

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 01-0636.01 Duane Gall

HOUSE BILL 01-1261

HOUSE SPONSORSHIP

Stengel

SENATE SPONSORSHIP

(None)

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PREVENT THE SALE OF PREVIOUSLY**
102 **DAMAGED MOTOR VEHICLES AS PREVIOUSLY UNDAMAGED**
103 **MOTOR VEHICLES, AND, IN CONNECTION THEREWITH, PROVIDING**
104 **FOR THE ISSUANCE OF DISTINCT CERTIFICATES OF TITLE FOR**
105 **SALVAGED, REBUILT, AND NONREPAIRABLE VEHICLES AND**
106 **CREATING THE CRIME OF SALVAGE VEHICLE FRAUD.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates new classifications for motor vehicle certificates of title to be issued to the owners of salvaged, rebuilt, and nonrepairable motor

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

vehicles. Requires an insurance company that "totals" a motor vehicle but does not acquire ownership of the vehicle to notify the owner of the owner's obligation to apply for a different certificate of title. Prohibits the issuance of any title other than a salvage or rebuilt salvage title for a motor vehicle that has ever been a salvage vehicle. Makes it a felony offense to sell a salvage vehicle without disclosing the fact that it is a salvage vehicle in accordance with current law.

Defines terms and makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 42-6-102, Colorado Revised Statutes, is amended
3 to read:

4 **42-6-102. Definitions.** As used in this part 1, unless the context
5 otherwise requires:

6 (1) "Authorized agents" means the county clerk and recorder in
7 each of the counties of the state, except in the city and county of Denver,
8 and therein the manager of revenue is the authorized agent.

9 (2) "Dealer" means any person, firm, partnership, corporation, or
10 association licensed under the laws of this state to engage in the business
11 of buying, selling, exchanging, or otherwise trading in motor vehicles.

12 (3) "Department" means the department of revenue.

13 (4) "Director" means the executive director of the department of
14 revenue.

15 ~~(4.2)~~ (5) "Electronic record" has the same meaning as defined in
16 section 24-71.1-103 (3), C.R.S., and shall have the same effect as set forth
17 in section 24-71.1-105, C.R.S.

18 ~~(4.4)~~ (6) "File" means the creation of or addition to an electronic
19 record maintained for a certificate of title by the director or an authorized
20 agent of the director, as defined in section 42-6-105.

21 (7) "FLOOD VEHICLE" MEANS A MOTOR VEHICLE THAT HAS BEEN

1 SUBMERGED TO THE POINT THAT WATER HAS FLOWED OVER THE DOOR SILL
2 OR PERMEATED A SUBSTANTIAL PORTION OF THE PASSENGER
3 COMPARTMENT OR TRUNK COMPARTMENT.

4 ~~(5)~~ (8) "Manufacturer" means a person, firm, partnership,
5 corporation, or association engaged in the manufacture of new motor
6 vehicles, trailers, or semitrailers.

7 ~~(6)~~ (9) "Mortgages" or "mortgage" or "chattel mortgage" means
8 chattel mortgages, conditional sales contracts, or any other like instrument
9 intended to operate as a mortgage or to create a lien on a motor vehicle as
10 security for an undertaking of the owner thereof or some other person.

11 ~~(7)~~ (10) "Motor vehicle" means any self-propelled vehicle which
12 is designed primarily for travel on the public highways and which is
13 generally and commonly used to transport persons and property over the
14 public highways, trailers, semitrailers, and trailer coaches, without motive
15 power, except: Motorized bicycles, as defined in section 42-1-102 (59)
16 (b); vehicles which operate only upon rails or tracks laid in place on the
17 ground or that travel through the air or that derive their motive power
18 from overhead electric lines; farm tractors, farm trailers, and other
19 machines and tools used in the production, harvesting, and care of farm
20 products; and mobile machinery, self-propelled construction equipment,
21 or industrial machinery not designed primarily for highway transportation.

22 ~~(8)~~ (11) "New vehicle" means any motor vehicle being transferred
23 for the first time from a manufacturer or importer, or dealer or agent of a
24 manufacturer or importer, and which motor vehicle had previously not
25 been used and is what is commonly known as a new motor vehicle. A
26 motor vehicle that has been used by a dealer solely for the purpose of
27 demonstration to prospective customers shall be considered a "new

1 vehicle" unless such demonstration use has been for more than one
2 thousand five hundred miles. Motor vehicles having a gross vehicle
3 weight rating of sixteen thousand pounds or more shall be exempt from
4 this definition.

5 (12) "NONREPAIRABLE VEHICLE" MEANS A MOTOR VEHICLE THAT
6 HAS BEEN DESTROYED OR DISMANTLED TO SUCH AN EXTENT, OR IN SUCH A
7 MANNER, THAT IT:

8 (a) NO LONGER FUNCTIONS AS A MOTOR VEHICLE;

9 (b) CANNOT, AS A PRACTICAL MATTER, BE MADE TO FUNCTION AS
10 A MOTOR VEHICLE SUITABLE FOR OPERATION ON ROADS OR HIGHWAYS; AND

11 (c) HAS NO VALUE EXCEPT AS PARTS OR SCRAP.

12 (13) "NONREPAIRABLE VEHICLE CERTIFICATE OF TITLE" MEANS A
13 DOCUMENT ISSUED UNDER THE AUTHORITY OF THE DIRECTOR TO INDICATE
14 OWNERSHIP OF A NONREPAIRABLE MOTOR VEHICLE THAT WILL BE USED
15 ONLY FOR PARTS, AS SCRAP, OR BOTH.

16 ~~(9)~~ (14) "Owner" means any person, association of persons, firm,
17 or corporation in whose name the title to a motor vehicle is registered.

18 ~~(10)~~ (15) "Person" means natural persons, associations of persons,
19 firms, partnerships, and corporations.

20 (16) "REBUILT SALVAGE TITLE" MEANS A DOCUMENT ISSUED UNDER
21 THE AUTHORITY OF THE DIRECTOR TO INDICATE OWNERSHIP OF A MOTOR
22 VEHICLE THAT WAS PREVIOUSLY DESIGNATED AS A SALVAGE VEHICLE AND
23 THAT HAS SUBSEQUENTLY PASSED REQUIRED INSPECTION AND BEEN
24 DESIGNATED AS A REBUILT SALVAGE VEHICLE.

25 (17) "REBUILT SALVAGE VEHICLE" MEANS A MOTOR VEHICLE THAT
26 WAS PREVIOUSLY ISSUED A SALVAGE CERTIFICATE OF TITLE AND THAT HAS
27 BEEN REPAIRED TO THE POINT THAT IT IS ROADWORTHY.

1 ~~(10.5)~~ (18) "Record" has the same meaning as defined in section
2 24-71.1-103 (9), C.R.S.

3 ~~(11)~~ (19) "Roadworthy" means a condition in which a motor
4 vehicle has sufficient power and is fit to operate on the roads and
5 highways of this state after visual inspection by appropriate law
6 enforcement authorities. In order to be roadworthy, such vehicle, in
7 accord with its design and use, shall have all major parts and systems
8 permanently attached and functioning and shall not appear to have been
9 repaired in such a manner as to make the vehicle unsafe. For purposes of
10 this subsection ~~(11)~~ (19), "major parts and systems" shall include, but not
11 be limited to, the body of a motor vehicle with related component parts,
12 engine, transmission, tires, wheels, seats, exhaust, and all other equipment
13 required by Colorado law for the particular vehicle.

14 ~~(12)~~ (20) "Salvage certificate of title" means a document issued
15 under the authority of the director to indicate ownership of a salvage
16 vehicle.

17 ~~(13)~~ (21) (a) "Salvage vehicle" means ANY OF THE FOLLOWING:

18 (I) Any MOTOR vehicle ~~which is~~ THAT HAS BEEN damaged by
19 collision, fire, flood, accident, trespass, or other occurrence ~~excluding hail~~
20 ~~damage~~ to the extent that the cost of repairing the vehicle TO ITS PRIOR
21 CONDITION, EQUIPPING IT for legal operation on the highways, OR BOTH,
22 exceeds the vehicle's retail fair market value immediately prior to such
23 damage, as ~~determined by the person who owns the vehicle at the time of~~
24 ~~such occurrence or by the insurer or other person acting on behalf of such~~
25 ~~owner~~ SET FORTH IN A CURRENT, NATIONALLY RECOGNIZED MOTOR
26 VEHICLE PRICE GUIDE;

27 (II) ANY MOTOR VEHICLE THE OWNERSHIP OF WHICH HAS BEEN

1 ACQUIRED BY AN INSURANCE COMPANY AS A RESULT OF A DAMAGE
2 SETTLEMENT, OTHER THAN A THEFT RECOVERY UNLESS THE RECOVERED
3 VEHICLE SUSTAINED SUFFICIENT DAMAGE IN THE COURSE OF THE THEFT TO
4 MEET THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);

5 (III) ANY MOTOR VEHICLE AS TO WHICH THE OWNER, OR AN
6 INSURER OR AGENT OF THE OWNER, HAS OBTAINED A SALVAGE TITLE IN
7 ACCORDANCE WITH THIS ARTICLE; OR

8 (IV) A FLOOD VEHICLE.

9 (b) In assessing ~~whether a vehicle is a "salvage vehicle" under this~~
10 ~~section, the retail fair market value shall be determined by reference to~~
11 ~~sources generally accepted within the insurance industry including price~~
12 ~~guide books, dealer quotations, computerized valuation services,~~
13 ~~newspaper advertisements, and certified appraisals, taking into account~~
14 ~~the condition of the vehicle prior to the damage~~ THE COST OF REPAIR FOR
15 PURPOSES OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION
16 (21), THE ACTUAL RETAIL COST OF THE REPAIR PARTS TO BE USED SHALL BE
17 ADDED TO THE LABOR COST OF THE REPAIR, CALCULATED ON THE BASIS OF
18 THE REASONABLE AND CUSTOMARY HOURLY LABOR RATE AND A
19 REASONABLE ESTIMATE OF THE TIME REQUIRED FOR SUCH REPAIR.

20 (c) ~~This section shall not apply to a vehicle whose model year of~~
21 ~~manufacture is eight years or older at the time of damage.~~

22 ~~(13.5)~~ (22) "Signature" means either a written signature or an
23 electronic signature as described in section 24-71.1-106, C.R.S.

24 ~~(14)~~ (23) "State" includes the territories and the federal districts of
25 the United States.

26 ~~(15)~~ (24) "Street rod vehicle" means a vehicle manufactured in
27 1948 or earlier with a body design which has been modified for safe road

1 use, including, but not limited to, modifications of the drive train,
2 suspension, and brake systems, modifications to the body through the use
3 of materials such as steel or fiberglass, and any other safety or comfort
4 features.

5 (16) (25) "Used vehicle" means any motor vehicle that has been
6 sold, bargained, exchanged, or given away, or the title thereto transferred
7 from the person who first took title thereto from the manufacturer or
8 importer, dealer, or agent of the manufacturer or importer, or so used as
9 to have become what is commonly known as a secondhand motor vehicle.
10 A motor vehicle that has been used by a dealer for the purpose of
11 demonstration to prospective customers shall be considered a "used
12 vehicle" if such demonstration use has been for more than one thousand
13 five hundred miles.

14 (17) (26) "Vehicle" means any motor vehicle as defined in
15 subsection (7) (10) of this section.

16 **SECTION 2.** 42-6-136, Colorado Revised Statutes, as it will
17 become effective July 1, 2001, is amended to read:

18 **42-6-136. Surrender and cancellation of certificate - penalty for**
19 **violation.** (1) (a) The owner of any motor vehicle for which a Colorado
20 certificate of title has been issued ~~upon the destruction or dismantling of~~
21 ~~said motor vehicle, upon its being changed in such manner that it is no~~
22 ~~longer a motor vehicle, or upon its being sold or otherwise disposed of as~~
23 ~~salvage~~ AND WHICH MOTOR VEHICLE HAS BECOME A NONREPAIRABLE
24 VEHICLE OR SALVAGE VEHICLE shall surrender the certificate of title to the
25 motor vehicle to the director or the director's authorized agent to be
26 cancelled or notify the director or the director's authorized agent on
27 ~~director approved~~ forms APPROVED BY THE DIRECTOR indicating the loss,

1 destruction or dismantling, or sale for salvage; and, upon said owner's
2 procuring the consent of the holders of any mortgages noted on or
3 recorded as part of the certificate of title and shown to be unreleased in
4 the office of the director, such certificate shall be cancelled. ~~Any person~~
5 ~~who violates any of the provisions of this section commits a class 1 petty~~
6 ~~offense and shall be punished as provided in section 18-1-107, C.R.S.~~

7 (b) AN INSURANCE COMPANY THAT MAKES A TOTAL LOSS DAMAGE
8 SETTLEMENT ON A MOTOR VEHICLE BUT DOES NOT ACQUIRE OWNERSHIP OF
9 THE VEHICLE SHALL:

10 (I) NOTIFY THE OWNER OF THE OWNER'S OBLIGATION TO APPLY FOR
11 A NONREPAIRABLE VEHICLE CERTIFICATE OF TITLE OR SALVAGE
12 CERTIFICATE OF TITLE PURSUANT TO THIS SECTION; AND

13 (II) NOTIFY THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED AGENT
14 OF THE FACT THAT THE VEHICLE HAS BECOME A NONREPAIRABLE VEHICLE
15 OR SALVAGE VEHICLE.

16 (2) Upon the sale or transfer of any motor vehicle for which a
17 current Colorado certificate of title has been issued or filed AND which
18 motor vehicle has become a NONREPAIRABLE VEHICLE OR salvage vehicle,
19 ~~as defined in section 42-6-102 (13)~~, the purchaser or transferee shall make
20 application for a NONREPAIRABLE VEHICLE CERTIFICATE OF TITLE OR A
21 salvage certificate of title, AS APPROPRIATE. The owner of any such motor
22 vehicle may make application for a ~~salvage~~ SUCH certificate of title before
23 the sale or transfer of such vehicle. Any owner making application for a
24 ~~salvage~~ SUCH certificate of title shall provide the director WITH SUCH
25 evidence of ownership ~~that satisfies the director of the right of the~~
26 ~~applicant to have a salvage certificate of title filed in favor of the owner~~
27 AS THE DIRECTOR MAY REQUIRE.

1 (3) Any owner of a REBUILT salvage vehicle ~~which has been made~~
2 ~~roadworthy~~ who makes application for a ~~certificate of~~ REBUILT SALVAGE
3 ~~title as provided in section 42-6-116~~ shall include such information
4 regarding the salvage vehicle as the director may require by rule ~~The~~
5 ~~owner~~ AND shall provide to the director SUCH evidence of ownership
6 ~~which satisfies the director that the applicant is entitled to filing of a~~
7 ~~certificate of title. The director or the director's authorized agent shall~~
8 ~~place the letter "S" in a conspicuous place in the record for a vehicle that~~
9 ~~is a salvage vehicle that has been made roadworthy. Such letter "S"~~
10 ~~designation shall become a permanent part of the certificate of title for~~
11 ~~such vehicle and shall appear on all subsequent certificates of title for~~
12 ~~such vehicle~~ AS THE DIRECTOR MAY REQUIRE.

13 (4) ONLY A SALVAGE CERTIFICATE OF TITLE OR REBUILT SALVAGE
14 TITLE SHALL BE ISSUED FOR ANY VEHICLE THAT IS OR EVER WAS A SALVAGE
15 VEHICLE.

16 (5) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS
17 SECTION COMMITS A CLASS 1 PETTY OFFENSE AND SHALL BE PUNISHED AS
18 PROVIDED IN SECTION 18-1-107, C.R.S.

19 **SECTION 3.** Part 3 of article 5 of title 18, Colorado Revised
20 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

21 **18-5-308. Salvage vehicle fraud.** (1) A PERSON COMMITS THE
22 CRIME OF SALVAGE VEHICLE FRAUD IF, WITH INTENT TO CONCEAL THE FACT
23 THAT A MOTOR VEHICLE HAS BEEN REBUILT FROM SALVAGE, HE OR SHE
24 FAILS TO PREPARE AND DELIVER TO A PROSPECTIVE PURCHASER OF SUCH
25 MOTOR VEHICLE A DISCLOSURE AFFIDAVIT IN ACCORDANCE WITH SECTION
26 42-6-206, C.R.S.

27 (2) SALVAGE VEHICLE FRAUD IS:

1 (a) A CLASS 6 FELONY IF THE DOLLAR VALUE OF THE MOTOR
2 VEHICLE IS LESS THAN FIVE HUNDRED DOLLARS;

3 (b) A CLASS 5 FELONY IF THE DOLLAR VALUE OF THE MOTOR
4 VEHICLE IS FIVE HUNDRED DOLLARS OR MORE BUT LESS THAN FIFTEEN
5 THOUSAND DOLLARS; AND

6 (c) A CLASS 4 FELONY IF THE DOLLAR VALUE OF THE MOTOR
7 VEHICLE IS FIFTEEN THOUSAND DOLLARS OR MORE.

8 **SECTION 4.** 6-1-708 (1) (b), Colorado Revised Statutes, is
9 amended to read:

10 **6-1-708. Motor vehicle sales and leases - deceptive trade**
11 **practices.** (1) A person engages in a deceptive trade practice when, in
12 the course of such person's business, vocation, or occupation, such person:

13 (b) Fails to disclose in writing, prior to sale, to the purchaser that
14 a motor vehicle is a salvage vehicle, as defined in section 42-6-102 ~~(13)~~
15 (21), C.R.S., that a vehicle was repurchased by or returned to the
16 manufacturer from a previous owner for inability to conform the motor
17 vehicle to the manufacturer's warranty in accordance with article 10 of
18 title 42, C.R.S., or with any other state or federal motor vehicle warranty
19 law, or knowingly fails to disclose, in writing, prior to sale, to the
20 purchaser that a motor vehicle has sustained material damage at any one
21 time from any one incident.

22 **SECTION 5.** 42-4-310 (1) (a) (II) (A), Colorado Revised Statutes,
23 is amended to read:

24 **42-4-310. Periodic emissions control inspection required.**
25 (1) (a) (II) (A) If title to a roadworthy motor vehicle, as defined in section
26 42-6-102 ~~(11)~~ (19), for which a certification of emissions compliance or
27 emissions waiver must be obtained pursuant to this paragraph (a) is being

1 transferred to a new owner, the new owner may require at the time of sale
2 that the prior owner provide said certification as required for the county
3 of residence of the new owner.

4 **SECTION 6.** 42-6-113, Colorado Revised Statutes, as it will
5 become effective July 1, 2001, is amended to read:

6 **42-6-113. New vehicles - bill of sale - certificate of title.** Upon
7 the sale or transfer by a dealer of a new motor vehicle, such dealer shall,
8 upon the delivery thereof, make, execute, and deliver to the purchaser or
9 transferee a good and sufficient bill of sale therefor, together with the
10 manufacturer's certificate of origin. Said bill of sale shall be affirmed by
11 a statement signed by such dealer, shall contain or be accompanied by a
12 written declaration that it is made under the penalties of perjury in the
13 second degree, as defined in section 18-8-503, C.R.S., shall be in such
14 form as the director may prescribe, and shall contain, in addition to other
15 information that the director may by rule from time to time require, the
16 make and model of the motor vehicle so sold or transferred, the
17 identification number placed upon the vehicle by the manufacturer for
18 identification purposes, the manufacturer's suggested retail price, and the
19 date of the sale or transfer thereof, together with a description of any
20 mortgage on the vehicle given to secure the purchase price or any part
21 thereof. Upon presentation of such a bill of sale to the director or one of
22 the director's authorized agents, a new certificate of title for the vehicle
23 described in the bill of sale shall be filed and disposition thereof made as
24 in other cases. The transfer of a motor vehicle that has been used by a
25 dealer for the purpose of demonstration to prospective customers, if such
26 motor vehicle is a new vehicle as defined in section 42-6-102 ~~(8)~~ (11),
27 shall be made in accordance with the provisions of this section.

1 **SECTION 7.** 42-6-120 (1), Colorado Revised Statutes, as it will
2 become effective July 1, 2001, is amended to read:

3 **42-6-120. Security interests upon motor vehicles.** (1) Except
4 as provided in this section, the provisions of the "Uniform Commercial
5 Code", title 4, C.R.S., relating to the filing, recording, releasing, renewal,
6 and extension of chattel mortgages, as the term is defined in section
7 42-6-102 ~~(6)~~ (9), shall not be applicable to motor vehicles. Any mortgage
8 or refinancing of a mortgage intended by the parties to the mortgage or
9 refinancing to encumber or create a lien on a motor vehicle, to be effective
10 as a valid lien against the rights of third persons, purchasers for value
11 without notice, mortgagees, or creditors of the owner, shall be filed for
12 public record and the fact of filing noted on the owner's certificate of title
13 or bill of sale substantially in the manner provided in section 42-6-121;
14 and the filing of such mortgage with the director's authorized agent and
15 the notation by the agent of that fact in the filing of the certificate of title
16 or bill of sale substantially in the manner provided in section 42-6-121
17 shall constitute notice to the world of each and every right of the person
18 secured by such mortgage.

19 **SECTION 8.** 42-6-206 (6) (b), Colorado Revised Statutes, is
20 amended to read:

21 **42-6-206. Disclosure requirements upon transfer of ownership**
22 **of a salvage vehicle.** (6) As used in this section, unless the context
23 otherwise requires:

24 (b) "Salvage vehicle" shall have the same meaning as set forth in
25 section 42-6-102 ~~(13)~~ (21).

26 **SECTION 9. Effective date - applicability.** (1) This act shall
27 take effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly that is
2 allowed for submitting a referendum petition pursuant to article V, section
3 1 (3) of the state constitution; except that, if a referendum petition is filed
4 against this act or an item, section, or part of this act within such period,
5 then the act, item, section, or part, if approved by the people, shall take
6 effect on the date of the official declaration of the vote thereon by
7 proclamation of the governor.

8 (2) The provisions of this act shall apply to acts committed on or
9 after the applicable effective date of this act.