

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 or stolen in this
24 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 (c) On receiving notice from the insurance company of the
5 denial of the claim regarding the motor vehicle or other
6 disposition of the motor vehicle, a salvage pool operator shall
7 notify the owner of the motor vehicle and any lienholder that the
8 owner or lienholder must remove the motor vehicle from the salvage
9 pool operator's possession at the location specified in the notice
10 to the owner and any lienholder:

11 (1) not later than the 30th day after the date the
12 notice is mailed; and

13 (2) on payment of any costs incurred by the salvage
14 pool operator in obtaining and disposing of the motor vehicle.

15 (d) The salvage pool operator may only include in the costs
16 described by Subsection (c)(2) costs incurred by the salvage pool
17 operator that have not been reimbursed by a third party or are not
18 subject to being reimbursed by a third party.

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

22 (f) If a motor vehicle is not removed from a salvage pool
23 operator's possession before the 31st day after the date notice is
24 mailed to the motor vehicle's owner and any lienholder under
25 Subsection (c), the salvage pool operator may obtain from the
26 department:

27 (1) a salvage vehicle title for a salvage motor

1 vehicle;

2 (2) a nonrepairable vehicle title for a nonrepairable
3 motor vehicle; or

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

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

8 (1) be submitted to the department on a form
9 prescribed by the department; and

10 (2) include evidence that the notice was mailed as
11 required by Subsection (c) to the motor vehicle owner and any
12 lienholder.

13 (h) On request of a salvage pool operator, the name and
14 address of the owner and any lienholder of a motor vehicle described
15 by Subsection (b) must be provided to the salvage pool operator by:

16 (1) the insurance company that received the claim
17 regarding the motor vehicle; and

18 (2) the department, if the motor vehicle is covered by
19 a certificate of title issued by this state.

20 (i) If both the department and the insurance company fail to
21 provide the requested information before the 31st day after the
22 date it is requested under Subsection (h), the salvage pool
23 operator:

24 (1) shall inform the department of the failure; and

25 (2) after informing the department of the failure
26 regarding a motor vehicle that is covered by a title issued by this
27 state, may, without providing evidence that the notice was mailed

1 as required by Subsection (c), obtain from the department a salvage
2 vehicle title for a salvage motor vehicle, a nonrepairable vehicle
3 title for a nonrepairable motor vehicle, or a regular certificate
4 of title for a vehicle other than a salvage motor vehicle or a
5 nonrepairable motor vehicle.

6 (j) A salvage pool operator may obtain a title under
7 Subsection (i) for a motor vehicle that is covered by a title issued
8 by another state or jurisdiction by submitting in a form prescribed
9 by the department:

10 (1) documentation of a good faith effort to obtain the
11 name and address of the motor vehicle owner and any lienholder from
12 a bona fide commercial provider of that type of information; and

13 (2) evidence that the salvage pool operator published
14 a notice as described by Subsection (k) in a newspaper of general
15 circulation that serves the area in which the salvage pool
16 operator's facility is located.

17 (k) The notice published under Subsection (j)(2) must state
18 that the motor vehicle owner or any lienholder must remove the motor
19 vehicle from the salvage pool operator's possession at a specified
20 location not later than the 30th day after the date the notice is
21 published.

22 (l) A title issued under this section must be issued in the
23 name of the salvage pool operator.

24 (m) The department shall issue the appropriate title to a
25 person authorized to apply for the title under this section if the
26 department determines that the application is complete and complies
27 with applicable law.

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

3 (a) An application for a nonrepairable vehicle title or
4 salvage vehicle title must:

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

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

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

10 (B) a description of the motor vehicle, including
11 the make, style of body, model year, and vehicle identification
12 number; and

13 (C) a statement describing whether the motor
14 vehicle:

15 (i) was the subject of a total loss claim
16 paid by an insurance company under Section 501.092, 501.0925, or
17 501.093;

18 (ii) is a self-insured motor vehicle under
19 Section 501.094;

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

22 (iv) was sold, transferred, or released to
23 the owner or former owner of the motor vehicle or a buyer at a casual
24 sale; or

25 (v) is a motor vehicle subject to Section
26 501.0935; and

27 (3) include the name and address of:

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

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

5 (b) Except as provided by Sections 501.0925 and 501.0935, on
6 ~~On~~ receipt of a complete application, the properly assigned title
7 or manufacturer's certificate of origin, and the application fee,
8 the department shall, before the sixth business day after the date
9 the department receives the application, issue the applicant the
10 appropriate title for the motor vehicle.

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

13 (f) Subsection (c) does not apply to an applicant for a
14 title under Section 501.0925 or 501.0935.

15 SECTION 5. The change in law made by this Act to Section
16 501.102, Transportation Code, applies only to an offense committed
17 on or after the effective date of this Act. An offense committed
18 before the effective date of this Act is governed by the law in
19 effect on the date the offense was committed, and the former law is
20 continued in effect for that purpose. For purposes of this section,
21 an offense was committed before the effective date of this Act if
22 any element of the offense occurred before that date.

23 SECTION 6. This Act takes effect September 1, 2011.