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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4153

(By Delegate Warner)



Passed March 11, 2000

In Effect Ninety Days from passage

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LEGISLATIVE SERVICE CENTER
STATE HOUSE

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FOR

H. B. 4153

(BY DELEGATE WARNER)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section ten, article four, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting an insurance claimant with a total loss which is exclusively cosmetic to choose to retain the vehicle by providing for the issuance of a title with the designation "cosmetic total loss".

Be it enacted by the Legislature of West Virginia:

That section ten, article four, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, 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 total
- 2 loss or otherwise designated as "totaled" by any insurance

3 company or insurer, and upon payment of an agreed price as a
4 claim settlement to any insured or claimant owner for the
5 purchase of the vehicle, the insurance company or the insurer
6 shall receive the certificate of title and the vehicle except that
7 an insured or claimant owner may choose to retain possession
8 of a cosmetically damaged vehicle, as provided in subdivision
9 (2) of this subsection. The term "total loss" means a motor
10 vehicle which has sustained damages equivalent to seventy-five
11 percent or more of the market value as determined by a
12 nationally accepted used car value guide. The insurance
13 company or insurer shall within ten days determine if the
14 vehicle is repairable, cosmetically damaged or nonrepairable
15 and surrender the certificate of title and a copy of the claim
16 settlement to the division of motor vehicles. If the insurance
17 company or insurer determines that the vehicle is repairable, the
18 division shall issue a "salvage certificate", on a form prescribed
19 by the commissioner, in the name of the insurance company or
20 the insurer. The certificate shall contain on the reverse thereof
21 spaces for one successive assignment before a new certificate
22 at an additional fee is required.

23 (1) Upon the sale of the vehicle the insurance company or
24 insurer shall endorse the assignment of ownership on the
25 salvage certificate and deliver it to the purchaser. The vehicle
26 shall not be titled or registered for operation on the streets or
27 highways of this state unless there is compliance with subsec-
28 tion (c) of this section. The division shall charge a fee of fifteen
29 dollars for each salvage title issued.

30 (2) If the insurance company or insurer determines the
31 damage to a totaled vehicle is exclusively cosmetic and no
32 repair is necessary in order to legally and safely operate the
33 motor vehicle on the roads and highways of this state, the
34 insurance company or insurer shall upon payment of the claim
35 settlement submit the certificate of title to the division.

36 (A) The division shall, without further inspection, issue a
37 title branded “cosmetic total loss” to the insured or claimant
38 owner if the insured or claimant owner wishes to retain posses-
39 sion of the vehicle, in lieu of a “salvage certificate.” A fee of
40 five dollars shall be charged for each “cosmetic total loss” title
41 issued. The terms “cosmetically damaged” and “cosmetic total
42 loss” do not include any vehicle which has been damaged by
43 flood or fire. The designation “cosmetic total loss” on a title
44 cannot be changed.

45 (B) If the insured or claimant owner elects not to take
46 possession of the vehicle and the insurance company or insurer
47 retains possession, the division shall issue a cosmetic total loss
48 salvage certificate to the insurance company or insurer. The
49 division shall charge a fee of fifteen dollars for each cosmetic
50 total loss salvage certificate issued. The division shall, upon
51 surrender of the cosmetic total loss salvage certificate issued
52 under the provisions of this paragraph, and payment of the five
53 percent privilege tax on the fair market value of the vehicle as
54 determined by the commissioner, issue a title branded “cos-
55 metic total loss” without further inspection.

56 (3) If the insurance company or insurer determines that the
57 damage to a totaled vehicle renders it nonrepairable, incapable
58 of safe operation for use on roads and highways and which has
59 no resale value except as a source of parts or scrap, the insur-
60 ance company or vehicle owner shall request that the division
61 issue a nonrepairable motor vehicle certificate in lieu of a
62 salvage certificate. The division shall issue a nonrepairable
63 motor vehicle certificate without charge.

64 (b) Any owner, who scraps, compresses, dismantles or
65 destroys a vehicle for which a certificate of title, nonrepairable
66 motor vehicle certificate or salvage certificate has been issued,
67 shall, within twenty days, surrender the certificate of title,
68 nonrepairable motor vehicle certificate or salvage certificate to

69 the division for cancellation. Any person who purchases or
70 acquires a vehicle as salvage or scrap, to be dismantled,
71 compressed or destroyed, shall within twenty days surrender the
72 certificate to the division.

73 (c) If the motor vehicle is a "reconstructed vehicle" as
74 defined in section one, article one of this chapter, it may not be
75 titled or registered for operation until it has been inspected by
76 an official state inspection station and by a representative of the
77 division of motor vehicles who has been designated by the
78 commissioner as an investigator. Following an approved
79 inspection, an application for a new certificate of title may be
80 submitted to the division; however, the applicant shall be
81 required to retain all receipts for component parts, equipment
82 and materials used in the reconstruction. The salvage certificate
83 must also be surrendered to the division before a certificate of
84 title may be issued.

85 (d) The owner or title holder of any motor vehicle titled in
86 this state which has previously been branded in this state or
87 another state as "salvage," "reconstructed," "cosmetic total
88 loss," "cosmetic total loss salvage," "flood" or "fire" or an
89 equivalent term under another state's laws shall, upon becom-
90 ing aware of the brand, apply for and receive a title from the
91 division of motor vehicles on which the brand "reconstructed,"
92 "salvage," "cosmetic total loss," "cosmetic total loss salvage,"
93 "flood" or "fire" is shown. A fee of five dollars will be charged
94 for each title so issued.

95 (e) If application is made for title to a motor vehicle, the
96 title to which has previously been branded "reconstructed,"
97 "salvage," "cosmetic total loss," "cosmetic total loss salvage,"
98 "flood" or "fire" by the division of motor vehicles under this
99 section and said application is accompanied by a title from
100 another state which does not carry the brand, the division shall,
101 before issuing the title, affix the brand "reconstructed,"

102 “cosmetic total loss,” “cosmetic total loss salvage,” “flood” or
103 “fire” to the title. The privilege tax paid on a motor vehicle
104 titled as “reconstructed,” “cosmetic total loss,” “flood” or
105 “fire” under the provisions of this section shall be based on fifty
106 percent of the fair market value of the vehicle as determined by
107 a nationally accepted used car value guide to be used by the
108 commissioner.

109 (f) The division shall charge a fee of fifteen dollars for the
110 issuance of each salvage certificate or cosmetic total loss
111 salvage certificate but shall not require the payment of the five
112 percent privilege tax. However, upon application for a certifi-
113 cate of title for a reconstructed, cosmetic total loss, flood or fire
114 damaged vehicle, the division shall collect the five percent
115 privilege tax on the fair market value of the vehicle as deter-
116 mined by the commissioner unless the applicant is otherwise
117 exempt from the payment of such privilege tax. A
118 wrecker/dismantler/rebuilder is exempt from the five percent
119 privilege tax upon titling a reconstructed vehicle. The division
120 shall collect a fee of thirty-five dollars per vehicle for inspec-
121 tions of reconstructed vehicles. These fees shall be deposited in
122 a special fund created in the state treasurer’s office and may be
123 expended by the division to carry out the provisions of this
124 article. Licensed wreckers/dismantlers/rebuilders may charge
125 a fee not to exceed twenty-five dollars for all vehicles owned by
126 private rebuilders which are inspected at the place of business
127 of a wrecker/dismantler/rebuilder.

128 (g) A certificate of title issued by the division for a recon-
129 structed vehicle shall contain markings in bold print on the face
130 of the title that it is for a reconstructed, flood or fire damaged
131 vehicle.

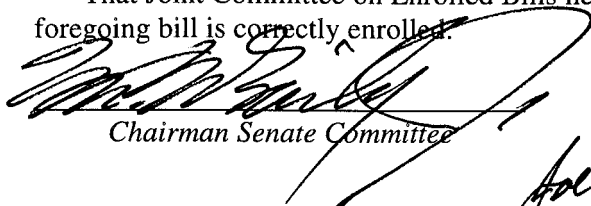
132 Any person who violates the provisions of this section shall
133 be guilty of a misdemeanor and, upon conviction thereof, shall
134 be fined not less than five hundred dollars nor more than one

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135 thousand dollars, or imprisoned in the county jail for not more
136 than one year, or both fined and imprisoned.

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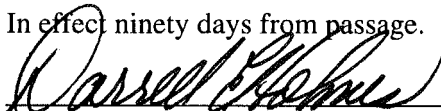
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

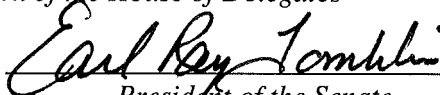

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

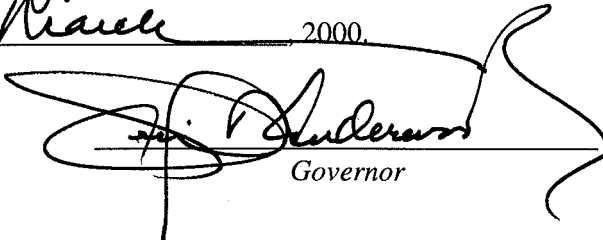

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 28th
day of March, 2000.


Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/10

Time 3:45 pm