

# HB1425



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1425

Introduced 1/31/2023, by Rep. David Friess

### SYNOPSIS AS INTRODUCED:

625 ILCS 5/3-117.1

from Ch. 95 1/2, par. 3-117.1

Amends the Certificate of Title Article of the Illinois Vehicle Code. In provisions concerning total loss claims for vehicles, provides that if the registered owner of a vehicle 9 model years of age or older does not agree to retain the vehicle, then the insurance company shall take possession of the vehicle.

LRB103 03727 BMS 48733 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by  
5 changing Section 3-117.1 as follows:

6 (625 ILCS 5/3-117.1) (from Ch. 95 1/2, par. 3-117.1)

7 Sec. 3-117.1. When junking certificates or salvage  
8 certificates must be obtained.

9 (a) Except as provided in Chapter 4 and Section 3-117.3 of  
10 this Code, a person who possesses a junk vehicle shall within  
11 15 days cause the certificate of title, salvage certificate,  
12 certificate of purchase, or a similarly acceptable  
13 out-of-state document of ownership to be surrendered to the  
14 Secretary of State along with an application for a junking  
15 certificate, except as provided in Section 3-117.2, whereupon  
16 the Secretary of State shall issue to such a person a junking  
17 certificate, which shall authorize the holder thereof to  
18 possess, transport, or, by an endorsement, transfer ownership  
19 in such junked vehicle, and a certificate of title shall not  
20 again be issued for such vehicle. The owner of a junk vehicle  
21 is not required to surrender the certificate of title under  
22 this subsection if (i) there is no lienholder on the  
23 certificate of title or (ii) the owner of the junk vehicle has

1 a valid lien release from the lienholder releasing all  
2 interest in the vehicle and the owner applying for the junk  
3 certificate matches the current record on the certificate of  
4 title file for the vehicle.

5 A licensee who possesses a junk vehicle and a Certificate  
6 of Title, Salvage Certificate, Certificate of Purchase, or a  
7 similarly acceptable out-of-state document of ownership for  
8 such junk vehicle, may transport the junk vehicle to another  
9 licensee prior to applying for or obtaining a junking  
10 certificate, by executing a uniform invoice. The licensee  
11 transferor shall furnish a copy of the uniform invoice to the  
12 licensee transferee at the time of transfer. In any case, the  
13 licensee transferor shall apply for a junking certificate in  
14 conformance with Section 3-117.1 of this Chapter. The  
15 following information shall be contained on a uniform invoice:

16 (1) The business name, address, and dealer license  
17 number of the person disposing of the vehicle, junk  
18 vehicle, or vehicle cowl;

19 (2) The name and address of the person acquiring the  
20 vehicle, junk vehicle, or vehicle cowl and, if that person  
21 is a dealer, the Illinois or out-of-state dealer license  
22 number of that dealer;

23 (3) The date of the disposition of the vehicle, junk  
24 vehicle, or vehicle cowl;

25 (4) The year, make, model, color, and description of  
26 each vehicle, junk vehicle, or vehicle cowl disposed of by

1 such person;

2 (5) The manufacturer's vehicle identification number,  
3 Secretary of State identification number, or Illinois  
4 State Police number for each vehicle, junk vehicle, or  
5 vehicle cowl part disposed of by such person;

6 (6) The printed name and legible signature of the  
7 person or agent disposing of the vehicle, junk vehicle, or  
8 vehicle cowl; and

9 (7) The printed name and legible signature of the  
10 person accepting delivery of the vehicle, junk vehicle, or  
11 vehicle cowl.

12 The Secretary of State may certify a junking manifest in a  
13 form prescribed by the Secretary of State that reflects those  
14 vehicles for which junking certificates have been applied or  
15 issued. A junking manifest may be issued to any person and it  
16 shall constitute evidence of ownership for the vehicle listed  
17 upon it. A junking manifest may be transferred only to a person  
18 licensed under Section 5-301 of this Code as a scrap  
19 processor. A junking manifest will allow the transportation of  
20 those vehicles to a scrap processor prior to receiving the  
21 junk certificate from the Secretary of State.

22 (b) An application for a salvage certificate shall be  
23 submitted to the Secretary of State in any of the following  
24 situations:

25 (1) When an insurance company makes a payment of  
26 damages on a total loss claim for a vehicle, the insurance

1 company shall be deemed to be the owner of such vehicle and  
2 the vehicle shall be considered to be salvage except that  
3 ownership of (i) a vehicle that has incurred only hail  
4 damage that does not affect the operational safety of the  
5 vehicle or (ii) any vehicle 9 model years of age or older  
6 may, by agreement between the registered owner and the  
7 insurance company, be retained by the registered owner of  
8 such vehicle; however, if the registered owner does not  
9 agree to retain a vehicle 9 model years of age or older,  
10 then the insurance company shall take possession of the  
11 vehicle. The insurance company shall promptly deliver or  
12 mail within 20 days the certificate of title along with  
13 proper application and fee to the Secretary of State, and  
14 a salvage certificate shall be issued in the name of the  
15 insurance company. Notwithstanding the foregoing, an  
16 insurer making payment of damages on a total loss claim  
17 for the theft of a vehicle shall not be required to apply  
18 for a salvage certificate unless the vehicle is recovered  
19 and has incurred damage that initially would have caused  
20 the vehicle to be declared a total loss by the insurer.

21 (1.1) When a vehicle of a self-insured company is to  
22 be sold in the State of Illinois and has sustained damaged  
23 by collision, fire, theft, rust corrosion, or other means  
24 so that the self-insured company determines the vehicle to  
25 be a total loss, or if the cost of repairing the damage,  
26 including labor, would be greater than 70% of its fair

1 market value without that damage, the vehicle shall be  
2 considered salvage. The self-insured company shall  
3 promptly deliver the certificate of title along with  
4 proper application and fee to the Secretary of State, and  
5 a salvage certificate shall be issued in the name of the  
6 self-insured company. A self-insured company making  
7 payment of damages on a total loss claim for the theft of a  
8 vehicle may exchange the salvage certificate for a  
9 certificate of title if the vehicle is recovered without  
10 damage. In such a situation, the self-insured shall fill  
11 out and sign a form prescribed by the Secretary of State  
12 which contains an affirmation under penalty of perjury  
13 that the vehicle was recovered without damage and the  
14 Secretary of State may, by rule, require photographs to be  
15 submitted.

16 (2) When a vehicle the ownership of which has been  
17 transferred to any person through a certificate of  
18 purchase from acquisition of the vehicle at an auction,  
19 other dispositions as set forth in Sections 4-208 and  
20 4-209 of this Code, or a lien arising under Section  
21 18a-501 of this Code shall be deemed salvage or junk at the  
22 option of the purchaser. The person acquiring such vehicle  
23 in such manner shall promptly deliver or mail, within 20  
24 days after the acquisition of the vehicle, the certificate  
25 of purchase, the proper application and fee, and, if the  
26 vehicle is an abandoned mobile home under the Abandoned

1 Mobile Home Act, a certification from a local law  
2 enforcement agency that the vehicle was purchased or  
3 acquired at a public sale under the Abandoned Mobile Home  
4 Act to the Secretary of State and a salvage certificate or  
5 junking certificate shall be issued in the name of that  
6 person. The salvage certificate or junking certificate  
7 issued by the Secretary of State under this Section shall  
8 be free of any lien that existed against the vehicle prior  
9 to the time the vehicle was acquired by the applicant  
10 under this Code.

11 (3) A vehicle which has been repossessed by a  
12 lienholder shall be considered to be salvage only when the  
13 repossessed vehicle, on the date of repossession by the  
14 lienholder, has sustained damage by collision, fire,  
15 theft, rust corrosion, or other means so that the cost of  
16 repairing such damage, including labor, would be greater  
17 than 50% of its fair market value without such damage. If  
18 the lienholder determines that such vehicle is damaged in  
19 excess of 50% of such fair market value, the lienholder  
20 shall, before sale, transfer, or assignment of the  
21 vehicle, make application for a salvage certificate, and  
22 shall submit with such application the proper fee and  
23 evidence of possession. If the facts required to be shown  
24 in subsection (f) of Section 3-114 are satisfied, the  
25 Secretary of State shall issue a salvage certificate in  
26 the name of the lienholder making the application. In any

1 case wherein the vehicle repossessed is not damaged in  
2 excess of 50% of its fair market value, the lienholder  
3 shall comply with the requirements of subsections (f),  
4 (f-5), and (f-10) of Section 3-114, except that the  
5 affidavit of repossession made by or on behalf of the  
6 lienholder shall also contain an affirmation under penalty  
7 of perjury that the vehicle on the date of sale is not  
8 damaged in excess of 50% of its fair market value. If the  
9 facts required to be shown in subsection (f) of Section  
10 3-114 are satisfied, the Secretary of State shall issue a  
11 certificate of title as set forth in Section 3-116 of this  
12 Code. The Secretary of State may by rule or regulation  
13 require photographs to be submitted.

14 (4) A vehicle which is a part of a fleet of more than 5  
15 commercial vehicles registered in this State or any other  
16 state or registered proportionately among several states  
17 shall be considered to be salvage when such vehicle has  
18 sustained damage by collision, fire, theft, rust,  
19 corrosion or similar means so that the cost of repairing  
20 such damage, including labor, would be greater than 50% of  
21 the fair market value of the vehicle without such damage.  
22 If the owner of a fleet vehicle desires to sell, transfer,  
23 or assign his interest in such vehicle to a person within  
24 this State other than an insurance company licensed to do  
25 business within this State, and the owner determines that  
26 such vehicle, at the time of the proposed sale, transfer



1 or assignment is damaged in excess of 50% of its fair  
2 market value, the owner shall, before such sale, transfer  
3 or assignment, make application for a salvage certificate.  
4 The application shall contain with it evidence of  
5 possession of the vehicle. If the fleet vehicle at the  
6 time of its sale, transfer, or assignment is not damaged  
7 in excess of 50% of its fair market value, the owner shall  
8 so state in a written affirmation on a form prescribed by  
9 the Secretary of State by rule or regulation. The  
10 Secretary of State may by rule or regulation require  
11 photographs to be submitted. Upon sale, transfer or  
12 assignment of the fleet vehicle the owner shall mail the  
13 affirmation to the Secretary of State.

14 (5) A vehicle that has been submerged in water to the  
15 point that rising water has reached over the door sill and  
16 has entered the passenger or trunk compartment is a "flood  
17 vehicle". A flood vehicle shall be considered to be  
18 salvage only if the vehicle has sustained damage so that  
19 the cost of repairing the damage, including labor, would  
20 be greater than 50% of the fair market value of the vehicle  
21 without that damage. The salvage certificate issued under  
22 this Section shall indicate the word "flood", and the word  
23 "flood" shall be conspicuously entered on subsequent  
24 titles for the vehicle. A person who possesses or acquires  
25 a flood vehicle that is not damaged in excess of 50% of its  
26 fair market value shall make application for title in

1           accordance with Section 3-116 of this Code, designating  
2           the vehicle as "flood" in a manner prescribed by the  
3           Secretary of State. The certificate of title issued shall  
4           indicate the word "flood", and the word "flood" shall be  
5           conspicuously entered on subsequent titles for the  
6           vehicle.

7           (6) When any licensed rebuilder, repairer, new or used  
8           vehicle dealer, or remittance agent has submitted an  
9           application for title to a vehicle (other than an  
10          application for title to a rebuilt vehicle) that he or she  
11          knows or reasonably should have known to have sustained  
12          damages in excess of 50% of the vehicle's fair market  
13          value without that damage; provided, however, that any  
14          application for a salvage certificate for a vehicle  
15          recovered from theft and acquired from an insurance  
16          company shall be made as required by paragraph (1) of this  
17          subsection (b).

18          (c) Any person who without authority acquires, sells,  
19          exchanges, gives away, transfers or destroys or offers to  
20          acquire, sell, exchange, give away, transfer or destroy the  
21          certificate of title to any vehicle which is a junk or salvage  
22          vehicle shall be guilty of a Class 3 felony.

23          (d) Except as provided under subsection (a), any person  
24          who knowingly fails to surrender to the Secretary of State a  
25          certificate of title, salvage certificate, certificate of  
26          purchase or a similarly acceptable out-of-state document of

1 ownership as required under the provisions of this Section is  
2 guilty of a Class A misdemeanor for a first offense and a Class  
3 4 felony for a subsequent offense; except that a person  
4 licensed under this Code who violates paragraph (5) of  
5 subsection (b) of this Section is guilty of a business offense  
6 and shall be fined not less than \$1,000 nor more than \$5,000  
7 for a first offense and is guilty of a Class 4 felony for a  
8 second or subsequent violation.

9 (e) Any vehicle which is salvage or junk may not be driven  
10 or operated on roads and highways within this State. A  
11 violation of this subsection is a Class A misdemeanor. A  
12 salvage vehicle displaying valid special plates issued under  
13 Section 3-601(b) of this Code, which is being driven to or from  
14 an inspection conducted under Section 3-308 of this Code, is  
15 exempt from the provisions of this subsection. A salvage  
16 vehicle for which a short term permit has been issued under  
17 Section 3-307 of this Code is exempt from the provisions of  
18 this subsection for the duration of the permit.

19 (Source: P.A. 101-81, eff. 7-12-19; 102-319, eff. 1-1-22;  
20 102-538, eff. 8-20-21; 102-813, eff. 5-13-22.)