

1-1 By: Truitt (Senate Sponsor - Watson) H.B. No. 1422
1-2 (In the Senate - Received from the House April 13, 2011;
1-3 April 20, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 19, 2011, reported
1-5 favorably by the following vote: Yeas 9, Nays 0; May 19, 2011,
1-6 sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the issuance of titles for certain motor vehicles that
1-10 are the subject of insurance claims.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Sections 501.092(a), (c), and (d),
1-13 Transportation Code, are amended to read as follows:

1-14 (a) Except as provided by Section 502.0925, an [An]
1-15 insurance company that is licensed to conduct business in this
1-16 state and that acquires, through payment of a claim, ownership or
1-17 possession of a salvage motor vehicle or nonrepairable motor
1-18 vehicle covered by a certificate of title issued by this state or a
1-19 manufacturer's certificate of origin shall surrender a properly
1-20 assigned title or manufacturer's certificate of origin to the
1-21 department, on a form prescribed by the department~~[, except that~~
1-22 ~~not earlier than the 46th day after the date of payment of the claim~~
1-23 ~~the insurance company may surrender a certificate of title, on a~~
1-24 ~~form prescribed by the department, and receive a salvage~~
1-25 ~~certificate of title or a nonrepairable certificate of title~~
1-26 ~~without obtaining a properly assigned certificate of title if the~~
1-27 ~~insurance company:~~

1-28 ~~[(1) has obtained the release of all liens on the motor~~
1-29 ~~vehicle;~~

1-30 ~~[(2) is unable to locate one or more owners of the~~
1-31 ~~motor vehicle; and~~

1-32 ~~[(3) has provided notice to the last known address in~~
1-33 ~~the department's records to each owner that has not been located.~~

1-34 ~~[(A) by registered or certified mail, return~~
1-35 ~~receipt requested; or~~

1-36 ~~[(B) if a notice sent under Paragraph (A) is~~
1-37 ~~returned unclaimed, by publication in a newspaper of general~~
1-38 ~~circulation in the area where the unclaimed mail notice was sent].~~

1-39 (c) An insurance company may not sell a salvage motor
1-40 vehicle or nonrepairable motor vehicle ~~[to which this section~~
1-41 ~~applies]~~ unless the department has issued a salvage vehicle title
1-42 or a nonrepairable vehicle title, as appropriate, for the motor
1-43 vehicle or a comparable ownership document has been issued by
1-44 another state or jurisdiction for the motor vehicle.

1-45 (d) An insurance company may sell a salvage motor vehicle or
1-46 nonrepairable motor vehicle ~~[to which this section applies]~~, or
1-47 assign a salvage vehicle title or a nonrepairable vehicle title for
1-48 a [the] motor vehicle, only to a salvage vehicle dealer, an
1-49 out-of-state buyer, a buyer in a casual sale at auction, a metal
1-50 recycler, or a used automotive parts recycler. If a [the] motor
1-51 vehicle is not a salvage motor vehicle or a nonrepairable motor
1-52 vehicle, the insurance company is not required to surrender the
1-53 regular certificate of title for the vehicle or to be issued a
1-54 salvage vehicle title or a nonrepairable vehicle title for the
1-55 motor vehicle.

1-56 SECTION 2. Subchapter E, Chapter 501, Transportation Code,
1-57 is amended by adding Sections 501.0925 and 501.0935 to read as
1-58 follows:

1-59 Sec. 501.0925. INSURANCE COMPANY NOT REQUIRED TO SURRENDER
1-60 CERTIFICATES OF TITLE IN CERTAIN SITUATIONS. (a) An insurance
1-61 company that acquires, through payment of a claim, ownership or
1-62 possession of a motor vehicle covered by a certificate of title that
1-63 the company is unable to obtain may obtain from the department not
1-64 earlier than the 30th day after the date of payment of the claim:

2-1 (1) a salvage vehicle title for a salvage motor
2-2 vehicle;
2-3 (2) a nonrepairable vehicle title for a nonrepairable
2-4 motor vehicle; or
2-5 (3) a regular certificate of title for a motor vehicle
2-6 other than a salvage motor vehicle or a nonrepairable motor
2-7 vehicle.
2-8 (b) An application for a title under Subsection (a) must be
2-9 submitted to the department on a form prescribed by the department
2-10 and include:
2-11 (1) a statement that the insurance company has
2-12 provided at least two written notices attempting to obtain the
2-13 certificate of title for the motor vehicle; and
2-14 (2) evidence acceptable to the department that the
2-15 insurance company has made payment of a claim involving the motor
2-16 vehicle.
2-17 (c) An insurance company that acquires, through payment of a
2-18 claim, ownership or possession of a motor vehicle covered by a
2-19 certificate of title for which the company is unable to obtain
2-20 proper assignment of the certificate may obtain from the department
2-21 not earlier than the 30th day after the date of payment of the
2-22 claim:
2-23 (1) a salvage vehicle title for a salvage motor
2-24 vehicle;
2-25 (2) a nonrepairable vehicle title for a nonrepairable
2-26 motor vehicle; or
2-27 (3) a regular certificate of title for a motor vehicle
2-28 other than a salvage motor vehicle or a nonrepairable motor
2-29 vehicle.
2-30 (d) An application for a title under Subsection (c) must be
2-31 submitted to the department on a form prescribed by the department
2-32 and include:
2-33 (1) a statement that the insurance company has
2-34 provided at least two written notices attempting to obtain a proper
2-35 assignment of the certificate of title; and
2-36 (2) the certificate of title.
2-37 (e) A title issued under Subsection (a) or (c) must be
2-38 issued in the name of the insurance company.
2-39 (f) An insurance company that acquires, through payment of a
2-40 claim, ownership or possession of a salvage motor vehicle or
2-41 nonrepairable motor vehicle covered by an out-of-state ownership
2-42 document may obtain from the department a salvage vehicle title or
2-43 nonrepairable vehicle title if:
2-44 (1) the motor vehicle was damaged, stolen, or
2-45 recovered in this state;
2-46 (2) the motor vehicle owner from whom the company
2-47 acquired ownership resides in this state; or
2-48 (3) otherwise allowed by department rule.
2-49 (g) A title may be issued under Subsection (f) if the
2-50 insurance company:
2-51 (1) surrenders a properly assigned title on a form
2-52 prescribed by the department; or
2-53 (2) complies with the application process for a title
2-54 issued under Subsection (a) or (c).
2-55 (h) The department shall issue the appropriate title to a
2-56 person authorized to apply for the title under this section if the
2-57 department determines that the application is complete and complies
2-58 with applicable law.
2-59 (i) The department by rule may provide that a person
2-60 required by this section to provide notice may provide the notice
2-61 electronically, including through the use of e-mail or an
2-62 interactive website established by the department for that purpose.
2-63 (j) Sections 501.092(c), (d), and (e) apply to a motor
2-64 vehicle acquired by an insurance company as described in Subsection
2-65 (a), (c), or (f).
2-66 (k) The department may adopt rules to implement this
2-67 section.
2-68 Sec. 501.0935. ISSUANCE OF TITLE TO SALVAGE POOL OPERATOR.
2-69 (a) In this section, "salvage pool operator" has the meaning

3-1 assigned by Section 2302.001, Occupations Code.

3-2 (b) This section applies only to a salvage pool operator
 3-3 who, on request of an insurance company, takes possession of a motor
 3-4 vehicle that is the subject of an insurance claim and the insurance
 3-5 company subsequently:

3-6 (1) denies coverage with respect to the motor vehicle;

3-7 or

3-8 (2) does not otherwise take ownership of the motor
 3-9 vehicle.

3-10 (b-1) An insurance company described by Subsection (b)
 3-11 shall notify the salvage pool operator of the denial of the claim
 3-12 regarding the motor vehicle or other disposition of the motor
 3-13 vehicle. The insurance company must include in the notice the name
 3-14 and address of the owner of the motor vehicle and the lienholder, if
 3-15 any.

3-16 (c) Before the 31st day after receiving notice under
 3-17 Subsection (b-1), a salvage pool operator shall notify the owner of
 3-18 the motor vehicle and any lienholder that:

3-19 (1) the owner or lienholder must remove the motor
 3-20 vehicle from the salvage pool operator's possession at the location
 3-21 specified in the notice to the owner and any lienholder not later
 3-22 than the 30th day after the date the notice is mailed; and

3-23 (2) if the motor vehicle is not removed within the time
 3-24 specified in the notice, the salvage pool operator will sell the
 3-25 motor vehicle and retain from the proceeds any costs actually
 3-26 incurred by the operator in obtaining, handling, and disposing of
 3-27 the motor vehicle as described by Subsection (d).

3-28 (d) The salvage pool operator may include in the costs
 3-29 described by Subsection (c)(2) only costs actually incurred by the
 3-30 salvage pool operator that have not been reimbursed by a third party
 3-31 or are not subject to being reimbursed by a third party, such as
 3-32 costs of notices, title searches, and towing and other costs
 3-33 incurred with respect to the motor vehicle. The costs described by
 3-34 Subsection (c)(2):

3-35 (1) may not include charges for storage or impoundment
 3-36 of the motor vehicle; and

3-37 (2) may be deducted only from the proceeds of a sale of
 3-38 the motor vehicle.

3-39 (e) The notice required of a salvage pool operator under
 3-40 this section must be sent by registered or certified mail, return
 3-41 receipt requested.

3-42 (f) If a motor vehicle is not removed from a salvage pool
 3-43 operator's possession before the 31st day after the date notice is
 3-44 mailed to the motor vehicle's owner and any lienholder under
 3-45 Subsection (c), the salvage pool operator may obtain from the
 3-46 department:

3-47 (1) a salvage vehicle title for a salvage motor
 3-48 vehicle; or

3-49 (2) a nonrepairable vehicle title for a nonrepairable
 3-50 motor vehicle.

3-51 (g) An application for a title under Subsection (f) must:

3-52 (1) be submitted to the department on a form
 3-53 prescribed by the department; and

3-54 (2) include evidence that the notice was mailed as
 3-55 required by Subsection (c) to the motor vehicle owner and any
 3-56 lienholder.

3-57 (h) A title issued under this section must be issued in the
 3-58 name of the salvage pool operator.

3-59 (i) The department shall issue the appropriate title to a
 3-60 person authorized to apply for the title under this section if the
 3-61 department determines that the application is complete and complies
 3-62 with applicable law.

3-63 (j) On receipt of a title under this section, the salvage
 3-64 pool operator shall sell the motor vehicle and retain from the
 3-65 proceeds of the sale the costs incurred by the salvage pool operator
 3-66 as permitted by Subsection (d) along with the cost of titling and
 3-67 selling the motor vehicle. The salvage pool operator shall pay any
 3-68 excess proceeds from the sale to the previous owner of the motor
 3-69 vehicle and the lienholder, if any. The excess proceeds must be

4-1 mailed to the lienholder.

4-2 (k) If the previous owner of the motor vehicle and the
 4-3 lienholder, if any, cannot be identified or located, any excess
 4-4 proceeds from the sale of the motor vehicle under Subsection (j)
 4-5 shall escheat to the State of Texas. The proceeds shall be
 4-6 administered by the comptroller and shall be disposed of in the
 4-7 manner provided by Chapter 74, Property Code.

4-8 SECTION 3. Sections 501.097(a) and (b), Transportation
 4-9 Code, are amended to read as follows:

4-10 (a) An application for a nonrepairable vehicle title or
 4-11 salvage vehicle title must:

4-12 (1) be made on a form prescribed by the department and
 4-13 accompanied by a \$8 application fee;

4-14 (2) include, in addition to any other information
 4-15 required by the department:

4-16 (A) the name and current address of the owner;

4-17 (B) a description of the motor vehicle, including
 4-18 the make, style of body, model year, and vehicle identification
 4-19 number; and

4-20 (C) a statement describing whether the motor
 4-21 vehicle:

4-22 (i) was the subject of a total loss claim
 4-23 paid by an insurance company under Section 501.092, 501.0925, or
 4-24 501.093;

4-25 (ii) is a self-insured motor vehicle under
 4-26 Section 501.094;

4-27 (iii) is an export-only motor vehicle under
 4-28 Section 501.099; ~~or~~

4-29 (iv) was sold, transferred, or released to
 4-30 the owner or former owner of the motor vehicle or a buyer at a casual
 4-31 sale; or

4-32 (v) is a motor vehicle for which an
 4-33 insurance company does not take ownership under Section 501.0935;
 4-34 and

4-35 (3) include the name and address of:

4-36 (A) any currently recorded lienholder, if the
 4-37 motor vehicle is a nonrepairable motor vehicle; or

4-38 (B) any currently recorded lienholder or a new
 4-39 lienholder, if the motor vehicle is a salvage motor vehicle.

4-40 (b) Except as provided by Sections 501.0925 and 501.0935, on
 4-41 [On] receipt of a complete application, the properly assigned title
 4-42 or manufacturer's certificate of origin, and the application fee,
 4-43 the department shall, before the sixth business day after the date
 4-44 the department receives the application, issue the applicant the
 4-45 appropriate title for the motor vehicle.

4-46 SECTION 4. Section 501.102, Transportation Code, is amended
 4-47 by adding Subsection (f) to read as follows:

4-48 (f) Subsection (c) does not apply to an applicant for a
 4-49 title under Sections 501.0925 and 501.0935.

4-50 SECTION 5. Section 2302.201(a), Occupations Code, is
 4-51 amended to read as follows:

4-52 (a) Except as provided by Section 501.0935, Transportation
 4-53 Code, a [A] salvage vehicle dealer who acquires ownership of a
 4-54 salvage motor vehicle from an owner must receive from the owner a
 4-55 properly assigned title.

4-56 SECTION 6. The change in law made by this Act to Section
 4-57 501.102, Transportation Code, applies only to an offense committed
 4-58 on or after the effective date of this Act. An offense committed
 4-59 before the effective date of this Act is governed by the law in
 4-60 effect on the date the offense was committed, and the former law is
 4-61 continued in effect for that purpose. For purposes of this section,
 4-62 an offense was committed before the effective date of this Act if
 4-63 any element of the offense occurred before that date.

4-64 SECTION 7. This Act takes effect September 1, 2011.

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