

1 HB168
2 115292-4
3 By Representative Martin
4 RFD: Commerce
5 First Read: 12-JAN-10

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ENROLLED, An Act,

To amend Section 32-8-87, Code of Alabama 1975, to provide an exception from the requirement that the owner of a salvage vehicle be a licensed rebuilder in order to apply for an inspection if the owner submits a prior registration or other documentation which shows that he or she owned the vehicle prior to the salvage title being issued; to specify the salvage vehicle disclosure and the title branding requirements for junk vehicles; to eliminate the provisions requiring the Department of Revenue to approve nationally recognized indexes and databases of retail values for the purpose of salvage vehicle valuations; to authorize an individual owner of a salvage vehicle to apply for an inspection in certain cases where the supporting paperwork is incomplete or unavailable; to further regulate the acquisition of motor vehicles by scrap metal processors and provide penalties for violations; to increase the penalties for certain violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 32-8-87, Code of Alabama 1975, is
2 amended to read as follows:

3 "§32-8-87.

4 "(a) Each owner of a motor vehicle and each person
5 mentioned as owner in the last certificate of title who
6 scraps, dismantles, destroys, or changes the motor vehicle in
7 such a manner that it is not the same motor vehicle described
8 in the certificate of origin or certificate of title shall as
9 soon as practicable cause the certificate of origin or
10 certificate of title, if any, and any other documents or
11 information required by the department to be mailed or
12 delivered to the department for processing. The department
13 shall, with the consent of any holder of liens noted on the
14 surrendered certificate, enter a cancellation upon its
15 records. Upon cancellation of a certificate of origin or
16 certificate of title in the manner prescribed by this section,
17 the department shall cancel all certificates of origin or
18 certificates of title ~~and all memorandum certificates~~ in that
19 chain of title. A certificate of title for the vehicle shall
20 not again be issued except upon application containing the
21 information the department requires, accompanied by a
22 certificate of inspection in the form and content as specified
23 in this section.

24 "No motor vehicle for which a salvage or junk
25 certificate has been issued by this state or any other state

1 shall be driven or operated on the highways or other public
2 places of this state. A vehicle which is in this state and for
3 which a salvage certificate has been issued, and the vehicle
4 is being restored to its operating condition which existed
5 prior to the event which caused the salvage certificate of
6 title to issue, may be moved to and from repair points as
7 necessary by the rebuilder to complete the restoration or may
8 be moved as permitted by the Department of Revenue for
9 inspection or for any other purpose. A valid Alabama dealer
10 license plate shall be displayed on the vehicle during its
11 movement. A person who violates this subsection shall, upon
12 conviction, be guilty of a Class C misdemeanor and shall be
13 punishable as required by law.

14 "(b) When the frame or engine is removed from a
15 motor vehicle and not immediately replaced by another frame or
16 engine, or when an insurance company has paid money or made
17 other monetary settlement as compensation for a total loss of
18 any motor vehicle, the motor vehicle shall be considered to be
19 salvage. The owner of every motor vehicle in which total loss
20 or salvage has occurred in this state, shall, within 72 hours
21 after the total loss or salvage occurs, make application for a
22 salvage certificate of title and forward to the department the
23 certificate of origin or certificate of title to the motor
24 vehicle, whereupon the department shall process the
25 certificate of origin or certificate of title in a manner

1 prescribed by law or regulation. An insurance company which
2 pays money or makes other monetary settlement as compensation
3 for total loss of a motor vehicle shall at the time of payment
4 or monetary settlement obtain the vehicle's certificate of
5 origin or certificate of title and, as soon as practicable
6 after receiving them, shall forward them along with their
7 application for a salvage certificate, to the department for
8 processing. In the event the payment or monetary settlement
9 was made because of the theft of the vehicle, which shall be
10 considered a total loss as defined in this section, the
11 insurance company shall forward the vehicle's properly
12 assigned certificate of origin or certificate of title as
13 provided herein, to the department as soon as practicable
14 after the vehicle is recovered. When a stolen motor vehicle
15 has been reported to the department in compliance with this
16 section and is later recovered, and for which a salvage
17 certificate has been issued, the owner recorded on the salvage
18 certificate shall assign that certificate to the purchaser. A
19 person who violates this subsection shall, upon conviction, be
20 guilty of a Class C misdemeanor and shall be punishable as
21 required by law.

22 "(c) If an insurance company acquires a motor
23 vehicle in settlement of an insurance claim and holds the
24 vehicle for resale and procures the certificate of origin or
25 certificate of title from the owner or lienholder within 15

1 days after delivery of the vehicle to the insurance company,
2 and if the vehicle was not a total loss as defined by this
3 section, the insurance company need not send the certificate
4 of origin or certificate of title to the department but, upon
5 transferring the vehicle to another person, other than by the
6 creation of a security interest, the insurance company shall
7 complete an affidavit of acquisition and disposition of the
8 motor vehicle on a form prescribed by the department and
9 deliver the certificate of origin or certificate of title,
10 affidavit, and any other documents required by the department
11 to the transferee at the time of delivery of the motor
12 vehicle.

13 "(d) For the purposes of this section, a total loss
14 shall occur when an insurance company or any other person pays
15 or makes other monetary settlement to a person when a vehicle
16 is damaged and the damage to the vehicle is greater than or
17 equal to 75 percent of the fair retail value of the vehicle
18 prior to damage as set forth in a current edition of a
19 nationally recognized compilation of retail values, including
20 automated data bases, ~~as approved by the department~~. The
21 compensation for total loss as defined in this subsection
22 shall not include payments by an insurer or other person for
23 medical care, bodily injury, vehicle rental, or for anything
24 other than the amount paid for the actual damage to the motor
25 vehicle. A vehicle that has sustained minor damage as a result

1 of theft or vandalism shall not be considered a total loss.
2 Any person acquiring ownership of a damaged motor vehicle that
3 meets the definition of total loss for which a salvage title
4 has not been issued shall apply for a salvage title, other
5 than a scrap metal processor acquiring such vehicle for
6 purposes of recycling into metallic scrap for remelting
7 purposes only. This application shall be made before the
8 vehicle is further transferred, but in any event, within 30
9 days after ownership is acquired.

10 "(e) It shall be unlawful for the owner of any
11 junkyard, salvage yard, or motor vehicle dismantler and parts
12 recycler or his or her agents or employees to have in their
13 possession any motor vehicle which is junk or salvage or a
14 total loss when the manufacturer's vehicle identification
15 number plate or plates, authorized replacement vehicle
16 identification number plate or plates, or serial plate or
17 plates have been removed, unless previously required to be
18 removed by a statute or law of this state or another
19 jurisdiction. A person who violates this subsection shall,
20 upon conviction, be guilty of a Class C misdemeanor and
21 shall be punishable as required by law.

22 "(f) It shall be unlawful for a person, firm, or
23 corporation to possess, sell or exchange, offer to sell or
24 exchange, or to give away any certificate of origin,
25 certificate of title, salvage certificate of title,

1 manufacturer's identification number plate or plates,
2 authorized replacement vehicle identification number plate or
3 plates, serial plate or plates, or motor vehicle license plate
4 or plates of any motor vehicle which has been scrapped,
5 dismantled, or sold as junk or salvage or as a total loss
6 contrary to this section, and every officer, agent, or
7 employee of a person, firm, or corporation, and every person
8 who shall authorize, direct, aid in or consent to the
9 possession, sale or exchange, or offer to sell, exchange, or
10 give away such certificate of origin, certificate of title,
11 salvage certificate of title, manufacturer's vehicle
12 identification number plate or plates, authorized replacement
13 vehicle identification number plate or plates, serial plate or
14 plates, or motor vehicle license plate or plates contrary to
15 this section, shall, upon conviction, be guilty of a Class € A
16 misdemeanor and shall be punishable as required by law.

17 "(g) The department is authorized to issue a salvage
18 certificate of title for a fee of ~~\$15.00~~ fifteen dollars
19 (\$15), on a form prescribed by the department which shall
20 provide for assignments of this title. The salvage certificate
21 of title is to replace a certificate of origin or certificate
22 of title required to be surrendered by this section. The
23 department shall prescribe necessary forms and procedures to
24 comply with this subsection.

1 "(h) It shall be unlawful for a person to sign as
2 assignor or for a person to have in his or her possession a
3 salvage certificate of title which has been signed by the
4 owner as assignor without the name of the assignee and other
5 information called for on the form prescribed by the
6 department. A person who violates this subsection, upon
7 conviction, shall be guilty of a Class C misdemeanor and
8 shall be punishable as required by law.

9 "(i) Every owner of a salvage or junk motor vehicle
10 who sells or transfers the vehicle to any person ~~other than to~~
11 ~~a scrap metal processor for purposes of recycling into~~
12 ~~metallic scrap for remelting purposes only,~~ shall provide at
13 the time of the sale or transfer a properly executed
14 assignment and warranty of title to the transferee in the
15 space provided therefor on the salvage certificate of title or
16 junk certificate of title or as the department prescribes. A
17 person who willfully violates this subsection shall, upon
18 conviction, be guilty of a Class C misdemeanor and shall be
19 punishable as required by law.

20 "(j) The department may issue a certificate of title
21 to any motor vehicle for which a salvage certificate has been
22 issued by this or any other state, and the vehicle has, in
23 this state, been completely restored to its operating
24 condition which existed prior to the event which caused the
25 salvage certificate of title to issue, provided that all

1 requirements of this section have been met. ~~No certificate of~~
2 ~~title shall be issued for any motor vehicle for which a "junk"~~
3 ~~certificate has been issued or for a vehicle which is sold~~
4 ~~"for parts only."~~ The department may issue a certificate of
5 title for any motor vehicle for which a salvage certificate of
6 title has been issued by this or any other state or when the
7 department has evidence that a salvage title should have been
8 issued by this or any other state, and the vehicle has been
9 completely restored outside of this state to its operating
10 condition which existed prior to the event which caused the
11 salvage certificate of title to be issued provided the
12 department is satisfied that the vehicle was rebuilt in the
13 other state in accordance with that state's salvage rebuilding
14 laws. Any motor vehicle for which a certificate of title has
15 been issued by any state with the notation of "junk," "parts
16 car," "parts only," "nonrebuildable," or when a certificate of
17 destruction or bill of sale has been issued for transfer of
18 the vehicle with similar language shall be considered to be a
19 "junk" vehicle and shall not be titled in this state. In
20 addition, no certificate of title may be issued for any
21 vehicle where the frame or the majority of the major component
22 parts were obtained from a junk vehicle as previously defined.

23 (k) Every owner of a salvage motor vehicle
24 designated a 1975 year model and all models subsequent thereto
25 which is in this state and which has been restored in this

1 state to its operating condition which existed prior to the
 2 event which caused the salvage certificate of title to issue
 3 shall make application to the department for an inspection of
 4 the vehicle in the form and content as determined by the
 5 department. Each application for inspection of a salvage
 6 vehicle which has been so restored shall be accompanied by all
 7 of the following:

8 "(1) The outstanding salvage certificate or
 9 out-of-state title previously issued for the salvage vehicle.

10 "(2) Notarized bills of sale evidencing acquisition
 11 of all major component parts (listing the manufacturer's
 12 vehicle identification number of the vehicle from which the
 13 parts were removed, if parts contain or should contain the
 14 manufacturer's vehicle identification number) used to restore
 15 the vehicle and bills of sale evidencing acquisition of all
 16 minor component parts. Notarization shall not be required on
 17 bills of sale for minor component parts; provided that a
 18 notarized bill of sale which lists the manufacturer's vehicle
 19 identification number of the vehicle from which the parts were
 20 removed, if parts contain or should contain the manufacturer's
 21 vehicle identification number, shall be required for a
 22 transmission.

23 "(3) Evidence that the owner is a licensed motor
 24 vehicle rebuilder as defined in Section 40-12-390 unless
 25 otherwise exempt from the licensing requirement by Chapter 12

1 of Title 40. Notwithstanding the foregoing, where an owner
 2 acquires an Alabama salvage certificate of title to his or her
 3 own vehicle from his or her insurance company in settlement of
 4 a claim, a prior registration or other documentation that
 5 shows that the owner owned the vehicle prior to the salvage
 6 title being issued may be submitted in lieu of a rebuilder's
 7 license.

8 "(4) The owner shall also provide a written
 9 affirmation which states the following:

10 ~~"a. That the owner has rebuilt the vehicle or~~
 11 ~~supervised its rebuilders, and what has been done~~ The actions
 12 taken to restore the vehicle to its operating condition which
 13 existed prior to the event which caused the salvage
 14 certificate to issue.

15 **"b.** That the owner personally inspected the
 16 completed vehicle and it complies with all safety requirements
 17 set forth by the State of Alabama and any regulations
 18 promulgated thereunder.

19 **"c.** That the identification numbers of the restored
 20 vehicle and its parts have not, to the knowledge of the owner,
 21 been removed, destroyed, falsified, altered, or defaced.

22 **"d.** That the salvage certificate document or
 23 out-of-state title certificate attached to the application has
 24 not to the knowledge of the owner been forged, falsified,
 25 altered, or counterfeited.

1 "e. That all information contained on the
 2 application and its attachments is true and correct to the
 3 knowledge of the owner.

4 "f. The owner as specified in subsection (r) shall
 5 be required to post a bond in accordance with Section 32-8-36
 6 in the event that the owner cannot provide any information
 7 required in subsection (k) or any other information specified
 8 by the department.

9 "(1) The application fee for each inspection of a
 10 restored vehicle shall be ~~\$75.00~~ seventy-five dollars (\$75),
 11 payable ~~by certified funds~~ to the department in a manner as
 12 prescribed by the department, which shall accompany the
 13 application.

14 "(1) All application fees and title fees received by
 15 the department pursuant to this subsection shall be applied
 16 toward the personnel and maintenance costs of the vehicle
 17 inspection program and the vehicle inspection program shall be
 18 conducted by the office of investigations and inspections of
 19 the department. Upon receipt of the application for
 20 inspection, application fee of ~~\$75.00~~ seventy-five dollars
 21 (\$75), its supporting documents, and title fee of ~~\$15.00~~
 22 fifteen dollars (\$15), payable ~~by certified funds~~ to the
 23 department in a manner as prescribed by the department, the
 24 department shall require an inspection to be made of the title

1 and the vehicle by qualified agents or law enforcement
2 officers of the department.

3 "(2) The inspection and certification shall include
4 an examination of the vehicle and its parts to determine that
5 the identification numbers of the vehicle or its parts have
6 not been removed, falsified, altered, defaced, destroyed, or
7 tampered with; that the vehicle information contained in the
8 application for certificate of title and supporting documents
9 is true and correct; and that there are no indications that
10 the vehicle or any of its parts are stolen. The certification
11 shall not attest to the roadworthiness or safety condition of
12 the vehicle.

13 "(m) Component parts are defined as:

14 "(1) PASSENGER VEHICLES.

15 "a. Major components:

16 "1. Motor or engine.

17 "2. Trunk floor pan or rear section and roof.

18 "3. Frame or any portion thereof (except frame
19 horn), or, in the case of a unitized body, the supporting
20 structure which serves as the frame, except when it is a part
21 of the trunk floor pan, or rear section and roof.

22 "4. Cowl, firewall, or any portion thereof.

23 "5. Roof assembly.

24 "b. Minor components:

1 "1. Each door allowing entrance to or egress from
2 the passenger compartment.

3 "2. Hood.

4 "3. Each front fender or each rear fender when used
5 with a rear section and roof.

6 "4. Deck lid, tailgate, or hatchback (whichever is
7 present).

8 "5. Each quarter panel.

9 "6. Each bumper.

10 "7. T-tops, moon roof, or whichever is present.

11 "8. Transmission or trans-axle.

12 "(2) TRUCK, TRUCK TYPE, OR BUS TYPE VEHICLES.

13 "a. Major components:

14 "1. Motor or engine.

15 "2. Transmission or trans-axle.

16 "3. Frame or any portion thereof (except frame
17 horn), or, in the case of a unitized body, the supporting
18 structure which serves as the frame.

19 "4. Cab.

20 "5. Cowl or firewall or any portion thereof.

21 "6. Roof assembly.

22 "7. Cargo compartment floor panel or passenger
23 compartment floor pan.

24 "b. Minor components:

25 "1. Each door.

- 1 "2. Hood.
- 2 "3. Grill, except on one ton or smaller trucks.
- 3 "4. Each bumper.
- 4 "5. Each front fender.
- 5 "6. Roof panel and rear cab panel.
- 6 "7. Each rear fender or side panel.
- 7 "8. Pickup box.
- 8 "9. Body or bed.

9 "(3) MOTORCYCLE: COMPONENT PARTS.

- 10 "a. Engine or motor.
- 11 "b. Transmission or trans-axle.
- 12 "c. Frame.
- 13 "d. Front fork.
- 14 "e. Crankcase.

15 "(n) A salvage vehicle which has been restored in
16 this state to its operating condition which existed prior to
17 the event which caused the salvage certificate of title to
18 issue shall be issued a certificate of title which shall
19 contain the word "rebuilt."

20 "(o) (1) Each salvage vehicle restored or rebuilt in
21 this state which is required to be inspected by the department
22 pursuant to subsection (l) and for which a certificate of
23 title may be issued pursuant to subsection (n) shall be issued
24 a decal, plate, or other emblem as prescribed by the
25 department to reflect that the vehicle is rebuilt. The decal,

1 plate, or other emblem shall be attached to the vehicle in a
2 place and in a manner prescribed by the department.

3 "(2) A person who willfully removes, mutilates,
4 tampers with, obliterates, or destroys a decal, plate, or
5 other emblem issued and attached to a salvage vehicle pursuant
6 to this subsection is guilty of a Class A misdemeanor
7 punishable as provided by law.

8 "(p) Each person who sells, exchanges, delivers, or
9 otherwise transfers any interest in any vehicle for which a
10 title bearing the designation "salvage" or "rebuilt" has been
11 issued shall disclose in writing the existence of this title
12 to the prospective purchaser, recipient in exchange, recipient
13 by donation, or recipient by other act of transfer. The
14 disclosure, which shall be made at the time of or prior to the
15 completion of the sale, exchange, donation, or other act of
16 transfer, shall contain the following information in no
17 smaller than 10 point type: "This vehicle's title contains the
18 designation 'salvage' or 'rebuilt'."

19 "(q) (1) Any motor vehicle for which an insurance
20 company has paid a total loss due, in part, to being damaged
21 by water shall be deemed a flood vehicle. The motor vehicle's
22 certificate of title and every subsequent certificate of title
23 shall contain the designation "flood vehicle."

24 "(2) Each person who sells, exchanges, donates,
25 delivers, or otherwise transfers any interest for which a

1 certificate of title bearing the designation "flood vehicle"
2 has been issued shall disclose in writing the existence of
3 this designation to the prospective purchaser, recipient in
4 exchange, recipient by donation, or recipient by other act of
5 transfer. The disclosure shall be made at the time of or prior
6 to the completion of the sale, exchange, donation, delivery,
7 or other act of transfer and shall contain the following
8 information in no smaller than 10 point type: The certificate
9 of title of this motor vehicle contains the designation "flood
10 vehicle."

11 "(r) If an owner acquires a salvage vehicle for
12 which a previous insurer or owner did not properly obtain a
13 salvage title from this or any other state, the current owner
14 may proceed as provided in subsection (k) and apply for an
15 inspection of the vehicle. In any case where the department
16 has determined that an insurer or prior owner did not properly
17 obtain a salvage certificate of title, a prior registration or
18 other documentation that shows that the owner owned the
19 vehicle prior to the notification by the department may be
20 submitted in lieu of a rebuilder's license.

21 "(s) A scrap metal processor who acquires a motor
22 vehicle for the purpose of recycling it into metallic scrap
23 for remelting purposes shall surrender the certificate of
24 title to the department for cancellation in a manner as
25 prescribed by the department. Each scrap metal processor shall

1 maintain records of every motor vehicle acquired for the
2 purpose of recycling into metallic scrap for remelting
3 purposes. The records shall be maintained by the scrap metal
4 processor for a period of not less than five years and shall
5 include the vehicle identification number, name and address of
6 the seller, copy of seller's state issued driver's license or
7 identification card, the date of sale, and a copy of the
8 certificate of title surrendered to the department. A person
9 who violates this subsection shall, upon conviction, be guilty
10 of a Class A misdemeanor and shall be punishable as required
11 by law."

12 Section 2. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

20 Section 3. All laws or parts of laws which conflict
21 with this act are repealed.

22 Section 4. This act shall become effective on the
23 first day of the second month following its passage and
24 approval by the Governor, or its otherwise becoming law.

