

1 **ENROLLED**

2 **Senate Bill No. 30**

3 (BY SENATORS BEACH AND KLEMPA)

4 _____
5 [Passed February 21, 2012; in effect ninety days from passage.]
6 _____

7
8
9
10 AN ACT to amend and reenact §17A-4-10 of the Code of West Virginia,
11 1931, as amended, relating to vehicles scraped, compressed,
12 dismantled or destroyed; providing an additional means to
13 notify the division; prescribing form; extending time period
14 for a person to surrender title; and providing for the use of
15 additional brands used by other jurisdictions that are
16 consistent with the National Motor Vehicle Title Information
17 System.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §17A-4-10 of the Code of West Virginia, 1931, as amended,
20 be amended and reenacted to read as follows:

21 **ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.**

22 **§17A-4-10. Salvage certificates for certain wrecked or damaged**
23 **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 an insurance company or
3 insurer, and upon payment of a total loss claim to an insured or
4 claimant owner for the purchase of the vehicle, the insurance
5 company or the insurer, as a condition of the payment, shall
6 require the owner to surrender the certificate of title: *Provided,*
7 That an insured or claimant owner may choose to retain physical
8 possession and ownership of a total loss vehicle. If the vehicle
9 owner chooses to retain the vehicle and the vehicle has not been
10 determined to be a cosmetic total loss in accordance with
11 subsection (d) of this section, the insurance company or insurer
12 shall also require the owner to surrender the vehicle registration
13 certificate. The term "total loss" means a motor vehicle which has
14 sustained damages equivalent to seventy-five percent or more of the
15 market value as determined by a nationally accepted used car value
16 guide or meets the definition of a flood-damaged vehicle as defined
17 in this section.

18 (b) The insurance company or insurer shall, prior to the
19 payment of the total loss claim, determine if the vehicle is
20 repairable, cosmetically damaged or nonrepairable. Within ten days
21 of payment of the total loss claim, the insurance company or
22 insurer shall surrender the certificate of title, a copy of the
23 claim settlement, a completed application on a form prescribed by
24 the commissioner and the registration certificate if the owner has

1 chosen to keep the vehicle to the Division of Motor Vehicles.

2 (c) If the insurance company or insurer determines that the
3 vehicle is repairable, the division shall issue a salvage
4 certificate, on a form prescribed by the commissioner, in the name
5 of the insurance company, the insurer or the vehicle owner if the
6 owner has chosen to retain the vehicle. The certificate shall
7 contain, on the reverse, spaces for one successive assignment
8 before a new certificate at an additional fee is required. Upon
9 the sale of the vehicle, the insurance company, insurer or vehicle
10 owner if the owner has chosen to retain the vehicle, shall complete
11 the assignment of ownership on the salvage certificate and deliver
12 it to the purchaser. The vehicle may not be titled or registered
13 for operation on the streets or highways of this state unless there
14 is compliance with subsection (g) of this section. The division
15 shall charge a fee of \$15 for each salvage title issued.

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

1 (1) The division shall, without further inspection, issue a
2 title branded "cosmetic total loss" to the insured or claimant
3 owner if the insured or claimant owner wishes to retain possession
4 of the vehicle, in lieu of a salvage certificate. The division
5 shall charge a fee of \$5 for each cosmetic total loss title issued.
6 The terms "cosmetically damaged" and "cosmetic total loss" do not
7 include any vehicle which has been damaged by flood or fire. The
8 designation "cosmetic total loss" on a title may not be removed.

9 (2) If the insured or claimant owner elects not to take
10 possession of the vehicle and the insurance company or insurer
11 retains possession, the division shall issue a cosmetic total loss
12 salvage certificate to the insurance company or insurer. The
13 division shall charge a fee of \$15 for each cosmetic total loss
14 salvage certificate issued. The division shall, upon surrender of
15 the cosmetic total loss salvage certificate issued under the
16 provisions of this paragraph and payment of the five percent motor
17 vehicle sales tax on the fair market value of the vehicle as
18 determined by the commissioner, issue a title branded "cosmetic
19 total loss" without further inspection.

20 (e) If the insurance company or insurer determines that the
21 damage to a totaled vehicle renders it nonrepairable, incapable of
22 safe operation for use on roads and highways and as having no
23 resale value except as a source of parts or scrap, the insurance
24 company or vehicle owner shall, in the manner prescribed by the

1 commissioner, request that the division issue a nonrepairable motor
2 vehicle certificate in lieu of a salvage certificate. The division
3 shall issue a nonrepairable motor vehicle certificate without
4 charge.

5 (f) Any owner who scraps, compresses, dismantles or destroys
6 a vehicle without further transfer or sale for which a certificate
7 of title, nonrepairable motor vehicle certificate or salvage
8 certificate has been issued shall, within forty-five days,
9 surrender the certificate of title, nonrepairable motor vehicle
10 certificate or salvage certificate to the division for
11 cancellation.

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

20 (h) If the motor vehicle is a "reconstructed vehicle" as
21 defined in this section or section one, article one of this
22 chapter, it may not be titled or registered for operation until it
23 has been inspected by an official state inspection station and by
24 the Division of Motor Vehicles. Following an approved inspection,

1 an application for a new certificate of title may be submitted to
2 the division. The applicant is required to retain all receipts for
3 component parts, equipment and materials used in the
4 reconstruction. The salvage certificate shall also be surrendered
5 to the division before a certificate of title may be issued with
6 the appropriate brand.

7 (I) The owner or title holder of a motor vehicle titled in
8 this state which has previously been branded in this state or
9 another state as salvage, reconstructed, cosmetic total loss,
10 cosmetic total loss salvage, flood, fire, an equivalent term under
11 another state's laws or a term consistent with the intent of the
12 National Motor Vehicle Title Information System established
13 pursuant to 49 U. S. C. §30502 shall, upon becoming aware of the
14 brand, apply for and receive a title from the Division of Motor
15 Vehicles on which the brand "reconstructed", "salvage", "cosmetic
16 total loss", "cosmetic total loss salvage", "flood", "fire" or
17 other brand is shown. The division shall charge a fee of \$5 for
18 each title so issued.

19 (j) If application is made for title to a motor vehicle, the
20 title to which has previously been branded reconstructed, salvage,
21 cosmetic total loss, cosmetic total loss salvage, flood, fire or
22 other brand by the Division of Motor Vehicles under this section
23 and said application is accompanied by a title from another state
24 which does not carry the brand, the division shall, before issuing

1 the title, affix the brand "reconstructed", "cosmetic total loss",
2 "cosmetic total loss salvage", "flood", "fire" or other brand to
3 the title. The motor vehicle sales tax paid on a motor vehicle
4 titled as reconstructed, cosmetic total loss, flood, fire or other
5 brand under the provisions of this section shall be based on fifty
6 percent of the fair market value of the vehicle as determined by a
7 nationally accepted used car value guide to be used by the
8 commissioner.

9 (k) The division shall charge a fee of \$15 for the issuance of
10 each salvage certificate or cosmetic total loss salvage certificate
11 but shall not require the payment of the five percent motor vehicle
12 sales tax. However, upon application for a certificate of title
13 for a reconstructed, cosmetic total loss, flood or fire damaged
14 vehicle or other brand, the division shall collect the five percent
15 privilege tax on the fair market value of the vehicle as determined
16 by the commissioner unless the applicant is otherwise exempt from
17 the payment of such privilege tax. A wrecker/dismantler/rebuilder,
18 licensed by the division, is exempt from the payment of the five
19 percent privilege tax upon titling a reconstructed vehicle. The
20 division shall collect a fee of \$35 per vehicle for inspections of
21 reconstructed vehicles. These fees shall be deposited in a special
22 fund created in the State Treasurer's Office and may be expended by
23 the division to carry out the provisions of this article: *Provided,*
24 That on and after July 1, 2007, any balance in the special fund and

1 all fees collected pursuant to this section shall be deposited in
2 the State Road Fund. Licensed wreckers/dismantlers/rebuilders may
3 charge a fee not to exceed \$25 for all vehicles owned by private
4 rebuilders which are inspected at the place of business of a
5 wrecker/dismantler/rebuilder.

6 (1) As used in this section:

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

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

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

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

24 (n) A certificate of title issued by the division for a

1 reconstructed vehicle shall contain markings in bold print on the
2 face of the title that it is for a reconstructed, flood- or fire-
3 damaged vehicle.

4 (o) Any person who knowingly provides false or fraudulent
5 information to the division that is required by this section in an
6 application for a title, a cosmetic total loss title, a
7 reconstructed vehicle title or a salvage certificate or who
8 knowingly fails to disclose to the division information required by
9 this section to be included in the application or who otherwise
10 violates the provisions of this section is guilty of a misdemeanor
11 and, upon conviction thereof, shall for each incident be fined not
12 less than \$1,000 nor more than \$2,500, or imprisoned in jail for
13 not more than one year, or both fined and imprisoned.