

SB3312



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3312

Introduced 2/10/2010, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

625 ILCS 5/3-117.1

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

Amends the Illinois Vehicle Code. Deletes language stating that an insurer making payment of damages on a total loss claim for the theft of a vehicle shall not be required to apply for a salvage certificate unless the vehicle is recovered and has incurred damage that initially would have caused the vehicle to be declared a total loss by the insurer in a provision concerning when junking certificates or salvage certificates must be obtained.

LRB096 19423 AJT 34815 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 changing
5 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 of this Code, a person
10 who possesses a junk vehicle shall within 15 days cause the
11 certificate of title, salvage certificate, certificate of
12 purchase, or a similarly acceptable out of state document of
13 ownership to be surrendered to the Secretary of State along
14 with an application for a junking certificate, except as
15 provided in Section 3-117.2, whereupon the Secretary of State
16 shall issue to such a person a junking certificate, which shall
17 authorize the holder thereof to possess, transport, or, by an
18 endorsement, transfer ownership in such junked vehicle, and a
19 certificate of title shall not again be issued for such
20 vehicle.

21 A licensee who possesses a junk vehicle and a Certificate
22 of Title, Salvage Certificate, Certificate of Purchase, or a
23 similarly acceptable out-of-state document of ownership for

1 such junk vehicle, may transport the junk vehicle to another
2 licensee prior to applying for or obtaining a junking
3 certificate, by executing a uniform invoice. The licensee
4 transferor shall furnish a copy of the uniform invoice to the
5 licensee transferee at the time of transfer. In any case, the
6 licensee transferor shall apply for a junking certificate in
7 conformance with Section 3-117.1 of this Chapter. The following
8 information shall be contained on a uniform invoice:

9 (1) The business name, address and dealer license
10 number of the person disposing of the vehicle, junk vehicle
11 or vehicle cowl;

12 (2) The name and address of the person acquiring the
13 vehicle, junk vehicle or vehicle cowl, and if that person
14 is a dealer, the Illinois or out-of-state dealer license
15 number of that dealer;

16 (3) The date of the disposition of the vehicle, junk
17 vehicle or vehicle cowl;

18 (4) The year, make, model, color and description of
19 each vehicle, junk vehicle or vehicle cowl disposed of by
20 such person;

21 (5) The manufacturer's vehicle identification number,
22 Secretary of State identification number or Illinois
23 Department of State Police number, for each vehicle, junk
24 vehicle or vehicle cowl part disposed of by such person;

25 (6) The printed name and legible signature of the
26 person or agent disposing of the vehicle, junk vehicle or

1 vehicle cowl; and

2 (7) The printed name and legible signature of the
3 person accepting delivery of the vehicle, junk vehicle or
4 vehicle cowl.

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

15 (b) An application for a salvage certificate shall be
16 submitted to the Secretary of State in any of the following
17 situations:

18 (1) When an insurance company makes a payment of
19 damages on a total loss claim for a vehicle, the insurance
20 company shall be deemed to be the owner of such vehicle and
21 the vehicle shall be considered to be salvage except that
22 ownership of (i) a vehicle that has incurred only hail
23 damage that does not affect the operational safety of the
24 vehicle or (ii) any vehicle 9 model years of age or older
25 may, by agreement between the registered owner and the
26 insurance company, be retained by the registered owner of

1 such vehicle. The insurance company shall promptly deliver
2 or mail within 20 days the certificate of title along with
3 proper application and fee to the Secretary of State, and a
4 salvage certificate shall be issued in the name of the
5 insurance company. ~~Notwithstanding the foregoing, an~~
6 ~~insurer making payment of damages on a total loss claim for~~
7 ~~the theft of a vehicle shall not be required to apply for a~~
8 ~~salvage certificate unless the vehicle is recovered and has~~
9 ~~incurred damage that initially would have caused the~~
10 ~~vehicle to be declared a total loss by the insurer.~~

11 (1.1) When a vehicle of a self-insured company is to be
12 sold in the State of Illinois and has sustained damaged by
13 collision, fire, theft, rust corrosion, or other means so
14 that the self-insured company determines the vehicle to be
15 a total loss, or if the cost of repairing the damage,
16 including labor, would be greater than 50% of its fair
17 market value without that damage, the vehicle shall be
18 considered salvage. The self-insured company shall
19 promptly deliver the certificate of title along with proper
20 application and fee to the Secretary of State, and a
21 salvage certificate shall be issued in the name of the
22 self-insured company. A self-insured company making
23 payment of damages on a total loss claim for the theft of a
24 vehicle may exchange the salvage certificate for a
25 certificate of title if the vehicle is recovered without
26 damage. In such a situation, the self-insured shall fill

1 out and sign a form prescribed by the Secretary of State
2 which contains an affirmation under penalty of perjury that
3 the vehicle was recovered without damage and the Secretary
4 of State may, by rule, require photographs to be submitted.

5 (2) When a vehicle the ownership of which has been
6 transferred to any person through a certificate of purchase
7 from acquisition of the vehicle at an auction, other
8 dispositions as set forth in Sections 4-208 and 4-209 of
9 this Code, a lien arising under Section 18a-501 of this
10 Code, or a public sale under the Abandoned Mobile Home Act
11 shall be deemed salvage or junk at the option of the
12 purchaser. The person acquiring such vehicle in such manner
13 shall promptly deliver or mail, within 20 days after the
14 acquisition of the vehicle, the certificate of purchase,
15 the proper application and fee, and, if the vehicle is an
16 abandoned mobile home under the Abandoned Mobile Home Act,
17 a certification from a local law enforcement agency that
18 the vehicle was purchased or acquired at a public sale
19 under the Abandoned Mobile Home Act to the Secretary of
20 State and a salvage certificate or junking certificate
21 shall be issued in the name of that person. The salvage
22 certificate or junking certificate issued by the Secretary
23 of State under this Section shall be free of any lien that
24 existed against the vehicle prior to the time the vehicle
25 was acquired by the applicant under this Code.

26 (3) A vehicle which has been repossessed by a

1 lienholder shall be considered to be salvage only when the
2 repossessed vehicle, on the date of repossession by the
3 lienholder, has sustained damage by collision, fire,
4 theft, rust corrosion, or other means so that the cost of
5 repairing such damage, including labor, would be greater
6 than 33 1/3% of its fair market value without such damage.
7 If the lienholder determines that such vehicle is damaged
8 in excess of 33 1/3% of such fair market value, the
9 lienholder shall, before sale, transfer or assignment of
10 the vehicle, make application for a salvage certificate,
11 and shall submit with such application the proper fee and
12 evidence of possession. If the facts required to be shown
13 in subsection (f) of Section 3-114 are satisfied, the
14 Secretary of State shall issue a salvage certificate in the
15 name of the lienholder making the application. In any case
16 wherein the vehicle repossessed is not damaged in excess of
17 33 1/3% of its fair market value, the lienholder shall
18 comply with the requirements of subsections (f), (f-5), and
19 (f-10) of Section 3-114, except that the affidavit of
20 repossession made by or on behalf of the lienholder shall
21 also contain an affirmation under penalty of perjury that
22 the vehicle on the date of sale is not damaged in excess of
23 33 1/3% of its fair market value. If the facts required to
24 be shown in subsection (f) of Section 3-114 are satisfied,
25 the Secretary of State shall issue a certificate of title
26 as set forth in Section 3-116 of this Code. The Secretary

1 of State may by rule or regulation require photographs to
2 be submitted.

3 (4) A vehicle which is a part of a fleet of more than 5
4 commercial vehicles registered in this State or any other
5 state or registered proportionately among several states
6 shall be considered to be salvage when such vehicle has
7 sustained damage by collision, fire, theft, rust,
8 corrosion or similar means so that the cost of repairing
9 such damage, including labor, would be greater than 33 1/3%
10 of the fair market value of the vehicle without such
11 damage. If the owner of a fleet vehicle desires to sell,
12 transfer, or assign his interest in such vehicle to a
13 person within this State other than an insurance company
14 licensed to do business within this State, and the owner
15 determines that such vehicle, at the time of the proposed
16 sale, transfer or assignment is damaged in excess of 33
17 1/3% of its fair market value, the owner shall, before such
18 sale, transfer or assignment, make application for a
19 salvage certificate. The application shall contain with it
20 evidence of possession of the vehicle. If the fleet vehicle
21 at the time of its sale, transfer, or assignment is not
22 damaged in excess of 33 1/3% of its fair market value, the
23 owner shall so state in a written affirmation on a form
24 prescribed by the Secretary of State by rule or regulation.
25 The Secretary of State may by rule or regulation require
26 photographs to be submitted. Upon sale, transfer or

1 assignment of the fleet vehicle the owner shall mail the
2 affirmation to the Secretary of State.

3 (5) A vehicle that has been submerged in water to the
4 point that rising water has reached over the door sill and
5 has entered the passenger or trunk compartment is a "flood
6 vehicle". A flood vehicle shall be considered to be salvage
7 only if the vehicle has sustained damage so that the cost
8 of repairing the damage, including labor, would be greater
9 than 33 1/3% of the fair market value of the vehicle
10 without that damage. The salvage certificate issued under
11 this Section shall indicate the word "flood", and the word
12 "flood" shall be conspicuously entered on subsequent
13 titles for the vehicle. A person who possesses or acquires
14 a flood vehicle that is not damaged in excess of 33 1/3% of
15 its fair market value shall make application for title in
16 accordance with Section 3-116 of this Code, designating the
17 vehicle as "flood" in a manner prescribed by the Secretary
18 of State. The certificate of title issued shall indicate
19 the word "flood", and the word "flood" shall be
20 conspicuously entered on subsequent titles for the
21 vehicle.

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

1 (d) Any person who knowingly fails to surrender to the
2 Secretary of State a certificate of title, salvage certificate,
3 certificate of purchase or a similarly acceptable out-of-state
4 document of ownership as required under the provisions of this
5 Section is guilty of a Class A misdemeanor for a first offense
6 and a Class 4 felony for a subsequent offense; except that a
7 person licensed under this Code who violates paragraph (5) of
8 subsection (b) of this Section is guilty of a business offense
9 and shall be fined not less than \$1,000 nor more than \$5,000
10 for a first offense and is guilty of a Class 4 felony for a
11 second or subsequent violation.

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

22 (Source: P.A. 95-495, eff. 1-1-08; 95-783, eff. 1-1-09.)