

By: Truitt

H.B. No. 1422

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of titles for certain motor vehicles that are the subject of insurance claims.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 501.092(a), (c), and (d), Transportation Code, are amended to read as follows:

(a) Except as provided by Section 502.0925, an ~~an~~ insurance company that is licensed to conduct business in this state and that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by a certificate of title issued by this state or a manufacturer's certificate of origin shall surrender a properly assigned title or manufacturer's certificate of origin to the department, on a form prescribed by the department ~~[, except that not earlier than the 46th day after the date of payment of the claim the insurance company may surrender a certificate of title, on a form prescribed by the department, and receive a salvage certificate of title or a nonrepairable certificate of title without obtaining a properly assigned certificate of title if the insurance company:~~

~~[(1) has obtained the release of all liens on the motor vehicle,~~

~~[(2) is unable to locate one or more owners of the motor vehicle, and~~

1 ~~[(3) has provided notice to the last known address in~~
2 ~~the department's records to each owner that has not been located:~~

3 ~~[(A) by registered or certified mail, return~~
4 ~~receipt requested, or~~

5 ~~[(B) if a notice sent under Paragraph (A) is~~
6 ~~returned unclaimed, by publication in a newspaper of general~~
7 ~~circulation in the area where the unclaimed mail notice was sent].~~

8 (c) An insurance company may not sell a salvage motor
9 vehicle or nonrepairable motor vehicle ~~[to which this section~~
10 ~~applies]~~ unless the department has issued a salvage vehicle title
11 or a nonrepairable vehicle title, as appropriate, for the motor
12 vehicle or a comparable ownership document has been issued by
13 another state or jurisdiction for the motor vehicle.

14 (d) An insurance company may sell a salvage motor vehicle or
15 nonrepairable motor vehicle ~~[to which this section applies],~~ or
16 assign a salvage vehicle title or a nonrepairable vehicle title for
17 a ~~[the]~~ motor vehicle, only to a salvage vehicle dealer, an
18 out-of-state buyer, a buyer in a casual sale at auction, a metal
19 recycler, or a used automotive parts recycler. If a ~~[the]~~ motor
20 vehicle is not a salvage motor vehicle or a nonrepairable motor
21 vehicle, the insurance company is not required to surrender the
22 regular certificate of title for the vehicle or to be issued a
23 salvage vehicle title or a nonrepairable vehicle title for the
24 motor vehicle.

25 SECTION 2. Subchapter E, Chapter 501, Transportation Code,
26 is amended by adding Sections 501.0925 and 501.0935 to read as
27 follows:

1 Sec. 501.0925. INSURANCE COMPANY NOT REQUIRED TO SURRENDER
2 CERTIFICATES OF TITLE IN CERTAIN SITUATIONS. (a) An insurance
3 company that acquires, through payment of a claim, ownership or
4 possession of a motor vehicle covered by a certificate of title that
5 the company is unable to obtain may obtain from the department not
6 earlier than the 30th day after the date of payment of the claim:

7 (1) a salvage vehicle title for a salvage motor
8 vehicle;

9 (2) a nonrepairable vehicle title for a nonrepairable
10 motor vehicle; or

11 (3) a regular certificate of title for a motor vehicle
12 other than a salvage motor vehicle or a nonrepairable motor
13 vehicle.

14 (b) An application for a title under Subsection (a) must be
15 submitted to the department on a form prescribed by the department
16 and include:

17 (1) a statement that the insurance company has
18 provided at least two written notices attempting to obtain the
19 certificate of title for the motor vehicle; and

20 (2) evidence acceptable to the department that the
21 insurance company has made payment of a claim involving the motor
22 vehicle.

23 (c) An insurance company that acquires, through payment of a
24 claim, ownership or possession of a motor vehicle covered by a
25 certificate of title for which the company is unable to obtain
26 proper assignment of the certificate may obtain from the department
27 not earlier than the 30th day after the date of payment of the

1 claim:

2 (1) a salvage vehicle title for a salvage motor
3 vehicle;

4 (2) a nonrepairable vehicle title for a nonrepairable
5 motor vehicle; or

6 (3) a regular certificate of title for a motor vehicle
7 other than a salvage motor vehicle or a nonrepairable motor
8 vehicle.

9 (d) An application for a title under Subsection (c) must be
10 submitted to the department on a form prescribed by the department
11 and include:

12 (1) a statement that the insurance company has
13 provided at least two written notices attempting to obtain a proper
14 assignment of the certificate of title; and

15 (2) the certificate of title.

16 (e) A title issued under Subsection (a) or (c) must be
17 issued in the name of the insurance company.

18 (f) An insurance company that acquires, through payment of a
19 claim, ownership or possession of a salvage motor vehicle or
20 nonrepairable motor vehicle covered by an out-of-state ownership
21 document may obtain from the department a salvage vehicle title or
22 nonrepairable vehicle title if:

23 (1) the motor vehicle was damaged, stolen, or
24 recovered in this state;

25 (2) the motor vehicle owner from whom the company
26 acquired ownership resides in this state; or

27 (3) otherwise allowed by department rule.

1 (g) A title may be issued under Subsection (f) if the
2 insurance company:

3 (1) surrenders a properly assigned title on a form
4 prescribed by the department; or

5 (2) complies with the application process for a title
6 issued under Subsection (a) or (c).

7 (h) The department shall issue the appropriate title to a
8 person authorized to apply for the title under this section if the
9 department determines that the application is complete and complies
10 with applicable law.

11 (i) The department by rule may provide that a person
12 required by this section to provide notice may provide the notice
13 electronically, including through the use of e-mail or an
14 interactive website established by the department for that purpose.

15 (j) Sections 501.092(c), (d), and (e) apply to a motor
16 vehicle acquired by an insurance company as described in Subsection
17 (a), (c), or (f).

18 (k) The department may adopt rules to implement this
19 section.

20 Sec. 501.0935. ISSUANCE OF TITLE TO SALVAGE POOL OPERATOR.

21 (a) In this section, "salvage pool operator" has the meaning
22 assigned by Section 2302.001, Occupations Code.

23 (b) This section applies only to a salvage pool operator
24 who, on request of an insurance company, takes possession of a motor
25 vehicle that is the subject of an insurance claim and the insurance
26 company subsequently:

27 (1) denies coverage with respect to the motor vehicle;

1 or

2 (2) does not otherwise take ownership of the motor
3 vehicle.

4 (b-1) An insurance company described by Subsection (b)
5 shall notify the salvage pool operator of the denial of the claim
6 regarding the motor vehicle or other disposition of the motor
7 vehicle. The insurance company must include in the notice the name
8 and address of the owner of the motor vehicle and the lienholder, if
9 any.

10 (c) Before the 31st day after receiving notice under
11 Subsection (b-1), a salvage pool operator shall notify the owner of
12 the motor vehicle and any lienholder that:

13 (1) the owner or lienholder must remove the motor
14 vehicle from the salvage pool operator's possession at the location
15 specified in the notice to the owner and any lienholder not later
16 than the 30th day after the date the notice is mailed; and

17 (2) if the motor vehicle is not removed within the time
18 specified in the notice, the salvage pool operator will sell the
19 motor vehicle and retain from the proceeds any costs actually
20 incurred by the operator in obtaining, handling, and disposing of
21 the motor vehicle as described by Subsection (d).

22 (d) The salvage pool operator may include in the costs
23 described by Subsection (c)(2) only costs actually incurred by the
24 salvage pool operator that have not been reimbursed by a third party
25 or are not subject to being reimbursed by a third party, such as
26 costs of notices, title searches, and towing and other costs
27 incurred with respect to the motor vehicle. The costs described by

1 Subsection (c)(2):

2 (1) may not include charges for storage or impoundment
3 of the motor vehicle; and

4 (2) may be deducted only from the proceeds of a sale of
5 the motor vehicle.

6 (e) The notice required of a salvage pool operator under
7 this section must be sent by registered or certified mail, return
8 receipt requested.

9 (f) If a motor vehicle is not removed from a salvage pool
10 operator's possession before the 31st day after the date notice is
11 mailed to the motor vehicle's owner and any lienholder under
12 Subsection (c), the salvage pool operator may obtain from the
13 department:

14 (1) a salvage vehicle title for a salvage motor
15 vehicle; or

16 (2) a nonrepairable vehicle title for a nonrepairable
17 motor vehicle.

18 (g) An application for a title under Subsection (f) must:

19 (1) be submitted to the department on a form
20 prescribed by the department; and

21 (2) include evidence that the notice was mailed as
22 required by Subsection (c) to the motor vehicle owner and any
23 lienholder.

24 (h) A title issued under this section must be issued in the
25 name of the salvage pool operator.

26 (i) The department shall issue the appropriate title to a
27 person authorized to apply for the title under this section if the

1 department determines that the application is complete and complies
2 with applicable law.

3 (j) On receipt of a title under this section, the salvage
4 pool operator shall sell the motor vehicle and retain from the
5 proceeds of the sale the costs incurred by the salvage pool operator
6 as permitted by Subsection (d) along with the cost of titling and
7 selling the motor vehicle. The salvage pool operator shall pay any
8 excess proceeds from the sale to the previous owner of the motor
9 vehicle and the lienholder, if any. The excess proceeds must be
10 mailed to the lienholder.

11 (k) If the previous owner of the motor vehicle and the
12 lienholder, if any, cannot be identified or located, any excess
13 proceeds from the sale of the motor vehicle under Subsection (j)
14 shall escheat to the State of Texas. The proceeds shall be
15 administered by the comptroller and shall be disposed of in the
16 manner provided by Chapter 74, Property Code.

17 SECTION 3. Sections 501.097(a) and (b), Transportation
18 Code, are amended to read as follows:

19 (a) An application for a nonrepairable vehicle title or
20 salvage vehicle title must:

21 (1) be made on a form prescribed by the department and
22 accompanied by a \$8 application fee;

23 (2) include, in addition to any other information
24 required by the department:

25 (A) the name and current address of the owner;

26 (B) a description of the motor vehicle, including
27 the make, style of body, model year, and vehicle identification

1 number; and

2 (C) a statement describing whether the motor
3 vehicle:

4 (i) was the subject of a total loss claim
5 paid by an insurance company under Section 501.092, 501.0925, or
6 501.093;

7 (ii) is a self-insured motor vehicle under
8 Section 501.094;

9 (iii) is an export-only motor vehicle under
10 Section 501.099; ~~or~~

11 (iv) was sold, transferred, or released to
12 the owner or former owner of the motor vehicle or a buyer at a casual
13 sale; or

14 (v) is a motor vehicle for which an
15 insurance company does not take ownership under Section 501.0935;
16 and

17 (3) include the name and address of:

18 (A) any currently recorded lienholder, if the
19 motor vehicle is a nonrepairable motor vehicle; or

20 (B) any currently recorded lienholder or a new
21 lienholder, if the motor vehicle is a salvage motor vehicle.

22 (b) Except as provided by Sections 501.0925 and 501.0935, on
23 ~~On~~ receipt of a complete application, the properly assigned title
24 or manufacturer's certificate of origin, and the application fee,
25 the department shall, before the sixth business day after the date
26 the department receives the application, issue the applicant the
27 appropriate title for the motor vehicle.

1 SECTION 4. Section 501.102, Transportation Code, is amended
2 by adding Subsection (f) to read as follows:

3 (f) Subsection (c) does not apply to an applicant for a
4 title under Sections 501.0925 and 501.0935.

5 SECTION 5. Section 2302.201(a), Occupations Code, is
6 amended to read as follows:

7 (a) Except as provided by Section 501.0935, Transportation
8 Code, a [A] salvage vehicle dealer who acquires ownership of a
9 salvage motor vehicle from an owner must receive from the owner a
10 properly assigned title.

11 SECTION 6. The change in law made by this Act to Section
12 501.102, Transportation Code, applies only to an offense committed
13 on or after the effective date of this Act. An offense committed
14 before the effective date of this Act is governed by the law in
15 effect on the date the offense was committed, and the former law is
16 continued in effect for that purpose. For purposes of this section,
17 an offense was committed before the effective date of this Act if
18 any element of the offense occurred before that date.

19 SECTION 7. This Act takes effect September 1, 2011.