

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2003-258
SENATE BILL 558**

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.

(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 purposes of this section, the term 'six model years' shall be calculated by counting the model year of the vehicle's manufacture as the first model year and the current calendar year as the final model year.

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

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

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

- (1) The parts used or replaced.
- (2) The major components replaced.
- (3) The hours of labor and the hourly labor rate.

- (4) The total cost of repair.
- (5) The existence, if applicable, of the doorjamb "TOTAL LOSS CLAIM VEHICLE" marker.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§ 20-136.2. Air bag installation.

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

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

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

- (1) A new motor vehicle dealer is not required to disclose to a purchaser that any ~~glass, tires or bumper of a new motor vehicle was damaged at any time~~ damage of any nature occurred to a new motor vehicle at any time if the total cost of all repairs fails to exceed five percent (5%) of the manufacturer's suggested retail price as calculated at the time the repairs were made based upon the dealer's authorized warranty rate for labor and parts and if the damaged item has been replaced with original or comparable equipment.
- (2) If disclosure is not required under this section, a purchaser may not revoke or rescind a sales contract or have or file any cause of action or claim against the dealer or manufacturer for breach of contract, breach of warranty, fraud, concealment, unfair and deceptive acts or practices, or otherwise due solely to the fact that the new motor vehicle was damaged and repaired prior to completion of the sale.
- (3) For purposes of this section, "manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer including the retail delivered price suggested by the

manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer which is not included within the retail price suggested by the manufacturer for the new motor vehicle."

SECTION 5. This act becomes effective December 1, 2003.

In the General Assembly read three times and ratified this the 18th day of June, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:49 p.m. this 26th day of June, 2003