

Senate Bill No. 30

(By Senators Beach and Klempa)

[Introduced January 11, 2012; referred to the Committee on
Transportation and Infrastructure.]

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; 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 ~~any~~ an
3 insurance company or insurer, and upon payment of a total
4 loss claim to ~~any~~ an insured or claimant owner for the
5 purchase of the vehicle, the insurance company or the
6 insurer, as a condition of the payment, shall require the
7 owner to surrender the certificate of title: *Provided*, That an
8 insured or claimant owner may choose to retain physical
9 possession and ownership of a total loss vehicle. If the
10 vehicle owner chooses to retain the vehicle and the vehicle
11 has not been determined to be a cosmetic total loss in
12 accordance with subsection (d) of this section, the insurance
13 company or insurer shall also require the owner to surrender
14 the vehicle registration certificate. The term “total loss”
15 means a motor vehicle which has sustained damages equiva-
16 lent to seventy-five percent or more of the market value as
17 determined by a nationally accepted used car value guide or
18 meets the definition of a flood-damaged vehicle as defined in
19 this 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, ~~or~~ the insurer or the vehicle
33 owner if the owner has chosen to retain the vehicle. The
34 certificate shall contain, on the reverse, ~~thereof~~ spaces for
35 one successive assignment before a new certificate at an
36 additional fee is required. Upon the sale of the vehicle, the
37 insurance company, ~~or~~ insurer or ~~the~~ vehicle owner if the
38 owner has chosen to retain the vehicle, shall complete the
39 assignment of ownership on the salvage certificate and
40 deliver it to the purchaser. The vehicle ~~shall~~ may not be
41 titled or registered for operation on the streets or highways
42 of this state unless there is compliance with subsection (g) of
43 this section. The division shall charge a fee of \$15 for each
44 salvage title issued.

45 (d) If the insurance company or insurer determines the
46 damage to a totaled vehicle is exclusively cosmetic and no
47 repair is necessary in order to legally and safely operate the
48 motor vehicle on the roads and highways of this state, the
49 insurance company or insurer shall, upon payment of the
50 claim, submit the certificate of title to the division. Neither
51 the insurance company nor the division may require the
52 vehicle owner to surrender the registration certificate in the
53 event of a cosmetic total loss settlement.

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

63 (2) If the insured or claimant owner elects not to take
64 possession of the vehicle and the insurance company or
65 insurer retains possession, the division shall issue a cosmetic
66 total loss salvage certificate to the insurance company or

67 insurer. The division shall charge a fee of \$15 for each
68 cosmetic total loss salvage certificate issued. The division
69 shall, upon surrender of the cosmetic total loss salvage
70 certificate issued under the provisions of this paragraph and
71 payment of the five percent ~~privilege~~ motor vehicle sales tax
72 on the fair market value of the vehicle as determined by the
73 commissioner, issue a title branded "cosmetic total loss"
74 without further inspection.

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

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

89 nonrepairable motor vehicle certificate or salvage certificate
90 to the division for cancellation.

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

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

110 before a certificate of title may be issued with the appropri-
111 ate brand.

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

125 ~~(i)~~ (j) If application is made for title to a motor vehicle,
126 the title to which has previously been branded reconstructed,
127 salvage, cosmetic total loss, cosmetic total loss salvage, flood,
128 ~~or~~ fire or other brand by the Division of Motor Vehicles
129 under this section and said application is accompanied by a
130 title from another state which does not carry the brand, the
131 division shall, before issuing the title, affix the brand

132 “reconstructed”, “cosmetic total loss”, “cosmetic total loss
133 salvage”, “flood”, ~~or~~ “fire” or other brand to the title. The
134 ~~privilege~~ motor vehicle sales tax paid on a motor vehicle
135 titled as reconstructed, cosmetic total loss, flood, ~~or~~ fire or
136 other brand under the provisions of this section shall be
137 based on fifty percent of the fair market value of the vehicle
138 as determined by a nationally accepted used car value guide
139 to be used by the commissioner.

140 (†) (k) The division shall charge a fee of \$15 for the
141 issuance of each salvage certificate or cosmetic total loss
142 salvage certificate but shall not require the payment of the
143 five percent ~~privilege~~ motor vehicle sales tax. However, upon
144 application for a certificate of title for a reconstructed,
145 cosmetic total loss, flood or fire damaged vehicle or other
146 brand, the division shall collect the five percent privilege tax
147 on the fair market value of the vehicle as determined by the
148 commissioner unless the applicant is otherwise exempt from
149 the payment of such privilege tax. A wrecker/dismantler/
150 rebuilder, licensed by the division, is exempt from the
151 payment of the five percent privilege tax upon titling a
152 reconstructed vehicle. The division shall collect a fee of \$35
153 per vehicle for inspections of reconstructed vehicles. These

154 fees shall be deposited in a special fund created in the State
155 Treasurer's Office and may be expended by the division to
156 carry out the provisions of this article: *Provided*, That on and
157 after July 1, 2007, any balance in the special fund and all
158 fees collected pursuant to this section shall be deposited in
159 the State Road Fund. Licensed wreckers/dismantlers/
160 rebuilders may charge a fee not to exceed \$25 for all vehicles
161 owned by private rebuilders which are inspected at the place
162 of business of a wrecker/dismantler/rebuilder.

163 ~~(4)~~ (1) As used in this section:

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

171 (2) "Flood-damaged vehicle" means that the vehicle was
172 submerged in water to the extent that water entered the
173 passenger or trunk compartment.

174 (3) "Other brand" means a brand consistent with the
175 intent of the National Motor Vehicle Title Information

176 System established pursuant to 49 U.S.C. §30502 and rules
177 promulgated by the United States Department of Justice to
178 alert consumers, motor vehicle dealers or the insurance
179 industry of the history of a vehicle.

180 (†) (m) Every vehicle owner shall comply with the
181 branding requirements for a totaled vehicle whether or not
182 the owner receives an insurance claim settlement for a
183 totaled vehicle.

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

188 ~~(n)~~ (o) Any person who knowingly provides false or
189 fraudulent information to the division that is required by
190 this section in an application for a title, a cosmetic total loss
191 title, a reconstructed vehicle title or a salvage certificate or
192 who knowingly fails to disclose to the division information
193 required by this section to be included in the application or
194 who otherwise violates the provisions of this section ~~shall be~~
195 is guilty of a misdemeanor and, upon conviction thereof,
196 shall for each incident be fined not less than \$1,000 nor more
197 than \$2,500, or imprisoned in jail for not more than one year,
198 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.