

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Hoofman, *Smith and Gwatney***

A Bill

SENATE BILL 369

For An Act To Be Entitled

8 "AN ACT TO ESTABLISH THE ARKANSAS MOTOR VEHICLE DAMAGED
9 AND RECONSTRUCTED TITLE LAW; TO REQUIRE THE CERTIFICATES
10 OF TITLE FOR MOTOR VEHICLES WRECKED OR DAMAGED TO BE
11 DESIGNATED DAMAGED, AND RECONSTRUCTED; TO REQUIRE
12 ARKANSAS MOTOR VEHICLE TITLE CERTIFICATES TO CARRY *THE*
13 *CORRESPONDING ARKANSAS CLASSIFICATION WHEN REISSUED A*
14 *TITLE FROM ANOTHER STATE CARRING A NOTATION OF SALVAGE,*
15 *RECONSTRUCTED, REBUILT, OR OTHER CLASSIFICATION; TO*
16 *REQUIRE DISCLOSURE OF DESIGNATION TO PURCHASERS; TO*
17 *PRESCRIBE THE PENALTIES FOR VIOLATIONS; AND FOR OTHER*
18 *PURPOSES.*"

Subtitle

21 *"AN ACT TO REQUIRE DESIGNATION ON TITLES AND NOTIFICATION*
22 *OF WRECKED OR DAMAGED VEHICLES TO PURCHASERS."*

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26 *SECTION 1. This act shall be known and cited as the Arkansas Motor*
27 *Vehicle Damaged and Reconstructed Title Law.*

29 *SECTION 2. Definitions. For the purposes of this act, unless the*
30 *context otherwise requires:*

31 *(1) Damaged vehicle means any vehicle that is less than five (5)*
32 *years old and is wrecked or damaged so as the cost of repairing the damage to*
33 *the vehicle exceeds seventy percent (70%) of the current retail value of the*
34 *vehicle as found in the National Automobile Dealer's Association Pricing Guide*
35 *Book or other source approved by the Office of Motor Vehicles;*

1 (2) *_Motor vehicle_ means every device in, upon, or by which any person*
2 *or property is or may be transported upon a highway which is self-propelled,*
3 *except motorcycles, motor-driven cycles, and trucks with a gross weight rating*
4 *of ten thousand (10,000) pounds or more.*

5 (3) *_Office of Motor Vehicles_ or _Office_ means the Office of Motor*
6 *Vehicles of the Revenue Division of the Department of Finance and*
7 *Administration.*

8 (4) *_Owner_ means an individual, insurance company or other entity with*
9 *legal title to the motor vehicle.*

10 (5) *_Reconstructed vehicle_ means every motor vehicle of a type required*
11 *to be registered which is materially altered from its original construction by*
12 *the removal, replacement, repair, addition, or substitution of those parts*
13 *which qualified the vehicle as _Damaged_ with either new, used, or repaired*
14 *components so as to restore or repair the vehicle.*

15 (6) *_Salt water damage_ means the damage to a motor vehicle caused by*
16 *ocean or tidal flooding or any other exposure of the vehicle to salt water*
17 *sufficient to require the cost of repairing the damage to the vehicle to*
18 *exceed seventy percent (70%) of the current retail value of the vehicle as*
19 *found in the National Automobile Dealer's Association Pricing Guide Book or*
20 *other source approved by the Office of Motor Vehicles.*

21 (7) *_Water damage_ means damage to a motor vehicle caused by the*
22 *submerging or partially submerging of the vehicle in fresh water to the extent*
23 *that costs to repair the damage to the vehicle exceeds seventy percent (70%)*
24 *of the current retail value of the vehicle as found in the National Automobile*
25 *Dealer's Association Pricing Guide Book or other source approved by the Office*
26 *of Motor Vehicles.*

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28 SECTION 3. *Damaged vehicle, issuance of designated title.*

29 (a) *When any person or entity obtains ownership of a _damaged vehicle,_*
30 *the person or entity shall, within ten (10) days after obtaining ownership,*
31 *forward the properly endorsed certificate of title from the damaged vehicle to*
32 *the Office of Motor Vehicles together with a fee in the amount now or*
33 *hereafter prescribed by law for the registration and issuance of a certificate*
34 *of title.*

35 (b) *Whenever the owner of a _damaged vehicle_ retains possession of a*

1 vehicle subject to an insurance settlement, the insurance company shall notify
2 the Office of Motor Vehicles on a form prescribed by the Office of Motor
3 Vehicles. The insurance company shall also notify the insured or vehicle
4 owner of the insured's or owner's responsibility to comply with this
5 subdivision. The insured or owner shall, within ten (10) days from the
6 settlement of the loss, forward the properly endorsed certificate of title to
7 the Office of Motor Vehicles together with a fee in the amount now or
8 hereafter prescribed by law for the registration and issuance of a certificate
9 of title.

10 (c) Whenever a damaged vehicle is not the subject of an insurance
11 settlement, the owner, prior to sale, transfer or repair of the vehicle, shall
12 forward the properly endorsed certificate of title to the Office of Motor
13 Vehicles together with a fee in the amount now or hereafter prescribed by law
14 for the registration and issuance of a certificate of title.

15 (d) Upon receipt of such title, there shall be issued a new certificate
16 of title with the designation affixed to it. The designation shall have the
17 words Damaged printed in the remarks section of the title.

18 (e) In the event a motor vehicle suffers water damage or salt water
19 damage, as defined in this act, the owner of the motor vehicle shall, prior to
20 sale, transfer or repair of the vehicle, obtain a new certificate of title
21 with the words Water Damaged printed in the remarks section.

22 (f) Thereafter, any motor vehicle receiving a new title as a result of
23 water damage or salt water damage shall not be issued a subsequent certificate
24 of title unless bearing the notation Water Damaged.

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26 SECTION 4. Reconstructed vehicle, issuance of designated title.

27 When any motor vehicle is issued a Damaged title, or similar title
28 issued by another state, and is reconstructed, prior to licensing or
29 registration for operation upon public highways, the owner shall make
30 application to the Office of Motor Vehicles for the registration and issuance
31 of a new title to the vehicle. The application shall be accompanied by the
32 Damaged or other similar title issued for the vehicle, a fee in the amount
33 now or hereafter prescribed by law for registration and issuance of a
34 certificate of title, and an affidavit executed by the rebuilder or restorer
35 on a form prescribed by the Office of Motor Vehicles. The Damaged title, or

1 other similar title, and the affidavit shall be maintained as part of the
2 permanent record for that motor vehicle's title. Upon receipt of the
3 application and the accompanying material, the Office of Motor Vehicles shall
4 issue a new certificate of title bearing the notation Reconstructed. If the
5 owner is a licensed Arkansas motor vehicle dealer, the title shall be issued
6 in the dealer's name, and the dealer shall be exempt from paying sales tax for
7 retitling purposes under this section only.

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9 SECTION 5. Affidavit required upon reconstruction.

10 When a motor vehicle with a Damaged or other similar title is
11 reconstructed or restored, the owner of the motor vehicle shall execute an
12 affidavit on a form prepared by the Office of Motor Vehicles which:

13 (1) identifies the source of the parts used;

14 (2) if used parts were applied, the affidavit shall identify each used
15 part;

16 (3) a statement that to the best of the owner's knowledge that no
17 stolen parts were used in the repair of the vehicle; and

18 (4) that repairs to the vehicle are in accordance with the
19 manufacturer's and/or industry approved standards.

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21 SECTION 6. Application to designated titles from other states.

22 The provisions of this act shall apply equally to vehicles damaged or
23 reconstructed out of state and sought to be titled in Arkansas. An Arkansas
24 motor vehicle certificate of title issued from an out-of-state motor vehicle
25 certificate or comparable ownership document which carries a designation such
26 as damaged, salvaged, reconstructed, rebuilt, repaired, water
27 damaged, or other similar classification shall carry a classification
28 notation as would be required by this act to be designated on an Arkansas
29 title.

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31 SECTION 7. Disclosure upon sale of vehicle with a designated title.

32 (a) When any dealer in this state offers for sale a motor vehicle which
33 carries a designated title pursuant to this Act, the dealer shall disclose to
34 any prospective purchaser, prior to sale, the nature of the designation. The
35 disclosure shall be on a buyer's notification form to be prescribed by the

1 Consumer Protection Division of the Office of Attorney General. It shall be
2 fully filled out and affixed to a side window of the vehicle with the title
3 *_Buyer's Notification_* facing to the outside. The form may be removed
4 temporarily from the window during any test drive, but must be replaced as
5 soon as the test drive is over.

6 (b) The form to be prescribed by the Consumer Protection Division shall
7 have an acknowledgment section that the selling dealer shall require the buyer
8 to sign prior to completing a sales transaction on a vehicle that carries a
9 designated title. The selling dealer shall retain a copy of the notification
10 form.

11 (c) Failure of the selling dealer to procure the buyer's acknowledgment
12 signature shall render the sale voidable at the election of the buyer. The
13 election to render the sale voidable shall be limited to twelve (12) months
14 after the sales transaction.

15 (d) For purposes of this section, *_dealer_* means any person or business
16 which sells or offers for sale a vehicle after selling or offering for sale
17 five (5) or more vehicles in the previous twelve (12) months or a motor
18 vehicle dealer licensed as such by the State of Arkansas. For purposes of
19 this section, a person or business that operates as a *_salvage pool or salvage*
20 *auction_* is not a dealer when selling to another dealer.

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22 SECTION 8. Penalties for failing to retitle damaged vehicle.

23 (a) Any person who pleads guilty, *nolo contendere*, or who is found
24 guilty of failing to retitle a motor vehicle as required by this act shall be
25 guilty of a Class C misdemeanor and may be punished as provided by law.

26 (b) Any sale, attempted sale, or transfer of a motor vehicle in
27 violation of the provisions of this act shall constitute an unfair or
28 deceptive act or practice as defined by Deceptive Trade Practices Act, § 4-88-
29 101, et seq..

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31 SECTION 9. Penalties for falsifying an affidavit. Any person who
32 pleads guilty, *nolo contendere*, or who is found guilty of falsifying an
33 affidavit required by this act shall upon conviction be guilty of a Class D
34 felony. Each falsified affidavit shall constitute a separate offense.

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1 SECTION 10. All provisions of this act of a general and permanent
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
3 Code Revision Commission shall incorporate the same in the Code.

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5 SECTION 11. If any provisions of this act or the application thereof to
6 any person or circumstance is held invalid, the invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provisions or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 12. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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/s/ Senators Hoofman

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