner if the insured or claimant owner wishes to retain possession
5 of the vehicle, in lieu of a salvage certificate. The division
6 shall charge a fee of \$5 for each cosmetic total loss title issued.
7 The terms "cosmetically damaged" and "cosmetic total loss" do not
8 include any vehicle which has been damaged by flood or fire. The
9 designation "cosmetic total loss" on a title may not be removed.

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

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

1 insurance company or vehicle owner shall, in the manner prescribed
2 by the commissioner, request that the division issue a
3 nonrepairable motor vehicle certificate in lieu of a salvage
4 certificate. The division shall issue a nonrepairable motor
5 vehicle certificate without charge.

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

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

21 ~~(g)~~ (h) If the motor vehicle is a "reconstructed vehicle" as
22 defined in this section or section one, article one of this
23 chapter, it may not be titled or registered for operation until it
24 has been inspected by an official state inspection station and by

1 the Division of Motor Vehicles. Following an approved inspection,
2 an application for a new certificate of title may be submitted to
3 the division. ~~however,~~ The applicant ~~shall be~~ is required to retain
4 all receipts for component parts, equipment and materials used in
5 the reconstruction. The salvage certificate shall also be
6 surrendered to the division before a certificate of title may be
7 issued with the appropriate brand.

8 ~~(h)~~ (i) The owner or title holder of ~~any~~ a motor vehicle
9 titled in this state which has previously been branded in this
10 state or another state as salvage, reconstructed, cosmetic total
11 loss, cosmetic total loss salvage, flood, ~~or~~ fire, ~~or~~ an equivalent
12 term under another state's laws or a term consistent with the
13 intent of the National Motor Vehicle Title Information System
14 established pursuant to 49 U. S. C. §30502 shall, upon becoming
15 aware of the brand, apply for and receive a title from the Division
16 of Motor Vehicles on which the brand "reconstructed", "salvage",
17 "cosmetic total loss", "cosmetic total loss salvage", "flood", ~~or~~
18 "fire" or other brand is shown. The division shall charge a fee of
19 \$5 for each title so issued.

20 ~~(i)~~ (j) If application is made for title to a motor vehicle,
21 the title to which has previously been branded reconstructed,
22 salvage, cosmetic total loss, cosmetic total loss salvage, flood,
23 ~~or~~ fire or other brand by the Division of Motor Vehicles under this
24 section and said application is accompanied by a title from another

1 state which does not carry the brand, the division shall, before
2 issuing the title, affix the brand "reconstructed", "cosmetic total
3 loss", "cosmetic total loss salvage", "flood", ~~or~~ "fire" or other
4 brand to the title. The ~~privilege~~ motor vehicle sales tax paid on
5 a motor vehicle titled as reconstructed, cosmetic total loss,
6 flood, ~~or~~ fire or other brand under the provisions of this section
7 shall be based on fifty percent of the fair market value of the
8 vehicle as determined by a nationally accepted used car value guide
9 to be used by the commissioner.

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

1 the provisions of this article: *Provided*, That on and after July
2 1, 2007, any balance in the special fund and all fees collected
3 pursuant to this section shall be deposited in the State Road Fund.
4 Licensed wreckers/dismantlers/rebuilders may charge a fee not to
5 exceed \$25 for all vehicles owned by private rebuilders which are
6 inspected at the place of business of a
7 wrecker/dismantler/rebuilder.

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

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

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

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

23 ~~(l)~~ (m) Every vehicle owner shall comply with the branding
24 requirements for a totaled vehicle whether or not the owner

1 receives an insurance claim settlement for a totaled vehicle.

2 ~~(m)~~ (n) A certificate of title issued by the division for a
3 reconstructed vehicle shall contain markings in bold print on the
4 face of the title that it is for a reconstructed, flood- or fire-
5 damaged vehicle.

6 ~~(n)~~ (o) Any person who knowingly provides false or fraudulent
7 information to the division that is required by this section in an
8 application for a title, a cosmetic total loss title, a
9 reconstructed vehicle title or a salvage certificate or who
10 knowingly fails to disclose to the division information required by
11 this section to be included in the application or who otherwise
12 violates the provisions of this section ~~shall be~~ is guilty of a
13 misdemeanor and, upon conviction thereof, shall for each incident
14 be fined not less than \$1,000 nor more than \$2,500, or imprisoned
15 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.)

TRANSPORTATION AND INFRASTRUCTURE COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill No. 30--A Bill to amend and reenact §17A-4-10 of the Code of West Virginia, 1931, as amended, relating to vehicles scraped, compressed, dismantled or destroyed; providing an additional means to notify the division; prescribing form; extending time period for a person to surrender title; and providing for the use of additional brands used by other jurisdictions that are consistent with the National Motor Vehicle Title Information System.