

First Extraordinary Session, 2005

HOUSE BILL NO. 11

BY REPRESENTATIVES SMILEY, ALEXANDER, BEARD, BRUNEAU, BURNS, CROWE, DOVE, DOWNS, ERDEY, FRITH, GEYMANN, 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

1 AN ACT

2 To amend and reenact R.S. 32:706.1 and to enact R.S. 32:702(14) and (15), 707(E), and
3 707.3, relative to vehicles sustaining water damage from a declared disaster; to
4 provide for definitions; to provide for disclosure before transfer; to provide for
5 certificates of destruction; to provide for restrictions on transfer and registration; to
6 provide for dismantling or crushing; to provide for rules and regulations; to provide
7 for 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), 707(E), 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 or a vehicle in excess of twenty thousand pounds gross vehicle weight
16 (GVW), whose power train, computer, or electrical system has been damaged by
17 flooding as the result of a gubernatorially declared disaster or emergency and that is
18 a "total loss" as defined in Paragraph (11) of this Section.

1 (15) "Certificate of destruction" means a type of certificate of title issued by
 2 the office of motor vehicles for a water-damaged vehicle as defined in Paragraph
 3 (14) of this Section. The certificate of destruction shall be reassignable a maximum
 4 of two times prior to dismantling or destruction of the vehicle.

5 * * *

6 §706.1. Disclosure by persons who transfer ownership of vehicles with salvage or
 7 reconstructed titles or certificate of destruction; penalties

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

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

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

§707. Application for certificates of title; exception; salvage title; antique vehicles;
reconstructed title

* * *

E. Upon application for certificate of title of a vehicle previously titled or registered outside of this state, the application shall show on its face such fact and the time and place of the last issuance of certificate of title, or registration, of such vehicle outside this state, and the name and address of the governmental officer, agency, or authority making such registration, together with such further information relative to its previous registration as may reasonably be required by the commissioner, including the time and place of original registration, if known, and if different from such last foreign registration. The applicant shall surrender to the commissioner all unexpired seals, certificates, registration cards, or other evidence of foreign registration pertaining to the vehicles. The certificate of title issued by the commissioner for a vehicle previously registered outside the state shall give the name of the state or country in which such vehicle was last previously registered outside this state. An application for a certificate of title, other than a certificate of destruction, of a vehicle previously titled or registered outside of this state shall be denied by the secretary of the Department of Public Safety and Corrections if the vehicle is damaged as provided in R.S. 32:702(14).

* * *

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

A. When, as a result of an insurance settlement, a motor vehicle is determined to be water damaged, as defined in this Chapter, the insurance company that acquires ownership of the vehicle shall within thirty days from the settlement of the property damages claim send the certificate of title to the office of motor vehicles along with an application for a certificate of destruction. This period may be extended by rule or regulation promulgated by the Department of Public Safety and Corrections.

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

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

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

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

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

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

24 E. The Department of Public Safety and Corrections may adopt rules and
25 regulations necessary to carry out the provisions of this Section.

26 F. Whoever violates any provision of this Section shall be guilty of a
27 misdemeanor and upon conviction shall for each offense be punished by
28 imprisonment of not more than six months or by fine not less than five hundred
29 dollars nor more than five thousand dollars, or both.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____