

First Extraordinary Session, 2005

HOUSE BILL NO. 11

BY REPRESENTATIVES SMILEY, ALEXANDER, BEARD, BRUNEAU, BURNS, CROWE, DOVE, DOWNS, ERDEY, FRITH, GEYMAN, GREENE, HUTTER, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAFONTA, LAMBERT, LANCASTER, MARTINY, MCVEA, MORRISH, PITRE, M. POWELL, T. POWELL, SCALISE, SCHNEIDER, JANE SMITH, STRAIN, TRAHAN, TUCKER, WADDELL, WALSWORTH, WHITE, AND WINSTON AND SENATORS BARHAM, BOASSO, CAIN, DARDENNE, HOLLIS, KOSTELKA, LENTINI, MALONE, MICHOT, QUINN, ROMERO, SCHEDLER, AND THEUNISSEN

MTR VEHICLE/REGISTRATION: Provides for disposal of water-damaged vehicles (Item #13)

1 AN ACT

2 To amend and reenact R.S. 32:706.1 and to enact R.S. 32:702(14) and (15) and 707.3,  
3 relative to vehicles sustaining water damage from a declared disaster; to provide for  
4 definitions; to provide for disclosure before transfer; to provide for certificates of  
5 destruction; to provide for restrictions on transfer and registration; to provide for  
6 dismantling or crushing; to provide for rules and regulations; to provide for  
7 penalties; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 32:706.1 is hereby amended and reenacted and R.S. 32:702(14) and  
10 (15) and 707.3 are hereby enacted to read as follows:

11 §702. Definitions

12 As used in this Chapter:

13 \* \* \*

14 (14) "Water-damaged vehicle" means any vehicle, other than an antique  
15 vehicle, whose power train, computer, or electrical system has been damaged by

1 flooding as the result of a gubernatorially declared disaster or emergency and that is  
2 a "total loss" as defined in Paragraph (11) of this Section.

3 (15) "Certificate of destruction" means a type of certificate of title issued by  
4 the office of motor vehicles for a water-damaged vehicle as defined in Paragraph  
5 (14) of this Section.

6 \* \* \*

7 §706.1. Disclosure by persons who transfer ownership of vehicles with salvage or  
8 reconstructed titles or certificate of destruction; penalties

9 A. Each person who sells, exchanges, donates, or otherwise transfers any  
10 interest in any vehicle for which a salvage title, certificate of destruction, or a  
11 reconstructed title has been issued shall disclose the existence of that title to the  
12 prospective purchaser, recipient in exchange, recipient by donation, or recipient by  
13 other act of transfer. The disclosure shall be made by a conspicuous written  
14 document and shall be made prior to the completion of the sale, exchange, donation,  
15 or other act of transfer.

16 B. If any person sells, exchanges, donates, or otherwise transfers any interest  
17 in any vehicle for which a salvage title, certificate of destruction, or a reconstructed  
18 title has been issued and does not make the disclosures required by this Section, the  
19 person to whom the interest in that vehicle was transferred may demand the  
20 rescission of the sale, exchange, donation, or other act of transfer and, in that event,  
21 shall be entitled to recover the price or other consideration for the transaction and  
22 any fees or taxes paid to any governmental agency in connection with that  
23 transaction.

24 C. Whoever knowingly violates the provisions of this Section shall be guilty  
25 of a misdemeanor and, upon conviction, shall be punished by imprisonment of not  
26 more than six months or by a fine not less than five hundred dollars nor more than  
27 five thousand dollars, or both. In addition, the violator shall be sentenced to not less  
28 than eighty hours of community service.

29 \* \* \*

1        §707.3. Certificates of destruction; application requirements; restrictions on sale;  
2                disassembly requirement; department rules; penalties

3                A. Except as provided in Subsection B of this Section, every owner of a  
4                vehicle that meets the definition of a water-damaged vehicle, as defined in R.S.  
5                32:702(14), shall send the certificate of title, license plate, and registration to the  
6                office of motor vehicles along with an application for a certificate of destruction  
7                within thirty days after the vehicle is determined to be water damaged. In the event  
8                a lienholder possesses the certificate of title to a water-damaged vehicle, the  
9                lienholder shall send the certificate of title and other materials to the owner's insurer.

10               B. When, as a result of an insurance settlement, a motor vehicle is  
11               determined to be water damaged, as defined in this Chapter, the insurance company  
12               that acquires ownership of the vehicle shall within thirty days from the settlement of  
13               the property damages claim, send the certificate of title, license plate, and  
14               registration to the office of motor vehicles along with an application for a certificate  
15               of destruction.

16               C.(1) Each application for a certificate of destruction shall be accompanied  
17               by the fee required for an original certificate of title.

18               (2) Upon receiving an application for a certificate of destruction, the office  
19               of motor vehicles shall issue a certificate of destruction that is conspicuously labeled  
20               with such designation and that contains the same information as other certificates of  
21               title issued under this Chapter.

22               D.(1) Notwithstanding any other law to the contrary, no motor vehicle for  
23               which a certificate of destruction has been issued shall be later issued a salvage or  
24               reconstructed title or otherwise titled or registered by the office of motor vehicles for  
25               use on the roads or highways of this state.

26               (2) Notwithstanding any other law to the contrary, no motor vehicle which  
27               has been issued a certificate of destruction shall be resold as a retail unit, and such  
28               vehicle shall be dismantled, sold for any usable parts, and crushed.

1           E.(1) Notwithstanding R.S. 32:717, 759.1(B), or any other law to the  
2           contrary, a person who purchases or acquires a vehicle for which a certificate of  
3           destruction has been issued shall not be required to apply for or acquire a permit to  
4           dismantle. The certificate of destruction itself shall be sufficient for the vehicle to  
5           be dismantled, crushed, and scrapped by a person licensed under Chapter 4-A of this  
6           Title.

7           (2) When the water-damaged vehicle has been crushed and scrapped as  
8           provided above, the owner shall surrender the certificate of destruction to the office  
9           of motor vehicles with the word recycled written or stamped across its face, and no  
10          certificate of title of any type shall be issued again for such vehicle.

11          F. The Department of Public Safety and Corrections may adopt rules and  
12          regulations necessary to carry out the provisions of this Section.

13          G. Whoever violates any provision of this Section shall be guilty of a  
14          misdemeanor and upon conviction shall for each offense be punished by  
15          imprisonment of not more than six months or by fine not less than five hundred  
16          dollars nor more than five thousand dollars, or both.

17          Section 2. This Act shall become effective upon signature by the governor or, if not  
18 signed by the governor, upon expiration of the time for bills to become law without signature  
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
21 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Smiley

HB No. 11

**Abstract:** Provides for water-damaged vehicles that are a total loss to be issued a certificate of destruction and to be dismantled, sold for parts, and crushed.

Proposed law provides definitions for "water-damaged vehicle" and "certificate of destruction".

Present law requires disclosure by persons who transfer ownership of vehicles with salvage or reconstructed titles.

Proposed law retains present law and provides that a disclosure shall be required by persons who transfer ownership of vehicles that were issued certificates of destruction.

Proposed law provides that whoever knowingly violates the provisions of proposed law and present law in regards to disclosure of salvage titles, certificates of destruction, or a reconstructed title shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment of not more than six months or by a fine of not less than \$500 nor more than \$5,000, or both. Proposed law provides for mandatory 80 hours of community service for violations.

Proposed law provides that except as provided in proposed law, every owner of a water-damaged vehicle shall apply to the office of motor vehicles for a certificate of destruction within 30 days after the vehicle is determined to be water damaged as provided in proposed law. Proposed law further provides that a lienholder who possesses a certificate of title to a water-damaged vehicle shall send the certificate and other materials to the owner's insurer.

Proposed law provides that an insurance company that acquires ownership of a water-damaged vehicle pursuant to a settlement shall apply for the certificate of destruction within 30 days of the settlement.

Proposed law provides that each application for a certificate of destruction shall be accompanied by the fee required for an original certificate of title.

Proposed law provides that upon receiving an application for a certificate of destruction, the office of motor vehicles shall issue a certificate of destruction that is conspicuously labeled with such designation and that contains the same information as other certificates of title.

Proposed law provides that no motor vehicle for which a certificate of destruction has been issued shall be later issued a salvage or reconstructed title or otherwise titled or registered by the office of motor vehicles for use on the roads or highways of this state.

Proposed law provides that no motor vehicle which has been issued a certificate of destruction shall be resold as a retail unit, and such vehicle shall be dismantled, sold for any usable parts, and crushed.

Proposed law provides that notwithstanding present law to the contrary, a person who purchases or acquires a vehicle for which a certificate of destruction has been issued shall not be required to apply for or acquire a permit to dismantle. Proposed law provides that the certificate of destruction itself shall be sufficient for the vehicle to be dismantled, crushed, and scrapped.

Proposed law provides that after the water-damaged vehicle has been crushed and scrapped, the owner shall surrender the certificate of destruction to the office of motor vehicles with the word recycled written or stamped across its face, and no certificate of title of any type shall be issued again for such vehicle.

Proposed law provides that the Dept. of Public Safety and Corrections may adopt rules and regulations necessary to carry out the provisions of proposed law.

Proposed law provides that whoever violates any provision of proposed law shall be guilty of a misdemeanor and upon conviction shall for each offense be punished by imprisonment of not more than six months or by fine not less than \$500 nor more than \$5,000, or both.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 32:706.1; Adds R.S. 32:702(14) and (15) and 707.3)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Changes the provision that requires vehicles issued a certificate of destruction to be crushed to provide that such vehicles shall be dismantled, sold for parts, and crushed.
2. Deletes the provision that states that the exterior sheet metal parts of the vehicle may be sold as used parts.

House Floor Amendments to the engrossed bill.

1. Provides for penalties, including mandatory community service.
2. Deletes the requirement that a person who acquires ownership of a water-damaged vehicle, other than from an insurance settlement, apply for a certificate of destruction no later than 30 days after acquisition.
3. Clarifies that usable parts from water-damaged vehicles may be sold.
4. Provides that a certificate of destruction shall be sufficient for a water-damaged vehicle to be dismantled, crushed, and scrapped.