

BILL ANALYSIS

Senate Research Center
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H.B. 1422
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Limited methods are available to an insurance company or salvage pool operator for disposing of a motor vehicle that is declared a total loss or has been abandoned at a salvage pool when a properly assigned title cannot be obtained from the owner or lienholder of the vehicle. An insurance company or salvage pool operator cannot dispose of such a vehicle until a title is obtained from the Texas Department of Motor Vehicles (TxDMV). The available methods for obtaining that title may not be applicable in certain situations, resulting in unnecessary delay and expense for TxDMV, insurers, and salvage pool operators.

H.B. 1422 seeks to address this situation by providing statutory changes to improve procedures for the issuance of titles for certain motor vehicles that are the subject of insurance claims. The bill would authorize TxDMV to adopt rules to implement certain provisions of the bill and outlines procedures for the sale of certain motor vehicles by a salvage pool operator.

If a motor vehicle were sold to satisfy the allowable costs incurred by a salvage pool operator, and the previous owner of a motor vehicle and the lienholder could not be identified or located, then any excess proceeds from the sale of the motor vehicle would go to the state.

H.B. 1422 amends current law relating to the issuance of titles for certain motor vehicles that are the subject of insurance claims.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 2 (Section 501.0925, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 501.092(a), (c), and (d), Transportation Code, as follows:

(a) Requires, an insurance company that is licensed to conduct business in this state and that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by a certificate of title issued by this state or a manufacturer's certificate of origin, except as provided by Section 502.0925, to surrender a properly assigned title or manufacturer's certificate of origin to the Texas Department of Motor Vehicles (TxDMV), on a form prescribed by TxDMV.

Deletes existing text requiring an insurance company that is licensed to conduct business in this state and that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by a certificate of title issued by this state or a manufacturer's certificate of origin to surrender a properly assigned title or manufacturer's certificate of origin to TxDMV, on a form prescribed by TxDMV, except that not earlier than the 46th day after the date of payment of the claim the insurance company may surrender a certificate of title, on a form prescribed by TxDMV, and receive a salvage certificate of title or a nonrepairable certificate of title without obtaining a properly assigned certificate of title if the insurance company has obtained the release of all liens on the motor vehicle; is unable to locate one or more owners of the motor vehicle; and has provided notice to the last known address in

TxDMV's records to each owner that has not been located by registered or certified mail, return receipt requested; or if a notice sent under Paragraph (A) is returned unclaimed, by publication in a newspaper of general circulation in the area where the unclaimed mail notice was sent.

(c) Prohibits an insurance company from selling a salvage motor vehicle or nonrepairable motor vehicle, rather than from selling a motor vehicle to which this section applies, unless TxDMV has issued a salvage vehicle title or a nonrepairable vehicle title, as appropriate, for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle.

(d) Makes conforming and nonsubstantive changes.

SECTION 2. Amends Subchapter E, Chapter 501, Transportation Code, by adding Sections 501.0925 and 501.0935, as follows:

Sec. 501.0925. INSURANCE COMPANY NOT REQUIRED TO SURRENDER CERTIFICATES OF TITLE IN CERTAIN SITUATIONS. (a) Authorizes an insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a certificate of title that the company is unable to obtain to obtain from TxDMV not earlier than the 30th day after the date of payment of the claim:

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

(2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or

(3) a regular certificate of title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(b) Requires that an application for a title under Subsection (a) be submitted to TxDMV on a form prescribed by TxDMV and include a statement that the insurance company has provided at least two written notices attempting to obtain the certificate of title for the motor vehicle, and evidence acceptable to TxDMV that the insurance company has made payment of a claim involving the motor vehicle.

(c) Authorizes an insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a certificate of title for which the company is unable to obtain proper assignment of the certificate to obtain from TxDMV not earlier than the 30th day after the date of payment of the claim:

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

(2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or

(3) a regular certificate of title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(d) Requires that an application for a title under Subsection (c) be submitted to TxDMV on a form prescribed by TxDMV and include a statement that the insurance company has provided at least two written notices attempting to obtain a proper assignment of the certificate of title, and the certificate of title.

(e) Requires that a title issued under Subsection (a) or (c) be issued in the name of the insurance company.

(f) Authorizes an insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor

vehicle covered by an out-of-state ownership document to obtain from TxDMV a salvage vehicle title or nonrepairable vehicle title if:

- (1) the motor vehicle was damaged, stolen, or recovered in this state;
 - (2) the motor vehicle owner from whom the company acquired ownership resides in this state; or
 - (3) otherwise allowed by TxDMV rule.
- (g) Authorizes a title to be issued under Subsection (f) if the insurance company:
- (1) surrenders a properly assigned title on a form prescribed by TxDMV; or
 - (2) complies with the application process for a title issued under Subsection (a) or (c).
- (h) Requires TxDMV to issue the appropriate title to a person authorized to apply for the title under this section if TxDMV determines that the application is complete and complies with applicable law.
- (i) Authorizes TxDMV by rule to provide that a person required by this section to provide notice to provide the notice electronically, including through the use of e-mail or an interactive website established by TxDMV for that purpose.
- (j) Provides that Sections 501.092(c), (d), and (e) apply to a motor vehicle acquired by an insurance company as described in Subsection (a), (c), or (f).
- (k) Authorizes TxDMV to adopt rules to implement this section.

Sec. 501.0935. ISSUANCE OF TITLE TO SALVAGE POOL OPERATOR.

(a) Defines in this section, "salvage pool operator."

(b) Provides that 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 denies coverage with respect to the motor vehicle, or does not otherwise take ownership of the motor vehicle.

(b-1) Requires an insurance company described by Subsection (b) to notify the salvage pool operator of the denial of the claim regarding the motor vehicle or other disposition of the motor vehicle. Requires that the insurance company include in the notice the name and address of the owner of the motor vehicle and the lienholder, if any.

(c) Requires a salvage pool operator, before the 31st day after receiving notice under Subsection (b-1), to 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 30th 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 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 by Subsection (d).

(d) Authorizes the salvage pool operator to include in the costs described by 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. Provides that the costs described by Subsection (c)(2):

(1) may not include charges for storage or impoundment of the motor vehicle; and

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

(e) Requires that the notice required of a salvage pool operator under this section be sent by registered or certified mail, return receipt requested.

(f) Authorizes the salvage pool operator, if a motor vehicle is not removed from a salvage pool operator's possession before the 31st day after the date notice is mailed to the motor vehicle's owner and any lienholder under Subsection (c), to obtain from TxDMV a salvage vehicle title for a salvage motor vehicle, or a nonrepairable vehicle title for a nonrepairable motor vehicle.

(g) Requires that an application for a title under Subsection (f) be submitted to TxDMV on a form prescribed by TxDMV, and include evidence that the notice was mailed as required by Subsection (c) to the motor vehicle owner and any lienholder.

(h) Requires that a title issued under this section be issued in the name of the salvage pool operator.

(i) Requires TxDMV to issue the appropriate title to a person authorized to apply for the title under this section if TxDMV determines that the application is complete and complies with applicable law.

(j) Authorizes the salvage pool operator, on receipt of a title under this section, to 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. Requires the salvage pool operator to pay any excess proceeds from the sale to the previous owner of the motor vehicle and the lienholder, if any. Requires that the excess proceeds be mailed to the lienholder.

(k) Requires that 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 (j) to escheat to the State of Texas. Requires that the proceeds be administered by the comptroller of public accounts and be disposed of in the manner provided by Chapter 74 (Report, Delivery, and Claims Process), Property Code.

SECTION 3. Amends Sections 501.097(a) and (b), Transportation Code, as follows:

(a) Requires that an application for a nonrepairable vehicle title or salvage vehicle title:

(1) Makes no changes to this subdivision;

(2) include, in addition to any other information required by TxDMV:

(A) the name and current address of the owner;

(B) a description of the motor vehicle, including the make, style of body, model year, and vehicle identification number; and

(C) a statement describing whether the motor vehicle:

(i) was the subject of a total loss claim paid by an insurance company under Section 501.092, 501.0925, or 501.093;

(ii) is a self-insured motor vehicle under Section 501.094;

(iii) is an export-only motor vehicle under Section 501.099;

(iv) was sold, transferred, or released to the owner or former owner of the motor vehicle or a buyer at a casual sale; or

(v) is a motor vehicle for which an insurance company does not take ownership under Section 501.0935; and

(3) include the name and address of:

(A) any currently recorded lienholder, if the motor vehicle is a nonrepairable motor vehicle; or

(B) any currently recorded lienholder or a new lienholder, if the motor vehicle is a salvage motor vehicle.

Makes a nonsubstantive change.

(b) Requires TxDMV, except as provided by Sections 501.0925 and 501.0935, on receipt of a complete application, the properly assigned title or manufacturer's certificate of origin, and the application fee, before the sixth business day after the date TxDMV receives the application, to issue the applicant the appropriate title for the motor vehicle.

SECTION 4. Amends Section 501.102, Transportation Code, by adding Subsection (f), to provide that Subsection (c) does not apply to an applicant for a title under Sections 501.0925 and 501.0935.

SECTION 5. Amends Section 2302.201(a), Occupations Code, to require a salvage vehicle dealer who acquires ownership of a salvage motor vehicle from an owner, except as provided by Section 501.0935, Transportation Code, to receive from the owner a properly assigned title.

SECTION 6. Provides that the change in law made by this Act to Section 501.102, Transportation Code, applies only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. Effective date: September 1, 2011.