

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 558
Commerce Committee Substitute Adopted 4/17/03
House Committee Substitute Favorable 6/9/03

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".
- (2) Have a tamperproof permanent marker inserted into the doorjamb of
that vehicle by the Division, at the time of the final inspection of the
reconstructed vehicle, that states "TOTAL LOSS CLAIM VEHICLE".
Should that vehicle be later reconstructed, repaired, or rebuilt, a
permanent tamperproof marker shall be inserted in the doorjamb of the
reconstructed, repaired, or rebuilt vehicle.

1 (b) Any motor vehicle up to and including six model years old damaged by
2 collision or other occurrence, that is to be retitled in this State, shall be subject to
3 preliminary and final inspections by the Enforcement Section of the Division. For
4 purposes of this section, the term 'six model years' shall be calculated by counting the
5 model year of the vehicle's manufacture as the first model year and the current calendar
6 year as the final model year.

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

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

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

- 16 (1) The parts used or replaced.
- 17 (2) The major components replaced.
- 18 (3) The hours of labor and the hourly labor rate.
- 19 (4) The total cost of repair.
- 20 (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM
21 VEHICLE" marker.

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

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

- 28 (1) The parts used or replaced.
- 29 (2) The major components replaced.
- 30 (3) The hours of labor and the hourly labor rate.
- 31 (4) The total cost of repair.
- 32 (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM
33 VEHICLE" marker.
- 34 (6) The cost to replace the air bag restraint system.

35 The unbranded title shall be issued only if the cost of repairs, including parts and
36 ~~labor,~~ labor and excluding the cost to replace the air bag restraint system, does not
37 exceed seventy-five percent (75%) of its fair market retail value.

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

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

1 (h) A branded title for a salvage motor vehicle damaged by collision or other
2 occurrence shall be issued if the cost of repairs, including parts and labor, exceeds
3 ~~seventy five percent (75%) of its fair market retail value as follows:~~

4 (1) For motor vehicles up to and including six model years old, a branded
5 title shall be issued if the cost of repairs, including parts and labor,
6 exceeds seventy-five percent (75%) of its fair market value at the time
7 of the collision or other occurrence.

8 (2) For motor vehicles more than six model years old, a branded title shall
9 be issued if the cost of repairs, including parts and labor and excluding
10 the cost to replace the air bag restraint system, exceeds seventy-five
11 percent (75%) of its fair market value at the time of the collision or
12 other occurrence.

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

15 (j) The Division shall prepare necessary forms and doorjamb marker
16 specifications and may adopt rules required to carry out the provisions of this Part."

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

18 **"§ 20-71.4. Failure to disclose damage to a vehicle shall be a misdemeanor.**

19 (a) It shall be unlawful ~~and constitute a Class 2 misdemeanor~~ for any transferor
20 ~~who knows or reasonably should know that:~~ of a motor vehicle to do any of the
21 following:

22 (1) ~~A-Transfer~~ a motor vehicle up to and including five model years old
23 when the transferor has knowledge that the vehicle has been involved
24 in a collision or other occurrence to the extent that the cost of repairing
25 that ~~vehicle-vehicle,~~ excluding the cost to replace the air bag restraint
26 system, exceeds twenty-five percent (25%) of its fair market retail
27 value at the time of the ~~damage; or~~ collision or other occurrence,
28 without disclosing that fact in writing to the transferee prior to the
29 transfer of the vehicle.

30 (2) ~~The-Transfer~~ a motor vehicle when the transferor has knowledge that
31 the vehicle is, or was, a flood vehicle, a reconstructed vehicle, or a
32 salvage motor ~~vehicle-vehicle,~~ without disclosing to fail to disclose
33 that fact in writing to the transferee prior to the transfer of the vehicle.

34 (a1) For purposes of this section, the term 'five model years' shall be calculated by
35 counting the model year of the vehicle's manufacture as the first model year and the
36 current calendar year as the final model year. Failure to disclose any of the ~~above~~
37 information required under subsection (a) of this section that is within the knowledge of
38 the transferor will also result in civil liability under G.S. 20-348. The Commissioner
39 may prepare forms to carry out the provisions of this section.

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

1 (c) It shall be unlawful for any person to remove, tamper with, alter, or conceal
2 the 'TOTAL LOSS CLAIM VEHICLE' tamperproof permanent marker that is affixed to
3 the doorjamb of any total loss claim vehicle. It shall be unlawful for any person to
4 reconstruct a total loss claim vehicle and not include or affix a 'TOTAL LOSS CLAIM
5 VEHICLE' tamperproof permanent marker to the doorjamb of the rebuilt vehicle.
6 Violation of this subsection shall constitute a Class I felony, punishable by a fine of not
7 less than five thousand dollars (\$5,000) for each offense.

8 (d) Violation of ~~this statute~~ subsections (a) and (b) of this section shall constitute
9 a Class 2 misdemeanor."

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

12 **"§ 20-136.2. Air bag installation.**

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

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

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

25 (1) A new motor vehicle dealer is not required to disclose to a purchaser
26 that any ~~glass, tires or bumper of a new motor vehicle was damaged at~~
27 ~~any time~~ damage of any nature occurred to a new motor vehicle at any
28 time if the total cost of all repairs fails to exceed five percent (5%) of
29 the manufacturer's suggested retail price as calculated at the time the
30 repairs were made based upon the dealer's authorized warranty rate for
31 labor and parts and ~~if~~ the damaged item has been replaced with
32 original or comparable equipment.

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

39 (3) For purposes of this section, "manufacturer's suggested retail price"
40 means the retail price of the new motor vehicle suggested by the
41 manufacturer including the retail delivered price suggested by the
42 manufacturer for each accessory or item of optional equipment
43 physically attached to the new motor vehicle at the time of delivery to

1 the new motor vehicle dealer which is not included within the retail
2 price suggested by the manufacturer for the new motor vehicle."
3 **SECTION 5.** This act becomes effective December 1, 2003.