

BILL ANALYSIS

C.S.H.B. 1422
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that limited methods are available to an insurance company or salvage pool operator for disposing of a motor vehicle that is declared a total loss or has been abandoned at a salvage pool when a properly assigned title cannot be obtained from the owner or lienholder of the vehicle. An insurance company or salvage pool operator cannot dispose of such a vehicle until a title is obtained from the Texas Department of Motor Vehicles (TxDMV). The available methods for obtaining that title may not be applicable in certain situations, resulting in unnecessary delay and expense for TxDMV, insurers, and salvage pool operators.

C.S.H.B. 1422 seeks to address this situation by providing statutory changes to improve procedures for the issuance of titles for certain motor vehicles that are the subject of insurance claims.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1422 amends the Transportation Code to authorize an insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a certificate of title that the company is unable to obtain or for which the company is unable to obtain proper assignment to obtain from the Texas Department of Motor Vehicles (TxDMV), not earlier than the 30th day after the date of payment of the claim, a salvage vehicle title for a salvage motor vehicle, a nonrepairable vehicle title for a nonrepairable motor vehicle, or a regular certificate of title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle. The bill requires the application for a title to be submitted to TxDMV on a form prescribed by the department and to include a statement that the insurance company has provided at least two written notices attempting to obtain the certificate of title or a proper assignment of the certificate of title, as applicable. The bill requires an application for a certificate of title to include evidence acceptable to TxDMV that the insurance company has made payment of a claim involving the motor vehicle and requires an application for proper assignment to include a certificate of title. The bill requires the title to be issued in the name of the insurance company. The bill authorizes an insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by an out-of-state ownership document to obtain from TxDMV a salvage or nonrepairable vehicle title if the vehicle was damaged, stolen, or recovered in Texas; the vehicle owner from whom the company acquired ownership resides in Texas; or otherwise allowed by TxDMV rule. The bill authorizes a title for a vehicle covered by an out-of-state ownership document to be issued if the insurance company surrenders a properly assigned title on a form prescribed by TxDMV or complies with the application process for a vehicle covered by a certificate of title that cannot be obtained or properly assigned. The bill requires TxDMV to issue the appropriate title to a person authorized to apply for the title under the bill's provisions if TxDMV determines that the application is

complete and complies with applicable law. The bill authorizes TxDMV, by rule, to provide that an insurance company or other person required to provide notice under the bill's provisions is authorized to provide the notice electronically, including through the use of e-mail or an interactive website established by TxDMV for that purpose. The bill makes provisions relating to an insurance company's ability to sell a vehicle acquired through payment of a claim or to voluntarily obtain certain certificates of title for such a vehicle applicable to a vehicle acquired by an insurance company under the bill's provisions. The bill authorizes TxDMV to adopt rules to implement these provisions relating to situations when an insurance company is not required to surrender the certificate of title for a motor vehicle.

C.S.H.B. 1422 provides for the issuance of a title to a salvage pool operator who, on request of an insurance company, takes possession of a motor vehicle that is the subject of an insurance claim and the insurance company subsequently denies coverage with respect to the vehicle or does not otherwise take ownership of the vehicle. The bill requires the insurance company to notify the salvage pool operator of the denial of the claim regarding the motor vehicle or other disposition of the motor vehicle and to include in the notice the name and address of the owner of the motor vehicle and the lienholder, if any. The bill requires the salvage pool operator, before the 31st day after receiving such notice, to notify the owner of the motor vehicle and any lienholder that the owner or lienholder must remove the motor vehicle from the salvage pool operator's possession at the location specified in the notice to the owner and any lienholder not later than the 30th day after the date the notice is mailed and to notify the owner or lienholder that, if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle. The bill limits those costs to the costs actually incurred by the salvage pool operator that have not been reimbursed by a third party or are not subject to being reimbursed by a third party, prohibits those costs from including charges for storage or impoundment of the motor vehicle, and authorizes those costs to be deducted only from the proceeds of a sale of the motor vehicle. The bill requires the notice required of a salvage pool operator to be sent by registered or certified mail, return receipt requested. The bill authorizes an operator, if a motor vehicle is not removed from the operator's possession before the 31st day after the date the notice is mailed to the motor vehicle's owner and any lienholder, to obtain from TxDMV a salvage vehicle title for a salvage motor vehicle or a nonrepairable vehicle title for a nonrepairable motor vehicle. The bill requires an application for a title to be submitted to TxDMV on a form prescribed by the department and to include evidence that the notice was mailed as required by the bill's provisions to the motor vehicle owner and any lienholder. The bill requires a title so issued to be issued in the name of the salvage pool operator. The bill requires TxDMV to issue the appropriate title to a person authorized to apply for the title if the department determines that the application is complete and complies with applicable law. The bill requires the salvage pool operator, on receipt of a title, to sell the motor vehicle and retain from the proceeds of the sale the costs incurred by the salvage pool operator as permitted by the bill's provisions along with the cost of titling and selling the motor vehicle. The bill requires the salvage pool operator to pay any excess proceeds from the sale to the previous owner of the motor vehicle and the lienholder, if any, and requires the excess proceeds to be mailed to the lienholder. The bill requires, if the previous owner of the motor vehicle and the lienholder, if any, cannot be identified or located, any excess proceeds from the sale of the motor vehicle to escheat to the State of Texas. The bill requires the proceeds to be administered by the comptroller of public accounts and to be disposed of in the manner provided by existing law relating to unclaimed property. The bill provides for the meaning of "salvage pool operator" by reference to the Occupations Code.

C.S.H.B. 1422 requires the statement in an application for a nonrepairable vehicle title or salvage vehicle title to describe whether the motor vehicle is a motor vehicle for which an insurance company does not take ownership under the bill's provisions and makes conforming changes. The bill exempts an applicant for a certificate of title under the bill's provisions from statutory provisions establishing an offense if a person knowingly fails or refuses to surrender a regular certificate of title after the person receives a notice from an insurance company that the motor

vehicle is a nonrepairable or salvage motor vehicle or knows the vehicle has become a nonrepairable or salvage motor vehicle.

C.S.H.B. 1422 makes conforming changes in provisions relating to an insurance company's surrender of certificates of title to TxDMV in connection with certain salvage motor vehicles or nonrepairable motor vehicles if an insurance company acquires title to such vehicles. The bill removes provisions establishing certain requirements if an insurance company does not obtain a properly assigned certificate of title for such a vehicle.

C.S.H.B. 1422 amends the Occupations Code to make an exception to provisions requiring a salvage vehicle dealer who acquires ownership of a salvage motor vehicle from an owner to receive from the owner a properly assigned title for a title issued to a salvage pool operator under the bill's provisions.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1422 differs from the original, in provisions authorizing an insurance company to obtain a salvage vehicle title or nonrepairable vehicle title for a motor vehicle covered by an out-of-state ownership document, by authorizing an insurance company to obtain a title for a vehicle damaged, stolen, or recovered in Texas, whereas the original authorizes an insurance company to obtain a title for a vehicle damaged or stolen in Texas.

C.S.H.B. 1422 contains a provision not in the original requiring an insurance company denying coverage or otherwise not taking ownership of a motor vehicle in the possession of a salvage pool operator to notify the salvage pool operator of the denial of the claim and include certain information in the notice. The substitute, in provisions requiring a salvage pool operator that receives a notice from an insurance company regarding the denial of a claim to notify the owner of the motor vehicle and any lienholder that the vehicle must be removed from the salvage pool operator's possession, contains a provision not in the original establishing a deadline for providing the notice to the vehicle owner and lienholder and requiring the notice to specify that the vehicle will be sold if not removed.

C.S.H.B. 1422, in provisions authorizing a salvage pool operator that sells a motor vehicle in its possession to retain from the proceeds only costs actually incurred by the salvage pool operator that have not been reimbursed or are not subject to being reimbursed by a third party, contains a provision not in the original specifying certain costs that may be included in the allowable costs, prohibiting the costs from including certain charges, and authorizing the costs to be deducted only from the proceeds of a sale of the motor vehicle. The substitute, in provisions authorizing a salvage pool operator to obtain a salvage vehicle title or nonrepairable vehicle title if a vehicle is not removed from the salvage pool operator's possession before a certain date, omits a provision contained in the original authorizing a salvage pool operator to obtain a regular certificate of title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

C.S.H.B. 1422 contains a provision not in the original requiring a salvage pool operator, on receipt of a title for a motor vehicle that has not been removed from the salvage pool operator's possession, to sell the motor vehicle and retain certain allowable costs and pay any excess proceeds to the previous owner of the motor vehicle and the lienholder, if any, and to mail the excess proceeds to the lienholder. The substitute contains a provision not in the original requiring the excess proceeds to escheat to the State of Texas if the previous owner and the lienholder, if any, cannot be identified or located and requiring the escheated proceeds to be administered by the comptroller of public accounts and disposed of in the manner provided by the law relating to unclaimed property. The substitute omits a provision in the original requiring

certain information relating to a motor vehicle to be provided to a salvage pool operator by the insurance company and TxDMV and authorizing a salvage pool operator who does not receive the information to obtain a title to the vehicle. The substitute omits a provision contained in the original authorizing a salvage pool operator to obtain a title for a motor vehicle that is covered by a title issued by another state or jurisdiction by submitting certain information to TxDMV relating to the salvage pool operator's efforts to identify the owner of the vehicle and any lienholder and requiring a notice published in a newspaper of general circulation by the salvage pool operator to state certain information.

C.S.H.B. 1422 differs from the original by requiring the statement in an application for a nonrepairable vehicle title or salvage vehicle title to describe whether the motor vehicle is a motor vehicle for which an insurance company does not take ownership under the bill's provisions, whereas the original requires the statement to describe whether the motor vehicle is subject to the bill's provisions. The substitute contains a provision not in the original making an exception to provisions requiring a salvage vehicle dealer who acquires ownership of a salvage motor vehicle from an owner to receive from the owner a properly assigned title for a title issued to a salvage pool operator under the bill's provisions.