

**ENROLLED**

**Senate Bill No. 30**

(BY SENATORS BEACH AND KLEMPA)

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[Passed February 21, 2012; in effect ninety days from passage.]

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AN ACT 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.

*Be it enacted by the Legislature of West Virginia:*

That §17A-4-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.**

**§17A-4-10. Salvage certificates for certain wrecked or damaged vehicles; fee; penalty.**

1       (a) In the event a motor vehicle is determined to be a  
2 total loss or otherwise designated as totaled by an insurance  
3 company or insurer, and upon payment of a total loss claim  
4 to an insured or claimant owner for the purchase of the  
5 vehicle, the insurance company or the insurer, as a condition  
6 of the payment, shall require the owner to surrender the  
7 certificate of title: *Provided*, That an insured or claimant

8 owner may choose to retain physical possession and owner-  
9 ship of a total loss vehicle. If the vehicle owner chooses to  
10 retain the vehicle and the vehicle has not been determined to  
11 be a cosmetic total loss in accordance with subsection (d) of  
12 this section, the insurance company or insurer shall also  
13 require the owner to surrender the vehicle registration  
14 certificate. The term “total loss” means a motor vehicle  
15 which has sustained damages equivalent to seventy-five  
16 percent or more of the market value as determined by a  
17 nationally accepted used car value guide or meets the  
18 definition of a flood-damaged vehicle as defined in this  
19 section.

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

29 (c) If the insurance company or insurer determines that  
30 the vehicle is repairable, the division shall issue a salvage  
31 certificate, on a form prescribed by the commissioner, in the  
32 name of the insurance company, the insurer or the vehicle  
33 owner if the owner has chosen to retain the vehicle. The  
34 certificate shall contain, on the reverse, spaces for one  
35 successive assignment before a new certificate at an addi-  
36 tional fee is required. Upon the sale of the vehicle, the  
37 insurance company, insurer or vehicle owner if the owner  
38 has chosen to retain the vehicle, shall complete the assign-  
39 ment of ownership on the salvage certificate and deliver it to  
40 the purchaser. The vehicle may not be titled or registered for  
41 operation on the streets or highways of this state unless there  
42 is compliance with subsection (g) of this section. The division  
43 shall charge a fee of \$15 for each salvage title issued.

44 (d) If the insurance company or insurer determines the  
45 damage to a totaled vehicle is exclusively cosmetic and no

46 repair is necessary in order to legally and safely operate the  
47 motor vehicle on the roads and highways of this state, the  
48 insurance company or insurer shall, upon payment of the  
49 claim, submit the certificate of title to the division. Neither  
50 the insurance company nor the division may require the  
51 vehicle owner to surrender the registration certificate in the  
52 event of a cosmetic total loss settlement.

53 (1) The division shall, without further inspection, issue a  
54 title branded "cosmetic total loss" to the insured or claimant  
55 owner if the insured or claimant owner wishes to retain  
56 possession of the vehicle, in lieu of a salvage certificate. The  
57 division shall charge a fee of \$5 for each cosmetic total loss  
58 title issued. The terms "cosmetically damaged" and "cos-  
59 metic total loss" do not include any vehicle which has been  
60 damaged by flood or fire. The designation "cosmetic total  
61 loss" on a title may not be removed.

62 (2) If the insured or claimant owner elects not to take  
63 possession of the vehicle and the insurance company or  
64 insurer retains possession, the division shall issue a cosmetic  
65 total loss salvage certificate to the insurance company or  
66 insurer. The division shall charge a fee of \$15 for each  
67 cosmetic total loss salvage certificate issued. The division  
68 shall, upon surrender of the cosmetic total loss salvage  
69 certificate issued under the provisions of this paragraph and  
70 payment of the five percent motor vehicle sales tax on the  
71 fair market value of the vehicle as determined by the  
72 commissioner, issue a title branded "cosmetic total loss"  
73 without further inspection.

74 (e) If the insurance company or insurer determines that  
75 the damage to a totaled vehicle renders it nonrepairable,  
76 incapable of safe operation for use on roads and highways  
77 and as having no resale value except as a source of parts or  
78 scrap, the insurance company or vehicle owner shall, in the  
79 manner prescribed by the commissioner, request that the  
80 division issue a nonrepairable motor vehicle certificate in  
81 lieu of a salvage certificate. The division shall issue a  
82 nonrepairable motor vehicle certificate without charge.

83 (f) Any owner who scraps, compresses, dismantles or  
84 destroys a vehicle without further transfer or sale for which  
85 a certificate of title, nonrepairable motor vehicle certificate  
86 or salvage certificate has been issued shall, within forty-five  
87 days, surrender the certificate of title, nonrepairable motor  
88 vehicle certificate or salvage certificate to the division for  
89 cancellation.

90 (g) Any person who purchases or acquires a vehicle as  
91 salvage or scrap, to be dismantled, compressed or destroyed,  
92 shall, within forty-five days, surrender to the division the  
93 certificate of title, nonrepairable motor vehicle certificate,  
94 salvage certificate or a statement of cancellation signed by  
95 the seller, on a form prescribed by the commissioner.  
96 Subsequent purchasers of salvage or scrap are not required  
97 to comply with the notification requirement.

98 (h) If the motor vehicle is a “reconstructed vehicle” as  
99 defined in this section or section one, article one of this  
100 chapter, it may not be titled or registered for operation until  
101 it has been inspected by an official state inspection station  
102 and by the Division of Motor Vehicles. Following an ap-  
103 proved inspection, an application for a new certificate of title  
104 may be submitted to the division. The applicant is required  
105 to retain all receipts for component parts, equipment and  
106 materials used in the reconstruction. The salvage certificate  
107 shall also be surrendered to the division before a certificate  
108 of title may be issued with the appropriate brand.

109 (i) The owner or title holder of a motor vehicle titled in  
110 this state which has previously been branded in this state or  
111 another state as salvage, reconstructed, cosmetic total loss,  
112 cosmetic total loss salvage, flood, fire, an equivalent term  
113 under another state’s laws or a term consistent with the  
114 intent of the National Motor Vehicle Title Information  
115 System established pursuant to 49 U. S. C. §30502 shall, upon  
116 becoming aware of the brand, apply for and receive a title  
117 from the Division of Motor Vehicles on which the brand  
118 “reconstructed”, “salvage”, “cosmetic total loss”, “cosmetic  
119 total loss salvage”, “flood”, “fire” or other brand is shown.  
120 The division shall charge a fee of \$5 for each title so issued.

121 (j) If application is made for title to a motor vehicle, the  
122 title to which has previously been branded reconstructed,  
123 salvage, cosmetic total loss, cosmetic total loss salvage, flood,  
124 fire or other brand by the Division of Motor Vehicles under  
125 this section and said application is accompanied by a title  
126 from another state which does not carry the brand, the  
127 division shall, before issuing the title, affix the brand  
128 “reconstructed”, “cosmetic total loss”, “cosmetic total loss  
129 salvage”, “flood”, “fire” or other brand to the title. The  
130 motor vehicle sales tax paid on a motor vehicle titled as  
131 reconstructed, cosmetic total loss, flood, fire or other brand  
132 under the provisions of this section shall be based on fifty  
133 percent of the fair market value of the vehicle as determined  
134 by a nationally accepted used car value guide to be used by  
135 the commissioner.

136 (k) The division shall charge a fee of \$15 for the issuance  
137 of each salvage certificate or cosmetic total loss salvage  
138 certificate but shall not require the payment of the five  
139 percent motor vehicle sales tax. However, upon application  
140 for a certificate of title for a reconstructed, cosmetic total  
141 loss, flood or fire damaged vehicle or other brand, the  
142 division shall collect the five percent privilege tax on the fair  
143 market value of the vehicle as determined by the commis-  
144 sioner unless the applicant is otherwise exempt from the  
145 payment of such privilege tax. A wrecker/dismantler/  
146 rebuilder, licensed by the division, is exempt from the  
147 payment of the five percent privilege tax upon titling a  
148 reconstructed vehicle. The division shall collect a fee of \$35  
149 per vehicle for inspections of reconstructed vehicles. These  
150 fees shall be deposited in a special fund created in the State  
151 Treasurer’s Office and may be expended by the division to  
152 carry out the provisions of this article: *Provided*, That on and  
153 after July 1, 2007, any balance in the special fund and all  
154 fees collected pursuant to this section shall be deposited in  
155 the State Road Fund. Licensed wreckers/dismantlers/  
156 rebuilders may charge a fee not to exceed \$25 for all vehicles  
157 owned by private rebuilders which are inspected at the place  
158 of business of a wrecker/dismantler/rebuilder.

159 (l) As used in this section:

160 (1) "Reconstructed vehicle" means the vehicle was  
161 totaled under the provisions of this section or by the provi-  
162 sions of another state or jurisdiction and has been rebuilt in  
163 accordance with the provisions of this section or in accor-  
164 dance with the provisions of another state or jurisdiction or  
165 meets the provisions of subsection (m), section one, article  
166 one of this chapter.

167 (2) "Flood-damaged vehicle" means that the vehicle was  
168 submerged in water to the extent that water entered the  
169 passenger or trunk compartment.

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

176 (m) Every vehicle owner shall comply with the branding  
177 requirements for a totaled vehicle whether or not the owner  
178 receives an insurance claim settlement for a totaled vehicle.

179 (n) A certificate of title issued by the division for a  
180 reconstructed vehicle shall contain markings in bold print on  
181 the face of the title that it is for a reconstructed, flood- or  
182 fire- damaged vehicle.

183 (o) Any person who knowingly provides false or fraudu-  
184 lent information to the division that is required by this  
185 section in an application for a title, a cosmetic total loss title,  
186 a reconstructed vehicle title or a salvage certificate or who  
187 knowingly fails to disclose to the division information  
188 required by this section to be included in the application or  
189 who otherwise violates the provisions of this section is guilty  
190 of a misdemeanor and, upon conviction thereof, shall for  
191 each incident be fined not less than \$1,000 nor more than  
192 \$2,500, or imprisoned in jail for not more than one year, or  
193 both fined and imprisoned.