

Senate Transportation and Safety Committee 1

Amendment No. 1 to SB1098

**Tracy
Signature of Sponsor**

AMEND Senate Bill No. 1098

House Bill No. 1043*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-3-202, is amended by deleting the section and substituting the following:

(a)

(1) Any motor vehicle dismantler and recycler required to be licensed pursuant to § 55-17-109 or scrap metal processor as defined in § 55-3-211, who purchases motor vehicles for parts, dismantling, or scrap, shall, notwithstanding the requirements of title 62, chapter 9, be governed by this section with respect to those purchases, and shall maintain a record for three (3) years, in the form the commissioner prescribes, of every vehicle bought, sold, dismantled, exchanged, or received by the motor vehicle dismantler and recycler or scrap metal processor.

(2) The purchasing motor vehicle dismantler and recycler or scrap metal processor shall also require the seller of the vehicle to provide proof of ownership by providing a properly endorsed vehicle title. The title provided shall be securely maintained for each vehicle purchased, shall become a part of the record maintained pursuant to subdivision (a)(1), and shall be cancelled by the department of revenue pursuant to subdivision (h)(2).

(b)

(1)

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(A) Notwithstanding any provisions of this title to the contrary, any motor vehicle dismantler and recycler or scrap metal processor, who purchases a motor vehicle that is twelve (12) years or older solely for parts, dismantling, or scrap, may purchase the motor vehicle without seeing and obtaining the title to the vehicle if the motor vehicle dismantler and recycler or scrap metal processor does not dismantle, crush, or shred the vehicle for a period of three (3) business days, including the date of purchase, and if the following information is obtained by the buyer and maintained as a part of the record required by subdivision (a)(1):

(i) The name, address, and National Motor Vehicle Title Information System (NMVTIS) identification number of the motor vehicle dismantler and recycler or scrap metal processor;

(ii) The name, initials, or other identification of the individual entering the information;

(iii) The date of the transaction;

(iv) A description of the motor vehicle, including the make and model to the extent practicable;

(v) The vehicle identification number (VIN) of the vehicle to the extent practicable;

(vi) The license plate number of any vehicle transporting the motor vehicle being sold;

(vii) The amount of consideration given for the vehicle;
(viii) A written statement signed by the seller, and the seller's agent, if applicable:

(a) Certifying that the seller, and the seller's agent, if applicable, have the lawful right to sell the motor vehicle;

(b) Certifying that the vehicle is not subject to any security interest or lien;

(c) Acknowledging that a person who falsifies any information contained in the written statement is subject to criminal sanctions and restitution for losses incurred as a result of the sale of a vehicle based on falsified information contained in the statement; and

(d) Certifying that the vehicle shall never be titled again and shall be dismantled or destroyed;

(ix) The name, address, and fingerprints of the person from whom the vehicle is being purchased;

(x) A photocopy or electronic scan of a valid driver license of the seller, and the seller's agent, if applicable, of the motor vehicle, or in lieu of the photocopy or scan of the valid driver license, any other identification card containing a photograph of the seller as issued by any state or federal agency of the United States. If the buyer has a copy of the seller's photo identification on file, the buyer may reference the photo identification on file without making a separate photocopy for each transaction; and

(xi) Proof confirming that the motor vehicle dismantler and recycler or scrap metal processor has reported the vehicle to the

department of revenue in accordance with subsection (c) within twenty-four (24) hours, not counting weekends or legal holidays, of the close of business of the day the vehicle was received.

(B) If the seller does not provide the motor vehicle title or provide the information prescribed in subdivision (b)(1)(A), the motor vehicle dismantler and recycler or scrap metal processor shall not complete the transaction.

(2) The general assembly intends by this subsection (b) to occupy and preempt the entire field of legislation related to the age of the vehicle which a motor vehicle dismantler and recycler or scrap metal processor may purchase without seeing and obtaining the title to the vehicle and the three-day waiting period prior to dismantling, crushing, or shredding the vehicle when a title is not provided to the dismantler or recycler in accordance with subdivision (b)(1)(A).

(c) Any motor vehicle dismantler and recycler required to be licensed pursuant to § 55-17-109 or scrap metal processor as defined in § 55-3-211, who purchases a vehicle for scrap or parts, shall submit to the department of revenue any information in a format as is necessary to satisfy the requirement for reporting information to the National Motor Vehicle Title Information System (NMVTIS) in accordance with rules adopted by the United States department of justice in 28 C.F.R. 25.56, within twenty-four (24) hours, not counting weekends or legal holidays, of the close of business of the day the vehicle was received. The department shall report such information to NMVTIS on behalf of the motor vehicle dismantler and recycler or scrap metal processor.

(d)

(1) It is a Class A misdemeanor, subject to a minimum fine of one thousand dollars (\$1,000), for any person to:

(A) Knowingly violate this section;

- (B) Knowingly fail to report as required under subsection (c);
- (C) Falsify the statement required under subsection (b);
- (D) Knowingly falsify the certification required under subsection (g); or
- (E) Knowingly sell a vehicle which is the subject of any security interest or lien.

(2) Actions to impose the penalties under this subsection (d) may be brought by any local or state law enforcement agency, district attorney, or by the attorney general and reporter in any court of competent jurisdiction.

(3)

(A) One-half (1/2) of the monies generated from the penalties under this subsection (d) shall be deposited in a special fund created in the state treasury for use by the department of revenue's vehicle services division.

(B) The remaining one-half (1/2) of the monies generated from the penalties under this subsection (d) shall be deposited:

(i) In the general fund of the municipality if the suit was brought in a municipal court;

(ii) In the general fund of the county if the suit was brought in the court of a county; or

(iii) To the appropriate state law enforcement agency, if the suit was brought by any county, state, or municipal law enforcement agency.

(4) Monies generated from the penalties under this subsection (d) shall be used only for the enforcement, investigation, prosecution, and training related to violations of this section, auto thefts, or motor vehicle related crimes.

(5) A court of competent jurisdiction shall also order a seller under this section to make restitution to the owner or lienholder, and to the motor vehicle dismantler and recycler or scrap metal processor, for any damage or loss caused by the seller arising out of an offense committed by the seller, including attorney's fees.

(e) Any motor vehicle used to transport a motor vehicle illegally sold under this section shall be subject to seizure and forfeiture by any law enforcement officer authorized to effectuate an arrest. The seizure and forfeiture shall be conducted in accordance with the procedure set out in title 40, chapter 33, part 1.

(f) The records required to be maintained by this section shall be open to inspection by a representative of the commissioner's office or a law enforcement officer, or both, during reasonable business hours.

(g) As used in this section, "motor vehicle" or "vehicle" shall not include motor vehicles or vehicles that have been reported to the National Motor Vehicle Title Information System (NMVTIS) and have been flattened, crushed, baled, or logged, such that the motor vehicle or vehicle is less than fifty percent (50%) of its original volume, is no longer the motor vehicle as described by the certificate of title, and is sold for purposes of scrap metal only. The seller of the material shall certify to the scrap metal processor purchasing the material that all vehicles crushed in this manner and included in the sale have been properly reported to the department of revenue or the National Motor Vehicle Title Information System (NMVTIS).

(h)

(1) The department of revenue shall verify within twenty-four (24) hours of receipt of the information reported pursuant to subsection (c) whether or not the motor vehicle reported pursuant to subsection (c) has been reported stolen. The department of revenue may develop a method to allow a person subject to

this section to verify at the time of the transaction, through the use of the Internet, at no cost, that the vehicle has not been reported stolen, and that also allows for the department of revenue's response to be printed and retained by the person making the request. Within ninety (90) days of the development of such system, its use by any motor vehicle dismantler and recycler required to be licensed pursuant to § 55-17-109 or scrap metal processor as defined in § 55-3-211, who purchases a vehicle for scrap or parts, shall become mandatory. One (1) of the following shall apply following the department of revenue's response:

(A) If the department of revenue confirms that the motor vehicle has been reported stolen, the motor vehicle dismantler and recycler or scrap metal processor shall notify the appropriate local law enforcement agency of the current location of the vehicle and the identifying information of the person selling the vehicle; or

(B) If the department of revenue confirms that the motor vehicle has not been stolen, the motor vehicle dismantler and recycler or scrap metal processor may proceed with the transaction and shall not be held criminally or civilly liable if the motor vehicle later turns out to be a stolen vehicle, unless the motor vehicle dismantler and recycler or scrap metal processor had knowledge that the motor vehicle was a stolen vehicle or failed to comply with the requirements of subsection (a) or (b).

(2) The department of revenue shall enter a cancellation on the title record for the motor vehicle.

(3) If the department of revenue has not received information from a federal, state, or local department or independent source that a vehicle has been reported as stolen it will continue to check against the National Crime Information Center (NCIC) for a period of thirty (30) days. If the vehicle is not reported as

stolen, any person damaged shall not have a cause of action against the department of revenue's vehicle services division.

(4) The department of revenue is authorized to comply with some or all of its responsibilities in this section through a contract with a United States department of justice approved third-party data consolidator, pursuant to 28 C.F.R. Part 25.

SECTION 2. This act shall take effect July 1, 2015, the public welfare requiring it.