

SENATE BILL No. 110

DIGEST OF SB 110 (Updated January 20, 1998 3:20 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. Requires the state to reimburse the storage facility and towing service operator for services provided to the state under the abandoned motor vehicle law. Requires the bureau of motor vehicles (BMV) to adopt rules that reimburse a storage facility for storage services at a minimum rate of \$5 per day for as long as the vehicle is at the storage facility. (Current BMV rules allow for a maximum storage reimbursement of \$4.26 per day for a maximum of 27 days and a maximum charge of \$115 regardless of how long the vehicle is stored at the facility). Makes it a Class A infraction for a person to deny an owner of a vehicle towed to a private storage or impoundment area free access to the vehicle during normal business (Continued next page)

Effective: July 1, 1998.

Meeks

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.

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hours for the purpose of securing personal items. 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". 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).

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Reprinted
January 21, 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.

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:

- 1 SECTION 1. IC 9-17-3-3, AS AMENDED BY P.L.2-1995,
2 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 3. (a) If a vehicle for which a certificate of title
4 has been issued is sold or has the ownership transferred, the person
5 who holds the certificate of title must do the following:
6 (1) Endorse on the certificate of title an assignment of the
7 certificate of title with warranty of title, in a form printed on the
8 certificate of title, with a statement describing all liens or
9 encumbrances on the vehicle.
10 (2) Except as provided in subdivisions (3) and (4), deliver the
11 certificate of title to the purchaser or transferee at the time of the
12 sale or delivery to the purchaser or transferee of the vehicle, **if**
13 **the purchaser or transferee has made all agreed upon**
14 **payments for the vehicle, including delivery of a trade-in**

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

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

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

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

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

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

30 (1) removed from the storage facility; or

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

33 SECTION 3. IC 9-22-2.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 1998]:

36 **Chapter 2.5. Access to Stored or Impounded Vehicles**

37 **Sec. 1. This chapter does not apply to a vehicle impounded for**
 38 **security purposes by a law enforcement agency.**

39 **Sec. 2. Upon full payment of storage or towing charges, an**
 40 **owner or the agent of an owner of a vehicle that has been towed to**
 41 **a private storage or impoundment area may have access to the**
 42 **vehicle for the purpose of securing personal items during the**



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1 **regular operating hours of the storage or impoundment area**
 2 **without paying a fee for access. For security purposes, the storage**
 3 **or impoundment area may establish conditions for access to the**
 4 **towed vehicle.**

5 **Sec. 3. A person who violates this chapter commits a Class A**
 6 **infraction.**

7 SECTION 4. IC 9-22-3-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Except as
 9 provided in subsection (b) and section 14 of this chapter, this chapter
 10 applies each year to a motor vehicle, semitrailer, or recreational vehicle
 11 manufactured within the last ~~five (5)~~ **seven (7)** model years, including
 12 the current model year. The bureau shall establish guidelines for
 13 determining the applicability of the model year effective dates for each
 14 year.

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

18 (1) Conducting a public hearing.

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

21 SECTION 5. IC 9-22-3-2.5 IS ADDED TO THE INDIANA CODE
 22 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 23 **1, 1998]: Sec. 2.5. As used in this chapter, "flood damaged vehicle"**
 24 **means a vehicle that has sustained water damage above the**
 25 **floorboard of the vehicle.**

26 SECTION 6. IC 9-22-3-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) A certificate of
 28 salvage title is required for a motor vehicle, motorcycle, semitrailer, or
 29 recreational vehicle that meets ~~either~~ **any** of the following criteria:

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

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

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

41 (b) For the purposes of this section, the bureau shall, upon request,
 42 determine the fair market value of a wrecked or damaged motor

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1 vehicle, motorcycle, semitrailer, or recreational vehicle if the fair
 2 market value cannot be determined from the source referred to in
 3 section 2(1) of this chapter.

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

10 SECTION 7. IC 9-22-3-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. A certificate of
 12 salvage title issued under section 4 of this chapter must contain the
 13 following information:

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

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

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

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

32 SECTION 9. IC 9-22-3-9 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. If a dealer purchases
 34 a salvage motor vehicle subject to section 8 of this chapter and applies
 35 for a certificate of dealer title, the affidavit attached to the certificate of
 36 salvage title must also be attached to the certificate of dealer title. The
 37 bureau must retain the affidavit or a microfilm copy of the form for ~~five~~
 38 **(5) ten (10)** years.

39 SECTION 10. IC 9-22-3-10 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. (a) If a certificate
 41 of salvage title is lost, mutilated, or destroyed or becomes illegible, the
 42 person who owns the vehicle or the legal representative or legal

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1 successor in interest of the person who owns the motor vehicle,
 2 semitrailer, or recreational vehicle for which the certificate of salvage
 3 title was issued, as shown by the records of the bureau of motor
 4 vehicles, shall immediately apply for a duplicate certificate of salvage
 5 title.

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

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

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

19 SECTION 11. IC 9-22-3-16 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. (a) Except as
 21 provided in subsection (b), a certificate of title issued under section **8,**
 22 **9, or** 15 of this chapter and a certificate of title subsequently issued
 23 must conspicuously bear the designation:

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

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

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

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

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

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

40 SECTION 12. IC 9-22-3-17 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 17. (a) **Except as**
 42 **provided in subsection (b),** whenever a certificate of title is issued for

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1 a motor vehicle that was previously titled in another state or
2 jurisdiction and the certificate of title from the other state or
3 jurisdiction contains a "REBUILT", "RECONSTRUCTED",
4 "RECONDITIONED", "DISTRESSED VEHICLE", or similar
5 designation, a new and subsequent certificate of title must
6 conspicuously bear the designation "REBUILT VEHICLE".

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

14 SECTION 13. IC 9-22-3-20 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. Unless otherwise
16 specified or required, the records required under section 19 of this
17 chapter shall be retained for a period of five (5) years from the date the
18 vehicle or major component part was acquired, in the form prescribed
19 by the bureau.

20 SECTION 14. IC 9-22-3-22 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 22. (a) This section
22 applies to vehicles and their component parts that are in either their
23 current model year or in the immediately preceding ~~four (4)~~ **six (6)**
24 model years when purchased by a disposal facility or automotive
25 salvage rebuilder.

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

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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.

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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.)

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 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.)

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