

House Commerce Committee Amendment

AMENDMENT NO. \_\_\_\_\_

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

Section 1. Tennessee Code Annotated, Title 55, Chapter 3, Part 2, is amended by adding Sections 2 through 6, inclusive, as new sections to be appropriately designated.

Section 2. This Act may be cited as the "Motor Vehicle Safety, Anti-Theft, Title Reform and Consumer Protection Act of 1995".

Section 3. As used in this act, unless the context otherwise requires:

(1) "Department" means the department of safety.

(2) "Flood vehicle" means any passenger motor vehicle that has been submerged in water to the point that rising water has reached over the door sill and has entered the passenger or trunk compartment. Disclosure that a passenger motor vehicle has become a flood vehicle shall be made at the time of transfer of ownership and the next certificate of title issued after such transfer shall be conspicuously labeled with the word "Flood" across the front.

(3) "Nonrepairable vehicle" means any passenger motor vehicle which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. Such passenger motor vehicle shall be issued a nonrepairable vehicle certificate and shall never again be titled or registered.

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(4) "Nonrepairable vehicle certificate" means a passenger motor vehicle ownership document issued by the state to the owner of a nonrepairable vehicle. Ownership of the passenger motor vehicle may only be transferred two (2) times on a nonrepairable vehicle certificate. A passenger motor vehicle for which a nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways. A nonrepairable vehicle certificate shall be conspicuously labeled with the word "Nonrepairable" across the front.

(5) "Passenger motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads, and highways, including a multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than six thousand pounds (6,000 lbs.) gross vehicle weight, except that such term does not include a motorcycle.

(6) "Rebuilt salvage title" means the passenger motor vehicle ownership document issued by the state of Tennessee to the owner of a rebuilt salvage vehicle. Ownership of the passenger motor vehicle may be transferred on a rebuilt salvage title, and a passenger motor vehicle for which a rebuilt salvage title has been issued may be registered for use on the roads and highways. A rebuilt salvage title shall be conspicuously labeled with the words "Rebuilt Salvage Vehicle -- Anti-theft and Safety Inspections Passed" across the front.

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(7) "Rebuilt salvage vehicle" means any passenger motor vehicle which was previously issued a salvage title, has passed state of Tennessee anti-theft and safety inspections to ensure that the passenger motor vehicle was rebuilt to required standards, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft and safety inspections, and has a decal stating "Rebuilt Salvage Vehicle -- Anti-theft and Safety Inspections Passed" affixed to the driver's door jamb.

(8) "Salvage title" means a passenger motor vehicle ownership document issued by the state to the owner of a salvage vehicle. Ownership of the passenger motor vehicle may be transferred on a salvage title; however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt salvage title. A salvage title shall be conspicuously labeled with the word "Salvage" across the front.

(9) "Salvage vehicle" means any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized

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compilation (to include automated databases) of retail values. The value of repair parts for purposes of this paragraph shall be determined by using the current published retail cost of the original equipment/manufactured parts of the actual retail cost of the repair parts to be used in the repair. The labor cost of repairs for purposes of this paragraph shall be computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community where the repairs are performed. Salvage vehicle shall also include, without regard to whether such passenger motor vehicle meets the seventy-five percent (75%) threshold specified in the first sentence:

(1) any passenger motor vehicle which an insurance company acquires ownership to pursuant to a damage settlement (not to include a settlement in connection with a recovered theft vehicle unless such passenger motor vehicle sustained sufficient damage to meet the seventy-five percent (75%) threshold specified in the first sentence), or;

(2) any passenger motor vehicle whose owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. Such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or

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on behalf of the owner of the passenger motor vehicle any obligations or liabilities.

(10) "Scrap metal processor" means any person which is engaged in the business of buying nonrepairable vehicles, automotive parts, or other metallic waste by weight to process such material into scrap metal for remelting purposes; which utilizes machinery and equipment for processing ferrous and nonferrous metallic scrap into prepared grades; and whose principal product is metallic scrap.

Section 4.

(a) For any passenger motor vehicle, the ownership of which is transferred on or after July 1, 1996, the department shall disclose in writing on the certificate of title whenever records readily accessible to the state of Tennessee indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was "salvage", "unrebuildable", "parts only", "scrap", "junk", "nonrepairable", "reconstructed", "rebuilt", or any other symbol or word of like kind, or that it has been damaged by flood.

(b)

(1) The department shall indicate on the face of the title or certificate for a passenger motor vehicle, as applicable, if the passenger

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motor vehicle is a salvage vehicle, a nonrepairable vehicle, a rebuilt salvage vehicle, or a flood vehicle.

(2) Such information concerning a passenger motor vehicle's status shall also be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling state or any other state.

(3) The title documents, the rebuilt salvage anti-theft and safety inspection certificate, the decal stating "Rebuilt Salvage Vehicle -- Anti-theft and Safety Inspections Passed", and the issuing system shall meet security standards minimizing the opportunities for fraud.

(4) The certificate of title shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.

(5) A passenger motor vehicle designated as nonrepairable shall be issued a nonrepairable vehicle certificate and shall not be retitled.

(6)(A) A passenger motor vehicle owner submitting a vehicle for an anti-theft inspection shall be required to provide a completed document identifying the vehicle's damage prior to being repaired, a list of replacement parts used to repair the vehicle, and proof of ownership of such replacement parts, as may be evidenced by

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bills of sale, invoices or if such documents are not available, other proof of ownership for the replacement parts. The owner must also include an affirmation that the information in the declaration is complete and accurate and, to the knowledge of the declarant, no stolen parts were used during the rebuilding.

(B) Any passenger motor vehicle or any major part or major replacement part required to be marked under 49 U.S.C. 33102 of the Motor Vehicle Information and Cost Savings Act having a mark or vehicle identification number that has been illegally altered, defaced, or falsified, and that cannot be identified as having been legally obtained (through bills of sale, invoices, or other ownership documentation), shall be contraband and subject to seizure.

(7) No duplicate or replacement title shall be issued unless the word "duplicate" is clearly marked on the face thereof.

(8)

(A) If an insurance company is not involved in a damage settlement involving a salvage vehicle or a nonrepairable vehicle, the passenger motor vehicle owner must apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable,

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before the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred, but in any event within thirty (30) days after the passenger motor vehicle is damaged.

(B) If an insurance company, pursuant to a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company must apply for a salvage title or nonrepairable vehicle certificate within fifteen (15) days after the title is properly assigned by the owner to the insurance company, and delivered to the insurance company with all liens released.

(C) If an insurance company does not assume ownership of an insured's or claimant's passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall (i) notify the owner of the owner's obligation to apply for a salvage title or nonrepairable vehicle certificate for the passenger motor vehicle and notify the state passenger motor vehicle titling office that a salvage title or nonrepairable vehicle certificate should be issued for the vehicle or (ii) withhold payment of the claim until the

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owner applies for a salvage title or nonrepairable vehicle certificate.

(D) If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the lessor must apply for a salvage title or nonrepairable vehicle certificate within twenty-one (21) days after being notified by the lessee that the vehicle has been so damaged. The lessee of such vehicle shall inform the lessor that the leased vehicle has been so damaged within thirty (30) days after the occurrence of the damage.

(E) Any person acquiring ownership of a damaged passenger motor vehicle that meets the definition of a salvage or nonrepairable vehicle for which a salvage title or nonrepairable vehicle certificate has not been issued, must apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable. This application must be made before the vehicle is further transferred, but in any event, within thirty (30) days after ownership is acquired. The provisions of subdivision (E) shall not apply to a scrap metal processor which acquires a nonrepairable

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vehicle for the sole purpose of processing it into prepared grades of metallic scrap.

(F) No nonrepairable vehicle certificate shall be issued after two (2) transfers of ownership.

(G) When a passenger motor vehicle has been flattened, baled, or shredded, whichever comes first, the title or nonrepairable vehicle certificate for the vehicle shall be surrendered to the state within thirty (30) days. If the second transferee on a nonrepairable vehicle certificate is unequipped to flatten, bale or shred the vehicle, such transferee must, at the time of final disposal of the vehicle, use the services of a professional automotive recycler or scrap metal processor who is hereby authorized to flatten, bale or shred the vehicle and to effect the surrender of the nonrepairable vehicle certificate to the state on behalf of such second transferee. Records shall be updated to indicate the destruction of such vehicle and no further ownership transactions for the vehicle will be permitted. If Tennessee is not the state of origin of the title or nonrepairable vehicle certificate, then the department shall notify the state of origin of the surrender

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of the title or nonrepairable vehicle certificate and of the destruction of such vehicle.

(H) When a salvage title is issued, the department's records shall so note. There shall be no retitling for registration purposes or issuance of a rebuilt salvage title for a passenger motor vehicle with a salvage title without a certificate of inspection, indicating that the vehicle has passed the required state anti-theft and safety inspections. This item does not preclude the issuance of a new salvage title for a salvage vehicle after a transfer of ownership.

(I) After a passenger motor vehicle titled with a salvaged title has passed the required anti-theft and safety inspections, the inspection official will affix a secure decal stating "Rebuilt Salvage Vehicle -- Anti-theft and Safety Inspections Passed" to the driver's door jamb of the vehicle and issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the required anti-theft and safety inspections. The decal must comply with the permanency requirements established by the department.

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(J) The owner of a passenger motor vehicle titled with a salvage title may obtain a rebuilt salvage title and vehicle registration by presenting to the department the salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the anti-theft and safety inspections. With such proper documentation and upon request, a rebuilt salvage title and registration shall be issued to the owner. When a rebuilt salvage title is issued, the department's records shall so note.

(9) A seller of a passenger motor vehicle that becomes a flood vehicle shall, at or prior to the time of transfer of ownership, give the buyer a written notice that the vehicle is a flood vehicle. At the time of the next title application for the vehicle, disclosure of the flood status shall be provided to the state of Tennessee with the properly assigned title and the word "Flood" shall be conspicuously labeled across the front of the new title.

(10) In the case of a leased passenger motor vehicle, the lessee, within fifteen (15) days of the occurrence of the event that caused the vehicle to become a flood vehicle, shall give the lessor written disclosure that the vehicle is a flood vehicle.

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(c) The department is authorized to develop electronic procedures in lieu of paper documents whenever such electronic procedures provide the same information, function, and security otherwise required by this act.

Section 5. Any person obtaining a title or certificate pursuant to this act for a salvage vehicle, a nonrepairable vehicle, a rebuilt salvage vehicle or a flood vehicle shall pay a fee of forty-five dollars (\$45) to the department. The proceeds of such fee shall be applied to expenses of administering the activities authorized by this act. Such fee shall be in addition to any other fees required for titles by law.

Section 6. A violation of Section 4 of this act is a Class C misdemeanor.

Section 7. Tennessee Code Annotated, Sections 55-3-203, 55-3-204, 55-3-205, 55-3-206, 55-3-207, and 55-3-210, are amended by deleting the sections in their entirety.

Section 8. Tennessee Code Annotated, Section 55-3-114(b), is amended by adding the following as a new subdivision to be appropriately designated:

( ) All certificates of title shall include an abbreviation designating all states, that the division has knowledge of, including Tennessee, where a vehicle has been previously titled. The abbreviation shall be the standard two letter abbreviation used in addresses by the U.S. Postal Service.

Section 9. Tennessee Code Annotated, Section 55-3-202, is amended by deleting subsections (b) and (c) and by redesignating subsection (d) as subsection (b).

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Section 10. Tennessee Code Annotated, Section 55-3-208(a), is amended by deleting the fourth sentence of the subsection in its entirety.

Section 11. Tennessee Code Annotated, Section 55-3-209, is amended by deleting the language of the section in its entirety and by substituting instead the following:

The provisions of Sections 55-3-120(c), 55-3-201(b), 55-3-208, and Sections 2 through 6, inclusive, of this act, apply equally to vehicles reconstructed out-of-state and sought to be titled in Tennessee.

Section 12. This act shall take effect July 1, 1995, the public welfare requiring it.