

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1192

Short Title: MV Transfer/Disclosure of Total Loss Claim.

(Public)

Sponsors: Senator Soles.

Referred to: Appropriations/Base Budget.

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TRANSFERORS OF MOTOR VEHICLES TO DISCLOSE TO TRANSFEREES THAT THE VEHICLE HAS BEEN DECLARED A TOTAL LOSS BY AN INSURANCE COMPANY, TO DELETE THE REQUIREMENT THAT A "TOTAL LOSS CLAIM" NOTATION BE PUT ON THE TITLE AND REGISTRATION CARD, TO REQUIRE INSURANCE COMPANIES TO INSERT A PERMANENT MARKER INTO THE DOORJAMB OF A VEHICLE WHEN IT HAS PAID A CLAIM EXCEEDING TWENTY-FIVE PERCENT OF THE VEHICLE'S RETAIL VALUE, AND TO APPROPRIATE FUNDS TO IMPLEMENT THE PROVISIONS OF THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-71.3 reads as rewritten:

"§ 20-71.3. Salvage and other vehicles – titles and registration cards to be branded.

(a) Motor vehicle certificates of title and registration cards issued pursuant to G.S. 20-57 shall be branded in accordance with this section.

As used in this section, "branded" means that the title and registration card shall contain a designation that discloses if the vehicle is classified as any of the following:

- (1) Salvage Motor Vehicle.
- (2) Salvage Rebuilt Vehicle.
- (3) Reconstructed Vehicle.
- (4) Flood Vehicle.
- (5) Non-U.S.A. Vehicle.
- (6) Any other classification authorized by law.

(a1) Any motor vehicle that is declared a total loss by an insurance company licensed and approved to conduct business in North Carolina, in addition to the designations noted in subsection (a) of this section, ~~shall~~ shall

- (1) ~~Have the title and registration card marked "TOTAL LOSS CLAIM".~~
- (2) ~~Have~~ have a tamperproof permanent marker inserted into the doorjamb of that vehicle by the Division, at the time of the final inspection of the

1 reconstructed vehicle, that states "TOTAL LOSS CLAIM VEHICLE".
2 Should that vehicle be later reconstructed, repaired, or rebuilt, a
3 permanent tamperproof marker shall be inserted in the doorjamb of the
4 reconstructed, repaired, or rebuilt vehicle.

5 (a2) If a motor vehicle is damaged by collision or other occurrence, and an
6 insurance company licensed and approved to conduct business in North Carolina has
7 paid a claim that exceeds twenty-five percent (25%) of the vehicle's fair market retail
8 value, and the vehicle has not been declared a total loss, the insurance company shall
9 insert into the doorjamb of that vehicle, at the time the claim is paid, a tamperproof
10 permanent marker that states "INSURANCE CLAIM VEHICLE". Should that vehicle
11 be later reconstructed, repaired, or rebuilt, a tamperproof permanent marker shall be
12 inserted into the doorjamb of the reconstructed, repaired, or rebuilt vehicle.

13 (b) Any motor vehicle up to and including six model years old damaged by
14 collision or other occurrence, that is to be retitled in this State, shall be subject to
15 preliminary and final inspections by the Enforcement Section of the Division. For
16 purposes of this section, the term "six model years" shall be calculated by counting the
17 model year of the vehicle's manufacture as the first model year and the current calendar
18 year as the final model year.

19 These inspections serve as antitheft measures and do not certify the safety or
20 road-worthiness of a vehicle.

21 (c) The Division shall not retitle a vehicle described in subsection (b) of this
22 section that has not undergone the preliminary and final inspections required by that
23 subsection.

24 (d) Any motor vehicle up to and including six model years old that has been
25 inspected pursuant to subsection (b) of this section may be retitled with an unbranded
26 title based upon a title application by the rebuilder with a supporting affidavit disclosing
27 all of the following:

- 28 (1) The parts used or replaced.
- 29 (2) The major components replaced.
- 30 (3) The hours of labor and the hourly labor rate.
- 31 (4) The total cost of repair.
- 32 (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM
33 VEHICLE" marker.

34 The unbranded title shall be issued only if the cost of repairs, including parts and
35 labor, does not exceed seventy-five percent (75%) of its fair market retail value.

36 (e) Any motor vehicle more than six model years old damaged by collision or
37 other occurrence that is to be retitled by the State may be retitled, without inspection,
38 with an unbranded title based upon a title application by the rebuilder with a supporting
39 affidavit disclosing all of the following:

- 40 (1) The parts used or replaced.
- 41 (2) The major components replaced.
- 42 (3) The hours of labor and the hourly labor rate.
- 43 (4) The total cost of repair.

1 (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM
2 VEHICLE" marker.

3 (6) The cost to replace the air bag restraint system.

4 The unbranded title shall be issued only if the cost of repairs, including parts and
5 labor and excluding the cost to replace the air bag restraint system, does not exceed
6 seventy-five percent (75%) of its fair market retail value.

7 (f) The Division shall maintain the affidavits required by this section and make
8 them available for review and copying by persons researching the salvage and repair
9 history of the vehicle.

10 (g) Any motor vehicle that has been branded in another state shall be branded
11 with the nearest applicable brand specified in this section, except that no junk vehicle or
12 vehicle that has been branded junk in another state shall be titled or registered.

13 (h) A branded title for a salvage motor vehicle damaged by collision or other
14 occurrence shall be issued as follows:

15 (1) For motor vehicles up to and including six model years old, a branded
16 title shall be issued if the cost of repairs, including parts and labor,
17 exceeds seventy-five percent (75%) of its fair market value at the time
18 of the collision or other occurrence.

19 (2) For motor vehicles more than six model years old, a branded title shall
20 be issued if the cost of repairs, including parts and labor and excluding
21 the cost to replace the air bag restraint system, exceeds seventy-five
22 percent (75%) of its fair market value at the time of the collision or
23 other occurrence.

24 (i) Once the Division has issued a branded title for a motor vehicle all
25 subsequent titles for that motor vehicle shall continue to reflect the branding.

26 (j) The Division shall prepare necessary forms and doorjamb marker
27 specifications and may adopt rules required to carry out the provisions of this Part."

28 **SECTION 2.** G.S. 20-71.4 reads as rewritten:

29 **"§ 20-71.4. Failure to disclose damage to a vehicle shall be a misdemeanor.**

30 (a) It shall be unlawful for any transferor of a motor vehicle to do any of the
31 following:

32 (1) Transfer a motor vehicle up to and including five model years old
33 when the transferor has knowledge that the vehicle has been involved
34 in a collision or other occurrence to the extent that the cost of repairing
35 that vehicle, excluding the cost to replace the air bag restraint system,
36 exceeds twenty-five percent (25%) of its fair market retail value at the
37 time of the collision or other occurrence, without disclosing that fact in
38 writing to the transferee prior to the transfer of the vehicle.

39 (2) Transfer a motor vehicle when the transferor has knowledge that the
40 vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a salvage
41 motor vehicle, without disclosing that fact in writing to the transferee
42 prior to the transfer of the vehicle.

43 (3) Transfer a motor vehicle that has been rebuilt, after being declared a
44 total loss by an insurance company licensed and approved to conduct

1 business in North Carolina, without disclosing that fact in writing to
2 the transferee prior to the transfer of the vehicle. The transferor shall
3 attach to the title, at the time of transfer, a copy of the disclosure,
4 signed by the transferee, along with a copy of the rebuilder's affidavit,
5 as required by G.S. 20-71.3(d) or (e). These documents shall be
6 submitted to the Division at the time the transferee applies for a new
7 certificate of title. These documents shall be maintained by the
8 Division, and the Division shall notify any individual applying for a
9 new certificate of title on that vehicle if the appropriate documents are
10 not attached.

11 (a1) For purposes of this section, the term "five model years" shall be calculated
12 by counting the model year of the vehicle's manufacture as the first model year and the
13 current calendar year as the final model year. Failure to disclose any of the information
14 required under subsection (a) of this section that is within the knowledge of the
15 transferor will also result in civil liability under G.S. 20-348. The Commissioner may
16 prepare forms to carry out the provisions of this section.

17 (b) It shall be unlawful for any person to remove the title or supporting
18 documents to any motor vehicle from the State of North Carolina with the intent to
19 conceal damage (or damage which has been repaired) occurring as a result of a collision
20 or other occurrence.

21 (c) It shall be unlawful for any person to remove, tamper with, alter, or conceal
22 the "TOTAL LOSS CLAIM VEHICLE" tamperproof permanent marker that is affixed
23 to the doorjamb of any total loss claim ~~vehicle~~ vehicle or the "INSURANCE CLAIM
24 VEHICLE" tamperproof permanent marker that is affixed to the doorjamb of any
25 vehicle on which an insurance claim has been paid that exceeds twenty-five percent
26 (25%) of the vehicle's fair market retail value. It shall be unlawful for any person to
27 reconstruct a total loss claim vehicle and not include or affix a "TOTAL LOSS CLAIM
28 VEHICLE" tamperproof permanent marker to the doorjamb of the rebuilt vehicle.
29 Violation of this subsection shall constitute a Class I felony, punishable by a fine of not
30 less than five thousand dollars (\$5,000) for each offense.

31 (d) Violation of subsections (a) and (b) of this section shall constitute a Class 2
32 misdemeanor."

33 **SECTION 3.** There is appropriated from the Highway Fund to the Division
34 of Motor Vehicles of the Department of Transportation one hundred thousand dollars
35 (\$100,000) to implement the provisions of this act.

36 **SECTION 4.** This act becomes effective December 1, 2004.