February 17, 1998

ENGROSSED
SENATE BILL No. 110

DIGEST OF SB 110 (Updated January 27, 1998 5:19 pm - DI 93)

Citations Affected: IC 9-17; IC 9-22.

Synopsis: Motor vehicles. Requires that the purchaser of a motor vehicle must have made all agreed upon payments, including delivery of a trade-in without hidden statutory liens, before a vehicle dealer is required to deliver title to the purchaser. Provides that a flood damaged vehicle is a vehicle that has sustained water damage above the floorboard of the vehicle. Requires a flood damaged vehicle to have a certificate of salvage title with the notation "FLOOD DAMAGED".
(Continued next page)

Effective: July 1, 1998.

Meeks, Waterman, Howard

(HOUSE SPONSORS — HEEKE, STURTZ, RUPPEL)

January 6, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
January 15, 1998, amended, reported favorably — Do Pass.
January 20, 1998, read second time, amended, ordered engrossed.
January 21, 1998, engrossed.
January 22, 1998, placed back on second reading.
January 27, 1998, re-read second time, amended, ordered engrossed.
January 28, 1998, engrossed.
January 29, 1998, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 4, 1998, read first time and referred to Committee on Roads and Transportation.
February 17, 1998, reported — Do Pass.

C o p y

Digest Continued

Requires that when a vehicle dealer or other business restores or purchases a salvaged vehicle, the affidavit that must be attached to the title of that vehicle must bear the designation "REBUILT VEHICLE MILEAGE UNKNOWN" or "REBUILT FLOOD DAMAGED VEHICLE". Provides that if a title is issued for a motor vehicle that was previously titled in another state as a rebuilt, reconstructed, reconditioned, distressed, flood damaged, or similarly designated vehicle, the new title must bear the designation "REBUILT VEHICLE" or "REBUILT FLOOD DAMAGED VEHICLE". Provides that the statutes concerning salvaged motor vehicles apply each year to a vehicle manufactured within the previous seven model years, but that the bureau of motor vehicles may extend the coverage of the provisions up to a maximum of 15 model years. Requires a disposal facility, automotive salvage rebuilder, and used parts dealer to complete records concerning salvage vehicles or component parts that are in their current model year or in the preceding six model years (instead of the preceding four model years).

C o p y

February 17, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

C o p y

ENGROSSED
SENATE BILL No. 110

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-17-3-3, AS AMENDED BY P.L.2-1995, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or has the ownership transferred, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, **if the purchaser or transferee has made all agreed upon payments for the vehicle, including delivery of a trade-in**

vehicle without hidden or undisclosed statutory liens.

(3) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale.

(4) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale.

(C) The vehicle dealer reasonably believes that it will be able to deliver the title, without a lien or an encumbrance on the title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(3) or (a)(4) at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars ($100) for the first violation.

(2) Two hundred fifty dollars ($250) for the second violation.

(3) Five hundred dollars ($500) for all subsequent violations.

Payment shall be made to the bureau and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid title certificate and the dealer's failure to deliver a valid title certificate within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser. If the dealer's

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inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(d) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(e) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

SECTION 2. IC 9-22-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Except as provided in subsection (b) and section 14 of this chapter, this chapter applies each year to a motor vehicle, semitrailer, or recreational vehicle manufactured within the last ~~five (5)~~ **seven (7)** model years, including the current model year. The bureau shall establish guidelines for determining the applicability of the model year effective dates for each year.

(b) The bureau may extend the model years to be covered each year by this chapter up to a maximum of ~~ten (10)~~ **fifteen (15)** model years, which includes the current model year, after doing the following:

(1) Conducting a public hearing.

(2) Giving reasonable notice to known businesses affected by this chapter.

SECTION 3. IC 9-22-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 2.5. As used in this chapter, "flood damaged vehicle" means a vehicle that has sustained water damage above the floorboard of the vehicle.**

SECTION 4. IC 9-22-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) A certificate of salvage title is required for a motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets ~~either~~ **any** of the following criteria:

(1) An insurance company has determined that it is economically impractical to repair the wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle and has made an agreed settlement with the insured or claimant.

C o p y

(2) **If the owner of the vehicle is a business that insures its own vehicles or an insurance company,** the cost of repairing the wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle exceeds seventy percent (70%) of the fair market value immediately before the motor vehicle, motorcycle, semitrailer, or recreational vehicle was wrecked or damaged.

(3) The motor vehicle is a flood damaged vehicle.

(b) For the purposes of this section, the bureau shall, upon request, determine the fair market value of a wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle if the fair market value cannot be determined from the source referred to in section 2(1) of this chapter.

(c) An insurance company must apply for a salvage title for any vehicle that has sustained damages of seventy percent (70%) or more of the fair market value immediately before the motor vehicle, motorcycle, semitrailer, or recreational vehicle was wrecked or damaged if the vehicle meets the criteria of subsection (a)(1).

SECTION 5. IC 9-22-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. A certificate of salvage title issued under section 4 of this chapter must contain the following information:

(1) The same vehicle information as a certificate of title issued by the department.

(2) The notation "SALVAGE TITLE" prominently recorded on the front and back of the title.

(3) If the motor vehicle is a flood damaged vehicle, the notation "FLOOD DAMAGED" prominently recorded on the front and back of the title.

SECTION 6. IC 9-22-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. If a salvage motor vehicle has been **flood damaged,** extensively burned, vandalized, or severely wrecked so that one (1) or more component parts are required to restore the motor vehicle to an operable condition, the person or business that restored the motor vehicle must furnish, on an affidavit of restoration for a salvage motor vehicle form, the name, identification number, and source of all component parts that were included in the restoration of the vehicle. The affidavit must be attached to the certificate of salvage title and be submitted to the bureau upon application by a person for a certificate of title for the vehicle.

SECTION 7. IC 9-22-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. If a dealer purchases

C o p y

a salvage motor vehicle subject to section 8 of this chapter and applies for a certificate of dealer title, the affidavit attached to the certificate of salvage title must also be attached to the certificate of dealer title. The bureau must retain the affidavit or a microfilm copy of the form for ~~five (5)~~ **ten (10)** years.

SECTION 8. IC 9-22-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. (a) If a certificate of salvage title is lost, mutilated, or destroyed or becomes illegible, the person who owns the vehicle or the legal representative or legal successor in interest of the person who owns the motor vehicle, semitrailer, or recreational vehicle for which the certificate of salvage title was issued, as shown by the records of the bureau of motor vehicles, shall immediately apply for a duplicate certificate of salvage title.

(b) A person described in subsection (a) may obtain a duplicate certificate of salvage title when the person furnishes information concerning the loss, mutilation, destruction, or illegibility satisfactory to the department and pays the fee set forth in IC 9-29-7. Upon the issuance of a duplicate certificate of salvage title, the most recent certificate of salvage title issued is considered void by the department.

(c) A certificate of salvage title issued under this section must have recorded upon the title's face and back the words "DUPLICATE SALVAGE TITLE".

(d) If the lost, mutilated, destroyed, or illegible certificate of salvage title contained the notation "FLOOD DAMAGED", the duplicate certificate of salvage title must have recorded upon the title's face and back the words "FLOOD DAMAGED".

SECTION 9. IC 9-22-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. (a) Except as provided in subsection (b), a certificate of title issued under section **8, 9, or** 15 of this chapter and a certificate of title subsequently issued must conspicuously bear the designation:

(1) "REBUILT VEHICLE--**MILEAGE UNKNOWN" if the motor vehicle is not a flood damaged vehicle; or**

(2) "REBUILT FLOOD DAMAGED VEHICLE" if the motor vehicle is a flood damaged vehicle.

(b) An insurance company authorized to do business in Indiana may obtain a certificate of title that does not bear the designation if the company submits to the bureau, in the form and manner the bureau requires, satisfactory evidence that the damage to a recovered stolen motor vehicle did not meet the criteria set forth in section 3 of this chapter.

C o p y

(c) An affidavit submitted under section 8 or 9 of this chapter must conspicuously bear the designation:

(1) "REBUILT VEHICLE--MILEAGE UNKNOWN" if the motor vehicle is not a flood damaged vehicle; or

(2) "REBUILT FLOOD DAMAGED VEHICLE" if the motor vehicle is a flood damaged vehicle.

SECTION 10. IC 9-22-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 17. **(a) Except as provided in subsection (b),** whenever a certificate of title is issued for a motor vehicle that was previously titled in another state or jurisdiction and the certificate of title from the other state or jurisdiction contains a "REBUILT", "RECONSTRUCTED", "RECONDITIONED", "DISTRESSED VEHICLE", or similar designation, a new and subsequent certificate of title must conspicuously bear the designation "REBUILT VEHICLE".

(b) Whenever a certificate of title is issued for a motor vehicle described in subsection (a) that was previously titled in another state or jurisdiction and the certificate of title from the other state or jurisdiction contains a designation that indicates that the motor vehicle is a flood damaged vehicle, a new and subsequent certificate of title must conspicuously bear the designation "REBUILT FLOOD DAMAGED VEHICLE".

SECTION 11. IC 9-22-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. Unless otherwise specified or required, the records required under section 19 of this chapter shall be retained for a period of five (5) years from the date the vehicle or major component part was acquired, in the form prescribed by the bureau.

SECTION 12. IC 9-22-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 22. (a) This section applies to vehicles and their component parts that are in either their current model year or in the immediately preceding ~~four (4)~~ **six (6)** model years when purchased by a disposal facility or automotive salvage rebuilder.

(b) A disposal facility and automotive salvage rebuilder licensed under IC 9-22-4 must complete the recordkeeping forms developed under section 19 of this chapter for the purchase of a salvage motor vehicle or major component part.

C o p y

COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill 110, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, line 3, after "section" insert "**8, 9, or**".
Page 6, line 41, reset in roman "five (5)".
Page 6, line 41, delete "ten (10)".
Page 7, line 5, delete "nine (9)" and insert "**six (6)**".

and when so amended that said bill do pass.

(Reference is to Senate Bill 110 as introduced.)

MEEKS, Chairperson

Committee Vote: Yeas 6, Nays 0.

C o p y

SENATE MOTION

Mr. President: I move that Senate Bill 110 be amended to read as follows:

Page 3, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 2. IC 9-22-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 29. (a) The bureau may adopt rules under IC 4-22-2 to administer this chapter.

(b) The bureau shall adopt rules under IC 4-22-2 to establish the guidelines for determining the estimated value of the vehicles.

(c) Rules adopted by the bureau under IC 4-22-2 to administer this chapter must require the state to reimburse storage facility and towing service operators for services provided for abandoned vehicles sold by the state under this chapter. The rules must require the state to reimburse the operator of a storage facility for storage charges at a minimum rate of five dollars ($5) per day for each day the vehicle is stored at the storage facility. The number of days must be calculated from the day the vehicle was towed to the storage facility to the earlier of the day the vehicle is:

(1) removed from the storage facility; or

(2) sold by the state to a person who is responsible for further storage charges.".

Renumber all SECTIONS consecutively.

(Reference is to Senate Bill 110 as printed January 16, 1998.)

MEEKS

SENATE MOTION

Mr. President: I move that Senate Bill 110 be amended to read as follows:

Page 3, line 22, before "**An**" insert "**Upon full payment of storage or towing charges,**".

Page 3, line 22, delete "**An**" and insert "**an**".

Page 3, line 26, delete "**access**" and insert "**access.**".

Page 3, line 26, delete "**or making prior payment of**".

Page 3, line 27, delete "**storage or towing charges.**".

(Reference is to Senate Bill 110 as printed January 16, 1998.)

MEEKS

C o p y

SENATE MOTION

Mr. President: I move that Senate Bill 110, which is eligible for third reading, be returned to second reading for purposes of amendment.

MEEKS

SENATE MOTION

Mr. President: I move that Senate Bill 110 be amended to read as follows:

Page 3, delete lines 16 through 42.

Page 4, delete lines 1 through 6.

Renumber all SECTIONS consecutively.

(Reference is to Senate Bill 110 as reprinted January 21, 1998.)

MEEKS

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 110, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

COOK, Chair

Committee Vote: yeas 11, nays 0.

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