ENROLLED

Senate Bill No. 169

(Senators Bowman, McCabe, Minard, Jenkins, Plymale and Kessler, original sponsors)

[Passed February 27, 2007; in effect ninety days from passage.]
AN ACT to amend and reenact §17A-4-10 of the Code of West Virginia, 1931, as amended, relating to salvage certificates for certain wrecked vehicles; allowing vehicle owners to retain certain vehicles declared totaled; requiring the surrender of title and registration certificate; eliminating the special revenue account; increasing criminal penalties; and clarifying certain definitions.
Enr. Com. Sub. for S. B. No. 169] 2

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.

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

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

(c) If the insurance company or insurer determines that the vehicle is repairable, the division shall issue a "salvage certificate", on a form prescribed by the commissioner, in the name of the insurance company or the insurer or the vehicle owner if the owner has chosen to retain the vehicle. The certificate shall contain on the reverse thereof spaces for one successive assignment before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance company or insurer or the vehicle owner if the owner has chosen to retain the vehicle shall complete the assignment of ownership on the salvage certificate and deliver it to the purchaser. The vehicle shall not be titled or registered for operation on the streets or highways of this state unless there is compliance with subsection (g) of this section. The division shall charge a fee of fifteen dollars for each salvage title issued.

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

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

(2) If the insured or claimant owner elects not to take
possession of the vehicle and the insurance company or
insurer retains possession, the division shall issue a
cosmetic total loss salvage certificate to the insurance
company or insurer. The division shall charge a fee of
fifteen dollars for each cosmetic total loss salvage
certificate issued. The division shall, upon surrender of
the cosmetic total loss salvage certificate issued under
the provisions of this paragraph and payment of the five
percent privilege tax on the fair market value of the
vehicle as determined by the commissioner, issue a title
branded "cosmetic total loss" without further
inspection.

(e) If the insurance company or insurer determines
that the damage to a totaled vehicle renders it
nonrepairable, incapable of safe operation for use on
roads and highways and which has no resale value
except as a source of parts or scrap, the insurance
company or vehicle owner shall, in the manner
prescribed by the commissioner, request that the
division issue a nonrepairable motor vehicle certificate
in lieu of a salvage certificate. The division shall issue
a nonrepairable motor vehicle certificate without
charge.
(f) Any owner who scraps, compresses, dismantles or destroys a vehicle for which a certificate of title, nonrepairable motor vehicle certificate or salvage certificate has been issued shall, within twenty days, surrender the certificate of title, nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation. Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled, compressed or destroyed, shall within twenty days surrender the certificate to the division.

(g) If the motor vehicle is a "reconstructed vehicle" as defined in this section or section one, article one of this chapter, it may not be titled or registered for operation until it has been inspected by an official state inspection station and by the Division of Motor Vehicles. Following an approved inspection, an application for a new certificate of title may be submitted to the division; however, the applicant shall be required to retain all receipts for component parts, equipment and materials used in the reconstruction. The salvage certificate shall also be surrendered to the division before a certificate of title may be issued with the appropriate brand.

(h) The owner or title holder of any motor vehicle titled in this state which has previously been branded in this state or another state as "salvage", "reconstructed", "cosmetic total loss", "cosmetic total loss salvage", "flood" or "fire" or an equivalent term under another state's laws shall, upon becoming aware of the brand, apply for and receive a title from the Division of Motor Vehicles on which the brand "reconstructed", "salvage", "cosmetic total loss", "cosmetic total loss salvage", "flood" or "fire" is shown. The division shall charge a fee of five dollars for each title so issued.
(i) If application is made for title to a motor vehicle, the title to which has previously been branded "reconstructed", "salvage", "cosmetic total loss", "cosmetic total loss salvage", "flood" or "fire" by the Division of Motor Vehicles under this section and said application is accompanied by a title from another state which does not carry the brand, the division shall, before issuing the title, affix the brand "reconstructed", "cosmetic total loss", "cosmetic total loss salvage", "flood" or "fire" to the title. The privilege tax paid on a motor vehicle titled as "reconstructed", "cosmetic total loss", "flood" or "fire" under the provisions of this section shall be based on fifty percent of the fair market value of the vehicle as determined by a nationally accepted used car value guide to be used by the commissioner.

(j) The division shall charge a fee of fifteen dollars for the issuance of each salvage certificate or cosmetic total loss salvage certificate but shall not require the payment of the five percent privilege tax. However, upon application for a certificate of title for a reconstructed, cosmetic total loss, flood or fire damaged vehicle, the division shall collect the five percent privilege tax on the fair market value of the vehicle as determined by the commissioner unless the applicant is otherwise exempt from the payment of such privilege tax. A wrecker/dismantler/rebuilder licensed by the division is exempt from the payment of the five percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of thirty-five dollars per vehicle for inspections of reconstructed vehicles. Licensed wreckers/dismantlers/rebuilders may charge a fee not to exceed twenty-five dollars for all vehicles owned by private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.
(k) As used in this section:

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

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

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

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

(n) Any person who knowingly provides false or
fraudulent information to the division that is required
by this section in an application for a title, a cosmetic
total loss title, a reconstructed vehicle title or a salvage
certificate or who knowingly fails to disclose to the
division information required by this section to be
included in the application or who otherwise violates
the provisions of this section shall be guilty of a
misdemeanor and, upon conviction thereof, shall for
each incident be fined not less than one thousand
dollars nor more than two thousand five hundred
dollars or imprisoned in jail for not more than one year,
or both fined and imprisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 14th Day of January, 2007.

Governor
PRESENTED TO THE
GOVERNOR

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Time 3:55