ENROLLED SENATE
BILL NO. 29

By: Herbert of the Senate

and

Weaver and Satterfield of the House

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 579.1 and 1111, as last amended by Section 3 of Enrolled House Bill No. 1576 of the 1st Session of the 45th Oklahoma Legislature, which relate to brokers and salvage titles; modifying requirements for brokers; requiring certificate of title be reissued to holder under certain circumstances and exempting vehicle from certain inspection; requiring insurance company certify cost of repairing vehicle; requiring Oklahoma Tax Commission notify owner of salvage or flood damaged vehicle to surrender title; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 579.1, is amended to read as follows:

Section 579.1 A. It shall be unlawful to be a broker.

B. For the purposes of this section, "broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle, and who is not:

1. A new motor vehicle dealer ~~or agent~~ or employee of such a dealer; or

2. A distributor ~~or an agent~~ or employee of such a distributor.

However, an individual shall not be deemed to be a broker if he or she is the owner of the new or used motor vehicle which is the object of the brokering transaction.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 1111, as last amended by Section 3 of Enrolled House Bill No. 1576 of the 1st Session of the 45th Oklahoma Legislature, 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 29 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, a flood-damaged vehicle or recovered-theft vehicle, 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~~ the 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. 1. 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~~ the 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~~ the loss.

2. Upon receipt of the certificate, the Commission or motor license agent shall issue a salvage title for the vehicle. The title for any vehicle damaged by flooding shall be stamped with the words "Flood Damaged", 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.

3. If the actual documented cost of repairing the vehicle for safe operation on the highway does not exceed sixty percent (60%) of the fair market value of the vehicle as defined in this act, the certificate of title shall be reissued to the holder and the vehicle shall not be subject to inspection as required under this section. The actual documented cost of repairing the vehicle pursuant to this paragraph shall be certified by the insurance company paying the loss.

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 the motor license agent 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".

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; and

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

All vehicle damage shall be repaired before the examination is conducted. The following paperwork shall be presented to the motor licence agent: the salvage title and original receipts for all parts placed on the vehicle. Components such as doors, motor and transmission shall indicate the serial number or the VIN (vehicle identification number) of the auto the part was purchased from or parts removed from the auto.

The motor license agent shall require documentation that the inspection required by Section 851 et seq. of this title has been performed on the vehicle within thirty (30) days of the motor license agent's inspection. 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 a motor license agent at the location designated by the motor license agent. If the location of the inspection is not the place of business of the rebuilder, the motor license agent 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 Oklahoma Tax Commission.

G. Inspection and examination of a rebuilt vehicle shall be performed by persons employed by a motor license agent.

H. The fee for the examination by the motor license agent shall be Twenty-five Dollars ($25.00), which shall be paid at the time of issuance of the certificate of title for the rebuilt vehicle. The motor license agent shall retain Five Dollars ($5.00) and shall remit Twenty Dollars ($20.00) to the Oklahoma Tax Commission which shall retain Ten Dollars ($10.00) and transmit Ten Dollars ($10.00) to the State Treasurer for deposit in the Department of Public Safety Revolving Fund. The motor license agent and its employees and agents may not be sued for and shall not be liable for any damages allegedly arising out of the inspection of a vehicle or any

acts or omissions in the performance of the inspection. The motor license agent may be held liable for any damages to the vehicle caused by the negligent 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. The rebuilt title and any subsequent transfers of such title shall also reflect that the vehicle was a salvage vehicle, flood-damaged vehicle or recovered-theft vehicle, if applicable, and also shall include the salvage date.

J. 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. 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. 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 or pays a claim for a flood-damaged vehicle as defined in Section 1105 of this title 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. The insurance company shall also send a copy of the notification to the holder of the title. The ~~owner of a flood-damaged vehicle~~ Oklahoma Tax Commission shall notify the owner of the vehicle in writing to surrender the title along with the fee to the Commission or one of its motor license agents within thirty (30) days from the receipt of notice for the issuance of the appropriate title based on the amount of loss. The Commission shall reissue the appropriate title with the words "Flood Damaged" on the face of the title in the case of a flood-damaged vehicle. 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. Except as provided for in subsection N 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. 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 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.

O. Upon the effective date of this act, 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. 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.

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. 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 3. This act shall become effective November 1, 1995.

Passed the Senate the 25th day of May, 1995.

President of the Senate

Passed the House of Representatives the 25th day of May, 1995.

Speaker of the House of Representatives