

**NATIONAL SALVAGE MOTOR VEHICLE CONSUMER  
PROTECTION ACT OF 1997**

SEPTEMBER 30, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,  
submitted the following

## REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 1839]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 1839) to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Salvage Motor Vehicle Consumer Protection Act of 1997".

**SEC. 2. MOTOR VEHICLE TITLING AND DISCLOSURE REQUIREMENTS.**

(a) AMENDMENT TO TITLE 49, UNITED STATES CODE.—Subtitle VI of title 49, United States Code, is amended by inserting a new chapter at the end:

**"CHAPTER 333—AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS"**

"Sec.

- "33301. Definitions.
- "33302. Passenger motor vehicle titling.
- "33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles.
- "33304. Report on funding.
- "33305. Petitions for extensions of time.
- "33306. Effect on State law.
- "33307. Civil and criminal penalties.
- "33308. Actions by States.

**"§ 33301. Definitions**

For the purposes of this chapter:

"(1) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' shall have the same meaning given such term by section 32101(10), except, notwithstanding section 32101(9), it shall include a multipurpose passenger vehicle (constructed on a truck chassis or with special features for occasional off-road operation), or a truck, other than a truck referred to in section 32101(10)(B), when that vehicle or truck is rated by the manufacturer of such vehicle or truck at not more than 10,000 pounds gross vehicle weight, and except further, it shall only include a vehicle manufactured primarily for use on public streets, roads, and highways.

"(2) SALVAGE VEHICLE.—The term 'salvage vehicle' means any passenger motor vehicle which—

"(A) is a late model vehicle which has been wrecked, destroyed, or damaged, to the extent that the total cost of repairs to rebuild or reconstruct the passenger motor vehicle to its condition immediately before it was wrecked, destroyed, or damaged, and for legal operation on the roads or highways, exceeds 80 percent of the retail value of the passenger motor vehicle;

"(B) is a late model vehicle which has been wrecked, destroyed, or damaged, and to which an insurance company acquires ownership pursuant to a damage settlement (except in the case of a settlement in connection with a recovered stolen vehicle, unless such vehicle sustained damage sufficient to meet the damage threshold prescribed by subparagraph (A)); or

"(C) the owner wishes to voluntarily designate as a salvage vehicle by obtaining a salvage title, without regard to the level of damage, age, or value of such vehicle or any other factor, except that such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligation or liability.

"(3) SALVAGE TITLE.—The term 'salvage title' means a passenger motor vehicle ownership document issued by the State to the owner of a salvage vehicle. A salvage title shall be conspicuously labeled with the word 'salvage' across the front.

"(4) REBUILT SALVAGE VEHICLE.—The term 'rebuilt salvage vehicle' means—

"(A) any passenger motor vehicle which was previously issued a salvage title, has passed State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, has passed the State safety inspection in those States requiring a safety inspection pursuant to section 33302(b)(8), has been issued a certificate indicating that the passenger motor vehicle has passed the required

safety inspection in those States requiring such a safety inspection pursuant to section 33302(b)(8), and has a decal stating 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' affixed to the driver's door jamb; or

"(B) any passenger motor vehicle which was previously issued a salvage title, has passed a State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, and has, affixed to the driver's door jamb, a decal stating 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria' in those States not requiring a safety inspection pursuant to section 33302(b)(8).

"(5) REBUILT SALVAGE TITLE.—The term 'rebuilt salvage title' means the passenger motor vehicle ownership document issued by the State to the owner of a rebuilt salvage vehicle. A rebuilt salvage title shall be conspicuously labeled either with the words 'Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed' or 'Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria,' as appropriate, across the front.

"(6) NONREPAIRABLE VEHICLE.—The term 'nonrepairable vehicle' means any passenger motor vehicle which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. Such passenger motor vehicle shall be issued a nonrepairable vehicle certificate and shall never again be titled or registered.

"(7) NONREPAIRABLE VEHICLE CERTIFICATE.—The term 'nonrepairable vehicle certificate' means a passenger motor vehicle ownership document issued by the State to the owner of a nonrepairable vehicle. A nonrepairable vehicle certificate shall be conspicuously labeled with the word 'Nonrepairable' across the front.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(9) LATE MODEL VEHICLE.—The term 'Late Model Vehicle' means any passenger motor vehicle which—

"(A) has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked, destroyed, or damaged, or any of the six preceding years; or

"(B) has a retail value of more than \$7,500.

The Secretary shall adjust such retail value on an annual basis in accordance with changes in the consumer price index.

"(10) RETAIL VALUE.—The term 'retail value' means the actual cash value, fair market value, or retail value of a passenger motor vehicle as—

"(A) set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values; or

"(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment.

"(11) COST OF REPAIRS.—The term 'cost of repairs' means the estimated retail cost of parts needed to repair the vehicle or, if the vehicle has been repaired, the actual retail cost of the parts used in the repair, and the cost of labor computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community where the repairs are to be performed.

#### **“§ 33302. Passenger motor vehicle titling**

"(a) CARRY-FORWARD OF INFORMATION ON A NEWLY ISSUED TITLE WHERE THE PREVIOUS TITLE FOR THE VEHICLE WAS NOT ISSUED PURSUANT TO NEW NATIONALLY UNIFORM STANDARDS.—For any passenger motor vehicle, the ownership of which is transferred on or after the date that is 1 year from the date of the enactment of this chapter, each State participating in the National Motor Vehicle Title Information System established under chapter 305 of subtitle VI of this title, in licensing such vehicle for use, shall disclose in writing on the certificate of title whenever records readily accessible to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was 'salvage', 'unrebuildable', 'parts only', 'scrap', 'junk', 'nonrepairable', 'reconstructed', 'rebuilt', or any other symbol or word of like kind, or that it has been damaged by flood.

"(b) NATIONALLY UNIFORM TITLE STANDARDS AND CONTROL METHODS.—Not later than 18 months after the date of the enactment of this chapter, the Secretary shall by rule require each State participating in the National Motor Vehicle Title Information System established under chapter 305 of subtitle VI of this title, in licensing any passenger motor vehicle where ownership of such passenger motor vehicle is transferred more than 2 years after publication of such final rule, to apply uniform

standards, procedures, and methods for the issuance and control of titles for motor vehicles and for information to be contained on such titles. Such titling standards, control procedures, methods, and information shall include the following requirements:

“(1) A State shall conspicuously indicate on the face of the title or certificate for a passenger motor vehicle, as applicable, if the passenger motor vehicle is a salvage vehicle, a nonrepairable vehicle, or a rebuilt salvage vehicle and whether such vehicle was damaged by flood.

“(2) Such information concerning a passenger motor vehicle’s status shall be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling State or any other State.

“(3) The title documents, the certificates, and decals required by section 33301(4), and the issuing system shall meet security standards minimizing the opportunities for fraud.

“(4) The certificate of title shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.

“(5) The title documents shall maintain a uniform layout, to be established in consultation with the State or an organization representing them.

“(6) A passenger motor vehicle designated as nonrepairable shall be issued a nonrepairable vehicle certificate and shall not be retitled.

“(7) No rebuilt salvage title shall be issued to a salvage vehicle unless, after the salvage vehicle is repaired or rebuilt, it complies with the requirements for a rebuilt salvage vehicle pursuant to section 33301(4). Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. Any such anti-theft inspection program shall include the following:

“(A) A requirement that the owner of any passenger motor vehicle submitting such vehicle for an anti-theft inspection provide a completed document identifying the vehicle’s damage prior to being repaired, a list of replacement parts used to repair the vehicle, and proof of ownership of such replacement parts, as may be evidenced by bills of sale, invoices, or, if such documents are not available, other proof of ownership for the replacement parts. The owner shall also include an affirmation that the information in the declaration is complete and accurate and that, to the knowledge of the declarant, no stolen parts were used during the rebuilding.

“(B) A requirement to inspect the passenger motor vehicle or any major part or any major replacement part required to be marked under section 33102 for signs of such mark or vehicle identification number being illegally altered, defaced, or falsified. Any such passenger motor vehicle or any such part having a mark or vehicle identification number that has been illegally altered, defaced, or falsified, and that cannot be identified as having been legally obtained (through bills of sale, invoices, or other ownership documentation), shall be contraband and subject to seizure. The Secretary, in consultation with the Attorney General, shall, as part of the rule required by this section, establish procedures for dealing with those parts whose mark or vehicle identification number is normally removed during industry accepted remanufacturing or rebuilding practices, which parts shall be deemed identified for purposes of this section if they bear a conspicuous mark of a type, and applied in such a manner, as designated by the Secretary indicating that they have been rebuilt or remanufactured. With respect to any vehicle part, the Secretary’s rule, as required by this section, shall acknowledge that a mark or vehicle identification number on such part may be legally removed or altered as provided for in section 511 of title 18, United States Code, and shall direct inspectors to adopt such procedures as may be necessary to prevent the seizure of a part from which the mark or vehicle identification number has been legally removed or altered.

“(8) The Secretary shall establish nationally uniform safety inspection criteria to be used in those States requiring such a safety inspection. A State may determine whether to conduct such safety inspection itself, contract with one or more third parties, or permit self-inspection by a person licensed by such State in an automotive-related business, all subject to criteria promulgated by the Secretary hereunder. Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. A State requiring such safety inspection may require the payment of a fee for the privilege of such inspection or the processing thereof.

“(9) No duplicate or replacement title shall be issued unless the word ‘duplicate’ is clearly marked on the face thereof and unless the procedures for such

issuance are substantially consistent with Recommendation three of the Motor Vehicle Titling, Registration and Salvage Advisory Committee.

"(10) A State shall employ the following titling and control methods:

"(A) If an insurance company is not involved in a damage settlement involving a salvage vehicle or a nonrepairable vehicle, the passenger motor vehicle owner shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable, before the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred, but in any event within 30 days after the passenger motor vehicle is damaged.

"(B) If an insurance company, pursuant to a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company or salvage facility or other agent on its behalf shall apply for a salvage title or nonrepairable vehicle certificate within 30 days after the title is properly assigned by the owner to the insurance company and delivered to the insurance company or salvage facility or other agent on its behalf with all liens released.

"(C) If an insurance company does not assume ownership of an insured's or claimant's passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall notify the owner of the owner's obligation to apply for a salvage title or nonrepairable vehicle certificate for the passenger motor vehicle and notify the State passenger motor vehicle titling office that a salvage title or nonrepairable vehicle certificate should be issued for the vehicle, except to the extent such notification is prohibited by State insurance law.

"(D) If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the lessor shall apply for a salvage title or nonrepairable vehicle certificate within 21 days after being notified by the lessee that the vehicle has been so damaged, except when an insurance company, pursuant to a damage settlement, acquires ownership of the vehicle. The lessee of such vehicle shall inform the lessor that the leased vehicle has been so damaged within 30 days after the occurrence of the damage.

"(E) Any person acquiring ownership of a damaged passenger motor vehicle that meets the definition of a salvage or nonrepairable vehicle for which a salvage title or nonrepairable vehicle certificate has not been issued, shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable. This application shall be made before the vehicle is further transferred, but in any event, within 30 days after ownership is acquired. The requirements of this subparagraph shall not apply to any scrap metal processor which acquires a passenger motor vehicle for the sole purpose of processing it into prepared grades of scrap and which so processes such vehicle.

"(F) State records shall note when a nonrepairable vehicle certificate is issued. No State shall issue a nonrepairable vehicle certificate after 2 transfers of ownership.

"(G) When a passenger motor vehicle has been flattened, baled, or shredded, whichever comes first, the title or nonrepairable vehicle certificate for the vehicle shall be surrendered to the State within 30 days. If the second transferee on a nonrepairable vehicle certificate is unequipped to flatten, bale, or shred the vehicle, such transferee shall, at the time of final disposal of the vehicle, use the services of a professional automotive recycler or professional scrap processor who is hereby authorized to flatten, bale, or shred the vehicle and to effect the surrender of the nonrepairable vehicle certificate to the State on behalf of such second transferee. State records shall be updated to indicate the destruction of such vehicle and no further ownership transactions for the vehicle will be permitted. If different than the State of origin of the title or nonrepairable vehicle certificate, the State of surrender shall notify the State of origin of the surrender of the title or nonrepairable vehicle certificate and of the destruction of such vehicle.

"(H) When a salvage title is issued, the State records shall so note. No State shall permit the retitling for registration purposes or issuance of a rebuilt salvage title for a passenger motor vehicle with a salvage title without a certificate of inspection, which complies with the security and guideline standards established by the Secretary pursuant to paragraphs (3), (7), and (8), as applicable, indicating that the vehicle has passed the inspections

required by the State. This subparagraph does not preclude the issuance of a new salvage title for a salvage vehicle after a transfer of ownership.

“(I) After a passenger motor vehicle titled with a salvage title has passed the inspections required by the State, the inspection official will affix the secure decal required pursuant to section 33301(4) to the driver’s door jamb of the vehicle and issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the inspections required by the State. The decal shall comply with the permanency requirements established by the Secretary.

“(J) The owner of a passenger motor vehicle titled with a salvage title may obtain a rebuilt salvage title or vehicle registration, or both, by presenting to the State the salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the inspections required by the State. With such proper documentation and upon request, a rebuilt salvage title or registration, or both, shall be issued to the owner. When a rebuilt salvage title is issued, the State records shall so note.

“(11) A seller of a passenger motor vehicle that becomes a salvage vehicle due to damage by flood shall, at or prior to the time of transfer of ownership, give the buyer a written notice that the vehicle has been damaged by flood.

“(12) In the case of a leased passenger motor vehicle, the lessee, within 15 days of the occurrence of the event that caused the vehicle to become a salvage vehicle due to damage by flood, shall give the lessor written disclosure that the vehicle is a salvage vehicle due to damage by flood.

“(13) Ownership of a passenger motor vehicle may be transferred on a salvage title, however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt salvage title.

“(14) Ownership of a passenger motor vehicle may be transferred on a rebuilt salvage title, and a passenger motor vehicle for which a rebuilt salvage title has been issued may be registered for use on the roads and highways.

“(15) Ownership of a passenger motor vehicle may only be transferred 2 times on a nonrepairable vehicle certificate. A passenger motor vehicle for which a nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways.

#### **“§ 33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles**

##### **(a) WRITTEN DISCLOSURE REQUIREMENTS.—**

“(1) GENERAL RULE.—Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a rebuilt salvage vehicle shall give the transferee a written disclosure that the vehicle is a rebuilt salvage vehicle when such person has actual knowledge of the status of such vehicle.

“(2) FALSE STATEMENT.—A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

“(3) COMPLETENESS.—A person acquiring a rebuilt salvage vehicle for resale may accept a disclosure under paragraph (1) only if it is complete.

“(4) REGULATIONS.—The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under paragraph (1).

##### **(b) LABEL REQUIREMENTS.—**

“(1) IN GENERAL.—The Secretary shall by regulation require that a label be affixed to the windshield or window of a rebuilt salvage vehicle before its first sale at retail containing such information regarding that vehicle as the Secretary may require. The label shall be affixed by the individual who conducts the applicable State antitheft inspection in a participating State.

“(2) REMOVAL, ALTERATION, OR ILLEGIBILITY OF REQUIRED LABEL.—No person shall willfully remove, alter, or render illegible any label required by paragraph (1) affixed to a rebuilt salvage vehicle before the vehicle is delivered to the actual custody and possession of the first retail purchaser.

#### **“§ 33304. Report on funding**

The Secretary shall, contemporaneously with the issuance of a final rule pursuant to section 33302(b), report to appropriate committees of Congress whether the costs to the States of compliance with such rule can be met by user fees for issuance of titles, issuance of registrations, issuance of duplicate titles, inspection of rebuilt vehicles, or for the State services, or by earmarking any moneys collected through law enforcement action to enforce requirements established by such rule.

**“§ 33305. Petitions for extensions of time**

“The Secretary may grant a State, for good cause shown, an extension of time to comply with the requirements established in section 33302(a). No such extension shall remain in effect on or after the compliance date established pursuant to section 33302(b).

**“§ 33306. Effect on State law**

“(a) IN GENERAL.—Effective on the date the rule promulgated pursuant to section 33302 becomes effective, the provisions of this chapter shall preempt all State laws in States participating in the National Motor Vehicle Title Information System established under chapter 305 of subtitle VI of this title, to the extent they are inconsistent with the provisions of this chapter or the rule promulgated pursuant to section 33302, which—

- “(1) set forth the form of the passenger motor vehicle title;
- “(2) define, in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any term defined in section 33301 or the terms ‘salvage’, ‘junk’, ‘reconstructed’, ‘nonrepairable’, ‘unrebuildable’, ‘scrap’, ‘parts only’, ‘rebuilt’, ‘flood’, or any other symbol or word of like kind, or apply any of those terms to any passenger motor vehicle (but not to a passenger motor vehicle part or part assembly separate from a passenger motor vehicle); or
- “(3) set forth titling, recordkeeping, anti-theft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, or non-repairable vehicle.

The requirements described in paragraph (3) shall not be construed to affect any State consumer law actions that may be available to residents of the State for violations of this chapter.

“(b) CONSTRUCTION.—Additional disclosures of a passenger motor vehicle’s title status or history, in addition to the terms defined in section 33301, shall not be deemed inconsistent with the provisions of this chapter. Such disclosures shall include disclosures made on a certificate of title. When used in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any definition of a term defined in section 33301 which is different than the definition in that section or any use of any term listed in subsection (a), but not defined in section 33301, shall be deemed inconsistent with the provisions of this chapter. Nothing in this chapter shall preclude a State from disclosing on a rebuilt salvage title that a rebuilt salvage vehicle has passed a State safety inspection which differed from the nationally uniform criteria to be promulgated pursuant to section 33302(b)(8).

**“§ 33307. Civil and criminal penalties**

“(a) PROHIBITED ACTS.—It shall be unlawful for any person knowingly and willfully to—

- “(1) make or cause to be made any false statement on an application for a title (or duplicate title) for a passenger motor vehicle or any disclosure made pursuant to section 33303;

“(2) fail to apply for a salvage title when such an application is required;

“(3) alter, forge, or counterfeit a certificate of title (or an assignment thereof), a nonrepairable vehicle certificate, a certificate verifying an anti-theft inspection or an anti-theft and safety inspection, a decal affixed to a passenger motor vehicle pursuant to section 33302(b)(10)(I), or any disclosure made pursuant to section 33303;

“(4) falsify the results of, or provide false information in the course of, an inspection conducted pursuant to section 33302(b)(7) or (8);

“(5) offer to sell any salvage vehicle or nonrepairable vehicle as a rebuilt salvage vehicle;

“(6) fail to make any disclosure required by section 33303, except when the person lacks actual knowledge of the status of the rebuilt salvage vehicle;

“(7) violate a regulation prescribed under this chapter; or

“(8) conspire to commit any of the acts enumerated in paragraphs (1), (2), (3), (4), (5), (6), or (7).

“(b) CIVIL PENALTY.—Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined a civil penalty of up to \$2,000 per offense. A separate violation occurs for each passenger motor vehicle involved in the violation.

“(c) CRIMINAL PENALTY.—Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined up to \$50,000 or sentenced to up to 3 years imprisonment or both, per offense.

**“§ 33308. Actions by States”**

“(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has violated or is violating section 33302 or 33303, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States or the appropriate State court to enjoin such violation or to enforce the civil penalties under section 33307 or may enforce the criminal penalties under section 33307.

“(b) NOTICE.—The State shall serve prior written notice of any civil or criminal action under subsection (a) or (e)(2) upon the Attorney General and provide the Attorney General with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil or criminal action, the Attorney General shall have the right—

- “(1) to intervene in such action;
- “(2) upon so intervening, to be heard on all matters arising therein; and
- “(3) to file petitions for appeal.

“(c) CONSTRUCTION.—For purposes of bringing any civil or criminal action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(d) VENUE; SERVICE OF PROCESS.—Any civil or criminal action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

**“(e) ACTIONS BY STATE OFFICIALS.”**

“(1) Nothing contained in this section shall prohibit an attorney general of a State or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

“(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.”

(b) CONFORMING AMENDMENT.—The table of chapters for part C at the beginning of subtitle VI of title 49, United States Code, is amended by inserting at the end the following new item:

333. AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS ..... 33301

**SEC. 3. AMENDMENTS TO CHAPTER 305.****(a) DEFINITIONS.—**

(1) Amend section 30501(4) of title 49, United States Code, to read as follows:

“(4) ‘nonrepairable vehicle’, ‘salvage vehicle’, and ‘rebuilt salvage vehicle’ shall have the same meanings given those terms in section 33301 of this title.”

(2) Strike paragraph (7) of section 30501 of title 49, United States Code, and renumber the succeeding sections accordingly.

**(b) NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.—**

(1) Amend section 30502(d)(3) of title 49, United States Code, to read as follows:

“(3) whether an automobile known to be titled in a particular State is or has been a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle;”.

(2) Amend section 30502(d)(5) of title 49, United States Code, to read as follows:

“(5) whether an automobile bearing a known vehicle identification number has been reported as a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle under section 30504 of this title.”

(c) STATE PARTICIPATION.—Amend section 30503 of title 49, United States Code, to read as follows:

**“§ 30503. State participation”**

“(a) STATE PARTICIPATION.—No State may participate in the National Motor Vehicle Title Information System established under section 30502 of this title unless such State complies with the requirements of chapter 333 of this subtitle and the rule promulgated pursuant to section 33302 of this title.

“(b) STATE INFORMATION.—Each participating State shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

“(c) VERIFICATION CHECKS.—Each participating State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

“(1) communicating to the operator—

“(A) the vehicle identification number of the automobile for which the certificate of title is sought;

“(B) the name of the State that issued the most recent certificate of title for the automobile; and

“(C) the name of the individual or entity to whom the certificate of title was issued; and

“(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

“(d) GRANTS TO STATES.—

“(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

“(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

“(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

“(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

“(e) REPORT TO CONGRESS.—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.”.

(d) REPORTING REQUIREMENTS.—Section 30504 of title 49, United States Code, is amended by striking “junk automobiles or salvage automobiles” every place it appears and inserting “nonrepairable vehicles, rebuilt salvage vehicles, or salvage vehicles”.

#### PURPOSE AND SUMMARY

The legislation will reduce motor vehicle titling fraud and improve consumer protection by establishing nationally uniform definitions and procedures for the titling, registration, and transfer of salvage, rebuilt salvage, and nonrepairable vehicles. H.R. 1839 conditions a State's participation in the National Motor Vehicle Title Information System (NMVTIS), a Federal computer system designed to assist States in locating information about automobile titling documents issued by other States, on a State's adoption of uniform definitions and procedures for the titling and registration of salvage, nonrepairable, and rebuilt automobiles. By participating in the NMVTIS, the State adopts the uniform definitions of salvage vehicle, nonrepairable vehicle, rebuilt salvage vehicle, and other terms, as well as procedures for issuing those titling documents.

#### BACKGROUND AND NEED FOR LEGISLATION

Automobile theft and fraud continue to be problems for law enforcement, dealers, insurers, and others associated with the sale, service, and regulation of automobiles. However, first and foremost, automobile theft and fraud are problems for consumers. Consumers are hurt not just through the immediate loss of their means of transportation through theft, but through higher insurance premiums, registration fees, and the danger of not knowing whether a used vehicle may have once been totaled in an accident.

Frequently, motor vehicles suffer major damage in accidents. Those motor vehicles are rebuilt and resold to consumers. States vary in how they define the amount of damage that must be sustained before a motor vehicle will be considered salvage. Once it is determined that a motor vehicle has been damaged enough to be considered a salvage vehicle, States vary on how the title for that motor vehicle should reflect this fact.

As a result of the differing State laws, two problems have developed. First, the Committee heard testimony that consumers are unknowingly purchasing rebuilt wrecks and they are overpaying for motor vehicles that may not be safe and that may require extensive repairs. Second, critics have charged that under current conditions, thieves have every incentive to steal motor vehicles. Some thieves steal motor vehicles and easily obtain duplicate titles and new vehicle identification numbers ("VINs"), a process known as title washing. Other thieves prefer to strip the stolen motor vehicle and sell the parts. In both scenarios, consumers face increasing possibilities that their motor vehicles will be stolen and States exacerbate the problem through their lack of uniform titling and registration procedures.

Among the provisions added to the Anti-Car Theft Act of 1992 (P.L. 102-519) by the Committee on Energy and Commerce was a provision which mandated that a Motor Vehicle Titling, Registration and Salvage Advisory Committee ("Salvage Committee") be developed to study the motor vehicle issue. That advisory committee was comprised of members from a wide range of backgrounds including Federal transportation officials; Federal, State, and local law enforcement officials; State motor vehicle officials; motor vehicle manufacturers, dealers, and recyclers; salvage yard operators and scrap processors; insurers; and others. On February 10, 1994, the Salvage Committee issued its recommendations.

The Salvage Committee concluded that Federal legislation is necessary to rectify the problems caused by the lack of uniformity in State laws and made eight recommendations. Among the recommendations of the Salvage Committee were recommendations that there be nationally uniform definitions of titling terms, that the title and body of a salvage motor vehicle carry a brand, that the vehicle identification numbers of destroyed motor vehicles be recorded into a national data base, that rebuilt salvage vehicles be inspected, and that all exporters of motor vehicles be required to show proof of ownership.

The first time in which the Committee examined the issue of nationally uniform titling of salvage vehicles after the Salvage Committee issued its report was during the 103rd Congress, when the Subcommittee on Commerce, Consumer Protection, and Competitiveness held a hearing on H.R. 3713, the Salvage Vehicle Title Reform and Highway Safety Act, on September 21, 1994 (Serial No. 103-158). While no action was taken on H.R. 3713, Representative White introduced H.R. 2900, the National Motor Vehicle Safety, Anti-Theft, Title Reform, and Consumer Protection Act, during the 104th Congress. H.R. 2900 was written to implement many of the recommendations of the Salvage Committee, and was the subject of a hearing held by the Subcommittee on Commerce, Trade, and Hazardous Materials on September 12, 1996 (Serial No. 104-112).

While there was widespread support from State motor vehicle administrators, automobile dealers, salvage yard operators, and others for a bill which imposed nationally uniform definitions and procedures for the registration of salvage, nonrepairable, and rebuilt salvage vehicles, that hearing served to identify several issues which required further discussion. They included the definitions of salvage vehicle and nonrepairable vehicle, and the constitutionality of the approach taken by the legislation in the wake of several recent Supreme Court decisions. The Committee deliberated these issues extensively during its consideration of the legislation.

Perhaps no issue was as difficult to resolve as defining the term salvage vehicle. On one side, consumer advocates and others sought a low, percentage-based threshold so that consumers could benefit from having the maximum amount of information about a vehicle's damage history as possible. On the other side, insurers wanted a definition which balanced the vehicle's fair market value and its salvage value against the cost of repairs before branding it as a salvage vehicle. Although the Salvage Committee was not unified in its position, a majority of the members voted to recommend a 75 percent damage threshold before a vehicle would be branded as salvage.

The Committee believes that the definition eventually adopted by the Committee—damage occurring no more than 6 model years after the model year of the vehicle (unless the vehicle had a retail value in excess of \$7,500) and exceeding 80 percent of its retail value—represents a fair balance between the need to disclose information to consumers about major damage and the consequences of covering vehicles which could be branded as salvage with little or no damage.

While the Committee recognized that under ideal circumstances, it would be preferable to cover all vehicles regardless of value or age, it also recognized that cars depreciate significantly over time, while the cost of repairs remains relatively constant. The effect of branding a vehicle as a salvage vehicle or a rebuilt salvage vehicle is to depreciate its value even further. The net result of expanding the definition to include older vehicles is to increase the likelihood of a low-value vehicle being branded as a salvage vehicle solely because of cosmetic damage or damage otherwise irrelevant to the safety of the vehicle. As the size of the fleet of vehicles with air bags increases, this problem will become even more pronounced.

The problem presented to the consumer by a salvage brand is two-fold. First, there is the very real consideration that when a vehicle is not insured against collision losses, as is the case with many low-value vehicles, a rebuilt or salvage brand significantly diminishes the owner's equity in that vehicle. The consequence to the owner is that he or she then has a vehicle worth significantly less than before the damage, meaning that the ability to purchase new, more reliable transportation is equally diminished. This is an important consideration, particularly for low-income people whose single major asset may be a vehicle.

Second, the effect on automobile insurance premiums cannot be ignored. In the majority of cases where an insured's vehicle will be branded as salvage or rebuilt salvage, the insured will demand that the insurer declare the vehicle a total loss and pay him or her for

the pre-accident value of the vehicle. If the insurer hopes to retain that customer in the future, they have little choice but to accede to that customer's wishes. That means that insurers would be forced to total more vehicles than they do currently, the cost of which will be passed on to all insureds.

In order to address the concerns of some Committee Members, the Committee lowered the threshold for a high-value vehicle from \$10,000 to \$7,500 in order to ensure that more high-value vehicles were covered by the legislation. While recognizing that it is not a perfect solution, the Committee believes that the overall consumer benefits derived from the legislation outweigh the marginal difficulties presented by this particular definition.

Another major issue which confronted the Committee was whether or not to change the definition of a "nonrepairable vehicle" from the definition in the legislation—the definition recommended by the Salvage Committee—to one which utilized a percentage threshold, much like the definition of salvage vehicle. Advocates of this position felt that a percentage-based definition of nonrepairable would reduce the opportunity for automobile thieves to transfer VINs from badly damaged vehicles to stolen vehicles and would improve automobile safety by removing badly damaged vehicles from service. Opponents pointed out that in the small minority of States which have adopted similar definitions for nonrepairable vehicles, automobile theft has either gone up or fell at a significantly slower rate than the national average. Further, under a percentage-based definition, consumers face a problem similar to that faced under an expanded definition of salvage vehicle—lower-value vehicles could meet the definition with relatively small amounts of damage. In the case of a nonrepairable vehicle, however, the consequence for the consumer is even more drastic than having a vehicle branded as salvage: instead of owning a vehicle significantly depreciated in value, the consumer faces the prospect of having the vehicle removed from the roadways altogether.

Given the prospect of an uncertain benefit and the possibility of a drastic side-effect, the Committee chose not to subject the nation's consumers to this standard used in a small minority of States. Some of the States currently using that particular approach asked that the Committee "grandfather" their existing statutes. While States have the option of not subjecting themselves to the legislation's salvage regime by choosing not to participate in the National Motor Vehicle Title Information System, permitting individual States to have definitions different than those in the legislation would defeat the purpose of the bill and undermine the Salvage Committee's single biggest recommendation—nationally uniform definitions. Thus, the Committee believed that the benefits from national uniformity outweighed the arguable benefit enjoyed by any one of a minority of States using a percentage-based definition of a nonrepairable vehicle.

Many Members of the Committee were concerned about H.R. 1839's failure to require mandatory safety inspections for rebuilt salvage vehicles according to nationally uniform inspection criteria. While a mandatory safety inspection was not included due to concerns about the possibility of imposing an unfunded mandate on the States, the Committee notes that, as a matter of policy, it be-

lieves that rebuilt salvage vehicles should be subject to a safety inspection prior to being registered for use and encourages States to adopt safety inspection programs for those vehicles.

The final issue which needed to be addressed by the Committee was the legislation's constitutionality in light of several recent decisions by the Supreme Court. H.R. 1839, as introduced, mandated that States adopt the legislation's uniform definitions and procedures for salvage, nonrepairable, and rebuilt salvage vehicles. The Committee was advised in an October 18, 1996, memorandum from the Congressional Research Service's (CRS's) American Law Division that such an approach "may be subject to challenge as the kind of imposition upon States disapproved by the Supreme Court in *New York v. United States* [505 U.S. 144 (1992)]." Given the CRS opinion and the Court's recent ruling in *Printz v. United States*, 1997 U.S. Lexis 4044 (1997) (overturning key provisions of the "Brady Bill" and upholding *New York*), the Committee was forced to look for another approach that would be consistent with the Court's holding in *New York*.

The basic premise of *New York* is that Congress cannot force the States, through their own legislatures and officials, to execute programs properly administered by the Federal government through its authority to regulate interstate commerce. The only way that the Federal government could constitutionally enlist a State to administer a Federal program is through the use of incentives, which, under *New York*, may take any number of different forms. When the Court in *New York* upheld so-called "access incentives" as being constitutional, it endorsed the option of giving States the choice of regulating according to Federal standards or denying them access to Federal benefits.

The amendments adopted by the Committee are structured in the same fashion as the incentives upheld in *New York*. In order to address the Court's opinion, the legislation simply conditions participation in a Federal computer database designed to track motor vehicle titling information, the NMVTIS, on the State's acceptance of the uniform titling procedures and definitions. NMVTIS is a wholly Federal creation; it is administered under the supervision of the United States Department of Justice in consultation with the Department of Transportation, and, although it is operated with the assistance of the States, its fundamental purpose is to regulate interstate commerce. The Department of Transportation, in correspondence with the Committee, argued that nationally uniform definitions were necessary in order for the NMVTIS to function (See H. Rpt. 104-618).

Given the significant benefit to consumers, law enforcement officials, automobile dealers and others, the Committee hopes that States find those benefits and the opportunity to participate in the NMVTIS a sufficient incentive to accept the uniform definitions and procedures put in place by the legislation.

#### HEARINGS

The Subcommittee on Telecommunications, Trade, and Consumer Protection held a hearing on H.R. 1839 on June 26, 1997. The Subcommittee received testimony from the following witnesses: Mr. Richard C. Morse, representing the National Highway Traffic Safe-

ty Administration; Mr. Larry Greenberg, representing the American Association of Motor Vehicle Administrators; Mr. Richard Strauss, representing the National Automobile Dealers Association; Ms. Peg Echols, representing the State Farm Insurance Companies; Ms. Marcia McCallister, representing the American Salvage Pool Association; Mr. Bernard Brown, representing the Consumer Federation of America; and Mr. Bill Brauch, representing the National Association of Attorneys General.

#### COMMITTEE CONSIDERATION

On July 16, 1997, the Subcommittee on Telecommunications, Trade, and Consumer Protection met in an open markup session and approved H.R. 1839 for Full Committee consideration, amended, by a voice vote. On July 23, 1997, the Committee on Commerce met in an open markup session and ordered H.R. 1839 reported to the House, amended, by a voice vote.

#### ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 1839 reported or in adopting the amendment. An en bloc amendment offered by Mr. White to make technical and clarifying changes and to condition participation in the National Motor Vehicle Title Information System on compliance with the bill was adopted by a voice vote. A motion by Mr. Bliley to order H.R. 1839 reported to the House, amended, was agreed to by a voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee finds that H.R. 1839, the National Salvage Motor Vehicle Consumer Protection Act of 1997, would result in no new or increased budget authority or tax expenditures or revenues.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 8, 1997.*

Hon. TOM BLILEY,  
*Chairman, Committee on Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1839, the National Salvage Motor Vehicle Consumer Protection Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kristen Layman (for federal costs); Karen McVey (for the state and local impact); and Lesley Frymier (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

*H.R. 1839—National Salvage Motor Vehicle Consumer Protection Act of 1997*

Summary: Assuming appropriation of the necessary amounts, CBO estimates that enacting H.R. 1839 would result in additional discretionary spending of approximately \$700,000 by the Department of Transportation (DOT) over the next five fiscal years. We also estimate discretionary savings of approximately \$15 million in spending by the Department of Justice (DOJ), assuming that full funding for the National Motor Vehicle Title Information System (NMVTIS) would otherwise have been appropriated from 1998 through 2002.

The legislation could affect direct spending and receipts; therefore, pay-as-you-go procedures would apply. CBO estimates that any such effects would be insignificant. H.R. 1839 contains a private-sector mandate as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). The final committee version of H.R. 1839, incorporating the technical amendments made after July 23, 1997, contains no intergovernmental mandates as defined in UMRA. It would, however, place additional requirements on states that choose to participate in NMVTIS.

Description of the bill's major provisions: H.R. 1839 would establish uniform national standards for titling and registering salvage, nonrepairable, and rebuilt vehicles. For states that choose to participate in NMVTIS, the bill lists information that must be included on a vehicle title in addition to procedures that must be followed to minimize the opportunity for fraud. NMVTIS is an information network that will seek to provide all participants with instant and reliable access to information maintained by the states related to automobile titling.

The legislation would require that all rebuilt salvage vehicles pass a state anti-theft inspection, and lists procedures that should be included in an anti-theft inspection. For those states that choose to require a safety inspection of rebuilt salvage vehicles, H.R. 1839 would direct the Secretary of Transportation to establish nationally uniform safety inspection criteria. The legislation would establish civil and criminal penalties for individuals who knowingly provide false information on disclosures made pursuant to its provisions, or who violate its vehicle titling and disclosure requirements.

H.R. 1839 stipulates that no state may participate in NMVTIS unless it complies with the uniform titling standards in the bill and standards detailed in chapter 305 of Title 49 of the U.S. Code. The legislation would permit the Attorney General to make reasonable and necessary grants to participating states to assist the state in becoming part of NMVTIS.

**Estimated cost to the Federal Government:** CBO estimates that implementing H.R. 1839 would affect discretionary spending by both the Department of Transportation and the Department of Justice. The Anti-Car Theft Improvements Act of 1995 (Public Law 104-152) transferred federal authority over the title information system from the Secretary of Transportation to the Attorney General. The Secretary of Transportation retains responsibility for the formulation and monitoring of federal regulations that establish uniform safety and titling criteria.

#### *DOT Spending subject to appropriation*

CBO estimates that DOD would spend approximately \$700,000 over the 1998–2002 period to implement H.R. 1839, assuming the availability of appropriated funds.

DOT expects to contact out the task of writing a rule that specifies uniform safety provisions for states that choose to require safety inspections. The total cost of writing such a rule would be approximately \$75,000, and it would cost approximately \$250,000 to determine whether user fees would cover state costs of developing uniform safety and titling provisions. This includes the cost of surveying each state and formulating a report to be presented to appropriate committees of the Congress. In addition, DOT estimates that it will need to hire one full-time employee to review safety and titling programs of individual states. The new position would likely be at the GS-15 level, resulting in costs for compensation and expenses totaling about \$350,000 over the 1998–2002 period. The only requirements this legislation would impose on DOT are likely to have negligible costs.

#### *DOJ spending subject to appropriation*

DOJ is responsible for administering and funding NMVTIS, and CBO expects that enactment of H.R. 1839 would reduce the department's costs for establishing the system. Under current law, CBO expects that all states would participate in NMVTIS. Based on information from the American Association of Motor Vehicle Administrators, we anticipate that this effort would require federal grants of about \$300,000 per titling jurisdiction (the 50 states and Washington, D.C.) and \$6 million for network development and staff co-

ordination expenses, for a total cost of \$21 million over the next five years.

If H.R. 1839 is enacted, states would have to comply with uniform titling provisions to be eligible for federal grants. CBO expects that stricter titling standards would cause state participation in NMVTIS to fall well short of 100 percent. Instead, we expect that under the bill, only about a quarter of the states would choose to participate in NMVTIS. As a result, fewer grants to states would be made under H.R. 1839. CBO estimates that implementing the bill would result in a net savings to DOJ of approximately \$15 million over the 1998–2002 period, assuming that necessary funds would otherwise have been appropriated.

*Direct spending and revenues*

Imposing the new civil and criminal fines specified by H.R. 1839 could cause an increase in government receipts, but CBO estimates that any such increase would likely be less than \$500,000 annually. Criminal fines are deposited in the Crime Victims Fund and spent in the following year. Thus, any increase in revenues from criminal fines would be matched by an increase in direct spending, with a one-year lag.

**Pay-as-you-go considerations:** The Balanced Budget and Emergency Deficit Control Act of 1985 specifies pay-as-you-go procedures for legislation affecting direct spending or receipts through 2007. Imposing the new civil and criminal fines contained in H.R. 1839 could result in an increase in both governmental receipts and direct spending, but CBO estimates that any such changes would be less than \$500,000 a year.

**Estimated impact on State, local, and tribal governments:** H.R. 1839, as ordered reported with subsequent technical amendments, contains no intergovernmental mandates as defined in UMRA. It would, however, place additional requirements on states that choose to participate in NMVTIS. A state choosing to participate in the system would face additional costs if its existing regulations and procedures for salvage and rebuilt vehicles differ from the federal standards. CBO expects that, because of the stringency of conditions established by the bill, only about a quarter of the states would choose to participate in NMVTIS and thus would have to comply with the new requirements for regulating federal salvage and rebuilt vehicles. Based on information from state, federal, and industry representatives, CBO estimates that compliance costs would total no more than \$10 million to \$20 million per year.

Every state has different procedures currently in place for regulating salvage and rebuilt vehicles and each would face different costs depending on the extent to which it needed to modify its system to conform to the federal standards. For some states, the changes would be mostly administrative and would involve activities such as modifying the position of information on vehicle titles, printing new forms, and adopting and notifying people of changes to definitions and procedures for handling titles. These states would face modest one-time costs to bring their regulations and procedures into conformance. Costs in states that need to establish new procedures or systems would be higher and would include both these one-time costs and new annual operating expenses. For ex-

ample, many states do not issue titles to nonrepairable, or junk, vehicles and would have to begin doing so to be eligible to participate in NMVTIS. Some states would have to expand their anti-theft inspection programs to meet the new requirement. Costs in these states could reach into the millions of dollars, and it is unclear whether states would be able to use the grant money available to them for NMVTIS to help offset these costs.

**Estimated impact on the private sector:** H.R. 1839 would impose a new federal private-sector mandate on sellers of rebuilt salvage vehicles and would change an existing mandate on junk yard operators, salvage yard operators, and insurance carriers. The bill also would impose new requirements of the private sector in states choosing to participate in the NMVTIS. Based on information provided by government and industry sources, CBO estimates that the direct costs of these private-sector mandates would not exceed the annual threshold (\$100 million in 1996, adjusted annually for inflation) established in UMRA in any year over the next five years.

H.R. 1839 would require persons transferring ownership of rebuilt salvage vehicles to give the transfer a written disclosure that the vehicle is a rebuilt salvage vehicle, when such person has actual knowledge of the status of the vehicle. CBO estimates that the costs of this new mandate would be minimal.

H.R. 1839 would modify an existing mandate on junk yard operators, salvage yard operators, and insurance carriers. Under current law, these entities are required to include an inventory of junk and salvage automobiles in their monthly reports to the operator of the NMVTIS. Under H.R. 1839, they would be required to include an inventory of salvage, nonrepairable, and rebuilt salvage vehicles in their reports. Based on information provided by the private sector, CBO estimates that the direct costs of the new mandate would probably be less than the costs of the existing mandate.

In addition, the bill outlines requirements for states that choose to participate in the NMVTIS. If states choose to participate in the program, additional mandates would be imposed on the private sector related to the titling and labeling of rebuilt salvage vehicles, the certification of nonrepairable vehicles, and the disclosure of damage to salvage vehicles. CBO estimates that the direct costs of these mandates also would fall well below the threshold established in UMRA.

**Estimate prepared by:** Federal Costs: Kristen Layman. Impact on State, Local, and Tribal Governments: Karen McVey. Impact on the Private Sector: Lesley Frymier.

**Estimate approved by:** Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC, September 26, 1997.*

Hon. TOM BLILEY,  
*Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN BLILEY: I write with respect to H.R. 1839, the "National Salvage Motor Vehicle Consumer Protection Act of 1997," which the Committee on Commerce ordered reported on July 23, 1997. As you know, the legislation amends portions of Subtitle VI of Title 49, United States Code, to establish nationally uniform requirements regarding the titling and registration of salvage, non-repairable, and rebuilt vehicles. Specifically, the bill establishes uniform standards for anti-theft inspections for rebuilt salvage vehicles, and includes additional provisions regarding the National Motor Vehicle Title Information System (NMVTIS).

The Judiciary Committee received a joint referral on H.R. 1839 upon introduction because several matters fall within the jurisdiction of this Committee pursuant to its authority under Rule X of the Rules of the House of Representatives. Those provisions include the legislation's requirement for anti-theft inspections for rebuilt salvage vehicles, language establishing criminal penalties, and language giving state officials authority to enforce the legislation in federal court.

The Committee on Commerce also added amendments which conditioned a State's participation in NMVTIS on the adoption of the uniform definitions and procedures outlined in section 2 of the legislation. As you know, NMVTIS is a national database of motor vehicle titling information established jointly by our two Committees as part of the Anti-Car Theft Act Amendments of 1992 (P.L. 102-519) which will permit state law enforcement and motor vehicle officials to access important information about the title history of motor vehicles registered in other states. The Judiciary Committee was concerned that the provisions added by the Commerce Committee might have the unintended consequence of discouraging States from participating in NMVTIS and hampering the overall effectiveness of the system. I appreciate your commitment to address

these concerns in a manager's amendment when this bill is considered by the full House.

Due to your Committee's desire to bring this legislation expeditiously before the House of Representatives, and because of your willingness to accommodate our concerns the Committee on the Judiciary is willing to be discharged from further consideration of this bill. This action in no way alters the Committee on the Judiciary's jurisdiction over the provisions in question and the Committee will seek the appointment of conferees in the event of a House-Senate conference on H.R. 1839. I would appreciate your including this letter as a part of your Committee's report on H.R. 1839 and as part of the record during consideration of this bill by the House.

Thank you for your cooperation in this matter and I look forward to working with the Committee on Commerce when this bill reaches the House floor.

Sincerely,

HENRY J. HYDE, *Chairman.*

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON COMMERCE,  
*Washington, DC, September 26, 1997.*

Hon. HENRY J. HYDE,  
*Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN HYDE: Thank you for your September 26, 1997, letter regarding H.R. 1839, the National Salvage Motor Vehicle Consumer Protection Act, which was ordered reported by the Committee on Commerce on July 23, 1997.

Our Committees have had a long history of working together on automobile anti-theft and titling issues, such as those addressed by H.R. 1839. I appreciate your cooperation in working to address those issues of mutual concern and expediting consideration of this important legislation by the full House. As we have discussed, we will address those issues prior to the House's consideration of the legislation. Your letter and this response will be included as part of the Committee's report on H.R. 1839. Further, should this legislation ever be the subject of a House-Senate conference, I will support your request for conferees on those provisions within your Committee's jurisdiction.

Thank you for your cooperation and assistance in moving this legislation forward. I remain,

Sincerely,

TOM BLILEY, *Chairman.*

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### SECTION 1. SHORT TITLE

This section provides the short title of the bill, the "National Salvage Motor Vehicle Consumer Protection Act of 1997."

##### SECTION 2. MOTOR VEHICLE TITLING AND DISCLOSURE REQUIREMENTS

Subsection (a) of this section amends title 49, United States Code, by inserting a new chapter, chapter 333, "Automobile Safety

and Title Disclosure Requirements" at the end. Subsection (b) makes a conforming amendment to the United States Code. Chapter 333 is comprised of eight sections:

*Section 33301—Definitions*

Section 33301 establishes several new definitions for the purposes of chapter 333. Paragraph (1) defines the term "passenger motor vehicle" the same way as section 32101(10), title 49, United States Code, except, notwithstanding the definition of "multipurpose passenger vehicle" contained in section 32101(9), it includes a multipurpose passenger vehicle or a truck, other than a truck referred to in section 32101(10)(B), when that vehicle or truck is rated by the manufacturer not more than 10,000 pounds gross vehicle weight and such vehicle is primarily manufactured for use on public streets, roads, and highways.

Paragraph (2) defines the term "salvage vehicle" as any passenger motor vehicle which (A) is a late model vehicle, which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of repairs to rebuild or reconstruct that vehicle to its roadworthy condition immediately before it was wrecked, destroyed, or damaged exceeds 80 percent of the retail value of the vehicle; (B) is acquired by an insurance company after it was wrecked, destroyed, or damaged, and was acquired pursuant to a damage settlement (except in the case of a settlement in connection with a recovered stolen automobile, unless such automobile was damaged enough to meet the threshold in subparagraph (A)); or (C) is voluntarily designated by the owner as a salvage vehicle. Paragraph (3) defines the term "salvage title" as a passenger motor vehicle ownership document issued by a State to the owner of a salvage vehicle and is conspicuously labeled with the word "salvage" across the front. The Committee intends that vehicles that are designated by States as "historic" or "antique" be considered salvage vehicles if they would otherwise meet the criteria for such a designation.

Paragraph (4) defines the term "rebuilt salvage vehicle" as a passenger motor vehicle which was previously issued a salvage title, has passed a State anti-theft inspection, and has been issued a certificate stating so. In States which require safety inspections for rebuilt salvage vehicles, the rebuilt salvage vehicle must pass such inspection, be issued a certificate stating so, and have a decal stating that it is a "Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed." In States which do not require safety inspections, the rebuilt salvage vehicle must have a decal stating that it is a "Rebuilt Salvage Vehicle—Anti-theft Inspection Passed / No Safety Inspection Pursuant to National Criteria." Paragraph (5) defines a "rebuilt salvage title" as a passenger motor vehicle ownership document issued to the owner of a rebuilt salvage vehicle and is conspicuously labeled with words indicating that it is a rebuilt salvage vehicle and whether or not it has passed a safety inspection pursuant to national criteria.

Paragraph (6) defines the term "nonrepairable vehicle" as any passenger motor vehicle which is incapable of safe operation on the roads and highways and which has no resale value except as a source of parts or scrap, or which the owner irreversibly designates

as a source of parts or scrap. Nonrepairable vehicles are issued nonrepairable vehicle certificates, which are defined in paragraph (7) as an ownership document issued by the State to the owner of a nonrepairable vehicle, and may never again be retitled.

Paragraph (8) defines the term "Secretary" as meaning the Secretary of Transportation.

Paragraphs (9) through (11) define several terms used in the determination of whether a vehicle is a salvage vehicle under paragraph (2). Paragraph (9) defines the term "late model vehicle" as any passenger motor vehicle which has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked, destroyed, or damaged, or any of the six preceding years, or has a retail value of more than \$7,500. The Secretary is required to adjust the retail value figure annually in accordance with changes in the consumer price index. Paragraph (10) defines the term "retail value" as the actual cash value, fair market value, or retail value of a passenger motor vehicle as either (A) set forth in the current edition of any nationally recognized compilation of retail values, which may include automated databases, or (B) as determined by conducting a market comparison of vehicles with like equipment and in a similar condition. Finally, paragraph (11) defines "cost of repairs" as the estimated or actual cost of the parts used in the repairs plus the reasonable and customary labor charges in the community where the repairs are to be performed.

#### *Section 33302—Passenger motor vehicle titling*

The provisions of section 33302 apply to any State which participates in the National Motor Vehicle Title Information System established under chapter 305 of title 49, United States Code (49 U.S.C. 30501 et seq.).

Subsection (a) requires that participating States "carry forward" any brand on a title from another State signifying that the vehicle was previously issued a title that bore any word or symbol indicating that the vehicle was "salvage," "unrebuildable," "parts only," "scrap," "junk," "nonrepairable," "reconstructed," "rebuilt," that it has been damaged by flood, or any other similar word or symbol, by disclosing such status on the new certificate of title. States are required to begin carrying forward other States' brands no later than one year after the date of enactment.

Subsection (b) contains the bulk of requirements for participating States. This subsection requires the Secretary to issue a rule no later than 18 months after the date of enactment requiring participating States to apply uniform standards, procedures, and methods of control for the issuance and control of titles for motor vehicles and for information contained in such titles. States will have two years from the date on which the Secretary issues the final rule to comply. The rule issued by the Secretary is to have the following components described in paragraphs (1) through (12).

Paragraph (1) requires the participating State to conspicuously indicate on the face of a title whether the vehicle is a salvage vehicle, a nonrepairable vehicle, or a rebuilt salvage vehicle and whether such vehicle was damaged by flood.

Paragraph (2) requires that such information be carried forward by the State or any other participating State.

Paragraph (3) requires that any titling documents, decals, certificates, or issuing systems used by participating States must meet security standards which minimize the opportunity for fraud.

Paragraph (4) requires that the certificate of title issued by a participating State shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.

Paragraph (5) requires that titling documents issued by the participating State are required to be in a uniform layout, either established with the participating State or an organization representing participating States. In issuing the rule required under this section, the Committee intends that the Secretary take necessary steps to minimize the burden on States in adopting titling documents with a uniform layout, including giving States sufficient opportunity to use any existing inventory of titling documents.

Paragraph (6) requires that nonrepairable vehicles shall be issued nonrepairable vehicle certificates by participating States and shall not again be retitled.

Paragraph (7) stipulates that a salvage vehicle may not be issued a rebuilt salvage title by a participating State unless, after it is repaired or rebuilt, it complies with the requirements for a rebuilt salvage vehicle pursuant to section 33301(4). Any State inspection program for rebuilt salvage vehicles shall, subject to continuing review by and approval of the Secretary, include: (A) a requirement that the owner of a passenger motor vehicle submitting the vehicle for an anti-theft inspection provide documentation identifying the vehicle's damage prior to being repaired, a list of replacement parts used, and proof of ownership of such parts; and (B) a requirement to conduct a thorough inspection of parts required to be marked under section 33102 for signs that such part has been illegally altered, defaced, or falsified. The owner shall affirm that all information is complete, true, and that no stolen parts were used to rebuild the vehicle. Any part found to be illegally altered, defaced, or falsified and that cannot be identified as having been legally obtained shall be contraband and subject to seizure. The Secretary is required, in consultation with the Attorney General, to establish procedures for dealing with parts with a mark or vehicle identification number normally removed during industry accepted rebuilding or remanufacturing practices and which parts, if they bear a mark indicating that they were rebuilt or remanufactured, shall be deemed identified for purposes of this section. The Secretary's rule is required to include procedures to prevent the seizure of parts from which the mark or vehicle identification number has been legally removed pursuant to section 511 of title 18, United States Code.

Paragraph (8) requires the Secretary to adopt nationally uniform safety inspection criteria for rebuilt salvage vehicles for use by States requiring a safety inspection. States will be permitted to conduct inspections themselves, contract with one or more third parties, or permit self-inspection by a person licensed by the State in an automotive related business, subject to the criteria promulgated by the Secretary. The Secretary is required to continually review and approve such programs and States are permitted to require the payment of a fee for the privilege of receiving or the processing of such inspection.

Paragraph (9) stipulates that no participating State may issue a duplicate title unless it is conspicuously labeled as such and the State adopts procedures recommended by the Motor Vehicle Titling, Registration, and Salvage Advisory Committee.

Paragraph (10) requires participating States to employ the titling and control methods described in subparagraphs (A) through (J). Subparagraph (A) requires the owner of a passenger motor vehicle which becomes a salvage or nonrepairable vehicle (other than an insurance company) to apply for a salvage title or a nonrepairable vehicle certificate before the vehicle is repaired, ownership transferred, or within 30 days after the passenger motor vehicle is damaged, whichever comes first.

Subparagraph (B) states that when an insurance company becomes the owner of a passenger motor vehicle meeting the definition of a salvage vehicle or nonrepairable vehicle, the insurance company or salvage facility, or other agent operating on the insurance company's behalf, is required to apply for a salvage title or nonrepairable vehicle certificate within 30 days after title to the vehicle is properly assigned by the owner to the insurance company and delivered to the insurance company or its agent with all liens released.

Subparagraph (C) declares that, in a case where an insurance company does not assume ownership of an insured's salvage or nonrepairable vehicle, the insurance company is required to notify the owner of his or her obligation to apply for the salvage title or nonrepairable vehicle certificate and notify the State passenger motor vehicle titling office of the same, except to the extent that such a notification would be contrary to existing State insurance law. This exception is intended by the Committee to prevent potential conflicts between this Act and preexisting State unfair claims practices laws which might otherwise limit the kinds of notification that an insurer may send an insured when settling a claim.

Subparagraph (D) requires participating States to require lessors to apply for a salvage title or nonrepairable vehicle certificate when a leased passenger motor vehicle meets the definition of a salvage or nonrepairable vehicle within 21 days after being notified by the lessee that such vehicle has sustained sufficient damage, except in cases where an insurance company acquires ownership pursuant to a damage settlement. Subparagraph (E) requires participating States to require persons who acquire ownership of a salvage or nonrepairable vehicle that has not already received a salvage title or nonrepairable vehicle certificate to apply for such titling before the vehicle is further transferred or within 30 days after ownership is acquired, whichever comes first. This requirement does not apply to any scrap metal processor who acquires ownership of the salvage or nonrepairable vehicle solely for the purpose of converting it into scrap and who processes the vehicle accordingly.

Subparagraph (F) requires participating States to note when a nonrepairable vehicle certificate is issued and refuse to issue a nonrepairable vehicle certificate after 2 transfers of ownership, while subparagraph (G) requires that the title or nonrepairable vehicle certificate be surrendered to the State within 30 days when a passenger motor vehicle is flattened, baled, or shredded, whichever comes first. If the second transferee of a nonrepairable vehicle is

unequipped to flatten, bale, or shred such vehicle, then that person is required to engage the services of a professional automotive recycler or scrap processor to properly dispose of the vehicle and surrender the title to the State. Participating States are required to update their records to indicate the destruction of the vehicle and prohibit further ownership transactions, and notify the titling State of the destruction of the vehicle.

Subparagraph (H) requires participating States to note when a salvage title is issued. Participating States are prohibited from re-titling (except in the case of a transfer of ownership) or issuing a rebuilt salvage title to a salvage vehicle unless the owner submits the required proof of inspection required under paragraphs (3), (7), and (8) of this section. It also clarifies that the prohibition on the issuance of a rebuilt salvage title, except as provided for by the legislation, does not extend to the issuance of another salvage title for the vehicle. The Committee does not intend to inadvertently prevent reassessments of salvage titles consistent with current practice. Subparagraph (I) requires officials performing an inspection pursuant to §33301(4) to affix the appropriate decal to the driver's side door jamb and issue the appropriate certificates, while subparagraph (J) permits the owner of a salvage vehicle to obtain a rebuilt salvage title and vehicle registration by submitting the necessary documentation to the participating State.

Paragraph (11) requires the seller of a passenger motor vehicle damaged by flood to disclose that fact in writing to the buyer and paragraph (12) requires that lessees give the same notice to lessors.

Paragraph (13) permits States to transfer ownership of a vehicle on a salvage title, but prohibits the registration of the vehicle for use on the roads or highways unless it receives a rebuilt salvage title. Paragraph (14) explicitly permits the transfer and registration of rebuilt salvage vehicles, while paragraph (15) limits the transfer of nonrepairable vehicles and prohibits the registration of those vehicles for use on the roads and highways.

#### *Section 33303—Disclosure and label requirements on transfer of rebuilt salvage vehicles*

This section is intended to ensure that consumers are provided with adequate notice that they may be purchasing a rebuilt salvage vehicle. Subsection (a) requires the person transferring a rebuilt salvage vehicle to disclose that fact in writing to the person receiving the vehicle. Such written disclosures must be true, complete, and conform to regulations issued by the Secretary.

Subsection (b) is meant to provide additional notice to consumers who are purchasing rebuilt salvage vehicles at their first retail sale after being rebuilt. This subsection requires that the person conducting an anti-theft inspection required under §33301(4) in a participating State affix a label to the window or windshield indicating that the vehicle is a rebuilt salvage vehicle and such other information as the Secretary may require. The label may not be removed, altered, or rendered illegible before the rebuilt salvage vehicle is delivered to the first retail purchaser.

*Section 33304—Report on funding*

This section requires the Secretary to issue a report to Congress, contemporaneously with the issuance of the rule under §33302(b), on whether participating States could meet the costs of complying with that rule through user fees or the earmarking of revenues collected through law enforcement actions under the rule.

*Section 33305—Petitions for extensions of time*

The Secretary may permit, for good cause, an extension for a participating State to comply with the provisions of §33302(a), although no extension will remain in effect after the rule issued under §33302(b) becomes effective.

*Section 33306—Effect on State law*

Subsection (a) provides that, as of the effective date of the rule issued under §33302(b), the provisions of this legislation shall preempt all State laws in participating States to the extent that they are inconsistent with the provisions of the chapter or the rules issued thereunder, with respect to the form of the passenger motor vehicle titling document, definitions established under the legislation, or titling, recordkeeping, anti-theft inspection, or control procedures. The legislation specifically provides that preemptions are not to be construed as affecting any consumer law remedies which may be available to residents of the participating State for violations of the legislation. The Committee specifically notes that the preemption under this subsection is limited to the terms of the legislation. Therefore, terms and brands other than those specifically preempted by the legislation, such as a brand indicating that a vehicle was previously stolen, would not be preempted. Also, any vehicles which may be regulated by existing State statutes, but do not fall within the definition of passenger motor vehicle as defined by §33301(1), are not covered by the Act and existing State regulatory regimes applicable to those vehicles would remain intact. Likewise, the Committee intends that any State consumer law remedy that would apply to the class of vehicles regulated by the legislation, even if the term used to refer to those vehicles is preempted under subsection (b), would not be inconsistent with this chapter and would remain intact.

Subsection (b) explicitly permits additional disclosures of a passenger motor vehicle's title status or history, including those made on the face of a title. It also permits disclosures that a rebuilt salvage vehicle passed a safety inspection that differed from the national criteria promulgated by the Secretary pursuant to §33302(b)(8). However, the legislation preempts any participating State's definition of any term defined in the legislation as applied to a passenger motor vehicle. The Committee intends to permit States that disclose major damage to passenger motor vehicles, other than through different thresholds for the terms defined in §33301, to continue to disclose that information, regardless of where the information appears.

*Section 33307—Civil and criminal penalties*

Subsection (a) lists the acts which are prohibited by the legislation. Subsection (b) sets forth the civil penalties and clarifies that

it is a separate violation for each passenger motor vehicle involved in the violation. Subsection (c) sets forth the criminal penalties.

*Section 33308—Actions by States*

Subsection (a) permits a State to bring a civil or criminal action against any person believed to have violated or be violating sections 33302 or 33303 when the Attorney General of such State believes the interests of the residents of that State have been or are being threatened. That civil action may be brought either in the appropriate U.S. district court or the appropriate State court. When bringing a civil action, a State may seek either to enjoin the violations or to enforce the civil penalties under section 33307.

Subsection (b) requires that the State serve prior or contemporaneous written notice on the Attorney General of the United States of any action brought under subsections (a) or (e)(2). After notification, the Attorney General shall have the right to intervene or appeal such action. Subsection (d) stipulates rules for venue and service of process.

Subsections (c) and (e) clarify that nothing in the legislation prevents the Attorney General of a State, or other authorized official, from proceeding in State court on the basis of an alleged violation of a civil or criminal statute of the State. Further, nothing in the legislation prohibits a State's attorney general or other State official from exercising the investigative powers conferred on that official.

SECTION 3. AMENDMENTS TO CHAPTER 305

Subsection (a) conforms the definitions in chapter 305 to replace the terms junk automobile and salvage automobile with the terms nonrepairable vehicle and salvage vehicle. It also adds the term rebuilt salvage vehicle and defines all of the terms as they are defined by section 33301.

Subsection (b) conforms the requirements of the National Motor Vehicle Title Information System (“NMVTIS”) to conform the changes in definitions made in subsection (a) and require the tracking of rebuilt salvage vehicles.

Subsection (c) amends section 30503 to prohibit any State which does not comply with uniform definitions and procedures for salvage, rebuilt salvage, and nonrepairable vehicles under chapter 333 and any rules promulgated thereunder from participating in the NMVTIS. It also makes certain changes necessary to conform the section to the new, voluntary nature of the program.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 49, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS****PART A—GENERAL**

CHAPTER		Sec.
301. MOTOR VEHICLE SAFETY .....		30101

\* \* \* \* \*

**PART C—INFORMATION, STANDARDS, AND REQUIREMENTS**

321. GENERAL .....	32101
333. AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS .....	33301

\* \* \* \* \*

**CHAPTER 305—NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM**

\* \* \* \* \*

**§ 30501. Definitions**

In this chapter—  
 (1) \* \* \*

\* \* \* \* \*

[(4) “junk automobile” means an automobile that—

[(A) is incapable of operating on public streets, roads, and highways; and

[(B) has no value except as a source of parts or scrap.]

(4) “nonrepairable vehicle”, “salvage vehicle”, and “rebuilt salvage vehicle” shall have the same meanings given those terms in section 33301 of this title.

\* \* \* \* \*

[(7) “salvage automobile” means an automobile that is damaged by collision, fire, flood, accident, trespass, or other event, to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage.]

[(8)] (7) “salvage yard” means an individual or entity engaged in the business of acquiring or owning salvage automobiles for—

- (A) resale in their entirety or as spare parts; or
- (B) rebuilding, restoration, or crushing.

[(9)] (8) “State” means a State of the United States or the District of Columbia.

**§ 30502. National Motor Vehicle Title Information System**

(a) \* \* \*

\* \* \* \* \*

(d) INFORMATION REQUIREMENTS.—The System established or designated under subsection (a)(1) of this section shall permit a user of the System at least to establish instantly and reliably—

(1) the validity and status of a document purporting to be a certificate of title;

(2) whether an automobile bearing a known vehicle identification number is titled in a particular State;

[(3) whether an automobile known to be titled in a particular State is or has been a junk automobile or a salvage automobile;]

(3) whether an automobile known to be titled in a particular State is or has been a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle;

(4) for an automobile known to be titled in a particular State, the odometer mileage disclosure required under section 32705 of this title for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the State; and

[(5) whether an automobile bearing a known vehicle identification number has been reported as a junk automobile or a salvage automobile under section 30504 of this title.]

(5) whether an automobile bearing a known vehicle identification number has been reported as a nonrepairable vehicle, a rebuilt salvage vehicle, or a salvage vehicle under section 30504 of this title.

\* \* \* \* \*

**【§ 30503. State participation**

】(a) STATE INFORMATION.—Each State shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

】(b) VERIFICATION CHECKS.—Each State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

】(1) communicating to the operator—

】(A) the vehicle identification number of the automobile for which the certificate of title is sought;

】(B) the name of the State that issued the most recent certificate of title for the automobile; and

】(C) the name of the individual or entity to whom the certificate of title was issued; and

】(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

】(c) GRANTS TO STATES.—(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

**I(A)** conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

**I(B)** determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

**I(2)** The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

**I(d) REPORT TO CONGRESS.**—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.]

### **§30503. State participation**

(a) **STATE PARTICIPATION.**—No State may participate in the National Motor Vehicle Title Information System established under section 30502 of this title unless such State complies with the requirements of chapter 333 of this subtitle and the rule promulgated pursuant to section 33302 of this title.

(b) **STATE INFORMATION.**—Each participating State shall make titling information maintained by that State available for use in operating the National Motor Vehicle Title Information System established or designated under section 30502 of this title.

(c) **VERIFICATION CHECKS.**—Each participating State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

(1) communicating to the operator—

(A) the vehicle identification number of the automobile for which the certificate of title is sought;

(B) the name of the State that issued the most recent certificate of title for the automobile; and

(C) the name of the individual or entity to whom the certificate of title was issued; and

(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

(d) **GRANTS TO STATES.**—

(1) In cooperation with the States and not later than January 1, 1994, the Attorney General shall—

(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.

(e) **REPORT TO CONGRESS.**—Not later than October 1, 1998, the Attorney General shall report to Congress on which States have met the requirements of this section. If a State has not met the require-

ments, the Attorney General shall describe the impediments that have resulted in the State's failure to meet the requirements.

#### **§ 30504. Reporting requirements**

(a) JUNK YARD AND SALVAGE YARD OPERATORS.—(1) Beginning at a time established by the Attorney General that is not sooner than the 3d month before the establishment or designation of the National Automobile Title Information System under section 30502 of this title, an individual or entity engaged in the business of operating a junk yard or salvage yard shall file a monthly report with the operator of the System. The report shall contain an inventory of all [junk automobiles or salvage automobiles] *nonrepairable vehicles, rebuilt salvage vehicles, or salvage vehicles* obtained by the junk yard or salvage yard during the prior month. The inventory shall contain—

(A) \* \* \*

\* \* \* \* \*

(2) Paragraph (1) of this subsection does not apply to an individual or entity—

(A) required by State law to report the acquisition of [junk automobiles or salvage automobiles] *nonrepairable vehicles, rebuilt salvage vehicles, or salvage vehicles* to State or local authorities if those authorities make that information available to the operator; or

(B) issued a verification under section 33110 of this title stating that the automobile or parts from the automobile are not reported as stolen.

(b) INSURANCE CARRIERS.—Beginning at a time established by the Attorney General that is not sooner than the 3d month before the establishment or designation of the System, an individual or entity engaged in business as an insurance carrier shall file a monthly report with the operator. The report may be filed directly or through a designated agent. The report shall contain an inventory of all automobiles of the current model year or any of the 4 prior model years that the carrier, during the prior month, has obtained possession of and has decided are [junk automobiles or salvage automobiles] *nonrepairable vehicles, rebuilt salvage vehicles, or salvage vehicles*. The inventory shall contain—

(1) \* \* \*

\* \* \* \* \*

### **CHAPTER 333—AUTOMOBILE SAFETY AND TITLE DISCLOSURE REQUIREMENTS**

*Sec.*

*33301. Definitions.*

*33302. Passenger motor vehicle titling.*

*33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles.*

*33304. Report on funding.*

*33305. Petitions for extensions of time.*

*33306. Effect on State law.*

33307. Civil and criminal penalties.

33308. Actions by States.

### **§33301. Definitions**

*For the purposes of this chapter:*

(1) **PASSENGER MOTOR VEHICLE.**—The term “passenger motor vehicle” shall have the same meaning given such term by section 32101(10), except, notwithstanding section 32101(9), it shall include a multipurpose passenger vehicle (constructed on a truck chassis or with special features for occasional off-road operation), or a truck, other than a truck referred to in section 32101(10)(B), when that vehicle or truck is rated by the manufacturer of such vehicle or truck at not more than 10,000 pounds gross vehicle weight, and except further, it shall only include a vehicle manufactured primarily for use on public streets, roads, and highways.

(2) **SALVAGE VEHICLE.**—The term “salvage vehicle” means any passenger motor vehicle which—

(A) is a late model vehicle which has been wrecked, destroyed, or damaged, to the extent that the total cost of repairs to rebuild or reconstruct the passenger motor vehicle to its condition immediately before it was wrecked, destroyed, or damaged, and for legal operation on the roads or highways, exceeds 80 percent of the retail value of the passenger motor vehicle;

(B) is a late model vehicle which has been wrecked, destroyed, or damaged, and to which an insurance company acquires ownership pursuant to a damage settlement (except in the case of a settlement in connection with a recovered stolen vehicle, unless such vehicle sustained damage sufficient to meet the damage threshold prescribed by subparagraph (A)); or

(C) the owner wishes to voluntarily designate as a salvage vehicle by obtaining a salvage title, without regard to the level of damage, age, or value of such vehicle or any other factor, except that such designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligation or liability.

(3) **SALVAGE TITLE.**—The term “salvage title” means a passenger motor vehicle ownership document issued by the State to the owner of a salvage vehicle. A salvage title shall be conspicuously labeled with the word “salvage” across the front.

(4) **REBUILT SALVAGE VEHICLE.**—The term “rebuilt salvage vehicle” means—

(A) any passenger motor vehicle which was previously issued a salvage title, has passed State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, has passed the State safety inspection in those States requiring a safety inspection pursuant to section 33302(b)(8), has been issued a certificate indicating that the passenger motor vehicle has passed the required safety inspection in

*those States requiring such a safety inspection pursuant to section 33302(b)(8), and has a decal stating "Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed" affixed to the driver's door jamb; or*

*(B) any passenger motor vehicle which was previously issued a salvage title, has passed a State anti-theft inspection, has been issued a certificate indicating that the passenger motor vehicle has passed the required anti-theft inspection, and has, affixed to the driver's door jamb, a decal stating "Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria" in those States not requiring a safety inspection pursuant to section 33302(b)(8).*

**(5) REBUILT SALVAGE TITLE.**—*The term "rebuilt salvage title" means the passenger motor vehicle ownership document issued by the State to the owner of a rebuilt salvage vehicle. A rebuilt salvage title shall be conspicuously labeled either with the words "Rebuilt Salvage Vehicle—Anti-theft and Safety Inspections Passed" or "Rebuilt Salvage Vehicle—Anti-theft Inspection Passed/No Safety Inspection Pursuant to National Criteria," as appropriate, across the front.*

**(6) NONREPAIRABLE VEHICLE.**—*The term "nonrepairable vehicle" means any passenger motor vehicle which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. Such passenger motor vehicle shall be issued a nonrepairable vehicle certificate and shall never again be titled or registered.*

**(7) NONREPAIRABLE VEHICLE CERTIFICATE.**—*The term "nonrepairable vehicle certificate" means a passenger motor vehicle ownership document issued by the State to the owner of a nonrepairable vehicle. A nonrepairable vehicle certificate shall be conspicuously labeled with the word "Nonrepairable" across the front.*

**(8) SECRETARY.**—*The term "Secretary" means the Secretary of Transportation.*

**(9) LATE MODEL VEHICLE.**—*The term "Late Model Vehicle" means any passenger motor vehicle which—*

*(A) has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked, destroyed, or damaged, or any of the six preceding years; or*

*(B) has a retail value of more than \$7,500.*

*The Secretary shall adjust such retail value on an annual basis in accordance with changes in the consumer price index.*

**(10) RETAIL VALUE.**—*The term "retail value" means the actual cash value, fair market value, or retail value of a passenger motor vehicle as—*

*(A) set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values; or*

*(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment.*

**(11) COST OF REPAIRS.**—*The term "cost of repairs" means the estimated retail cost of parts needed to repair the vehicle or, if*

*the vehicle has been repaired, the actual retail cost of the parts used in the repair, and the cost of labor computed by using the hourly labor rate and time allocations that are reasonable and customary in the automobile repair industry in the community where the repairs are to be performed.*

#### **§33302. Passenger motor vehicle titling**

(a) *CARRY-FORWARD OF INFORMATION ON A NEWLY ISSUED TITLE WHERE THE PREVIOUS TITLE FOR THE VEHICLE WAS NOT ISSUED PURSUANT TO NEW NATIONALLY UNIFORM STANDARDS.—For any passenger motor vehicle, the ownership of which is transferred on or after the date that is 1 year from the date of the enactment of this chapter, each State participating in the National Motor Vehicle Title Information System established under chapter 305 of subtitle VI of this title, in licensing such vehicle for use, shall disclose in writing on the certificate of title whenever records readily accessible to the State indicate that the passenger motor vehicle was previously issued a title that bore any word or symbol signifying that the vehicle was “salvage”, “unrebuildable”, “parts only”, “scrap”, “junk”, “nonrepairable”, “reconstructed”, “rebuilt”, or any other symbol or word of like kind, or that it has been damaged by flood.*

(b) *NATIONALLY UNIFORM TITLE STANDARDS AND CONTROL METHODS.—Not later than 18 months after the date of the enactment of this chapter, the Secretary shall by rule require each State participating in the National Motor Vehicle Title Information System established under chapter 305 of subtitle VI of this title, in licensing any passenger motor vehicle where ownership of such passenger motor vehicle is transferred more than 2 years after publication of such final rule, to apply uniform standards, procedures, and methods for the issuance and control of titles for motor vehicles and for information to be contained on such titles. Such titling standards, control procedures, methods, and information shall include the following requirements:*

(1) *A State shall conspicuously indicate on the face of the title or certificate for a passenger motor vehicle, as applicable, if the passenger motor vehicle is a salvage vehicle, a nonrepairable vehicle, or a rebuilt salvage vehicle and whether such vehicle was damaged by flood.*

(2) *Such information concerning a passenger motor vehicle's status shall be conveyed on any subsequent title, including a duplicate or replacement title, for the passenger motor vehicle issued by the original titling State or any other State.*

(3) *The title documents, the certificates, and decals required by section 33301(4), and the issuing system shall meet security standards minimizing the opportunities for fraud.*

(4) *The certificate of title shall include the passenger motor vehicle make, model, body type, year, odometer disclosure, and vehicle identification number.*

(5) *The title documents shall maintain a uniform layout, to be established in consultation with the State or an organization representing them.*

(6) *A passenger motor vehicle designated as nonrepairable shall be issued a nonrepairable vehicle certificate and shall not be retitled.*

(7) No rebuilt salvage title shall be issued to a salvage vehicle unless, after the salvage vehicle is repaired or rebuilt, it complies with the requirements for a rebuilt salvage vehicle pursuant to section 33301(4). Any State inspection program operating under this paragraph shall be subject to continuing review by and approval of the Secretary. Any such anti-theft inspection program shall include the following:

(A) A requirement that the owner of any passenger motor vehicle submitting such vehicle for an anti-theft inspection provide a completed document identifying the vehicle's damage prior to being repaired, a list of replacement parts used to repair the vehicle, and proof of ownership of such replacement parts, as may be evidenced by bills of sale, invoices, or, if such documents are not available, other proof of ownership for the replacement parts. The owner shall also include an affirmation that the information in the declaration is complete and accurate and that, to the knowledge of the declarant, no stolen parts were used during the rebuilding.

(B) A requirement to inspect the passenger motor vehicle or any major part or any major replacement part required to be marked under section 33102 for signs of such mark or vehicle identification number being illegally altered, defaced, or falsified. Any such passenger motor vehicle or any such part having a mark or vehicle identification number that has been illegally altered, defaced, or falsified, and that cannot be identified as having been legally obtained (through bills of sale, invoices, or other ownership documentation), shall be contraband and subject to seizure. The Secretary, in consultation with the Attorney General, shall, as part of the rule required by this section, establish procedures for dealing with those parts whose mark or vehicle identification number is normally removed during industry accepted remanufacturing or rebuilding practices, which parts shall be deemed identified for purposes of this section if they bear a conspicuous mark of a type, and applied in such a manner, as designated by the Secretary indicating that they have been rebuilt or remanufactured. With respect to any vehicle part, the Secretary's rule, as required by this section, shall acknowledge that a mark or vehicle identification number on such part may be legally removed or altered as provided for in section 511 of title 18, United States Code, and shall direct inspectors to adopt such procedures as may be necessary to prevent the seizure of a part from which the mark or vehicle identification number has been legally removed or altered.

(8) The Secretary shall establish nationally uniform safety inspection criteria to be used in those States requiring such a safety inspection. A State may determine whether to conduct such safety inspection itself, contract with one or more third parties, or permit self-inspection by a person licensed by such State in an automotive-related business, all subject to criteria promulgated by the Secretary hereunder. Any State inspection program operating under this paragraph shall be subject to

*continuing review by and approval of the Secretary. A State requiring such safety inspection may require the payment of a fee for the privilege of such inspection or the processing thereof.*

(9) *No duplicate or replacement title shall be issued unless the word "duplicate" is clearly marked on the face thereof and unless the procedures for such issuance are substantially consistent with Recommendation three of the Motor Vehicle Titling, Registration and Salvage Advisory Committee.*

(10) *A State shall employ the following titling and control methods:*

(A) *If an insurance company is not involved in a damage settlement involving a salvage vehicle or a nonrepairable vehicle, the passenger motor vehicle owner shall apply for a salvage title or nonrepairable vehicle certificate, whichever is applicable, before the passenger motor vehicle is repaired or the ownership of the passenger motor vehicle is transferred, but in any event within 30 days after the passenger motor vehicle is damaged.*

(B) *If an insurance company, pursuant to a damage settlement, acquires ownership of a passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company or salvage facility or other agent on its behalf shall apply for a salvage title or nonrepairable vehicle certificate within 30 days after the title is properly assigned by the owner to the insurance company and delivered to the insurance company or salvage facility or other agent on its behalf with all liens released.*

(C) *If an insurance company does not assume ownership of an insured's or claimant's passenger motor vehicle that has incurred damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the insurance company shall notify the owner of the owner's obligation to apply for a salvage title or nonrepairable vehicle certificate for the passenger motor vehicle and notify the State passenger motor vehicle titling office that a salvage title or nonrepairable vehicle certificate should be issued for the vehicle, except to the extent such notification is prohibited by State insurance law.*

(D) *If a leased passenger motor vehicle incurs damage requiring the vehicle to be titled as a salvage vehicle or nonrepairable vehicle, the lessor shall apply for a salvage title or nonrepairable vehicle certificate within 21 days after being notified by the lessee that the vehicle has been so damaged, except when an insurance company, pursuant to a damage settlement, acquires ownership of the vehicle. The lessee of such vehicle shall inform the lessor that the leased vehicle has been so damaged within 30 days after the occurrence of the damage.*

(E) *Any person acquiring ownership of a damaged passenger motor vehicle that meets the definition of a salvage or nonrepairable vehicle for which a salvage title or nonrepairable vehicle certificate has not been issued, shall apply for a salvage title or nonrepairable vehicle certificate,*

*whichever is applicable. This application shall be made before the vehicle is further transferred, but in any event, within 30 days after ownership is acquired. The requirements of this subparagraph shall not apply to any scrap metal processor which acquires a passenger motor vehicle for the sole purpose of processing it into prepared grades of scrap and which so processes such vehicle.*

*(F) State records shall note when a nonrepairable vehicle certificate is issued. No State shall issue a nonrepairable vehicle certificate after 2 transfers of ownership.*

*(G) When a passenger motor vehicle has been flattened, baled, or shredded, whichever comes first, the title or nonrepairable vehicle certificate for the vehicle shall be surrendered to the State within 30 days. If the second transferee on a nonrepairable vehicle certificate is unequipped to flatten, bale, or shred the vehicle, such transferee shall, at the time of final disposal of the vehicle, use the services of a professional automotive recycler or professional scrap processor who is hereby authorized to flatten, bale, or shred the vehicle and to effect the surrender of the nonrepairable vehicle certificate to the State on behalf of such second transferee. State records shall be updated to indicate the destruction of such vehicle and no further ownership transactions for the vehicle will be permitted. If different than the State of origin of the title or nonrepairable vehicle certificate, the State of surrender shall notify the State of origin of the surrender of the title or nonrepairable vehicle certificate and of the destruction of such vehicle.*

*(H) When a salvage title is issued, the State records shall so note. No State shall permit the retitling for registration purposes or issuance of a rebuilt salvage title for a passenger motor vehicle with a salvage title without a certificate of inspection, which complies with the security and guideline standards established by the Secretary pursuant to paragraphs (3), (7), and (8), as applicable, indicating that the vehicle has passed the inspections required by the State. This subparagraph does not preclude the issuance of a new salvage title for a salvage vehicle after a transfer of ownership.*

*(I) After a passenger motor vehicle titled with a salvage title has passed the inspections required by the State, the inspection official will affix the secure decal required pursuant to section 33301(4) to the driver's door jamb of the vehicle and issue to the owner of the vehicle a certificate indicating that the passenger motor vehicle has passed the inspections required by the State. The decal shall comply with the permanency requirements established by the Secretary.*

*(J) The owner of a passenger motor vehicle titled with a salvage title may obtain a rebuilt salvage title or vehicle registration, or both, by presenting to the State the salvage title, properly assigned, if applicable, along with the certificate that the vehicle has passed the inspections required by the State. With such proper documentation and upon re-*

*quest, a rebuilt salvage title or registration, or both, shall be issued to the owner. When a rebuilt salvage title is issued, the State records shall so note.*

(11) *A seller of a passenger motor vehicle that becomes a salvage vehicle due to damage by flood shall, at or prior to the time of transfer of ownership, give the buyer a written notice that the vehicle has been damaged by flood.*

(12) *In the case of a leased passenger motor vehicle, the lessee, within 15 days of the occurrence of the event that caused the vehicle to become a salvage vehicle due to damage by flood, shall give the lessor written disclosure that the vehicle is a salvage vehicle due to damage by flood.*

(13) *Ownership of a passenger motor vehicle may be transferred on a salvage title, however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt salvage title.*

(14) *Ownership of a passenger motor vehicle may be transferred on a rebuilt salvage title, and a passenger motor vehicle for which a rebuilt salvage title has been issued may be registered for use on the roads and highways.*

(15) *Ownership of a passenger motor vehicle may only be transferred 2 times on a nonrepairable vehicle certificate. A passenger motor vehicle for which a nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways.*

### **§ 33303. Disclosure and label requirements on transfer of rebuilt salvage vehicles**

#### **(a) WRITTEN DISCLOSURE REQUIREMENTS.—**

(1) *GENERAL RULE.—Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a rebuilt salvage vehicle shall give the transferee a written disclosure that the vehicle is a rebuilt salvage vehicle when such person has actual knowledge of the status of such vehicle.*

(2) *FALSE STATEMENT.—A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.*

(3) *COMPLETENESS.—A person acquiring a rebuilt salvage vehicle for resale may accept a disclosure under paragraph (1) only if it is complete.*

(4) *REGULATIONS.—The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under paragraph (1).*

#### **(b) LABEL REQUIREMENTS.—**

(1) *IN GENERAL.—The Secretary shall by regulation require that a label be affixed to the windshield or window of a rebuilt salvage vehicle before its first sale at retail containing such information regarding that vehicle as the Secretary may require. The label shall be affixed by the individual who conducts the applicable State antitheft inspection in a participating State.*

(2) *REMOVAL, ALTERATION, OR ILLEGIBILITY OF REQUIRED LABEL.—No person shall willfully remove, alter, or render illegible any label required by paragraph (1) affixed to a rebuilt sal-*

vage vehicle before the vehicle is delivered to the actual custody and possession of the first retail purchaser.

#### **§33304. Report on funding**

The Secretary shall, contemporaneously with the issuance of a final rule pursuant to section 33302(b), report to appropriate committees of Congress whether the costs to the States of compliance with such rule can be met by user fees for issuance of titles, issuance of registrations, issuance of duplicate titles, inspection of rebuilt vehicles, or for the State services, or by earmarking any moneys collected through law enforcement action to enforce requirements established by such rule.

#### **§33305. Petitions for extensions of time**

The Secretary may grant a State, for good cause shown, an extension of time to comply with the requirements established in section 33302(a). No such extension shall remain in effect on or after the compliance date established pursuant to section 33302(b).

#### **§33306. Effect on State law**

(a) *IN GENERAL.*—Effective on the date the rule promulgated pursuant to section 33302 becomes effective, the provisions of this chapter shall preempt all State laws in States participating in the National Motor Vehicle Title Information System established under chapter 305 of subtitle VI of this title, to the extent they are inconsistent with the provisions of this chapter or the rule promulgated pursuant to section 33302, which—

- (1) set forth the form of the passenger motor vehicle title;
- (2) define, in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any term defined in section 33301 or the terms “salvage”, “junk”, “reconstructed”, “nonrepairable”, “unrebuildable”, “scrap”, “parts only”, “rebuilt”, “flood”, or any other symbol or word of like kind, or apply any of those terms to any passenger motor vehicle (but not to a passenger motor vehicle part or part assembly separate from a passenger motor vehicle); or

- (3) set forth titling, recordkeeping, anti-theft inspection, or control procedures in connection with any salvage vehicle, rebuilt salvage vehicle, or nonrepairable vehicle.

The requirements described in paragraph (3) shall not be construed to affect any State consumer law actions that may be available to residents of the State for violations of this chapter.

(b) *CONSTRUCTION.*—Additional disclosures of a passenger motor vehicle’s title status or history, in addition to the terms defined in section 33301, shall not be deemed inconsistent with the provisions of this chapter. Such disclosures shall include disclosures made on a certificate of title. When used in connection with a passenger motor vehicle (but not in connection with a passenger motor vehicle part or part assembly separate from a passenger motor vehicle), any definition of a term defined in section 33301 which is different than the definition in that section or any use of any term listed in subsection (a), but not defined in section 33301, shall be deemed inconsistent with the provisions of this chapter. Nothing in this chapter

*shall preclude a State from disclosing on a rebuilt salvage title that a rebuilt salvage vehicle has passed a State safety inspection which differed from the nationally uniform criteria to be promulgated pursuant to section 33302(b)(8).*

### **§33307. Civil and criminal penalties**

(a) **PROHIBITED ACTS.**—*It shall be unlawful for any person knowingly and willfully to—*

- (1) *make or cause to be made any false statement on an application for a title (or duplicate title) for a passenger motor vehicle or any disclosure made pursuant to section 33303;*
- (2) *fail to apply for a salvage title when such an application is required;*
- (3) *alter, forge, or counterfeit a certificate of title (or an assignment thereof), a nonrepairable vehicle certificate, a certificate verifying an anti-theft inspection or an anti-theft and safety inspection, a decal affixed to a passenger motor vehicle pursuant to section 33302(b)(10)(I), or any disclosure made pursuant to section 33303;*
- (4) *falsify the results of, or provide false information in the course of, an inspection conducted pursuant to section 33302(b)(7) or (8);*
- (5) *offer to sell any salvage vehicle or nonrepairable vehicle as a rebuilt salvage vehicle;*
- (6) *fail to make any disclosure required by section 33303, except when the person lacks actual knowledge of the status of the rebuilt salvage vehicle;*
- (7) *violate a regulation prescribed under this chapter; or*
- (8) *conspire to commit any of the acts enumerated in paragraphs (1), (2), (3), (4), (5), (6), or (7).*

(b) **CIVIL PENALTY.**—*Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined a civil penalty of up to \$2,000 per offense. A separate violation occurs for each passenger motor vehicle involved in the violation.*

(c) **CRIMINAL PENALTY.**—*Any person who commits an unlawful act as provided in subsection (a) of this section shall be fined up to \$50,000 or sentenced to up to 3 years imprisonment or both, per offense.*

### **§33308. Actions by States**

(a) **IN GENERAL.**—*Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has violated or is violating section 33302 or 33303, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States or the appropriate State court to enjoin such violation or to enforce the civil penalties under section 33307 or may enforce the criminal penalties under section 33307.*

(b) **NOTICE.**—*The State shall serve prior written notice of any civil or criminal action under subsection (a) or (e)(2) upon the Attorney General and provide the Attorney General with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon in-*

stituting such action. Upon receiving a notice respecting a civil or criminal action, the Attorney General shall have the right—

- (1) to intervene in such action;
- (2) upon so intervening, to be heard on all matters arising therein; and
- (3) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil or criminal action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) VENUE; SERVICE OF PROCESS.—Any civil or criminal action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(e) ACTIONS BY STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an attorney general of a State or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

\* \* \* \* \*

## DISSENTING VIEWS

I support the goals of this legislation, but I have serious concerns about H.R. 1839, the National Salvage Motor Vehicle Consumer Protection Act of 1997.

The anti-theft goals are laudable. We should definitely be doing what we can to prevent "VIN switching" and "Title Washing," but I think we need to be very careful not to preempt state laws which protect consumers.

Even though significant progress has been made to increase the number of cars covered by this bill I still fear that the ordinary consumer who purchases a used car will not benefit. Already almost every state and the District of Columbia have laws on the books defining what is a salvaged vehicle. Some states are better than others at protecting consumers and I am concerned that this bill will effectively require states to rewrite any of their consumer protection laws which use the terms "salvage vehicle," and "rebuilt salvage vehicle" et al. My fear is that this will cause confusion for some people who are already familiar with those terms as they are used in their states, and that some states will not take the time to enact new laws.

I am also very concerned that as we enter the area of auto titling law, which is traditionally under the sole purview of the states, that we be very explicit in declaring the narrowness of the extent to which we intend to preempt state law. My fear is that without specific language to the contrary, a federal titling bill could be misinterpreted as a federal preemption of all state laws pertaining to the transfer of damaged automobiles, and will be used as a defense against civil suits in state court. I see no reason that we cannot use plain language to state that the bill shall not have any preemptory affect on any causes of action available under state law.

Finally, I agree the Motor Vehicle Titling, Registration and Salvage Advisory Committee which reported that "its recommendations will not stem the problem of auto theft and fraud unless penalties for noncompliance are significant. To that end, the [Committee] recommends that: investigative authority and sanctions against violators of the [Committee] recommendations, once enacted, parallel those currently contained in Title IV of the Motor Vehicle Information and Cost Savings Act." That refers to the federal odometer law which has private rights of action with trebled damages, and attorney's fees. Without a way for citizens to bring suit the bill offers very little deterrence if it can only be enforced by the Department of Justice and the state attorney's general, and

I would point out that the National Associations of Attorneys General also recommend private rights of action.

RON KLINK.

