

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 558
Commerce Committee Substitute Adopted 4/17/03

Short Title: Disclosure of Prior MV Damage.

(Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO PROTECT CONSUMERS AND TRANSFERORS OF MOTOR
VEHICLES UNAWARE OF PRIOR DAMAGE OR WHEN PRIOR DAMAGE
WAS MINOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-71.3 reads as rewritten:

"§ 20-71.3. Salvage and other vehicles – titles and registration cards to be branded.

(a) Motor vehicle certificates of title and registration cards issued pursuant to
G.S. 20-57 shall be branded in accordance with this section.

As used in this section, "branded" means that the title and registration card shall
contain a designation that discloses if the vehicle is classified as any of the following:

- (1) Salvage Motor Vehicle.
- (2) Salvage Rebuilt Vehicle.
- (3) Reconstructed Vehicle.
- (4) Flood Vehicle.
- (5) Non-U.S.A. Vehicle.
- (6) Any other classification authorized by law.

(a1) Any motor vehicle that is declared a total loss by an insurance company
licensed and approved to conduct business in North Carolina, in addition to the
designations noted in subsection (a) of this section, shall:

- (1) Have the title and registration card marked "TOTAL LOSS CLAIM"
in 14-point type or larger.
- (2) Have a metal plate or other permanent marker inserted into the
doorjamb of that vehicle that states "TOTAL LOSS CLAIM". Should
that vehicle be later reconstructed, the plate or other permanent marker
shall be inserted in the doorjamb of the reconstructed vehicle.

(b) Any motor vehicle up to and including six model years old damaged by
collision or other occurrence, that is to be retitled in this State, shall be subject to
preliminary and final inspections by the Enforcement Section of the Division. For

1 purposes of this subsection, the term 'six model years' shall be calculated by counting
2 the model year of the vehicle's manufacture as the first model year and the current
3 model year as the final model year.

4 These inspections serve as antitheft measures and do not certify the safety or
5 road-worthiness of a vehicle.

6 (c) The Division shall not retitle a vehicle described in subsection (b) of this
7 section that has not undergone the preliminary and final inspections required by that
8 subsection.

9 (d) Any motor vehicle up to and including six model years old that has been
10 inspected pursuant to subsection (b) of this section may be retitled with an unbranded
11 title based upon a title application by the rebuilder with a supporting affidavit disclosing
12 all of the following:

- 13 (1) The parts used or replaced.
- 14 (2) The major components replaced.
- 15 (3) The hours of labor and the hourly labor rate.
- 16 (4) The total cost of repair.

17 The unbranded title shall be issued only if the cost of repairs, including parts and
18 labor, does not exceed seventy-five percent (75%) of its fair market retail value.

19 (e) Any motor vehicle more than six model years old damaged by collision or
20 other occurrence that is to be retitled by the State may be retitled, without inspection,
21 with an unbranded title based upon a title application by the rebuilder with a supporting
22 affidavit disclosing all of the following:

- 23 (1) The parts used or replaced.
- 24 (2) The major components replaced.
- 25 (3) The hours of labor and the hourly labor rate.
- 26 (4) The total cost of repair.

27 The unbranded title shall be issued only if the cost of repairs, including parts and
28 labor, does not exceed seventy-five percent (75%) of its fair market retail value.

29 (f) The Division shall maintain the affidavits required by this section and make
30 them available for review and copying by persons researching the salvage and repair
31 history of the vehicle.

32 (g) Any motor vehicle that has been branded in another state shall be branded
33 with the nearest applicable brand specified in this section, except that no junk vehicle or
34 vehicle that has been branded junk in another state shall be titled or registered.

35 (h) A branded title for a salvage motor vehicle damaged by collision or other
36 occurrence shall be issued if the cost of repairs, including parts and labor, exceeds
37 seventy-five percent (75%) of its fair market retail value.

38 (i) Once the Division has issued a branded title for a motor vehicle all
39 subsequent titles for that motor vehicle shall continue to reflect the branding.

40 (j) The Division shall prepare necessary forms and may adopt rules required to
41 carry out the provisions of this Part."

42 **SECTION 2.** G.S. 20-71.4 reads as rewritten:

43 **"§ 20-71.4. Failure to disclose damage to a vehicle shall be a misdemeanor.**

1 (a) It shall be unlawful ~~and constitute a Class 2 misdemeanor~~ for any transferor
2 who ~~knows or reasonably should know~~ has actual knowledge that:

3 (1) A motor vehicle up to and including five model years old has been
4 involved in a collision or other occurrence to the extent that the cost of
5 repairing that vehicle exceeds twenty-five percent (25%) of its fair
6 market retail value at the time of the ~~damage; collision or other~~
7 occurrence, or

8 (2) The motor vehicle is, or was, a flood vehicle, a reconstructed vehicle,
9 or a salvage motor vehicle to fail to disclose that fact in writing to the
10 transferee prior to the transfer of the vehicle. For purposes of this
11 subsection, the term 'five model years' shall be calculated by counting
12 the model year of the vehicle's manufacture as the first model year and
13 the current model year as the final model year. Failure to disclose any
14 of the above information within the actual knowledge of the transferor
15 will also result in civil liability under G.S. 20-348. The Commissioner
16 may prepare forms to carry out the provisions of this section.

17 (b) It shall be unlawful for any person to remove the title or supporting
18 documents to any motor vehicle from the State of North Carolina with the intent to
19 conceal damage (or damage which has been repaired) occurring as a result of a collision
20 or other occurrence.

21 (c) It shall be unlawful for any person to remove, tamper with, alter, or conceal
22 the 'TOTAL LOSS CLAIM' metal plate or other permanent marker that is affixed to the
23 door of any total loss claim vehicle. It shall be unlawful for any person to reconstruct a
24 total loss claim vehicle and not include or affix a 'TOTAL LOSS CLAIM' metal plate or
25 other permanent marker to the doorjamb of the rebuilt vehicle.

26 (d) Violation of this ~~statute~~ section shall constitute a Class 2 misdemeanor."

27 **SECTION 3.** Article 3 of Chapter 20 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 20-136.2. Air bag installation.**

30 It shall be unlawful for any person, firm, or corporation to knowingly install or
31 reinstall any object in lieu of an air bag, other than an air bag that was designed in
32 accordance with federal safety regulations for the make, model, and year of vehicle, as
33 part of a vehicle inflation restraint system. Any person, firm, or corporation violating
34 this section shall be guilty of a Class 1 misdemeanor."

35 **SECTION 4.** G.S. 20-305.1(e) reads as rewritten:

36 "(e) Damage/Repair Disclosure. – Notwithstanding the provisions of subdivision
37 (d)(4) of this section and in supplementation thereof, a new motor vehicle dealer shall
38 disclose in writing to a purchaser of the new motor vehicle prior to entering into a sales
39 contract any damage and repair to the new motor vehicle if the damage exceeds five
40 percent (5%) of the manufacturer's suggested retail price as calculated at the rate of the
41 dealer's authorized warranty rate for labor and parts.

42 (1) A new motor vehicle dealer is not required to disclose to a purchaser
43 that any ~~glass, tires or bumper of a new motor vehicle was damaged at~~
44 any time damage of any nature occurred to a new motor vehicle at any

1 time if the total cost of all repairs fails to exceed five percent (5%) of
2 the manufacturer's suggested retail price as calculated at the time the
3 repairs were made based upon the dealer's authorized warranty rate for
4 labor and parts, and if the damaged item has been replaced with
5 original or comparable equipment.

6 (2) If disclosure is not required under this section, a purchaser may not
7 revoke or rescind a sales contract or have or file any cause of action or
8 claim against the dealer or manufacturer for breach of contract, breach
9 of warranty, fraud, concealment, unfair and deceptive acts or practices,
10 or otherwise due solely to the fact that the new motor vehicle was
11 damaged and repaired prior to completion of the sale.

12 (3) For purposes of this section, "manufacturer's suggested retail price"
13 means the retail price of the new motor vehicle suggested by the
14 manufacturer including the retail delivered price suggested by the
15 manufacturer for each accessory or item of optional equipment
16 physically attached to the new motor vehicle at the time of delivery to
17 the new motor vehicle dealer which is not included within the retail
18 price suggested by the manufacturer for the new motor vehicle."

19 **SECTION 5.** This act is effective when it becomes law.