~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 2, 2021

**H. 3101**

Introduced by Reps. Allison, Felder and Govan

S. Printed 3/2/21--H.

Read the first time January 12, 2021.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3101) to amend the Code of Laws of South Carolina, 1976, by adding Article 40 to Chapter 5, Title 56 so as to provide for the disposition of a motor vehicle, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 in its entirety and inserting:

/SECTION 1. Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Article 40

Disposition of Motor Vehicles by a Salvage Pool Operator Subject to an Insurance Claim

Section 56‑5‑5710. (A) As contained in this section, ‘salvage pool operator’ means a person who engages in the business of selling salvage motor vehicles at auction, including wholesale auction.

(B) This section applies only to a salvage pool operator who, on request of an insurance company, takes possession of a motor vehicle that is the subject of an insurance claim and the insurance company subsequently:

(1) denies coverage with respect to the motor vehicle; or

(2) does not otherwise take ownership of the motor vehicle.

An insurance company described in this subsection shall notify the salvage pool operator of the denial of the claim regarding the motor vehicle or other disposition of the motor vehicle. The insurance company must include in the notice the name and address of the owner of the motor vehicle and the lienholder, if any.

(C) Before the thirty‑first day after receiving notice under subsection (B), a salvage pool operator shall notify the owner of the motor vehicle and any lienholder that:

(1) the owner or lienholder must remove the motor vehicle from the salvage pool operator’s possession at the location specified in the notice to the owner and any lienholder not later than the thirtieth day after the date the notice is mailed and if removed during this time period, there will be no charges assessed against the owner of the vehicle save the actual costs of providing the notice described herein; and

(2) if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle as described in subsection (D).

(D) The salvage pool operator may include in the costs described in subsection (C)(2) only costs actually incurred by the salvage pool operator that have not been reimbursed by a third party or are not subject to being reimbursed by a third party, such as costs of notices, title searches, and towing and other costs incurred with respect to the motor vehicle. The costs described in subsection (C)(2):

(1) may not include charges for storage or impoundment of the motor vehicle for the first thirty days that the vehicle is stored with the salvage pool operator but may include a reasonable fee for every day of storage thereafter until the vehicle is disposed of; and

(2) may be deducted only from the proceeds of a sale of the motor vehicle.

(E) The notice required of a salvage pool operator under this section must be sent by registered or certified mail, return receipt requested or by a private delivery service which is acceptable to the Internal Revenue Service.

(F) If a motor vehicle is not removed from a salvage pool operator’s possession before the thirty‑first day after the date notice is mailed to the motor vehicle’s owner and any lienholder under subsection (C), the salvage pool operator may obtain from the department:

(1) a salvage vehicle title for a salvage motor vehicle; or

(2) a nonreparable vehicle title for a nonreparable motor vehicle.

(G) An application for a title under subsection (F) must:

(1) be submitted to the department on a form prescribed by the department; and

(2) include evidence that the notice was sent as required by subsection (C) to the motor vehicle owner and any lienholder.

(H) A title issued under this section must be issued in the name of the salvage pool operator.

(I) The department shall issue the appropriate title to a person authorized to apply for the title under this section if the department determines that the application is complete and complies with applicable law.

(J) On receipt of a title under this section, the salvage pool operator shall sell the motor vehicle and retain from the proceeds of the sale the costs incurred by the salvage pool operator as permitted by subsection (D) along with the cost of titling and selling the motor vehicle. The salvage pool operator shall pay any excess proceeds from the sale, first to lienholders in order of priority to satisfy the liens and the remainder, if any, must be sent to the owner in the same manner as provided for in subsection (E).

(K) If the previous owner of the motor vehicle and the lienholder, if any, cannot be identified or located, or the owner does not respond to the notice sent to the owner in the manner provided for in subsection (E), any excess proceeds from the sale of the motor vehicle under subsection (J) shall escheat to the State of South Carolina. The proceeds shall be administered by the Comptroller General and must be disposed of in the manner provided by law.” /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

**Section 1.** This section of the bill allows a salvage pool operator to obtain from DMV a lien-free salvage vehicle title for a salvage motor vehicle that has not been removed from the operator’s possession within thirty-one days of mailing a notice to the vehicle’s owner. The department indicates that issuing a lien-free salvage vehicle title will be managed within its existing appropriations.

**Section 3.** Currently, DMV may require a salvage vehicle that is rebuilt to undergo an inspection to check the identity or the safety of the vehicle, or both. This section of the bill allows DMV to set their own procedure for someone seeking a rebuilt brand on a title. The department indicates that any expenditures related to setting its own procedures will be managed within its existing appropriations.

**Section 4.** This section of the bill gives DMV the authority to determine which of the title branding definitions most nearly describes the condition of the vehicle when titling it in South Carolina. Additionally, it requires the department to apply the same title brand designation to a vehicle with a Manufacturer’s Certificate of Origin through any subsequent transfers in the state. DMV indicates that these processes will be managed within its existing appropriations.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 40 TO CHAPTER 5, TITLE 56 SO AS TO PROVIDE FOR THE DISPOSITION OF A MOTOR VEHICLE IN THE POSSESSION OF A SALVAGE POOL OPERATOR WHO, UPON THE REQUEST OF AN INSURANCE COMPANY OR CHARITY, TAKES POSSESSION OF A MOTOR VEHICLE THAT IS THE SUBJECT OF AN INSURANCE CLAIM OR A CHARITY DONATION AND SUBSEQUENTLY INSURANCE COVERAGE IS DENIED OR THE CHARITY DOES NOT TAKE OWNERSHIP OF THE MOTOR VEHICLE; TO AMEND SECTION 56‑1‑10, AS AMENDED, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS CONTAINED IN THE PROVISIONS THAT PERTAIN TO THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO CREATE ADDITIONAL TERMS AND DEFINITIONS RELATING TO SALVAGE, JUNK, AND OFF‑ROAD‑USE VEHICLES; TO AMEND SECTION 56‑19‑480, AS AMENDED, RELATING TO THE TRANSFER AND SURRENDER OF CERTIFICATES OF TITLE, LICENSE PLATES, REGISTRATION CARDS, AND MANUFACTURERS’ SPECIAL PLATES FOR VEHICLES SOLD AS SALVAGE, ABANDONED, SCRAPPED, OR DESTROYED, SO AS TO DELETE AN OBSOLETE TERM, MAKE TECHNICAL CHANGES, TO PROVIDE THIS SECTION APPLIES ALSO TO SALVAGE FLOOD AND SALVAGE FIRE VEHICLES, AND TO DELETE THE PROVISION THAT REQUIRES CERTAIN VEHICLES TO UNDERGO AN INSPECTION; AND TO AMEND SECTION 56‑19‑485, RELATING TO THE TITLE BRAND DESIGNATION OF VEHICLES AS “WRECKAGE” OR “SALVAGE”, SO AS TO DELETE THESE DESIGNATIONS AND TO PROVIDE THE TITLE BRAND DESIGNATION MUST BE ONE THAT IS CONTAINED IN SECTION 56‑1‑10.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 5, Title 56 of the 1976 Code is amended by adding:

“Article 40

Disposition of Motor Vehicles by a Salvage Pool Operator Subject to an Insurance Claim or Charity Donation

Section 56‑5‑5710. (A) As contained in this section, ‘salvage pool operator’ means a person who engages in the business of selling salvage motor vehicles at auction, including wholesale auction.

(B) This section applies only to a salvage pool operator who, upon request of an insurance company or charity, takes possession of a motor vehicle that is the subject of an insurance claim or charity donation and subsequently:

(1) the insurance company denies coverage to the motor vehicle; or

(2) the insurance company or the charity does not take ownership of the motor vehicle.

(C) An insurance company or charity described in subsection (B) shall notify the salvage pool operator of the denial of the claim regarding the motor vehicle or other disposition of the motor vehicle. The insurance company or charity must include in the notice the name and address of the owner of the motor vehicle and the lienholder, if any.

(D) Before the sixteenth day after receiving notice under subsection (C), a salvage pool operator shall notify the owner of the motor vehicle and any lienholder that:

(1) the owner or lienholder must reimburse the salvage pool operator for all fees incurred and remove the motor vehicle from the salvage pool operator’s possession at the location specified in the notice to the owner and any lienholder no later than the thirtieth day after the date the notice is mailed; and

(2) if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator shall sell the motor vehicle and retain from the proceeds any costs incurred by the operator in obtaining, handling, storing, and disposing of the motor vehicle as described by subsection (E).

(E) The salvage pool operator may include in the costs described by subsection (D)(2) only costs actually incurred by the salvage pool operator that have not been reimbursed by a third party or are not subject to being reimbursed by a third party, including costs of notices, title searches, and towing and other costs incurred with respect to the motor vehicle. The costs described by subsection (D)(2):

(1) may include charges for tow, storage, or impoundment of the motor vehicle that have been paid prior to acquisition by the salvage pool facility and incurred after the salvage pool facility takes possession of the vehicle; and

(2) may be deducted only from the proceeds of a sale of the motor vehicle.

(F) The notice required of a salvage pool operator under this section must be sent by registered or certified mail, return receipt requested, or by a commercial delivery service that has tracking available to show proof of delivery.

(G) If a motor vehicle is not removed from a salvage pool operator’s possession before the thirty‑first day after the date notice is mailed to the motor vehicle’s owner and any lienholder under subsection (D), the salvage pool operator may obtain from the department a lien‑free salvage vehicle title for a salvage motor vehicle.

(H) An application for a title under subsection (G) must:

(1) be submitted to the department on a form prescribed by the department; and

(2) include confirmation by the salvage pool operator that the notice was mailed as required by subsection (D) to the motor vehicle owner and any lienholder.

(I) A title issued under this section must be issued in the name of the salvage pool operator.

(J) The department shall issue the appropriate title to a person authorized to apply for the title under this section if the department determines the application is complete and complies with applicable law.

(K) On receipt of a title under this section, the salvage pool operator shall sell the motor vehicle and retain from the proceeds of the sale the costs incurred by the salvage pool operator as permitted by subsection (E) along with the cost of titling and selling the motor vehicle. The salvage pool operator shall pay any excess proceeds from the sale, first to lienholders in order of priority to satisfy the liens and the remainder, if any, must be paid to the owner.

(L) If the previous owner of the motor vehicle and the lienholder, if any, cannot be identified or located, any excess proceeds from the sale of the motor vehicle under subsection (K) shall escheat to the State.”

SECTION 2. Section 56‑1‑10 of the 1976 Code, as last amended by Act 114 of 2020, is further amended by adding the following appropriately numbered items at the end to read:

“( ) ‘Salvage’ means a brand added to a vehicle’s title by the department to designate a vehicle that has been declared a total loss by an insurance company, has repairs that exceed seventy‑five percent of the value of the vehicle before the damage occurred, or has damage to the body, unibody, or frame to the extent that it is unsafe for operation.

( ) ‘Salvage Rebuilt’ means a brand added to a vehicle’s title by the department to designate a vehicle with a salvage brand that has been transferred to a new owner who has repaired the vehicle pursuant to Section 56‑19‑480(E).

( ) ‘Salvage Flood’ means a brand added to a vehicle’s title by the department to designate that an insurance company has paid a total loss claim on a vehicle due to damage caused by:

(a) having been submerged in water to a point the level of the water was higher than the door sill of the vehicle or having had water enter the passenger, trunk, or engine compartment of the vehicle; or

(b) having had water come into contact with the electrical or computer components of the vehicle.

( ) ‘Salvage Flood Rebuilt’ means a brand added to a vehicle’s title by the department to designate a vehicle with a salvage flood brand that has been transferred to a new owner who has repaired the vehicle pursuant to Section 56‑19‑480(E).

( ) ‘Salvage Fire’ means a brand added to a vehicle’s title by the department to designate an insurance company has paid a total loss claim on a vehicle due to damage caused by fire.

( ) ‘Salvage Fire Rebuilt’ means a brand added to a vehicle’s title by the department to designate a vehicle with a salvage fire brand that has been transferred to a new owner who has repaired the vehicle pursuant to Section 56‑19‑480(E).

( ) ‘Junk’ means a brand added to a vehicle’s title by the department to designate an insurance company has determined a vehicle has been damaged to the extent that it cannot be repaired for operation, or that it is only of value as a source of parts or scrap metal.

( ) ‘Off Road Use Only’ means a brand added to a vehicle’s title by the department to designate a vehicle’s Manufacturer Certificate of Origin or equivalent document of origin designating a vehicle is not manufactured for use on public roads. The department shall not register and license the vehicle pursuant to Section 56‑3‑350. Vehicles brought into this State from a foreign jurisdiction without a title that clearly says ‘Off Road Use Only’, or its equivalent, which do not meet Federal Motor Vehicle Safety Standards may be subject to this brand at the department’s discretion.”

SECTION 3. Section 56‑19‑480 of the 1976 Code, as last amended by Act 17 of 2019, is further amended to read:

“Section 56‑19‑480. (A) An owner who scraps, dismantles, destroys, or in any manner disposes to another, except to a demolisher or secondary metals recycler, as ~~wreckage or~~ salvage, a motor vehicle otherwise required to be titled in this State immediately shall mail or deliver to the Department of Motor Vehicles the vehicle’s certificate of title notifying the department to whom the vehicle is delivered together with a report indicating the type and severity of any damage to the vehicle. A person or entity who disposes of a vehicle to a demolisher or secondary metals recycler shall provide the vehicle’s title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56‑5‑5670 and 56‑5‑5945.

(B) If a vehicle is acquired by an insurance company in settlement of a claim to the vehicle by fire, flood, collision, or other causes, or is left with the claimant after being declared a total loss by the insurance company, the company or its agent immediately shall deliver to the department the certificate of title together with a report indicating the type and severity of damage to the vehicle. If an insurance company or its agent is unable to obtain the certificate of title from the claimant within thirty days after acceptance by the claimant of an offer in settlement of total loss, the insurance company or its agent, on a form ~~provided~~ prescribed by the department, may submit an application to the department for a salvage, salvage flood, or salvage fire, as defined in Section 56‑1‑10, certificate of title. The application shall include evidence that the insurance company or its agent has fulfilled its settlement with and made two or more written attempts to obtain the certificate of title from the claimant. At such time as the insurance company may thereafter transfer the damaged vehicle, the company or its agent shall notify the department to whom the transfer was made on a form prescribed by the department. ~~Notwithstanding another provision of law,~~ When an insurance company obtains title a to a vehicle from settling a total loss claim, the insurance company may obtain a title to the vehicle designated as ‘salvage’, ‘salvage flood’, or ‘salvage fire’, as defined in Section 56‑1‑10. The insurance company must pay the title fee contained in Section 56‑19‑420.

(C) All insurance companies which make payments on liability, collision, fire, theft, or comprehensive policies for damaged motor vehicles in this State shall allow department officials to examine all records of the company which pertain to payments made pursuant to the policies during normal working hours.

(D) Vehicles acquired by insurance companies as outlined above are exempt from ad valorem property taxes and inventory taxes, and the transfers of the vehicles to and from insurance companies exempt from sales taxes.

(E) If a salvage, salvage flood, or salvage fire vehicle is rebuilt, a regular certificate of title may not again be issued except upon submission of an application stating that the vehicle has been rebuilt and containing the information ordinarily required by the department for the issuance of a certificate of title as well as any information the department may require about the identity of the vehicle, the source and cost of any parts used in, and the extent of any repairs or other work done to the vehicle. ~~In addition, the department may require the vehicle to undergo an inspection by the Highway Patrol or someone authorized by the department to check the identity or the safety of the vehicle, or both.~~ The owner shall follow the procedure prescribed by the department if he is seeking a rebuilt brand on a title. Any regular certificate of title issued by the department for a previously salvaged vehicle must be annotated to show that the vehicle was ‘salvaged‑rebuilt’ and the reason why the vehicle was ~~salvaged~~ ‘salvage rebuilt’, ‘salvage flood rebuilt’, or ‘salvage fire rebuilt’.

(F) The manufacturer’s serial plate or vehicle identification number (VIN) plate must remain with the vehicle at all times until the vehicle is shredded, crushed, melted, or otherwise destroyed.

(G) For purposes of this section, ~~a ‘wrecked vehicle’,~~ a ‘salvage vehicle’, and a ‘vehicle declared to be a total loss’ are all synonyms and are defined to be any motor vehicle which is damaged to the extent that the cost of repairing the motor vehicle, including both parts and reasonable market charges for labor, equal or exceed seventy‑five percent of the fair market value of the motor vehicle. The provisions contained in this section do not apply to a motor vehicle that has a fair market value of two thousand dollars or less, or an antique motor vehicle as defined by Section 56‑3‑2210. When an insurance company is involved, the fair market value of the vehicle must be determined as of the date immediately before the event which gave rise to the claim. When an insurance company is not involved, then the fair market value must be determined as of the last day on which the vehicle was lawfully operated on a public highway or the last day on which it was registered, whichever is later.

(H) A person violating any provision of this section is guilty of a misdemeanor and, upon conviction, for a first offense, must be fined not less than two nor more than five hundred dollars, or imprisoned for not more than thirty days, or both. For a second or subsequent offense, the fine must not be less than five hundred dollars and not more than one thousand dollars or imprisonment for not more than one year, or both.”

SECTION 4. Section 56‑19‑485 of the 1976 Code is amended to read:

“Section 56‑19‑485. (A) Notwithstanding any other provision of law, whenever any motor vehicle ~~which qualifies as ‘wreckage’ or ‘salvage’~~ with a vehicle title brand as defined in Section 56‑1‑10 is transferred in this State pursuant to Section 56‑19‑480, whether the vehicle was, immediately before such transfer, titled in this State or in another state, ~~the vehicle shall be designated as ‘wreckage’ or ‘salvage’, as may be applicable, to the extent necessary~~ the vehicle title shall maintain the designated brand to inform the transferee of the exact condition of the vehicle. No ~~wrecked or salvaged~~ out‑of‑state vehicle or South Carolina registered vehicle shall be registered under the laws of this State without such designation, and this designation must be applied to all subsequent transfers of the vehicle. If the title brand designation of a vehicle titled in another jurisdiction does not match exactly the definitions contained in Section 56‑1‑10, the department shall determine which of the title branding definitions in Section 56‑1‑10 most nearly describes the condition of the vehicle when titling it in South Carolina. The department shall apply that brand to the vehicle and it should remain on the vehicle through any subsequent transfers in South Carolina. The department may add other nonsalvage brands, outside of those defined in Section 56‑1‑10, to vehicle titles to properly classify vehicles and the use of those vehicles as it pertains to vehicle operation in South Carolina. Any vehicle previously title‑branded in another state must be title‑branded as the department deems appropriate pursuant to this section without regard to whether the vehicle was subsequently titled in a jurisdiction without a title brand.

The provisions of this section apply to transfers of vehicles in all of the circumstances described in Section 56‑19‑480~~, whether the vehicle is ‘totaled’, declared a total loss, ‘junked’, or ‘salvaged’~~.

(B) Notwithstanding the provisions of this section, the owner of a vehicle whose total cost of repair, including all labor and parts, is estimated to be seventy‑five percent or more of the fair market value of the vehicle must provide the Department of Motor Vehicles an affidavit from a person who reconstructs or rebuilds a vehicle indicating the cost of repair along with other data the department may prescribe to obtain a certificate of title. The provisions contained in this section do not apply to a motor vehicle that has a fair market value of two thousand dollars or less, or an antique motor vehicle as defined by Section 56‑3‑2210. A certificate of title issued for a vehicle described in this paragraph must be annotated to indicate the motor vehicle is designated ~~‘wreckage’ or~~ ‘salvage’ as applicable to the extent necessary to inform the transferee of the exact condition of the vehicle. A ~~wrecked or~~ salvaged out‑of‑state vehicle or South Carolina registered vehicle may not be registered in this State without this designation, and this designation must be applied to subsequent transfer of the vehicle.

(C) If a vehicle’s Manufacturer’s Certificate of Origin is branded with a designation, the department shall apply that same brand to the vehicle and it should remain with the vehicle through any subsequent transfers in South Carolina. If the title brand designation of the Manufacturer’s Certificate of Origin does not match exactly the definitions in Section 56‑1‑10, the department shall determine which title branding definition in Section 56‑1‑10 most nearly describes the condition of the vehicle when titling it in South Carolina.”

SECTION 5. This act takes effect one hundred eighty days after approval by the Governor.

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