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S. 678

To establish certain safeguards for the protection of purchasers in the sale of motor vehicles that are salvage or have been damaged, to require certain safeguards concerning the handling of salvage and nonrebuildable vehicles, to support the flow of important vehicle information to the National Motor Vehicle Title Information System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 1999

Mrs. FEINSTEIN (for herself, Mr. LEVIN, and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish certain safeguards for the protection of purchasers in the sale of motor vehicles that are salvage or have been damaged, to require certain safeguards concerning the handling of salvage and nonrebuildable vehicles, to support the flow of important vehicle information to the National Motor Vehicle Title Information System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Salvaged and Damaged
3 Motor Vehicle Information Disclosure Act”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the salvage, flood, and damage history of a
7 motor vehicle is important in assisting a buyer to de-
8 termine its safety, value and reliability;

9 (2) the rebuilding of salvage and flood vehicles
10 bears similarities to the manufacture of motor vehi-
11 cles, and as such requires safeguards to prevent the
12 sale and operation on the roadways of the United
13 States of unsafe rebuilt motor vehicles;

14 (3) the switching of parts and vehicle identifica-
15 tion numbers between salvage vehicles and stolen
16 motor vehicles facilitates the disposal of stolen motor
17 vehicles for profit;

18 (4) motor vehicle titles and accompanying docu-
19 ments are an important source of information con-
20 cerning the salvage, flood, and damage history of
21 motor vehicles;

22 (5) the National Motor Vehicle Title Informa-
23 tion System has the potential to greatly enhance the
24 availability of critical information concerning motor
25 vehicles for the buying public and for auto theft in-
26 vestigators, if sufficient information is made avail-

1 able to that system and through the system to vehi-
2 cle purchasers; and

3 (6) motor vehicles move in, or affect, interstate
4 and foreign commerce.

5 (b) PURPOSES.—The purposes of this Act are as fol-
6 lows:

7 (1) To establish certain safeguards for the pro-
8 tection of—

9 (A) buyers in the sale of motor vehicles
10 that are salvage or flood vehicles or have suf-
11 fered major damage; and

12 (B) any other person whose safety may be
13 affected by such a vehicle.

14 (2) To—

15 (A) preserve information provided on
16 motor vehicle titles and accompanying docu-
17 ments with respect to the title and damage his-
18 tory of the vehicles;

19 (B) establish certain safeguards to ensure
20 that, with respect to a motor vehicle, the infor-
21 mation described in subparagraph (A) is passed
22 on with all subsequent title transfers; and

23 (C) promote the participation of the States
24 in, and the flow of important information con-
25 cerning the title and damage history of motor

1 vehicles through, the National Motor Vehicle
 2 Title Information System.

3 **SEC. 3. MOTOR VEHICLE TITLING AND DISCLOSURE RE-**
 4 **QUIREMENTS.**

5 (a) IN GENERAL.—Subtitle VI of title 49, United
 6 States Code, is amended by adding at the end the fol-
 7 lowing:

**“CHAPTER 333—SAFEGUARDS FOR PURCHASERS OF
 MOTOR VEHICLES CONCERNING THE HANDLING OF
 SALVAGE AND NONREBUILDABLE VEHICLES.**

“Sec.

“33301. Definitions.

“33302. Disclosure requirements on transfer of motor vehicles.

“33303. Certification of proper repair.

“33304. Transfer and operation of nonrepairable vehicles.

“33305. Conspiracy to violate this chapter.

“33306. General enforcement provisions.

“33307. Administrative warrants.

“33308. Confidentiality of information.

“33309. Penalties and enforcement.

“33310. Civil actions by private persons.

“33311. Relationship to State law.

“33312. State eligibility for funding.

8 **“§ 33301. Definitions**

9 “In this chapter:

10 “(1) ACTUAL COST.—The term ‘actual cost’,
 11 when used in connection with a motor vehicle, means
 12 the price paid at retail for repairs or the fair retail
 13 market value of the repairs needed to return a motor
 14 vehicle to its undamaged condition, whichever is
 15 greater.

1 “(2) AUCTION COMPANY.—The term ‘auction
2 company’ has the meaning given that term in section
3 32702.

4 “(3) AUTOMOTIVE RECYCLER OR DISMAN-
5 TLER.—The term ‘automotive recycler or dismantler’
6 has the meaning given that term in section
7 30501(a).

8 “(4) COSMETIC DAMAGE.—The term ‘cosmetic
9 damage’ means damage to paint, glass, trim, tires,
10 or any other component of a motor vehicle that is
11 purely cosmetic in nature.

12 “(5) COST OF REPAIR.—The term ‘cost of re-
13 pair’ means the estimated or actual cost of repair,
14 whichever is greater.

15 “(6) DEALER.—The term ‘dealer’ has the
16 meaning given that term in section 32702.

17 “(7) DISTRIBUTOR.—The term ‘distributor’ has
18 the meaning given that term in section 32702.

19 “(8) FLOOD VEHICLE.—The term ‘flood vehicle’
20 means a motor vehicle that has—

21 “(A) been submerged in water to the point
22 that rising water has reached over the door sill
23 of the motor vehicle or has entered the pas-
24 senger or trunk compartment; or

1 “(B) had ‘flood’ or a similar word or sym-
2 bol placed on its title.

3 “(9) INSURANCE CARRIER.—The term ‘insur-
4 ance carrier’ has the meaning given that term in
5 section 30501.

6 “(10) LEASED MOTOR VEHICLE.—The term
7 ‘leased motor vehicle’ means a motor vehicle leased
8 to a person for a period of at least 4 months by a
9 lessor that leased at least 5 vehicles during the pre-
10 ceding 12-month period.

11 “(11) MAJOR DAMAGE.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the term ‘major damage’ means
14 damages of any kind, suffered in 1 incident,
15 that have an aggregate cost of repair of \$3,000
16 or more.

17 “(B) INCLUSION OF COSMETIC DAMAGE.—

18 If the full cost of repair for damages suffered
19 in 1 incident is attributable only to cosmetic
20 damages, those damages shall not constitute
21 major damage.

22 “(12) MOTOR VEHICLE.—The term ‘motor vehi-
23 cle’ has the meaning given that term in section
24 30102 of title 49, United States Code.

1 “(13) NONREPAIRABLE VEHICLE.—The term
2 ‘nonrepairable vehicle’ means a motor vehicle that at
3 any time—

4 “(A) has had ‘nonrepairable’ or a similar
5 word or symbol placed on its title;

6 “(B) has been designated as a nonrepair-
7 able vehicle by its owner; or

8 “(C) has suffered major damage, in 1 inci-
9 dent, for which the cost of repair exceeds 90
10 percent of the vehicle’s fair retail market before
11 it was damaged.

12 “(14) SALVAGE VEHICLE.—The term ‘salvage
13 vehicle’ means a motor vehicle that, at any time—

14 “(A) has had ‘salvage’ or a similar word or
15 symbol placed on its title;

16 “(B) has been transferred to an insurance
17 carrier in connection with the resolution of a
18 damage claim;

19 “(C) has been designated as a salvage ve-
20 hicle by its owner; or

21 “(D) has suffered major damage, in 1 inci-
22 dent, for which the cost of repair exceeds 65
23 percent of the vehicle’s fair retail market value
24 immediately before it was damaged.

1 “(15) SECRETARY.—The term ‘Secretary’
2 means the Secretary of Transportation.

3 “(16) STATE.—The term ‘State’ has the mean-
4 ing given that term in section 32101.

5 “(17) TITLE.—The term ‘title’ means, with re-
6 spect to a motor vehicle, the certificate of title or
7 other document issued by a State indicating owner-
8 ship, or the manufacturer’s certificate of origin if no
9 document has been issued by the State indicating
10 ownership.

11 “(18) TRANSFER.—The term ‘transfer’ has the
12 meaning given that term in section 32702.

13 **“§ 33302. Disclosure requirements on transfer of**
14 **motor vehicles**

15 “(a) DISCLOSURE REQUIREMENTS.—

16 “(1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of the Salvaged and
18 Damaged Motor Vehicle Information Disclosure Act,
19 the Secretary shall promulgate regulations that—

20 “(A) provide for the manner in which in-
21 formation is disclosed and retained under this
22 section;

23 “(B) require that a person transferring
24 ownership of a motor vehicle give the transferee

1 a written disclosure, signed by the transferor
2 and transferee, that—

3 “(i) states, to the best of the trans-
4 feror’s knowledge—

5 “(I) whether the vehicle at any
6 time in its history has been a salvage,
7 flood, or nonrepairable vehicle; and

8 “(II) whether the vehicle at any
9 time in its history has suffered major
10 damage; and

11 “(ii) if a vehicle has suffered major
12 damage or flood damage, includes a brief
13 description of the nature and amount of
14 each occurrence of that damage.

15 “(2) ADDITIONAL REQUIREMENTS.—

16 “(A) IN GENERAL.—

17 “(i) ATTACHMENT OF FORM.—Except
18 as provided in clause (ii), the regulations
19 promulgated under paragraph (1) shall re-
20 quire that the original of the form con-
21 taining the information described in para-
22 graph (1)(B) be attached by the transferor
23 to the title of the motor vehicle.

24 “(ii) EXCEPTION.—If the title of a
25 motor vehicle includes spaces for dislo-

1 sures in a format that conforms with the
2 regulations promulgated by the Secretary
3 under this subsection, those disclosures on
4 the title may constitute the original of the
5 form, if the law of the State in which the
6 transfer is executed provides that the dis-
7 closures constitute the original.

8 “(B) POWER OF ATTORNEY.—

9 “(i) IN GENERAL.—The regulations
10 promulgated under paragraph (1) shall
11 provide that if the original of the form con-
12 taining the information described in para-
13 graph (1)(B) is on the title, and the title
14 is in the possession of a lienholder when
15 the transferor transfers the vehicle, the
16 transferor may use a secure written power
17 of attorney (if permitted under applicable
18 State law) in making the disclosure re-
19 quired under paragraph (1)(B).

20 “(ii) PROCEDURES.—Any secure writ-
21 ten power of attorney exercised under
22 clause (i) shall be exercised in accordance
23 with procedures that are similar to the
24 procedures under the regulations issued
25 under section 32705(b)(2).

1 “(C) DISCLOSURE FORMS.—The regula-
2 tions promulgated under paragraph (1) shall re-
3 quire that—

4 “(i) a copy of the form containing the
5 information described in paragraph (1)(B),
6 or a copy of the secure power of attorney
7 (if such a form is used), shall be given to
8 the transferee before the execution of any
9 sale or transfer of ownership;

10 “(ii) the disclosure form shall advise
11 any transferor who lacks certainty about
12 the history or scope of damage to the vehi-
13 cle to give a full description of all facts
14 known by the transferor bearing on pos-
15 sible major damage or flood, salvage, or
16 nonrepairable history; and

17 “(iii) the disclosure form shall be
18 printed by means of a secure printing
19 process (or other secure process).

20 “(D) RETENTION OF DISCLOSURE
21 FORMS.—A dealer or distributor that is re-
22 quired by this chapter to execute a disclosure
23 statement on a disclosure form shall retain for
24 at least 5 years a photostat, carbon, or other

1 facsimile copy of each disclosure form that the
2 dealer or distributor issues and receives.

3 “(3) APPLICABILITY OF REQUIREMENTS.—A
4 person transferring ownership of a motor vehicle
5 shall be subject to the requirements of the regula-
6 tions promulgated under this section. That person
7 may not give a false statement to the transferee in
8 making the disclosure required by such a regulation
9 or otherwise violate the requirements of those regu-
10 lations.

11 “(4) ACQUISITIONS FOR RESALE.—A person ac-
12 quiring a motor vehicle for resale may not accept a
13 written disclosure under this section unless the dis-
14 closure form is complete, as determined under this
15 section. Such a person may not accept a title to the
16 motor vehicle unless each assignment of the title is
17 accompanied by an attached disclosure form re-
18 quired under this section.

19 “(b) DISCLOSURE STATEMENT REQUIREMENT FOR
20 LICENSING.—If the ownership of a motor vehicle is trans-
21 ferred, the motor vehicle may not be licensed for use in
22 a State unless the transferee, in submitting an application
23 to a State for the title on which the license will be issued,
24 includes with the application—

25 “(1) the transferor’s title; and

1 “(2) an attached disclosure statement on a dis-
2 closure form that meets the requirements of this sec-
3 tion for each assignment of title that is, as required
4 under subsection (a)—

5 “(A) signed and dated by each transferor;
6 and

7 “(B) signed by each transferee.

8 “(c) LEASED MOTOR VEHICLES.—

9 “(1) IN GENERAL.—For a leased motor vehicle,
10 the regulations promulgated under subsection (a)
11 shall require written disclosure concerning major
12 damage, salvage, flood or nonrepairable history to be
13 made—

14 “(A) by the lessor to the lessee before the
15 execution of any lease documents; and

16 “(B) by the lessee to the lessor before the
17 lessor’s transfer of ownership of the vehicle.

18 “(2) NOTICE.—Under the regulations described
19 in paragraph (1), the lessor shall provide written no-
20 tice to the lessee of—

21 “(A) the lessee’s damage, salvage, flood
22 and nonrepairable disclosure requirements
23 under paragraph (1); and

1 “(B) the penalties for failure to comply
2 with the requirements referred to in subpara-
3 graph (A).

4 “(3) RETENTION OF DISCLOSURES.—The lessor
5 shall retain the disclosures made by a lessee under
6 paragraph (1) for a period of at least 5 years fol-
7 lowing the date the lessor transfers the leased motor
8 vehicle.

9 “(4) TRANSFER OF OWNERSHIP.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), if the lessor transfers owner-
12 ship of a leased motor vehicle without obtaining
13 possession of the vehicle, the lessor, in making
14 the disclosure required by subsection (a), may
15 indicate on the disclosure form the facts dis-
16 closed by the lessee under paragraph (1).

17 “(B) EXCEPTION.—If the lessor has rea-
18 son to believe that the disclosure by the lessee
19 does not reflect the complete major damage or
20 flood, salvage, or nonrepairable history of the
21 vehicle, the disclosure of the facts disclosed by
22 the lessee shall not be considered sufficient to
23 meet the requirements of subparagraph (A).

24 “(d) AUCTION SALES.—If any motor vehicle is sold
25 at an auction, the auction company or other entity con-

1 ducting the auction shall maintain the following records
2 for at least 5 years after the date of the sale:

3 “(1) The name of the most recent owner of the
4 motor vehicle (except the auction company) and the
5 name of the buyer of the motor vehicle.

6 “(2) The vehicle identification number required
7 under chapter 301 or 331.

8 “(3) A statement indicating whether the disclo-
9 sure given by the most recent owner of the motor ve-
10 hicle as required by subsection (a) indicated that the
11 vehicle had suffered major damage or was a salvage,
12 flood, or nonrepairable vehicle.

13 “(e) SETTLEMENTS.—

14 “(1) IN GENERAL.—In any case in which an in-
15 surance carrier makes a settlement on a motor vehi-
16 cle that is a salvage, flood, or nonrepairable vehicle,
17 or has suffered major damage, and the vehicle is not
18 transferred to the insurance carrier in connection
19 with the settlement, the carrier shall deliver a writ-
20 ten notice to the vehicle’s owner at or before the
21 time of the settlement informing the owner of the
22 obligation to make disclosures upon transfer of the
23 vehicle in a manner consistent with this chapter.

24 “(2) ADDITIONAL REQUIREMENTS.—If a vehicle
25 referred to in paragraph (1) is—

1 “(A) a salvage or flood vehicle, the notice
2 under that paragraph shall inform the owner of
3 the requirements of section 33303; or

4 “(B) a nonrepairable vehicle, in addition to
5 providing the notice under paragraph (1), the
6 insurance carrier shall notify the State agency
7 responsible for issuing titles to motor vehicles
8 for the State in which the motor vehicle is reg-
9 istered that the motor vehicle is a nonrepairable
10 vehicle.

11 “(3) DISCLOSURE FORM.—The notice shall en-
12 close a blank disclosure form that meets the require-
13 ments of the regulations promulgated under sub-
14 section (a) for use by the owner in any transfer of
15 the vehicle.

16 “(f) NONDESTRUCTION OF TITLE INFORMATION.—

17 “(1) IN GENERAL.—The regulations promul-
18 gated under subsection (a) shall require that for any
19 motor vehicle title issued on or after the date that
20 is 1 year after the date of enactment of the Salvaged
21 and Damaged Motor Vehicle Information Disclosure
22 Act, the issuing State shall conspicuously disclose in
23 writing on the new certificate of title in any case in
24 which the previous title or accompanying documents

1 surrendered to the State indicate that the motor
2 vehicle—

3 “(A) at any time has been a salvage, flood,
4 nonrepairable, or rebuilt salvage vehicle;

5 “(B) has suffered major damage; or

6 “(C) has been described by any other sym-
7 bol or word of like kind.

8 “(2) IDENTIFICATION OF STATE.—The regula-
9 tions promulgated under subsection (a) shall require
10 that the name of the State that issued any title
11 showing a description described in subparagraph
12 (A), (B), or (C) of paragraph (1) be conspicuously
13 disclosed in writing on the new certificate of title.

14 **“§ 33303. Certification of proper repair**

15 “(a) REQUIREMENT FOR CERTIFICATION OF RE-
16 PAIRED SALVAGE OR FLOOD VEHICLES.—

17 “(1) IN GENERAL.—

18 “(A) REGULATIONS.—Not later than 180
19 days after the date of enactment of the
20 Salvaged and Damaged Motor Vehicle Informa-
21 tion Disclosure Act, the Secretary shall promul-
22 gate regulations that specify that, after the date
23 which is 1 year after the date of enactment of
24 that Act, no person may transfer any vehicle
25 that becomes a salvage or flood vehicle to any

1 person other than a person described in sub-
 2 paragraph (B), unless the transferor gives to
 3 the transferee a copy of a certificate of inspec-
 4 tion prepared by a person who rebuilt the vehi-
 5 cle (referred to in this subsection as the ‘re-
 6 builder’) meeting the requirements of para-
 7 graph (2)(C) that—

8 “(i) is signed by the rebuilder; and

9 “(ii) attests that the original recog-
 10 nized vehicle manufacturer’s established
 11 repair procedures or specifications and al-
 12 lowable tolerances for the particular model
 13 and year were utilized and adhered to in
 14 the repair and inspection of the vehicle.

15 “(B) PERSONS DESCRIBED.—A person de-
 16 scribed in this subparagraph is—

17 “(i) an insurance company;

18 “(ii) a dealer;

19 “(iii) a distributor; or

20 “(iv) an automotive recycler or dis-
 21 mantler.

22 “(2) ADDITIONAL REQUIREMENTS.—In addition
 23 to the requirements under paragraph (1), the regula-
 24 tions promulgated under this subsection shall—

25 “(A) require that—

1 “(i) the original of the certificate of
2 inspection containing the information re-
3 quired under paragraph (1) be attached by
4 the transferor to the title, unless the origi-
5 nal of the form has previously been surren-
6 dered with a title to a State;

7 “(ii) a copy of the certificate of in-
8 spection be given to the transferee before
9 the execution of any sale or transfer of
10 ownership documents;

11 “(iii) the certificate of inspection be
12 printed by means of a secure printing
13 process (or other secure process); and

14 “(iv) a decal or inscription that the
15 Secretary considers to be permanent be af-
16 fixed by the rebuilder on the door jamb or
17 other prominent location on the vehicle,
18 with the primary aim of alerting prospec-
19 tive future purchasers to the salvage or
20 flood history and the damage to the vehi-
21 cle;

22 “(B) provide that, if a title that is issued
23 after the vehicle became a salvage or flood vehi-
24 cle indicates on its face that a certification from
25 the rebuilder required under this section was

1 surrendered to the State, the transferor shall
2 not be required to provide a certificate of in-
3 spection concerning that repair;

4 “(C) describe the qualifications and equip-
5 ment required for any person to be permitted to
6 execute a certification described in paragraph
7 (1)(A);

8 “(D) establish the minimum steps and in-
9 quiry to be undertaken during any inspection;
10 and

11 “(E) at the discretion of the Secretary, re-
12 quire that the inspector shall post a bond, of an
13 amount determined by the Secretary, but not to
14 exceed \$250,000, conditioned on terms designed
15 to protect the public against—

16 “(i) unsafe or otherwise inadequate
17 repairs; or

18 “(ii) incorrect or otherwise improper
19 inspection certifications.

20 “(b) PROHIBITION.—A person transferring owner-
21 ship of a motor vehicle or making the certification may
22 not violate a regulation promulgated under this section or
23 make a false statement in making the certification.

1 **“§ 33304. Transfer and operation of nonrepairable ve-**
2 **hicles**

3 “(a) IN GENERAL.—With respect to any motor vehi-
4 cle that is first determined to be nonrepairable later than
5 90 days after the date of enactment of the Salvaged and
6 Damaged Motor Vehicle Information Disclosure Act, a
7 person—

8 “(1) may not register the vehicle in any State
9 for operation on any street, road or highway, and
10 may not operate the vehicle on any street, road or
11 highway, if the person knows that the vehicle has
12 been determined to be nonrepairable; and

13 “(2) may transfer the vehicle only to an insur-
14 ance company, automotive recycler or dismantler,
15 and only for dismantling into parts or for crushing.

16 “(b) PROHIBITION.—After a State receives a dislo-
17 sure form under section 33302(a) or a title or title appli-
18 cation indicating that a motor vehicle is a nonrepairable
19 vehicle, the vehicle that is the subject of the form or appli-
20 cation may not be licensed for use in that State.

21 **“§ 33305. Conspiracy to violate this chapter**

22 “A person may not conspire to violate section 33302,
23 33303, or 33304.

24 **“§ 33306. General enforcement provisions**

25 “(a) AUTHORITY TO INSPECT AND INVESTIGATE.—

1 “(1) IN GENERAL.—Subject to section 33307,
2 the Secretary may conduct an inspection or inves-
3 tigation necessary to carry out this chapter (includ-
4 ing a regulation promulgated or order issued under
5 this chapter).

6 “(2) COOPERATION.—In conducting an inspec-
7 tion or investigation under this section, the Sec-
8 retary shall cooperate with State and local officials
9 to the greatest extent practicable.

10 “(3) INFORMATION.—The Secretary may pro-
11 vide to the Attorney General information concerning
12 a violation of this chapter (including a regulation
13 promulgated or order issued under this chapter).

14 “(b) ENTRY, INSPECTION, AND IMPOUNDMENT.—

15 “(1) IN GENERAL.—In carrying out subsection
16 (a), an officer or employee designated by the Sec-
17 retary, on display of proper credentials and written
18 notice to the owner, operator, or agent in charge,
19 may—

20 “(A) enter and inspect commercial prem-
21 ises in which a motor vehicle or motor vehicle
22 equipment is manufactured, held for shipment
23 or sale, maintained, or repaired;

24 “(B) enter and inspect noncommercial
25 premises in which the Secretary reasonably be-

1 believes there is a motor vehicle or motor vehicle
2 equipment that is an object of a violation of
3 this chapter;

4 “(C) inspect that motor vehicle or motor
5 vehicle equipment; and

6 “(D) impound for a period of not more
7 than 72 hours for inspection a motor vehicle or
8 motor vehicle equipment that the Secretary rea-
9 sonably believes is an object of a violation of
10 this chapter.

11 “(2)(A) INSPECTION.—An inspection or im-
12 poundment under this subsection shall be conducted
13 at a reasonable time, in a reasonable manner, and
14 with reasonable promptness.

15 “(B) WRITTEN NOTICE.—The written notice
16 under paragraph (1) may consist of a warrant issued
17 under section 33307.

18 “(c) REASONABLE COMPENSATION.—At such time as
19 the Secretary impounds for inspection a motor vehicle (ex-
20 cept a vehicle subject to an exemption under subchapter
21 I of chapter 135) or motor vehicle equipment under sub-
22 section (b)(1)(D), the Secretary shall pay reasonable com-
23 pensation to the owner of the vehicle or equipment if the
24 inspection or impoundment results in denial of use, or re-
25 duction in value, of the vehicle or equipment.

1 “(d) RECORDS AND INFORMATION REQUIRE-
2 MENTS.—

3 “(1) IN GENERAL.—To enable the Secretary to
4 make a determination whether a dealer or dis-
5 tributor is complying with this chapter (including
6 regulations promulgated and orders issued under
7 this chapter), the Secretary may require a dealer,
8 distributor, or automotive recycler or dismantler
9 to—

10 “(A) keep records;

11 “(B) provide information from those
12 records if the Secretary states the purpose for
13 requiring the information and identifies the in-
14 formation to the fullest extent practicable; and

15 “(C) allow an officer or employee des-
16 igned by the Secretary to inspect relevant
17 records of the dealer or distributor.

18 “(2) STATUTORY CONSTRUCTION.—This sub-
19 section and subsection (e)(1)(B) shall not be con-
20 strued to authorize the Secretary to require a dealer,
21 distributor, or automotive recycler or dismantler to
22 provide information to the Secretary on a regular
23 periodic basis.

24 “(e) ADMINISTRATIVE AUTHORITY AND CIVIL AC-
25 TIONS TO ENFORCE.—

1 “(1) IN GENERAL.—In carrying out this chap-
2 ter, the Secretary may—

3 “(A) inspect and copy records of any per-
4 son at reasonable times;

5 “(B) order a person to file written reports
6 or answers to specific questions, including re-
7 ports or answers under oath; and

8 “(C) conduct hearings, administer oaths,
9 take testimony, and require (by subpoena or
10 otherwise) the appearance and testimony of wit-
11 nesses and the production of records the Sec-
12 retary considers advisable.

13 “(2) PAYMENT OF WITNESSES.—A witness
14 summoned under this subsection may receive the
15 same fee and mileage as that witness would be paid
16 in a court of the United States.

17 “(3) ACTIONS.—

18 “(A) IN GENERAL.—A civil action to en-
19 force a subpoena or order of the Secretary
20 under this subsection may be brought in the
21 United States district court for any judicial dis-
22 trict in which the proceeding by the Secretary
23 is conducted.

24 “(B) CONTEMPT OF COURT.—The court
25 may punish a failure to obey an order of the

1 court to comply with the subpoena or order of
2 the Secretary as a contempt of court.

3 “(f) PROHIBITIONS.—A person may not fail to—

4 “(1) keep records or provide access to or copy-
5 ing of records, as required under this section;

6 “(2) make reports or provide information, as
7 required under this section;

8 “(3) allow entry or inspection, as required
9 under this section; or

10 “(4) permit impoundment, as required under
11 this section.

12 **“§ 33307. Administrative warrants**

13 “(a) DEFINITION.—In this section, the term ‘prob-
14 able cause’ means a valid public interest in the effective
15 enforcement of this chapter (including a regulation pro-
16 mulgated under this chapter) that is sufficient to justify
17 the inspection or impoundment in the circumstances stat-
18 ed in an application for a warrant under this section.

19 “(b) WARRANT REQUIREMENT AND ISSUANCE.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (4), an inspection or impoundment under sec-
22 tion 33306 may be carried out only after a warrant
23 is obtained.

24 “(2) WARRANTS.—

1 “(A) IN GENERAL.—A judge of a court of
2 the United States or a State court of record or
3 a United States magistrate may issue a warrant
4 for an inspection or impoundment under section
5 33306 within the territorial jurisdiction of the
6 court or magistrate.

7 “(B) REQUIREMENTS FOR AFFIDAVITS.—A
8 warrant under subparagraph (A) shall be based
9 on an affidavit that—

10 “(i) establishes probable cause to
11 issue the warrant; and

12 “(ii) is sworn to before the judge or
13 magistrate by an officer or employee who
14 knows the facts alleged in the affidavit.

15 “(C) ISSUANCE OF WARRANTS.—The judge
16 or magistrate shall issue a warrant under sub-
17 paragraph (A) if the judge or magistrate deter-
18 mines there is a reasonable basis for believing
19 that probable cause exists to issue the warrant.

20 “(D) REQUIREMENTS FOR WARRANTS.—A
21 warrant issued under this paragraph shall—

22 “(i) identify the premises, property, or
23 motor vehicle to be inspected and the items
24 or type of property to be impounded;

1 “(ii) state the purpose of the inspec-
2 tion, the basis for issuing the warrant, and
3 the name of the affidavit;

4 “(iii) direct an individual authorized
5 under section 33306 to inspect the prem-
6 ises, property, or vehicle for the purpose
7 stated in the warrant and, if appropriate,
8 to impound the property specified in the
9 warrant;

10 “(iv) direct that the warrant be served
11 during the hours specified in the warrant;
12 and

13 “(v) name the judge or magistrate
14 with whom proof of service is to be filed.

15 “(3) EXCLUSIONS.—A warrant is not required
16 under this section, if—

17 “(A) the owner, operator, or agent in
18 charge of the premises consents to the inspec-
19 tion or impoundment;

20 “(B) it is reasonable to believe that the
21 mobility of the motor vehicle to be inspected
22 renders obtaining a warrant impractical;

23 “(C) an application for a warrant cannot
24 be made because of an emergency;

1 “(D) records are to be inspected and cop-
2 ied under section 33306(e)(1)(A); or

3 “(E) a warrant is not required under the
4 Constitution of the United States.

5 “(c) SERVICE AND IMPOUNDMENT OF PROPERTY.—

6 “(1) IN GENERAL.—

7 “(A) PERIOD FOR SERVICE.—A warrant
8 issued under this section shall be served and
9 proof of service filed not later than 10 days
10 after its issuance date.

11 “(B) EXTENSION.—The judge or mag-
12 istrate may extend the period of time specified
13 in subparagraph (A) in the warrant if the Sec-
14 retary demonstrates a need for additional time.

15 “(C) PROOF OF SERVICE.—Proof of service
16 shall be filed promptly after a warrant is exe-
17 cuted, with a written inventory of the property
18 impounded under the warrant.

19 “(D) INVENTORIES.—An inventory under
20 subparagraph (B) shall be made in the presence
21 of—

22 “(i) the individual serving the warrant
23 and the individual from whose possession
24 or premises the property was impounded;
25 or

1 “(ii) if that individual is not present,
2 a credible individual, except the individual
3 making the inventory.

4 “(E) VERIFICATION.—The individual serv-
5 ing the warrant shall verify the inventory.

6 “(F) COPIES OF INVENTORIES.—On re-
7 quest, the judge or magistrate shall send a copy
8 of the inventory to the individual from whose
9 possession or premises the property was im-
10 pounded and to the applicant for the warrant.

11 “(2) IMPOUNDMENT.—When property is im-
12 pounded under a warrant under this section, the in-
13 dividual serving the warrant shall—

14 “(A) give the person from whose posses-
15 sion or premises the property was impounded a
16 copy of the warrant and a receipt for the prop-
17 erty; or

18 “(B) leave the copy and receipt at the
19 place from which the property was impounded.

20 “(3) FILING.—A judge or magistrate shall file
21 a warrant, proof of service, and all documents filed
22 about the warrant with the clerk of the United
23 States district court for the judicial district in which
24 an inspection is made.

1 **“§ 33308. Confidentiality of information**

2 “(a) GENERAL.—Information obtained by the Sec-
3 retary under this chapter related to a confidential matter
4 referred to in section 1905 of title 18 may be disclosed
5 only—

6 “(1) to another officer or employee of the
7 United States Government for use in carrying out
8 this chapter; or

9 “(2) in a proceeding under this chapter.

10 “(b) WITHHOLDING INFORMATION FROM CON-
11 GRESS.—This section does not authorize information to be
12 withheld from a committee of Congress authorized to have
13 the information.

14 **“§ 33309. Penalties and enforcement**

15 “(a) CIVIL PENALTIES.—

16 “(1) IN GENERAL.—

17 “(A) LIABILITY.—A person that violates
18 this chapter (including a regulation prescribed
19 or order issued under this chapter) is liable to
20 the United States Government for a civil pen-
21 alty of not more than \$2,000 for each violation.

22 “(B) SEPARATE VIOLATIONS.—A separate
23 violation occurs for each motor vehicle involved
24 in the violation.

1 “(C) MAXIMUM PENALTY.—The maximum
2 penalty under this subsection for a related se-
3 ries of violations is \$100,000.

4 “(2) PROCEDURES FOR IMPOSING CIVIL PEN-
5 ALTIES.—

6 “(A) CIVIL PENALTIES.—The Secretary
7 shall impose a civil penalty pursuant to this
8 subsection.

9 “(B) CIVIL ACTIONS.—The Attorney Gen-
10 eral shall bring a civil action to collect the pen-
11 alty.

12 “(C) COMPROMISE.—Before referring a
13 penalty claim to the Attorney General, the Sec-
14 retary may compromise the amount of the pen-
15 alty. Before compromising the amount of the
16 penalty, the Secretary shall give the person
17 charged with a violation an opportunity to es-
18 tablish that the violation did not occur.

19 “(3) FACTORS FOR CONSIDERATION.—In deter-
20 mining the amount of a civil penalty under this sub-
21 section, the Secretary shall consider—

22 “(A) the nature, circumstances, extent,
23 and gravity of the violation;

24 “(B) with respect to the violator, the de-
25 gree of culpability, any history of prior viola-

1 tions, the ability to pay, and any effect on the
2 ability or the violator to continue conducting
3 business; and

4 “(C) such other matters as justice re-
5 quires.

6 “(b) CRIMINAL PENALTIES.—

7 “(1) IN GENERAL.—A person who knowingly
8 and willfully violates this chapter (including a regu-
9 lation promulgated or order issued under this chap-
10 ter) shall be fined under title 18, imprisoned for not
11 more than 3 years, or both.

12 “(2) OFFICERS AND AGENTS OF CORPORA-
13 TIONS.—If a person subject to a criminal penalty
14 under paragraph (1) is a corporation, the penalties
15 under this subsection shall also apply to any direc-
16 tor, officer, or individual agent of that corporation
17 who knowingly and willfully authorizes, orders, or
18 performs an act in violation of this chapter (includ-
19 ing a regulation promulgated or order issued under
20 this chapter) without regard to penalties imposed on
21 the corporation.

22 “(c) CIVIL ACTIONS BROUGHT BY ATTORNEY GEN-
23 ERAL.—

24 “(1) IN GENERAL.—The Attorney General may
25 bring a civil action to enjoin a violation of this chap-

1 ter or a regulation prescribed or order issued under
2 this chapter. The action may be brought in the
3 United States district court for the judicial district
4 in which the violation occurred or the defendant is
5 found, resides, or does business.

6 “(2) SERVICE OF PROCESS.—Process in the ac-
7 tion may be served in any other judicial district in
8 which the defendant resides or is found. A subpoena
9 for a witness in the action may be served in any ju-
10 dicial district.

11 “(d) CIVIL ACTIONS BY STATES.—

12 “(1) IN GENERAL.—In any case in which a per-
13 son violates this chapter (including a regulation pro-
14 mulgated or order issued under this chapter), the
15 chief law enforcement officer of the State in which
16 the violation occurs may bring a civil action—

17 “(A) to enjoin the violation; or

18 “(B) to recover amounts for which the per-
19 son is liable under section 33310 for each per-
20 son on whose behalf the action is brought.

21 “(2) VENUE; STATUTE OF LIMITATIONS.—

22 “(A) VENUE.—An action under this sub-
23 section may be brought in an appropriate
24 United States district court or in a State court
25 of competent jurisdiction.

1 “(B) STATUTE OF LIMITATIONS.—An ac-
 2 tion may be brought under this section not later
 3 than 2 years after the date on which the claim
 4 accrues.

5 **“§33310. Civil actions by private persons**

6 “(a) VIOLATION AND AMOUNT OF DAMAGES.—

7 “(1) IN GENERAL.—A person that violates this
 8 chapter or a regulation promulgated or order issued
 9 under this chapter, with intent to defraud, is liable
 10 for a civil penalty in an amount equal to the greater
 11 of—

12 “(A)(i) the amount of actual damages;
 13 multiplied by

14 “(ii) 3; or

15 “(B) \$5,000.

16 “(2) MOTOR VEHICLES USED FOR PERSONAL,
 17 FAMILY, OR HOUSEHOLD USE.—A person who owns,
 18 leases, or operates a motor vehicle for personal, fam-
 19 ily, or household use shall not be liable for—

20 “(A) failure to provide a disclosure or cer-
 21 tificate under section 33302(a) or 33303(a) un-
 22 less the person has actual knowledge of the re-
 23 quirement to provide the disclosure or certifi-
 24 cate; and

1 “(B) any other violation under section
2 33302 or 33303 unless the person has actual
3 knowledge of the facts at issue in the violation.

4 “(b) CIVIL ACTIONS.—

5 “(1) VENUE.—A person may bring a civil ac-
6 tion to enforce a claim under this section—

7 “(A) in any court of competent jurisdiction
8 in any State or the District of Columbia; or

9 “(B) in an appropriate district court of the
10 United States, if the amount in controversy is
11 greater than \$50,000 (exclusive of interest and
12 costs) computed on the basis of all claims to be
13 determined in the action.

14 “(2) STATUTE OF LIMITATIONS.—An action
15 may be brought under this section not later than 2
16 years after the date on which the claim accrues.

17 “(3) ATTORNEY’S FEES.—In an action brought
18 under paragraph (1), the court shall award costs
19 and a reasonable attorney’s fees to a person if a
20 judgment is entered for that person.

21 **“§ 33311. Relationship to State law**

22 “Except to the extent that State law is inconsistent
23 with this chapter, nothing in this chapter may be con-
24 strued to—

1 **SEC. 4. AMENDMENTS TO CHAPTER 305 OF TITLE 49,**
2 **UNITED STATES CODE.**

3 (a) DEFINITIONS.—Strike section 30501 of title 49,
4 United States Code, and insert the following:

5 **“§ 30501. Definitions**

6 “In this chapter:

7 “(1) AUTOMOTIVE RECYCLER OR DISMAN-
8 TLER.—The term ‘automotive recycler or dismantler’
9 means an individual or entity engaged in the busi-
10 ness of acquiring or owning salvage or nonrepairable
11 vehicles for—

12 “(A) resale in their entirety or as spare
13 parts; or

14 “(B) rebuilding, restoration, or crushing.

15 “(2) FLOOD VEHICLE.—The term ‘flood vehicle’
16 has the meaning given that term in section 33301.

17 “(3) INSURANCE CARRIER.—The term ‘insur-
18 ance carrier’ means an individual or entity engaged
19 in the business of underwriting motor vehicle insur-
20 ance.

21 “(4) INSURER.—The term ‘insurer’ has the
22 meaning given that term in section 32101.

23 “(5) MAJOR DAMAGE.—The term ‘major dam-
24 age’ has the meaning given that term in section
25 33301.

1 “(6) NONREPAIRABLE VEHICLE.—The term
2 ‘nonrepairable vehicle’ has the meaning given that
3 term in section 33301.

4 “(7) OPERATOR.—The term ‘operator’ means
5 the individual or entity authorized or designated as
6 the operator of the National Motor Vehicle Title In-
7 formation System under section 30502(b), or the At-
8 torney General, if there is no such authorized or des-
9 ignated individual or entity.

10 “(8) SALVAGE VEHICLE.—The term ‘salvage ve-
11 hicle’ has the meaning given that term in section
12 33301.

13 “(9) SELF-INSURED LEASING OR RENTAL BUSI-
14 NESS.—The term ‘self-insured leasing or rental busi-
15 ness’ means a business that, during the preceding
16 12-month period, has leased or rented at least 25 ve-
17 hicles that were not covered by insurance for claims
18 of damage to those vehicles.

19 “(10) STATE.—The term ‘State’ means a State
20 of the United States or the District of Columbia.

21 “(11) TITLE.—With respect to a motor vehicle,
22 the term ‘title’ has the meaning given that term in
23 section 33301.”.

1 (b) NATIONAL MOTOR VEHICLE INFORMATION SYS-
2 TEM.—Section 30502 of title 49, United States Code, is
3 amended—

4 (1) in subsection (d)—

5 (A) by striking “an automobile” each place
6 that term appears and inserting “a motor vehi-
7 cle”;

8 (B) in paragraph (1), by striking “certifi-
9 cate of title” and inserting “title”;

10 (C) by striking paragraph (3) and insert-
11 ing the following:

12 “(3) whether a motor vehicle known to be titled
13 in a particular State is or has been a salvage, flood,
14 or nonrepairable vehicle, or has suffered major dam-
15 age”;

16 (D) in paragraph (4)—

17 (i) by striking “that automobile” each
18 place that term occurs and inserting “that
19 motor vehicle”; and

20 (ii) by striking “certificate of title”
21 and inserting “title”; and

22 (E) by striking paragraph (5) and insert-
23 ing the following;

1 “(5) whether a motor vehicle bearing a known
2 vehicle identification number has been reported as a
3 salvage, flood, or nonrepairable vehicle”; and

4 (2) in subsection (e)—

5 (A) in paragraph (1)—

6 (i) in subparagraph (A), by striking
7 “any automobile” and inserting “any
8 motor vehicle”;

9 (ii) in subparagraph (B), by striking
10 “a particular automobile, junk yard, or sal-
11 vage yard” and inserting “a particular
12 motor vehicle or automotive recycler or dis-
13 mantler”;

14 (iii) in subparagraph (C)—

15 (I) by striking “an automobile”
16 and inserting “a motor vehicle”;

17 (II) by striking “used auto-
18 mobiles” and inserting “used motor
19 vehicles”; and

20 (III) by striking “that auto-
21 mobile” and inserting “that motor ve-
22 hicle”; and

23 (iv) in subparagraph (D)—

24 (I) by striking “an automobile”
25 and inserting “a motor vehicle”; and

1 (II) by striking “that auto-
2 mobile” and inserting “that motor ve-
3 hicle”; and

4 (B) in paragraph (2), by striking the sec-
5 ond sentence and inserting the following: “The
6 operator may not collect the social security ac-
7 count number of an individual or permit any
8 user of the System to obtain the address or so-
9 cial security account number of an individual,
10 except that the operator shall permit an owner
11 of a motor vehicle to obtain the name and ad-
12 dress of a previous owner of that vehicle, if
13 available, upon receipt of a written certification
14 by the owner that the information is sought
15 only for use in investigating facts about the
16 prior history of the vehicle.”.

17 (c) STATE PARTICIPATION.—Section 30503 of title
18 49, United States Code, is amended—

19 (1) in subsection (b)—

20 (A) in the matter preceding paragraph (1),
21 by striking “an automobile” and inserting “the
22 automobile”; and

23 (B) in paragraph (1)—

1 (i) by striking “automobile” each
2 place that term appears and inserting
3 “motor vehicle”; and

4 (ii) by striking “certificate of title”
5 each place that term appears and inserting
6 “title”; and

7 (2) in subsection (c), by striking “automobiles”
8 and inserting “motor vehicles”.

9 (d) REPORTING REQUIREMENTS.—Section 30504 of
10 title 49, United States Code, is amended—

11 (1) by striking “the automobile” each place
12 that term appears and inserting “the motor vehicle”;

13 (2) in subsection (a)—

14 (A) by striking the subsection heading and
15 all that follows through “at a time” and insert-
16 ing the following:

17 “(a) AUTOMOTIVE RECYCLERS OR DISMANTLERS.—
18 Beginning at a time”;

19 (B) in the first sentence, by striking “junk
20 yard or salvage yard” and inserting “auto-
21 motive recycler or dismantler”; and

22 (C) by striking the second sentence and in-
23 serting the following: “The report shall contain
24 an inventory of all salvage, flood, or nonrepair-
25 able vehicles, and all vehicles that have suffered

1 major damage, obtained by the automotive recy-
 2 cler or dismantler during the preceding
 3 month.”;

4 (D) by striking paragraph (2);

5 (E) by striking “(A)” and inserting “(1)”;

6 (F) by striking “(B)” and inserting “(2)”;

7 (G) by striking “(C)” and inserting “(3)”;

8 and

9 (H) by striking “(D)” and inserting “(4)”;

10 and

11 (3) by striking subsection (b) and inserting the
 12 following:

13 “(b) INSURANCE CARRIERS AND SELF-INSURED
 14 LEASING OR RENTAL BUSINESSES.—

15 “(1) IN GENERAL.—Beginning on a date estab-
 16 lished by the Attorney General, but not earlier than
 17 the third month before the establishment or designa-
 18 tion of the System, an individual or entity engaged
 19 in business as an insurance carrier or self-insured
 20 leasing or rental business shall file—

21 “(A) an initial report with the operator;

22 and

23 “(B) a monthly report thereafter.

24 “(2) FILING.—A report under paragraph (1)
 25 may be filed directly or through a designated agent.

1 “(3) REPORTS FILED BY INSURANCE CAR-
2 RIERS.—A report filed under paragraph (1) by an
3 insurance carrier shall contain an inventory of all
4 motor vehicles with respect to which the insurance
5 carrier, during the preceding month—

6 “(A) has settled claims; and

7 “(B) has determined to—

8 “(i) have suffered major damage or
9 flood damage; or

10 “(ii) have become a salvage or non-
11 repairable vehicle.

12 “(4) REPORTS FILED BY SELF-INSURED LEAS-
13 ING OR RENTAL BUSINESSES.—A report filed under
14 paragraph (1) by a self-insured leasing or rental
15 business shall contain an inventory of all motor vehi-
16 cles leased or rented by the business with respect to
17 which the business, during the preceding month, has
18 determined to have—

19 “(A) suffered major damage or flood dam-
20 age; or

21 “(B) become a salvage or nonrepairable ve-
22 hicle.

23 “(5) INVENTORIES.—An inventory in a report
24 filed under this subsection by an insurance carrier or

1 self-insured leasing or rental business under this
2 subsection shall contain—

3 “(A) the vehicle identification number of
4 each such motor vehicle;

5 “(B) the date and description of the dam-
6 age to the vehicle;

7 “(C)(i) the name of the individual or entity
8 who owned the vehicle; and

9 “(ii) if the vehicle was leased or rented—

10 “(I) the date on which the vehicle was
11 damaged; and

12 “(II) the name of the individual or en-
13 tity who leased or rented the vehicle; and

14 “(D) the name of the owner of the vehicle
15 at the time of the filing of the report.”.

○