

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 558

Short Title: Disclosure of Prior MV Damage. (Public)

Sponsors: Senators Hoyle, Swindell, Berger; and Smith.

Referred to: Commerce.

March 27, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT CONSUMERS AND TRANSFERORS OF MOTOR
3 VEHICLES UNAWARE OF PRIOR DAMAGE OR WHEN PRIOR DAMAGE
4 WAS MINOR.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 20-71.3 is amended by adding a new subsection to read:

7 "(a1) Any motor vehicle that is declared a total loss by an insurance company
8 licensed and approved to conduct business in North Carolina, in addition to the
9 designation noted in subsection (a) of this section, shall:

10 (1) Have the title and registration card marked "TOTAL LOSS CLAIM"
11 in 14-point type or larger.

12 (2) Have a metal plate inserted into the doorjamb of that vehicle that states
13 "TOTAL LOSS CLAIM." Should that vehicle be later reconstructed,
14 the plate shall be inserted in the doorjamb of the reconstructed vehicle
15 with the same Vehicle Identification Number as the total loss vehicle."

16 **SECTION 2.** G.S. 20-71.3(b) reads as rewritten:

17 "(b) Any motor vehicle up to and including six model years old damaged by
18 collision or other occurrence, that is to be retitled in this State, shall be subject to
19 preliminary and final inspections by the Enforcement Section of the Division. For
20 purposes of this subsection, the term 'six model years' shall be calculated by counting
21 the model year of the vehicle's manufacture as the first model year and the current
22 model year as the final model year.

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

25 **SECTION 3.** G.S. 20-71.4 reads as rewritten:

26 **"§ 20-71.4. Failure to disclose damage to a vehicle shall be a misdemeanor.**

27 (a) It shall be unlawful ~~and constitute a Class 2 misdemeanor~~ for any transferor
28 who ~~knows or reasonably should know~~ has actual knowledge that:

1 (1) A motor vehicle up to and including five model years old has been
2 involved in a collision or other occurrence to the extent that the cost of
3 repairing that vehicle exceeds twenty-five percent (25%) of its fair
4 market retail value at the time of the ~~damage; collision or other~~
5 occurrence, or

6 (2) The motor vehicle is, or was, a flood vehicle, a reconstructed vehicle,
7 or a salvage motor vehicle

8 to fail to disclose that fact in writing to the transferee prior to the transfer of the vehicle.
9 For purposes of this subsection, the term 'five model years' shall be calculated by
10 counting the model year of the vehicle's manufacture as the first model year and the
11 current model year as the final model year. Failure to disclose any of the above
12 information within the actual knowledge of the transferor will also result in civil
13 liability under G.S. 20-348. The Commissioner may prepare forms to carry out the
14 provisions of this section.

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

19 (c) It shall be unlawful for any person to remove, tamper with, alter, or conceal
20 the 'TOTAL LOSS CLAIM' metal plate that is affixed to the door of any total loss claim
21 vehicle. It shall be unlawful for any person to reconstruct a total loss claim vehicle and
22 not include or affix a 'TOTAL LOSS CLAIM' metal plate to the doorjamb of the rebuilt
23 vehicle.

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

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

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

32 (1) A new motor vehicle dealer is not required to disclose to a purchaser
33 that any glass, tires or bumper of a new motor vehicle was damaged or
34 that any other damage occurred to a new motor vehicle at any time if
35 the total cost of all repairs fails to exceed five percent (5%) of the
36 manufacturer's suggested retail price as calculated at the time of the
37 dealer's authorized warranty rate for labor and parts, and if the
38 damaged item has been replaced with original or comparable
39 equipment.

40 (2) If disclosure is not required under this section, a purchaser may not
41 revoke or rescind a sales contract or have or file any cause of action or
42 claim against the dealer or manufacturer for breach of contract, breach
43 of warranty, fraud, concealment, unfair and deceptive acts or practices,

1 or otherwise due solely to the fact that the new motor vehicle was
2 damaged and repaired prior to completion of the sale.

3 (3) For purposes of this section, "manufacturer's suggested retail price"
4 means the retail price of the new motor vehicle suggested by the
5 manufacturer including the retail delivered price suggested by the
6 manufacturer for each accessory or item of optional equipment
7 physically attached to the new motor vehicle at the time of delivery to
8 the new motor vehicle dealer which is not included within the retail
9 price suggested by the manufacturer for the new motor vehicle."

10 **SECTION 5.** This act is effective when it becomes law.