

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 632**

BY SENATOR MAYNARD

[Introduced March 17, 2017; Referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §17A-4-10 of the Code of West Virginia, 1931, as amended, relating  
2 to the process to obtain a title for a reconstructed vehicle when no structural parts are  
3 replaced on a vehicle.

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

1 That §17A-4-10 of the Code of West Virginia, 1931, as amended, be amended and  
2 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 total loss or otherwise designated  
2 as totaled by an insurance company or insurer, and upon payment of a total loss claim to an  
3 insured or claimant owner for the purchase of the vehicle, the insurance company or the insurer,  
4 as a condition of the payment, shall require the owner to surrender the certificate of title: *Provided,*  
5 That an insured or claimant owner may choose to retain physical possession and ownership of a  
6 total loss vehicle. If the vehicle owner chooses to retain the vehicle and the vehicle has not been  
7 determined to be a cosmetic total loss in accordance with subsection (d) of this section, the  
8 insurance company or insurer shall also require the owner to surrender the vehicle registration  
9 certificate. The term "total loss" means a motor vehicle which has sustained damages equivalent  
10 to seventy-five percent or more of the market value as determined by a nationally accepted used  
11 car value guide or meets the definition of a flood-damaged vehicle as defined in this section.

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

18 (c) If the insurance company or insurer determines that the vehicle is repairable, the

19 division shall issue a salvage certificate, on a form prescribed by the commissioner, in the name  
20 of the insurance company, the insurer or the vehicle owner if the owner has chosen to retain the  
21 vehicle. The certificate shall contain, on the reverse, spaces for one successive assignment  
22 before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance  
23 company, insurer or vehicle owner if the owner has chosen to retain the vehicle, shall complete  
24 the assignment of ownership on the salvage certificate and deliver it to the purchaser. The vehicle  
25 may not be titled or registered for operation on the streets or highways of this state unless there  
26 is compliance with subsection (g) of this section. The division shall charge a fee of \$15 for each  
27 salvage title issued.

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

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

40 (2) If the insured or claimant owner elects not to take possession of the vehicle and the  
41 insurance company or insurer retains possession, the division shall issue a cosmetic total loss  
42 salvage certificate to the insurance company or insurer. The division shall charge a fee of \$15 for  
43 each cosmetic total loss salvage certificate issued. The division shall, upon surrender of the  
44 cosmetic total loss salvage certificate issued under the provisions of this paragraph and payment

45 of the five percent motor vehicle sales tax on the fair market value of the vehicle as determined  
46 by the commissioner, issue a title branded "cosmetic total loss" without further inspection.

47 (e) If the insurance company or insurer determines that the damage to a totaled vehicle  
48 renders it nonrepairable, incapable of safe operation for use on roads and highways and as having  
49 no resale value except as a source of parts or scrap, the insurance company or vehicle owner  
50 shall, in the manner prescribed by the commissioner, request that the division issue a  
51 nonrepairable motor vehicle certificate in lieu of a salvage certificate. The division shall issue a  
52 nonrepairable motor vehicle certificate without charge.

53 (f) Any owner who scraps, compresses, dismantles or destroys a vehicle without further  
54 transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate or salvage  
55 certificate has been issued shall, within forty-five days, surrender the certificate of title,  
56 nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation.

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

62 (h) If the motor vehicle is a "reconstructed vehicle" as defined in this section or section  
63 one, article one of this chapter, it may not be titled or registered for operation until it has been  
64 inspected by an official state inspection station and by the Division of Motor Vehicles: Provided,  
65 That when no structural parts were replaced on the motor vehicle, an inspection by the Division  
66 of Motor Vehicles is not required. Following an approved inspection, an application for a new  
67 certificate of title may be submitted to the division. The applicant is required to retain all receipts  
68 for component parts, equipment and materials used in the reconstruction. The salvage certificate  
69 shall also be surrendered to the division before a certificate of title may be issued with the  
70 appropriate brand.

71 (i) The owner or title holder of a motor vehicle titled in this state which has previously been  
72 branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic  
73 total loss salvage, flood, fire, an equivalent term under another state's laws or a term consistent  
74 with the intent of the National Motor Vehicle Title Information System established pursuant to 49  
75 U. S. C. §30502 shall, upon becoming aware of the brand, apply for and receive a title from the  
76 Division of Motor Vehicles on which the brand "reconstructed", "salvage", "cosmetic total loss",  
77 "cosmetic total loss salvage", "flood", "fire" or other brand is shown. The division shall charge a  
78 fee of \$5 for each title so issued.

79 (j) If application is made for title to a motor vehicle, the title to which has previously been  
80 branded reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or  
81 other brand by the Division of Motor Vehicles under this section and said application is  
82 accompanied by a title from another state which does not carry the brand, the division shall, before  
83 issuing the title, affix the brand "reconstructed", "cosmetic total loss", "cosmetic total loss salvage",  
84 "flood", "fire" or other brand to the title. The motor vehicle sales tax paid on a motor vehicle titled  
85 as reconstructed, cosmetic total loss, flood, fire or other brand under the provisions of this section  
86 shall be based on fifty percent of the fair market value of the vehicle as determined by a nationally  
87 accepted used car value guide to be used by the commissioner.

88 (k) The division shall charge a fee of \$15 for the issuance of each salvage certificate or  
89 cosmetic total loss salvage certificate but shall not require the payment of the five percent motor  
90 vehicle sales tax. However, upon application for a certificate of title for a reconstructed, cosmetic  
91 total loss, flood or fire damaged vehicle or other brand, the division shall collect the five percent  
92 privilege tax on the fair market value of the vehicle as determined by the commissioner unless  
93 the applicant is otherwise exempt from the payment of such privilege tax. A  
94 wrecker/dismantler/rebuilder, licensed by the division, is exempt from the payment of the five  
95 percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of \$35  
96 per vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special

97 fund created in the State Treasurer's Office and may be expended by the division to carry out the  
98 provisions of this article: *Provided*, That on and after July 1, 2007, any balance in the special fund  
99 and all fees collected pursuant to this section shall be deposited in the State Road Fund. Licensed  
100 wreckers/dismantlers/rebuilders may charge a fee not to exceed \$25 for all vehicles owned by  
101 private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

102 (l) As used in this section:

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

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

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

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

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

118 (o) Any person who knowingly provides false or fraudulent information to the division that  
119 is required by this section in an application for a title, a cosmetic total loss title, a reconstructed  
120 vehicle title or a salvage certificate or who knowingly fails to disclose to the division information  
121 required by this section to be included in the application or who otherwise violates the provisions  
122 of this section is guilty of a misdemeanor and, upon conviction thereof, shall for each incident be

123 fined not less than \$1,000 nor more than \$2,500, or imprisoned in jail for not more than one year,  
124 or both fined and imprisoned.

NOTE: The purpose of this bill is to shorten the process to obtain a title for a reconstructed vehicle when no structural parts are replaced on a vehicle.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.