Committee Substitute for House Bill 2402

BY DELEGATES HOWELL, FRICH, ELDRIDGE AND PHILLIPS

[Passed April 8, 2017; in effect ninety days from passage.]
WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

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for

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AN ACT to amend and reenact §17-24A-1 and §17-24A-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17-24A-6a; and to amend and reenact §17A-4-10 of said code, all relating to abandoned motor vehicles; adding new definitions; establishing a process for automobile auctions to obtain title to and sell motor vehicles abandoned on its premises; creating a special procedure for a person to apply for and receive title to an abandoned antique motor vehicle valued at $7,500 or less; providing for the issuance of a Vehicle Removal Certificate to remove an antique motor vehicle from private property with permission of the property owner; providing that the Division of Motor Vehicles to search for the owner and lienholders of the motor vehicle and provide notice of the application for title to the vehicle; creating a procedure for the owner or lienholders to reclaim the vehicle within 30 days of notice of an application for title to the vehicle; establishing fees to accompany an application for title to the vehicle; establishing fees for reclamation of the vehicle by owner or lienholder; creating a misdemeanor offense of interference with a person who has acquired title to an antique motor vehicle attempting to recover the vehicle from private property and establishing penalties upon conviction thereof; directing the division to promulgate rules and forms to effectuate new procedure; allowing an insurance company to obtain a salvage certificate or a cosmetic total loss salvage certificate after paying a total loss claim on a vehicle; and creating a process by which an automobile auction may apply for and obtain a salvage certificate or a nonrepairable motor vehicle certificate for certain vehicles on its property received from an insurer who subsequently denies a claim on the vehicle or otherwise does not obtain ownership of the vehicle; and providing for indemnity by the applicant to the Division of Motor Vehicles for the erroneous issuance of such title.

Be it enacted by the Legislature of West Virginia:

That §17-24A-1 and §17-24A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be further amended by adding thereto a new section, designated §17-24A-6a; and to amend and reenact §17A-4-10 of said code, all to read as follows:
CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR VEHICLES, AND ABANDONED OR INOPERATIVE HOUSEHOLD APPLIANCES.


Unless the context clearly indicates a different meaning, as used in this article:

1. "Commissioner" means the Commissioner of the Division of Highways or his or her designee.

2. "Abandoned household appliance" means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixtures or appliances to which no person claims ownership and which is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.

3. "Abandoned motor vehicle" means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public property for any period over five days, other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher; or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period over five days; or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, That a motor vehicle, or major part thereof, is not an abandoned motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner’s property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.
(4) "Abandoned antique motor vehicle" means a vehicle that qualifies as both an abandoned motor vehicle and an antique motor vehicle.

(5) "Antique motor vehicle" means a vehicle that was manufactured more than twenty-five years before the current date.

(6) "Demolisher" means any person licensed by the Commissioner of the Division of Highways whose business, to any extent or degree, is to convert a motor vehicle or any part thereof or an inoperative household appliance into processed scrap or scrap metal or into saleable parts or otherwise to wreck or dismantle vehicles or appliances.

(7) The "Division" means the West Virginia Division of Motor Vehicles.

(8) "Enclosed building" means a structure surrounded by walls or one continuous wall and having a roof enclosing the entire structure and includes a permanent appendage thereto.

(9) "Enforcement agency" means any of the following or any combination of the following:
   (a) Public law-enforcement officers of this state, including natural resources police officers;
   (b) Public law-enforcement officers of any county, city or town within this state; and
   (c) The Commissioner of the Division of Highways, his or her duly authorized agents and employees.

(10) "Inoperative household appliance" means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixture or appliance which by reason of mechanical or physical defects can no longer be used for its intended purpose and which is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.

(11) "Junked motor vehicle" means a motor vehicle, or any part thereof which: (a) Is discarded, wrecked, ruined, scrapped or dismantled; (b) cannot pass the state inspection required by article sixteen, chapter seventeen-c of this code; and (c) is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession
of a demolisher: Provided, That a motor vehicle, or major part thereof, is not a junked motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner's property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale. 

(12) "Licensed salvage yard" means a salvage yard licensed under article twenty-three of this chapter. 

(13) "Motor vehicle" means a vehicle which is or was self-propelled, including, but not limited to, automobiles, trucks, buses and motorcycles. 

(14) "Person" means a natural person, corporation, firm, partnership, association or society and the plural as well as the singular. 

(15) "Vehicle Identification Number" means a unique number or mark placed on a vehicle or part thereof by the manufacturer so as to identify it particularly and distinguish the vehicle or part from all other such vehicles or parts. 

§17-24A-4. Abandoned or junked motor vehicles; notification to motor vehicle owner and lienholder; charges and fees; exceptions. 

(a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or junked motor vehicle shall, within fifteen days after taking custody and possession thereof, notify the last-known registered owner of the motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession, the notification to be by registered or certified mail, return receipt requested. The notice shall: 

(1) Contain a description of the motor vehicle, including the year, make, model, manufacturer's serial or identification number or any other number which may have been assigned to the motor vehicle by the Commissioner of Motor Vehicles and any distinguishing marks;
(2) Set forth the location of the facility where the motor vehicle is being held and the location where the motor vehicle was taken into custody and possession;

(3) Inform the owner and any lienholders of record of their right to reclaim the motor vehicle within ten days after the date notice was received by the owner or lienholders, upon payment of all towing, preservation and storage charges resulting from taking and placing the motor vehicle into custody and possession; and

(4) State that the failure of the owner or lien holders of record to exercise their right to reclaim the motor vehicle within the ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title and interest in the motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or demolisher.

(b) If the identity of the last registered owner of the abandoned motor vehicle or junked motor vehicle cannot be determined or if the certificate of registration or certificate of title contains no address for the owner or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, the publication area shall be the county wherein the motor vehicle was located at the time the enforcement agency took custody and possession thereof and the notice shall be sufficient to meet all requirements of notice pursuant to this article. Any notice by publication may contain multiple listings of abandoned motor vehicles and junked motor vehicles. The notice shall be published within fifteen days after the motor vehicle is taken into custody and possession and shall have the same contents required for a notice pursuant to subsection (a) of this section, except that the ten-day period shall run from the date the notice is published as aforesaid.

(c) An enforcement agency which hires any person or entity to take into custody and possession an abandoned motor vehicle or junked motor vehicle pursuant to this section shall notify the person or entity hired of the name and address of the registered owner of the motor
vehicle, if known, and all lienholders of record, if any, within fifteen days after the vehicle is taken into custody and possession: Provided, That the requirements of this subsection shall not apply to motor vehicles for which the registered owner cannot be ascertained by due diligence or investigation.

(d) The person or entity hired by an enforcement agency to take into custody or possession an abandoned motor vehicle or junked motor vehicle shall, within thirty days after the possession, notify the registered owner of the vehicle and all lienholders of record, if any, as identified by the enforcement agency pursuant to subsection (c) of this section, by registered mail, return receipt requested, that the motor vehicle has been taken into custody and possession. The notice shall have the same contents required for a notice pursuant to subsection (a) of this section, including the ten-day period the owner or lienholder has to reclaim the motor vehicle. Upon the issuance of the notice, the identified owner of the motor vehicle is liable and responsible for all costs for towing, preservation and storage of the motor vehicle: Provided, That failure to issue the notice required by this subsection within thirty days after possession of the motor vehicle relieves the identified owner of the motor vehicle of any liability for charges for towing, preservation and storage in excess of the sum of the first five days of the charges: Provided, however, That the requirements of this subsection do not apply to motor vehicles for which the registered owner thereof cannot be ascertained by due diligence or investigation.

(e) For an abandoned motor vehicle or junked vehicle having a loan value of $7,500 or less, as ascertained by values placed upon motor vehicles using a standard industry reference book, a person or entity hired by an enforcement agency to tow the abandoned motor vehicle or junked motor vehicle may, if the motor vehicle is not claimed by the owner or a lienholder after notice within the time set forth in subsection (d) of this section or if the identity of the last registered owner of the abandoned motor vehicle or junked motor vehicle cannot be determined or if the certificate of registration or certificate of title contains no address of the owner or if it is impossible to determine with reasonable certainty the identity and address of all lienholders after publication
as set forth in subsection (b) of this section, file an application with the Division of Motor Vehicles for a certificate of title and registration which, upon payment of the appropriate fees, shall be issued. The person or entity may then sell the motor vehicle at private sale or public auction.

(f) A licensed motor vehicle dealer, as defined in section one, article one, chapter seventeen-a of this code, a licensed automobile auction as defined in section one, article six-c, chapter seventeen-a of this code, or a motor vehicle repair facility or a towing company registered with the Public Service Commission pursuant to section two-a, article two, chapter twenty-four-a of this code may file an application with the Division of Motor Vehicles for a certificate of title and registration for an abandoned motor vehicle or junked vehicle. Upon payment of the appropriate fees, the division shall deliver the certificate of title and registration to the applicant, if:

(1) The vehicle has a loan value of $9,500 or less, as ascertained by values placed upon motor vehicles using a standard industry reference book; and

(2) The motor vehicle is abandoned on the property or place of business of the dealer, licensed automobile auction, motor vehicle repair facility or towing company; and

(3) This amount will be increased every five years on September 1 of the fifth year based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index; and

(4) One of the following situations applies:

(A) The identity of the last registered owner of the abandoned motor vehicle cannot be determined; or

(B) The certificate of registration or certificate of title contains no address of the owner; or

(C) It is impossible to determine with reasonable certainty the identity and address of all lienholders after publication as set forth in subsection (b) of this section.

(D) The motor vehicle is not claimed by the owner or a lienholder after notice within the time set forth in subsection (d) of this section.
(g) Upon receipt of the certificate of title and registration, the dealer, licensed automobile auction, motor vehicle repair facility or towing company may sell the vehicle at private sale or public auction.

(h) For purposes of this section motor vehicle repair facilities and towing companies are not used motor vehicle dealers as that term is defined by subdivision (2), subsection (a), section one, article six, chapter seventeen-a of this code.

§17-24A-6a. Title to abandoned antique motor vehicle; special procedure; notice to owner; fees; criminal penalties.

(a) Application for Title to Abandoned Antique Motor Vehicle. —

(1) A person may apply to the division for ownership and title to an abandoned antique motor vehicle if that person:

(A) Is the owner of private property on which the vehicle is located; or

(B) Has obtained a valid Vehicle Removal Certificate from the division.

(2) The application shall include the following:

(A) The name, address and other contact information of the applicant;

(B) The year, make, model, Vehicle Identification Number and any other identifying marks on the vehicle: Provided, That if there is no Vehicle Identification Number, the applicant shall provide all information available or reasonably ascertainable to identify the year, make and model of the vehicle; and

(C) Any other information required by the division.

(3) Upon application for title to an abandoned antique motor vehicle, the applicant shall pay a fee of $100 to the division.

(b) Vehicle Removal Certificate. — In a manner prescribed by the division, a person may apply for a Vehicle Removal Certificate at no fee, by presenting records sufficient to demonstrate to a reasonable degree of certainty that the owner of the private property on which an abandoned
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antique motor vehicle is located has given the applicant written permission to remove the vehicle from the private property.

(c) Search for Owner and Lienholders; Notice. —

(1) Upon receipt of an application for title to an abandoned antique motor vehicle, the division shall initiate a search for the last owner of the vehicle and any lienholders of record of the vehicle, using the year, make, model, Vehicle Identification Number and any other identifying marks on the vehicle, and, if there is no Vehicle Identification Number, the information provided on the application related to the year, make and model of the motor vehicle that was available to the applicant. The division shall, at a minimum, search:

(A) Its own records;
(B) The records of a nationally recognized crime database; and
(C) Records of a nationally recognized motor vehicle title database for owner information.

(2) If, in the course of a search, the division discovers that the vehicle has been reported as stolen, the division shall notify the appropriate law-enforcement agency of that fact.

(3) If the division determines the identity and address of the owner and any lienholder, the division shall, by certified mail with return receipt requested, notify the owner and any lienholder of the application for title to the vehicle and the contact information for the owner of the property on which the vehicle is located. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received. The owner or lienholder will then have the following options, which shall be detailed in the division's letter of notice:

(A) Pay a $100 fee to the division, $50 of which shall be awarded to the applicant, and reclaim and remove the vehicle from private property within 30 days of the date of receiving notice at a time and in a manner arranged with the owner of the private property; or

(B) Waives all right, title, and interest in the motor vehicle, and the right, title, and interest in the vehicle shall be transferred to the applicant, free of all liens and encumbrances.
(4) If the division performs a search pursuant to this subsection and the identity and address of the owner cannot be determined with reasonable certainty, the division shall immediately transfer all right, title, and interest in the vehicle to the applicant, free and clear of all liens and encumbrances.

(d) Rules and Forms. —

(1) The division shall promulgate rules necessary to carry out this section, and shall create the following forms:

(A) A form to apply for the title to an abandoned antique vehicle, which shall require an applicant to provide the following information:

(i) The applicant's legal name and contact information;

(ii) The Vehicle Identification Number: Provided, That if the vehicle does not have a Vehicle Identification Number, the applicant shall follow the procedure set forth in subdivisions (2) and (3) of this subsection;

(iii) The year, make and model of the vehicle;

(iv) The current location of the vehicle; and

(v) The current contact information for the owner of the private property on which the vehicle is located.

(B) A Vehicle Removal Certificate, which shall be issued to a person who presents the records required by subsection (b) of this section and shall require the following information:

(i) The applicant's legal name and contact information;

(ii) The Vehicle Identification Number: Provided, That if the vehicle does not have a Vehicle Identification Number, the applicant shall follow the procedure set forth in subdivisions (2) and (3) of this subsection;

(iii) The year, make and model of the vehicle;

(iv) The current location of the vehicle; and
(v) The current contact information for the owner of the private property on which the vehicle is located.

(2) If an applicant or person requesting a Vehicle Removal Certificate cannot, after reasonable efforts, determine the Vehicle Identification Number of the vehicle, the person may pay a $100 fee to the West Virginia State Police to inspect the vehicle, determine, in the sole discretion of the division, the year, make and model of the motor vehicle using all information available or reasonably ascertainable and assign the motor vehicle a new Vehicle Identification Number.

(3) If the West Virginia State Police cannot locate a Vehicle Identification Number on an abandoned antique vehicle, the West Virginia State Police shall verify in writing that the vehicle has no Vehicle Identification Number. The applicant may then present the written verification to the division, which shall then issue a new Vehicle Identification Number for the vehicle pursuant to section twenty, article three, chapter seventeen-a of this code.

(e) Obstruction of removal of vehicle from private property prohibited. — No person shall knowingly interfere with a person who has acquired title to an antique motor vehicle and is reclaiming and removing a vehicle from private property pursuant to the procedures set forth in this section. Any person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined $500.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

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 an insurance company or insurer, and upon payment of a total loss claim to an 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: \textit{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. Except as provided in subsection (p) of this section, 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 Division 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, the insurer or the vehicle owner if the owner has chosen to retain the vehicle. The certificate shall contain, on the reverse, spaces for one successive assignment before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance company, insurer or 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 may not be titled or registered for operation on the streets or highways of this state unless there is compliance with subsection (h) of this section. The division shall charge a fee of $15 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 $5 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 $15 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 motor vehicle sales 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 as having 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 without further transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate or salvage
certificate has been issued shall, within forty-five days, surrender the certificate of title, nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation.

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

(h) 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. The applicant is 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.

(i) The owner or title holder of a 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, fire, an equivalent term under another state's laws or a term consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C.§30502 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,” “fire” or other brand is shown. The division shall charge a fee of $5 for each title so issued.

(j) 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, fire or other brand 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
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issuing the title, affix the brand "reconstructed," "cosmetic total loss," "cosmetic total loss salvage," "flood," "fire" or other brand to the title. The motor vehicle sales tax paid on a motor vehicle titled as reconstructed, cosmetic total loss, flood, fire or other brand 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.

(k) The division shall charge a fee of $15 for the issuance of each salvage certificate or cosmetic total loss salvage certificate but shall not require the payment of the five percent motor vehicle sales tax. However, upon application for a certificate of title for a reconstructed, cosmetic total loss, flood or fire damaged vehicle or other brand, 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 $35 per vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special fund created in the State Treasurer's Office and may be expended by the division to carry out the provisions of this article: Provided, That on and after July 1, 2007, any balance in the special fund and all fees collected pursuant to this section shall be deposited in the State Road Fund. Licensed wreckers/dismantlers/rebuilders may charge a fee not to exceed $25 for all vehicles owned by private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

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

(m) 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.

(n) 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.

(o) 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 is guilty of a misdemeanor and, upon conviction thereof, shall for each incident be fined not less than $1,000 nor more than $2,500, or imprisoned in jail for not more than one year, or both fined and imprisoned.

(p) Notwithstanding any other provision of law and with respect to a vehicle which the vehicle owner has not chosen to retain, if an insurance company or insurer is unable to obtain the properly endorsed certificate of title for a motor vehicle within thirty days of the payment of a total loss claim, the insurance company or insurer, at any time thereafter, may apply to the Division of Motor Vehicles for a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor vehicle certificate, as applicable. The application shall be accompanied by evidence that the insurance company or insurer has paid a total loss claim on the vehicle, a copy of a written request for the certificate of title sent to the vehicle owner and any known lienholder by the insurance company or insurer or a designee of the insurance company or insurer, proof that the request was sent by certified mail, return receipt requested, to the last known address of the
vehicle owner and any known lienholder, service to be complete upon the mailing thereof, and
the required fee, if applicable. Upon receipt of a properly completed application, the division shall
issue a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor
vehicle certificate, as applicable, in the name of the insurance company or insurer. Such salvage
certificate, cosmetic total loss salvage certificate or nonrepairable motor vehicle certificate shall
be issued free and clear of all liens and claims of ownership.

(q) If an insurance company or insurer requests that an automobile auction take
possession of a motor vehicle that is the subject of an insurance claim, and subsequently the
insurance company denies coverage with respect to the motor vehicle or otherwise does not take
ownership of the motor vehicle, the automobile auction may proceed as follows. At any time after
the automobile auction has had possession of the motor vehicle for forty-five days, it may apply
to the division for a salvage certificate or a nonrepairable motor vehicle certificate without
surrendering the certificate of title for the motor vehicle. The application shall be accompanied by
a copy of a written request, on the automobile auction’s letterhead, requesting that, upon payment
of applicable charges, the vehicle be removed from the automobile auction’s facility, proof that
the request was delivered by a nationally-recognized courier service or by certified mail to the
vehicle owner and any known lienholder at least fifteen days before the date of the application,
and the required fee, if applicable. Upon receipt of a properly completed application, the division
shall issue a salvage certificate or a nonrepairable motor vehicle certificate, as applicable, in the
name of the automobile auction. Such salvage certificate or nonrepairable motor vehicle
certificate shall be issued free and clear of all liens and claims of ownership.

(r) An applicant pursuant to subsection (p) or (q) of this section shall indemnify and hold
harmless the Division of Motor Vehicles from any liability arising from an error or
misrepresentation made by such applicant in a submission to the division pursuant to subsection
(p) or (q) of this section.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member, Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 25th day of April 2017.

Governor