ACT No. 2010 - 748

HB168

115292-4

By Representative Martin

RFD: Commerce

First Read: 12-JAN-10

RECEIVED
APR 22 2010
GOVERNOR'S OFFICE

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:

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

"§32-8-87.

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

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

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

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

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

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

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

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

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

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

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

manufacturer's identification number plate or plates, authorized replacement vehicle identification number plate or plates, serial plate or plates, or motor vehicle license plate or plates of any motor vehicle which has been scrapped, dismantled, or sold as junk or salvage or as a total loss contrary to this section, and every officer, agent, or employee of a person, firm, or corporation, and every person who shall authorize, direct, aid in or consent to the possession, sale or exchange, or offer to sell, exchange, or give away such certificate of origin, certificate of title, salvage certificate of title, manufacturer's vehicle identification number plate or plates, authorized replacement vehicle identification number plate or plates, serial plate or plates, or motor vehicle license plate or plates contrary to this section, shall, upon conviction, be guilty of a Class ~~C~~ A misdemeanor and shall be punishable as required by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(l) All application fees and title fees received by the department pursuant to this subsection shall be applied toward the personnel and maintenance costs of the vehicle inspection program and the vehicle inspection program shall be conducted by the office of investigations and inspections of the department. Upon receipt of the application for inspection, application fee of ~~$75.00~~ seventy-five dollars ($75), its supporting documents, and title fee of ~~$15.00~~ fifteen dollars ($15), payable ~~by certified funds~~ to the department in a manner as prescribed by the department, the 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.

"2. Hood.

"3. Grill, except on one ton or smaller trucks.

"4. Each bumper.

"5. Each front fender.

"6. Roof panel and rear cab panel.

"7. Each rear fender or side panel.

"8. Pickup box.

"9. Body or bed.

"(3) MOTORCYCLE: COMPONENT PARTS.

"a. Engine or motor.

"b. Transmission or trans-axle.

"c. Frame.

"d. Front fork.

"e. Crankcase.

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

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

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

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

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

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

1
2
3 _____
4 Speaker of the House of Representatives
5 _____
6 President and Presiding Officer of the Senate

7 House of Representatives
8 I hereby certify that the within Act originated in
9 and was passed by the House 09-FEB-10.
10
11 Greg Pappas
12 Clerk
13

14 _____
15
16 Senate 22-APR-10 Passed
17

APPROVED April 30, 2010
TIME 12:15 p.m.
Bob Riley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2010-748
Bill Num...: H-168

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