

SB 169 S

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

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.]

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COMMITTEE SUBSTITUTE

FOR

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.

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

21 (b) The insurance company or insurer shall, prior to
22 the payment of the total loss claim, determine if the
23 vehicle is repairable, cosmetically damaged or
24 nonrepairable. Within ten days of payment of the total
25 loss claim, the insurance company or insurer shall

26 surrender the certificate of title, a copy of the claim
27 settlement, a completed application on a form
28 prescribed by the commissioner and the registration
29 certificate if the owner has chosen to keep the vehicle to
30 the Department of Motor Vehicles.

31 (c) If the insurance company or insurer determines
32 that the vehicle is repairable, the division shall issue a
33 "salvage certificate", on a form prescribed by the
34 commissioner, in the name of the insurance company or
35 the insurer or the vehicle owner if the owner has chosen
36 to retain the vehicle. The certificate shall contain on the
37 reverse thereof spaces for one successive assignment
38 before a new certificate at an additional fee is required.

39 Upon the sale of the vehicle, the insurance company
40 or insurer or the vehicle owner if the owner has chosen
41 to retain the vehicle shall complete the assignment of
42 ownership on the salvage certificate and deliver it to the
43 purchaser. The vehicle shall not be titled or registered
44 for operation on the streets or highways of this state
45 unless there is compliance with subsection (g) of this
46 section. The division shall charge a fee of fifteen dollars
47 for each salvage title issued.

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

58 (1) The division shall, without further inspection, issue

59 a title branded "cosmetic total loss" to the insured or
60 claimant owner if the insured or claimant owner wishes
61 to retain possession of the vehicle, in lieu of a "salvage
62 certificate". The division shall charge a fee of five
63 dollars for each "cosmetic total loss" title issued. The
64 terms "cosmetically damaged" and "cosmetic total loss"
65 do not include any vehicle which has been damaged by
66 flood or fire. The designation "cosmetic total loss" on
67 a title may not be removed.

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

81 (e) If the insurance company or insurer determines
82 that the damage to a totaled vehicle renders it
83 nonrepairable, incapable of safe operation for use on
84 roads and highways and which has no resale value
85 except as a source of parts or scrap, the insurance
86 company or vehicle owner shall, in the manner
87 prescribed by the commissioner, request that the
88 division issue a nonrepairable motor vehicle certificate
89 in lieu of a salvage certificate. The division shall issue
90 a nonrepairable motor vehicle certificate without
91 charge.

92 (f) Any owner who scraps, compresses, dismantles or
93 destroys a vehicle for which a certificate of title,
94 nonrepairable motor vehicle certificate or salvage
95 certificate has been issued shall, within twenty days,
96 surrender the certificate of title, nonrepairable motor
97 vehicle certificate or salvage certificate to the division
98 for cancellation. Any person who purchases or acquires
99 a vehicle as salvage or scrap, to be dismantled,
100 compressed or destroyed, shall within twenty days
101 surrender the certificate to the division.

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

114 (h) The owner or title holder of any motor vehicle
115 titled in this state which has previously been branded in
116 this state or another state as "salvage", "reconstructed",
117 "cosmetic total loss", "cosmetic total loss salvage",
118 "flood" or "fire" or an equivalent term under another
119 state's laws shall, upon becoming aware of the brand,
120 apply for and receive a title from the Division of Motor
121 Vehicles on which the brand "reconstructed",
122 "salvage", "cosmetic total loss", "cosmetic total loss
123 salvage", "flood" or "fire" is shown. The division shall
124 charge a fee of five dollars for each title so issued.

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

141 (j) The division shall charge a fee of fifteen dollars for
142 the issuance of each salvage certificate or cosmetic total
143 loss salvage certificate but shall not require the
144 payment of the five percent privilege tax. However,
145 upon application for a certificate of title for a
146 reconstructed, cosmetic total loss, flood or fire damaged
147 vehicle, the division shall collect the five percent
148 privilege tax on the fair market value of the vehicle as
149 determined by the commissioner unless the applicant is
150 otherwise exempt from the payment of such privilege
151 tax. A wrecker/dismantler/rebuilder licensed by the
152 division is exempt from the payment of the five percent
153 privilege tax upon titling a reconstructed vehicle. The
154 division shall collect a fee of thirty-five dollars per
155 vehicle for inspections of reconstructed vehicles.
156 Licensed wreckers/dismantlers/rebuilders may charge
157 a fee not to exceed twenty-five dollars for all vehicles
158 owned by private rebuilders which are inspected at the
159 place of business of a wrecker/dismantler/rebuilder.

160 (k) As used in this section:

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

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

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

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

179 (n) Any person who knowingly provides false or
180 fraudulent information to the division that is required
181 by this section in an application for a title, a cosmetic
182 total loss title, a reconstructed vehicle title or a salvage
183 certificate or who knowingly fails to disclose to the
184 division information required by this section to be
185 included in the application or who otherwise violates
186 the provisions of this section shall be guilty of a
187 misdemeanor and, upon conviction thereof, shall for
188 each incident be fined not less than one thousand
189 dollars nor more than two thousand five hundred
190 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.

... *Chandy White*
Chairman Senate Committee

.....
[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

.....
Dassel Holmes
.....
Clerk of the Senate

.....
Benny D. Bow
.....
Clerk of the House of Delegates

.....
Earl Ray Tomlin
.....
President of the Senate

.....
[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *14th* Day of *March* 2007.

.....
[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 0 8 2007

Time 2:55 pm