

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2314

BY: SEIKEL

AS INTRODUCED

AN ACT RELATING TO MOTOR VEHICLES; AMENDING 47 O.S. 1991, SECTION 1111, WHICH RELATES TO SALVAGE OR JUNKED TITLE; MODIFYING CERTIFICATE OF TITLE STAMP; DELETING VISUAL INSPECTION AND EXAMINATION; PROVIDING FOR RULES FOR VISUAL INSPECTION AND EXAMINATION; MODIFYING PERSONS AUTHORIZED TO CONDUCT INSPECTIONS; ESTABLISHING PERSONNEL GUIDELINES; CREATING GUIDELINES FOR VISUAL INSPECTION AND EXAMINATION; AUTHORIZING OKLAHOMA TAX COMMISSION TO RESTORE ORIGINAL VEHICLE IDENTIFICATION NUMBER; MODIFYING FEES; MODIFYING PERSONS SUBJECT TO LIABILITY; UPDATING REFERENCE; DELETING REFERENCE TO OUT-DATED CERTIFICATE OF TITLE; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1111, is amended to read as follows:

Section 1111. A. As used in this section:

1. "Loss" means the cost, in dollars, to repair or replace a vehicle which has been damaged by collision or other occurrence.

The amount paid by an insurer to a holder of the certificate of title for repair of a damaged vehicle shall be prima facie evidence of the amount of the loss. The amount paid by an insurer to a holder of the certificate of title for replacement of a damaged vehicle less the resale value of the damaged vehicle shall be prima facie evidence of the amount of the loss;

2. "Fair market value" means the value of a vehicle as listed in the current National Auto Dealers Association guidebook or other similar guidebook or the actual cash value, whichever is greater;

3. "Resale value" means the amount, in dollars, paid to the holder of a certificate of title by a willing buyer for a vehicle damaged by collision or other occurrence or recovered from theft;

4. "Total loss" means a loss which is equal to the fair market value of the vehicle immediately prior to the damage to or theft of the vehicle; and

5. "Vehicle" means a vehicle, as defined in paragraph 25 of Section 1102 of this title, which is within the last seven (7) model years.

B. Any insurance company that pays a total loss on a claim for any vehicle including, but not limited to, claims for vehicles damaged by flooding or recovered from a theft, any junk dealer who receives a motor vehicle which is to be used for junk or for parts, or any other person permanently dismantling or junking a vehicle shall receive the certificate of title from the current holder of the certificate of title, shall detach the license plate from such vehicle, and shall return the license plate and the certificate of title to the Commission or a motor license agent within thirty (30) days from receipt of said certificate. The Commission shall cancel the certificate of title to the vehicle used for junk or parts and shall preserve the vehicle identification numbers on the certificate of title in the computer files for at least five (5) years. The Commission shall transfer ownership of a stolen vehicle, not

recovered from theft at the time of transfer, by salvage title to the insurer. The Commission shall transfer ownership of a vehicle damaged by flooding or other occurrence to the insurer by an original title, salvage title, or junked title, as may be appropriate, based upon an estimate of the amount of loss submitted, by the insurer. All license plates surrendered to the Commission shall be destroyed.

C. If an insurance company pays a claim for a loss which is less than a total loss but the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, or if any vehicle not insured is damaged to the extent that the cost of repair for safe operation on the highway exceeds sixty percent (60%) of the fair market value of the vehicle, any holder of the certificate of title for said vehicle shall return the certificate of title to the Oklahoma Tax Commission or a motor license agent within thirty (30) days from receipt of payment for said loss.

Upon receipt of the certificate, the Commission or motor license agent shall issue a salvage title for the vehicle. The salvage title or rebuilt title for any vehicle damaged by flooding shall be stamped with the words "Damaged by Flooding", and for any such vehicle which was recovered from a theft, the salvage title or rebuilt title shall be stamped with the words "Recovered Theft". A licensed dealer subject to the provisions of the Automotive Dismantlers and Parts Recycler Act, Section 591.1 et seq. of this title, shall not be required to pay registration fees, excise taxes, back taxes or penalties on a vehicle as a prerequisite to obtaining a salvage title.

D. If a motor vehicle with a salvage title is placed in operative condition, application shall be made to the Commission or a motor license agent for a rebuilt title. A visual inspection of the vehicle and examination of the vehicle identification numbers

shall be conducted prior to the issuance of a rebuilt title. At the time of such issuance, the salvage title shall be returned to the Commission by the owner, or by the motor license agent if he issues the rebuilt title. A visual inspection shall also be made of any out-of-state vehicle to be registered and titled in this state, if the vehicle is within the class of vehicles for which a rebuilt title is required and a similar inspection has not been conducted by another state. The certificate of title for the rebuilt vehicle shall be stamped with the words, "This Rebuilt Vehicle Has Been Inspected ~~By The Appropriate State Official~~ In Accordance With Section 1111 of Title 47 of the Oklahoma Statutes".

~~E. The visual inspections and examination of vehicle identification numbers shall include, but not be limited to:~~

~~1. Comparison of the vehicle identification numbers with the number recorded on the ownership records;~~

~~2. Inspection of the vehicle identification numbers and the VIN plate to detect possible alteration or other fraud;~~

~~3. Interpretation of the vehicle identification number recorded on the ownership documents to assure that it accurately describes the motor vehicle in question;~~

~~4. Inspection of the odometer of the vehicle to detect rollback or alteration; and~~

~~5. Inspection of the motor vehicle for mechanical safety.~~

~~Such inspection shall include the inspection required by Section 851 et seq. of this title. Such inspection shall not be required for any motor vehicle registered pursuant to the provisions of Section 1120 of this title or any trailer or semitrailer registered pursuant to the provisions of Section 1133 of this title.~~

~~F. The visual inspection and vehicle identification numbers examination shall be performed by~~ under the control and supervision of the Department of Public Safety, pursuant to rules promulgated by the Department, at the location designated by the Department. If

the location of the inspection is not the place of business of the rebuilder, the Department ~~of Public Safety~~ shall issue a permit authorizing the applicant to operate the vehicle upon the public streets, roads, and highways in route to and from the designated location for the inspection. The inspection and examination shall be performed within ten (10) working days after the owner of the vehicle requests the inspection and examination. Requests shall be made by completing the request form prescribed and provided by the Department ~~of Public Safety~~.

~~G. F.~~ F. Inspection and examination of a rebuilt vehicle shall be performed by ~~persons employed by~~ employees of the Department of Public Safety or ~~an authorized law enforcement agency of this state which has~~ by any person authorized, contracted ~~with~~ and trained by the Department to perform the inspections and examinations. ~~Each law enforcement personnel authorized to perform the inspections and examinations shall be trained by the Department of Public Safety~~ Such person shall be a citizen of this state, shall have at least five (5) years law enforcement experience and shall not be less than twenty-six (26) years of age. Such person authorized and contracted by the Department shall not be a convicted felon; or associated with the automotive industry in any way, as prescribed by the Department; or a current holder of an official Oklahoma vehicle inspection license or any such license which has been suspended, revoked or canceled.

G. The visual inspection and examination of vehicle identification numbers shall include, but not be limited to:

1. Comparison of the vehicle identification numbers with the number recorded on the ownership records;

2. Inspection of the vehicle identification numbers and the VIN plate to detect possible alteration or other fraud;

3. Interpretation of the vehicle identification number recorded on the ownership documents to assure that it accurately describes the motor vehicle in question;

4. Inspection of the odometer of the vehicle to detect rollback or alteration; and

5. Inspection for mechanical safety and equipment as required in Section 12-101 et seq. of this title.

Such inspection shall not be required for any trailer or semitrailer registered pursuant to the provisions of Section 1133 of this title.

H. The Oklahoma Tax Commission may authorize the Department of Public Safety to restore the original manufacturer's vehicle identification number to any vehicle:

1. Which has been a theft-recorded vehicle and is wholly intact with the original manufacturer's frame, motor, transmission and body components; or

2. On which the dash, cab or door, to which the manufacturer's vehicle identification number was attached, has been replaced as a result of theft or damage, but which is otherwise intact with the original manufacturer's frame, motor and transmission; or

3. From which the original manufacturer's vehicle identification number has been removed as a result of an act of vandalism, when such vehicle is wholly intact with the original manufacturer's frame, motor, transmission and body components; or

4. When the restoration of the original manufacturer's vehicle identification number would not be a misrepresentation of the vehicle, as determined by the Department, under any conditions other than those described in subsections 1, 2 and 3 of this section.

H. I. The fee for the inspection and examination by the Department of Public Safety shall be ~~Twenty-five Dollars (\$25.00)~~ Fifty Dollars (\$50.00), which shall be paid to the Department of Public Safety at the time of issuance of the certificate of title

~~application for the rebuilt inspection of the salvage vehicle. The Oklahoma Tax Commission shall transmit the fee~~ All such fees collected, pursuant to this subsection, shall be remitted to the State Treasurer for deposit in to be credited to the Department of Public Safety Revolving Fund.

~~J. The Department of Public Safety, its officers, and employees and agents, and any law enforcement agency, which has contracted with the Department or its officers, employees and agents may not be sued for and shall not be liable for any civil damages allegedly arising out of the inspection of a vehicle or any acts or omissions in the performance of the inspection. The Department of Public Safety, its officers, employees or any person authorized and contracted by the Department, may be held liable for any damages to the vehicle caused by the negligent or intentional acts or omissions in the performance of the inspection. Any person may be liable for any damages to a vehicle caused by the intentional acts or omissions in the performance of the inspection.~~

~~I. K.~~ K. The rebuilt title and any subsequent transfers of such title shall also reflect that the vehicle was a salvage vehicle, damaged by flooding or recovered theft, if applicable, and also shall include the salvage date.

~~J. L.~~ L. Any title for a motor vehicle issued pursuant to the laws of any other state which reflects that such vehicle is a salvage vehicle, a rebuilt vehicle or a junked vehicle or has any other brand or classification notation by that state shall be retained on the new title issued by the Oklahoma Tax Commission.

~~K. M.~~ M. When the insurance company pays a loss, as defined in this section, on a vehicle which is registered at the time of mishap, accident, burning or flooding, the appropriate certificate of title shall be issued without the payment of additional registration fees or excise taxes, upon the submission of a police report or insurance adjuster's report and a declaration by the

insurer that the vehicle is held for sale to a dealer. If the owner or insured of the vehicle retains ownership of the damaged vehicle, the Oklahoma Tax Commission shall notify the owner or insured of the requirements of this section.

~~L.~~ N. Any insurance company that pays a claim for a loss where the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of the market value of the vehicle shall notify, in writing, the holder of the certificate of title of the requirements of this section and shall notify the Oklahoma Tax Commission of the payment of such claim. Provided, no insurance company shall pay a claim for less than the amount to which the holder of the certificate of title is rightfully entitled in order to avoid compliance with this section.

~~M.~~ O. Except as provided for in subsection ~~N~~ P of this section, any person, firm, or corporation convicted of violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than Three Hundred Dollars (\$300.00) or by incarceration in the county jail for not more than six (6) months, or by both the fine or incarceration.

~~N.~~ P. Any owner of a titled vehicle who has knowledge that the title is not the proper type for the vehicle, and with intent to misrepresent the vehicle, fails to make the appropriate title changes shall be guilty of a misdemeanor. Any person who has knowledge that the title is not the proper type for the vehicle, and with intent to misrepresent the vehicle, buys or receives any vehicle for which the appropriate title changes have not been made as required by ~~this act~~ Section 1101 et seq. of this title shall be guilty of a misdemeanor. Any person found guilty in accordance with the provisions of this subsection shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) for the first offense or Five Thousand Dollars (\$5,000.00) for the second or subsequent

offense, or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment.

~~Q. Upon the effective date of this act, the~~ Q. The Oklahoma Tax Commission shall notify any insurance companies, and the Oklahoma Used Motor Vehicle and Parts Commission shall notify any salvage pools, salvage dealers and others, who may be holders of titles of salvage vehicles as defined in Section 1105 of this title of the requirements of this ~~act~~ title. ~~Any owner of a vehicle with an Oklahoma certificate of title which is no longer an appropriate certificate of title, before October 2, 1989, may submit the certificate of title to the Oklahoma Tax Commission for issuance of the appropriate type of title without any cost or fee.~~ Any owner of a salvage or junked vehicle shall submit the certificate of title to the Oklahoma Tax Commission or motor license agent for issuance of an appropriate title. Any holder of a certificate of title issued by this state, to a vehicle which no longer exists, shall surrender the certificate of title to the Oklahoma Tax Commission for cancellation. The vehicle identification number on the canceled certificate of title shall be preserved in the computer of the Oklahoma Tax Commission for at least five (5) years.

R. Any person who fails to make the title changes or to surrender the title as required herein on or before June 1, 1990, shall be assessed a penalty by the Oklahoma Tax Commission in an amount not to exceed Fifty Dollars (\$50.00), which shall be apportioned in the same manner as the fees and taxes levied by the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of this title.

S. Nothing in this section shall be construed to prevent the transfer of ownership of a vehicle by assignment of the title to a used car dealer, wholesale used car dealer, or a licensed automotive dismantler or parts recycler.

SECTION 2. This act shall become effective July 1, 1992.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7880

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