

2011 SENATE TRANSPORTATION

SB 2076

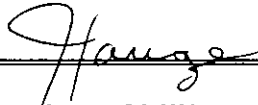
2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2076
January 6, 2011
12622

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

The North Dakota Department of Transportation filed SB 2076 as an agency bill.

Minutes:

One attachment

Senator G. Lee opened the hearing on SB 2076 relating to branding of certificate of title.

Linda Sitz, Director of Motor Vehicle Department testified in support of SB 2076. See attached testimony #1.

Senator Oehlke asked if you could still license and title a vehicle built from different parts from a variety of different vehicles.

Ms. Sitz answered that she would have to research that particular vehicle. It would depend on the specifics of how that vehicle was built. It would be considered a rebuilt and there are guidelines for that.

Senator Nething asked if the brands that you list in your testimony are the only ones or are there other brands.

Ms. Sitz answered that there are other brands but these are the type of brands that concern North Dakota and are showing up with the National Motor Vehicle Title Information System (NMVTIS) process. Other states are saying that these brands of vehicles are not worthy to be on the road in their state and ND doesn't want to become a place where these branded vehicles can be titled.

Senator Nething asked her about the policy we had been following and when it was established.

Ms. Sitz said that it was established in 1998.

Senator Mathern asked what the difference was between following policy or putting this in law.

Ms. Sitz said what we are asking for is to have legal standing because policy can be contested in court.

Senator Mathern asked if they had a case before them now.

Ms. Sitz answered that they recently have had a case challenging this policy. The case involved a motorcycle and it came out of the state of Wisconsin. It was in an accident and Wisconsin labeled it "not road worthy". When it came to North Dakota we followed our policy and said because it was branded in Wisconsin "not road worthy" we refused the titling in ND. He took this to court and because it was policy, we lost and had to title the motorcycle.

Senator Lee asked if this puts us in compliance to what other states are doing. He asked if that was their intent.

Ms. Sitz answered yes and said that this gives ND a foundation and brings us into compliance with other states.

Senator Lee asked if NMVTIS gave us the information that vehicles were not title worthy.

Ms Sitz said this is like Car Facts, it gives the vehicle history and therefore legally you are not suppose to be allowed to transfer a brand from what it was in a previous state. You are supposed to be consistent with the previous state.

Senator Mathern asked if the NMVTIS process offered a mechanism for someone to bring a vehicle to a road worthy state to become licensed.

Ms. Sitz said, technically NMVTIS branding should carry forward but because ND is limited to policy and does not have these brands, ND can be challenged.

Senator Mathern said then you don't have a process that you willingly, as a department, permit a vehicle owner to have titled that were formally found unworthy.

Ms. Sitz said that ND law says that if a vehicle in ND has damage of more than 75%, they require an inspection on that vehicle. If the vehicle passes inspection, then they will take it as previously salvaged. As long as those guidelines are met, it can go back on the road. There is also a process to put rebuilt antiques back on the road and she said she could get that information to them if needed.

Senator Nething said that this bill only applies to out of state vehicles that want to be titled in ND. He asked how you brand an auto part.

Ms. Sitz said that when you buy a new vehicle you get a MCO which is the birth certificate of that vehicle. If anything happens to that vehicle, the branding will change. It is coded onto the title if that vehicle changes.

Senator Nething said that this seemed more administrative then anything

Senator Lee closed the hearing on SB 2076.

Senator Nething asked if the intern could get us a briefing of the court decision that was discussed.

Senator Oehlke was concerned that ND could become a dumping state for titling branded vehicles.

The committee will wait for information on the court case.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2076
January 27, 2011
13566

Conference Committee

Harvey

Minutes:

Vote

Senator G. Lee opened discussion on SB 2076 relating to branding of certificate of title.

Senator Oehlke moved a **Do Pass**.

Senator Nodland seconded the motion.

Roll call vote 6-0-0. **Motion passed.**

Senator Oehlke will carry the bill.

Date: 1-27-11
 Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2076

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Oehlke Seconded By Senator Nething

Senators	Yes	No	Senators	Yes	No
Senator Gary Lee	✓		Senator Tim Mathern	✓	
Senator Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Oehlke

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2076: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2076 was placed on the
Eleventh order on the calendar.

2011 HOUSE TRANSPORTATION

SB 2076

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2076
03/03/2011
Job # 14898

Conference Committee

Committee Clerk Signature *Janette Cook*

Explanation or reason for introduction of bill/resolution:

SB 2076 is a bill relating to branding of certificate title.

Minutes:

Attachment # 1

Linda Sitz, Director of the Motor Vehicle Division at the North Dakota Department of Transportation, spoke to support SB 2076. She provided written testimony. See attachment #1.

Representative Delmore: How many of these vehicles do you get that you are asked to title?

Linda Sitz: North Dakota does not count these vehicles because of the titling brand, so we don't have an accurate count of that.

Representative Owens: When do we expect the NMVTIS database to be complete?

Linda Sitz: NMVTIS is pretty close to being 100% complete. We have three states that have not issued their information yet.

Representative Frantsvog: Will we remove the previously salvaged and previously damaged brands and go to scrap and parts only?

Linda Sitz: No, that is not correct. We will keep those three brandings. We would like to use the standards: non-repairable, scrap, parts only, as leverage to NOT title vehicles in North Dakota. A policy was created in 1998 by Keith Keiser that set the standard that is used by policy. What we would like to do is codify that policy into law.

Chairman Ruby: Even using the NMVTIS database, each state will still have their own level of damage that they will accept, is that correct?

Linda Sitz: That is correct. Each state has its own standard.

Chairman Ruby: By implementing this bill, will we just be accepting the level of acceptance of another state, no matter what level we accept in North Dakota? Then the level of acceptance will be all over the board, depending on where the car came from?

Linda Sitz: According to the NMVTIS we do pull in the information as to how the other state established their standard on that particular vehicle, correct.

Representative Vigesaa: How does this reconcile with HB 1405 that we passed out of this committee? This appears to be contrary to HB 1405.

Linda Sitz: That is correct, it is. HB 1405 is totally different than SB 2076. In HB 1405 the way that I understand it, any vehicle that is non-roadworthy, we should find a standard in North Dakota to try to put that vehicle on the road.

Representative Delmore: What happens to liability if someone puts a car on the road without a title and has an accident?

Linda Sitz: I am not an attorney. I assume there would be all types of liability to the individual that drives a vehicle that is not titled or properly insured in North Dakota. I don't know what the penalties are.

Representative Hogan: This is current practice, correct? Have you had many issues with the practice as is today? Have you been challenged?

Linda Sitz: (Inaudible for a short time.) There was a motorcycle... brand that title. The citizen chose to hire an attorney and go through the Attorney General's office. We had discussions back and forth with the AG's office. After a point of discussion it was determined that we had to title the vehicle.

Representative R. Kelsch: If you would have had this in code, it would have stood up, but since it was just a policy, it did not?

Linda Sitz: That is correct.

Representative Vigesaa: Have you discussed what will happen if this bill and HB1405 both pass?

Linda Sitz: Yes, we have. At this point in time we don't know. We would have to establish some type of standard. We haven't discussed it enough. We also know that we don't have enough staff to do the investigations that will need to be required to check into each type of standard that another state used to brand their vehicle.

Chairman Ruby: That is a dilemma. This committee and the House body gave Representative Weisz some more time to work out some of the issues with HB 1405 that the Department had. This dealt with having a consistent threshold no matter where the car originated from. Then we would allow it to be titled. Our threshold may be too broad or generous. I know what your position is; you would like to have this in law that states that the current practice is the best way to approach this. Some are thinking that if a vehicle from

another state is damaged at a level that North Dakota finds acceptable, that North Dakota could still give a salvaged title to that vehicle. We will hold this bill to see what can be worked out.

Representative Owens: "Branded scrap, parts only, junk, irreparable," This whole listing, does the database contain a standard definition of those terms, or is the definition different in every state?

Linda Sitz: I have not investigated the definition in every state. The example that Representative Weisz gave me in HB 1405, I did the research on that. North Dakota does not have an irreparable definition, and I only based it on the state that vehicle had come from. I did not see which other states had that particular definition.

Representative Owens: If we adopt this and are using the database, is there a standard definition within the database for the terms used, or does each individual state have their own definition, that would require research to determine?

Linda Sitz: I am not sure. It is something I will research.

Chairman Ruby: It would be helpful if there were standard definitions.

Linda Butts, Deputy Director of Driver and Vehicle Services at the North Dakota Department of Transportation: I have some history on NMVTIS. It was a federal law that was enacted in the 1990's but never enforced. The reason why we are here today is because a consumer purchased a damaged vehicle in California. The state of California took to court, and they lost. California went back to the Feds, and the Feds were motivated to create some sort of framework for this piece of legislation. As we talk about building out, all but three states are participating in the database. They are also building out the junkyards, the junk dealers, the salvage yards, and the insurance companies to add to this database. This wasn't just to protect drivers from purchasing a vehicle that was damaged, but it was also to try to find stolen vehicles. There was a multipurpose role. We are working with Representative Weisz, with Tag Anderson from Risk Management, Keith Kieser the subject industry expert on this within AMVA (The American Association of Motor Vehicle Administrators), and trying to find out what kind of liability the state will have if we enact HB 1405. What kind of liability will a dealer have if one of these cars ends up on his lot? What would the dealer do to the state? What if they sold it to an out-of-state person, and they find out they can't put it on the road in South Dakota? We have really been trying to investigate THE liability. Also if HB 1405 is enacted, we would have to figure out where to draw the line in the sand. At some point, we have to decide which cars can go back on the road. We would struggle with what you think is acceptable. I think that finding out if there are common standards within NMVTIS is a good idea. We will get back to you on that.

Representative Onstad: If you have a damaged vehicle that you have built by putting two vehicles together, can you get a title to put that vehicle on the road if it is certified to be safe by the state highway department?

Linda Butts: Currently, if you are a salvage yard and harvest parts to put something together, it is the vin number on the frame that determines if the vehicle can be titled. What

we hear from the Highway Patrol is that as cars get more and more sophisticated, there are more things to check, and they are less comfortable doing the inspection. They do not have the ability to do the job. We have approached the dealer association to see if their mechanics would like to take this on. Some are agreeable, but others tell us they would not touch it with a ten foot pole. It is the liability issue.

Representative Onstad: It is not necessarily the sophistication of cars. Many people build cars by putting parts of cars together. There has to be a way to have those cars certified, so they can be put back on the road.

Linda Butts: We recognize that, but we do not know where to draw the line. Currently we are doing just what you say. We are letting parts be harvested and rebuilt. Then the Highway Patrol inspects them. We have had a lot of discussion with Tag Anderson about the word "knowingly." His concern is if another state has deemed that a vehicle is so severely damaged that it cannot be on the roads, and we KNOWINGLY take that vehicle into North Dakota and try to get it back onto the road, what kind of liability do we have? We do not have all the answers. We are trying to thoroughly examine the issue. We have heard from a lot of folks that are hobbyists. It isn't our intent to make that difficult.

Representative Delmore: If this bill passes and someone builds a vehicle out of two damaged cars, can he get a title?

Linda Butts: Yes, we believe that the process that we have in place would still stand. It is a dilemma.

There was no further support for SB 2076.

There was no opposition to SB 2076.

The hearing on SB 2076 was closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2076
03/24/2011
Job # 15953

Conference Committee

Committee Clerk Signature 

Minutes:

Chairman Ruby brought SB 2076 before the committee. He explained that 2076 is the exact opposite of the policy that we sent out with Representative Weisz's bill. We gave him time to work out some issues with the Department of Transportation.

Representative R. Kelsch moved a **DO NOT PASS** on SB 2076.
Vice Chairman Weiler seconded the motion.

Representative Delmore: Has the other bill been passed on the Senate side?

Chairman Ruby: It has not been heard yet, maybe next week. We understand that we don't want North Dakota to be a state where we do washing of titles, but there should be some reasonable approach to this.

Representative Weisz: I have already given the Senate some suggested amendments by the Department of Transportation.

There was no further discussion.

A roll call vote was taken on SB 2076. Aye 14 Nay 0 Absent 0

The motion carried.

Representative Weisz will carry SB 2076.

Date: 3/24/2011

Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2076

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment

Rerefer to Appropriations Reconsider

Motion Made By R. Kelsch Seconded By Weiler

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa	X				
Representative Weisz	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment R Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2076: Transportation Committee (Rep. Ruby, Chairman) recommends DO NOT PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2076 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2076

1

Senate Transportation COMMITTEE
January 6th - 10:30 a.m. - Lewis and Clark

North Dakota Department of Transportation
Linda Sitz, Director of Motor Vehicle Department
SB 2076

Mr. Chairman and members of the committee. I'm Linda Sitz, Director of the Motor Vehicle Department at the NDDOT. Thank you for giving me the opportunity to present information to you today.

The North Dakota Department of Transportation filed Senate Bill 2076 as an agency bill. The National Motor Vehicle Title Information System (NMVTIS), when complete, will allow any state the ability to verify titling brands in other states before issuing a ND title.

NMVTIS provides states with a mechanism to instantly check out of state vehicle title records to verify the accuracy and legitimacy of title information. This 50-state instant search protects states from issuing incorrect titles.

North Dakota's NMVTIS project began October 2009. North Dakota began providing data to NMVTIS and North Dakota began using the NMVTIS web inquiry application to verify any out-of-state titles received. In this process North Dakota identified several brands which would not be considered road worthy.

Approximately 20 states use the following titling brands; Scrap, Parts Only, Un-repairable, Non-rebuildable, Certificate of Destruction, and Dismantler. States assigning these titling brands means the motor vehicle cannot ever be re-titled or registered for on the road operations.

In North Dakota the only brand similar to these brands would be the "Salvage" brand; however by policy North Dakota does not currently accept titles for these types of brands. North Dakota would like to codify this policy by enacting legislation thereby incorporating these brands into our existing categories to prevent these vehicles from erroneously being placed on any roads.

Mr. Chairman, I would be happy to answer any questions at this time. Thank you.

**Answers to Questions on SB 2076 Hearing
January 14, 2011**

1. What/Who determines where the VIN must be placed?

- The Vehicle Identification number (VIN) is regulated by the National Highway Transportation Safety Administration (NHTSA)—49 Code of Federal Regulations (CFR) Part 565 specifies that for passenger cars, MPV's, and most trucks, the VIN must be located inside the vehicle's passenger compartment and be readable through the vehicle's glazing from the outside when the observer is adjacent to the left windshield pillar.
- The VIN number was located on various areas of the vehicle depending upon year and make. NHTSA made it mandatory in 1968 for the VIN number to be located on the dash.

2. How does one obtain a title for a vehicle that "sits in the shelter belt" for some time and then the owner wants to re-title it? The process is found in Administrative Code Title 37: Article-12-04 "Procedure for Obtaining Certificate of Title for Untitled Vehicles."

37-12-04-01. Procedure—If a North Dakota resident owns a vehicle for which the resident is unable to obtain a proper certificate of title, the Motor Vehicle Division will use the following forms and procedures to determine ownership of a vehicle and issue a certificate of title:

- A check of the records of the Motor Vehicle Division, as well as the records of other appropriate states will be conducted to determine if a certificate of title has previously been issued.
- If no record of a previous certificate of title is found, the Motor Vehicle Division will issue a North Dakota certificate of title to the applicant upon receipt of:
 - A notarized bill of sale
 - A vehicle statement of ownership from the applicant (form SFN 2903)
 - An inspection of the vehicle by the North Dakota Highway Patrol (form SFN 2486)
 - Appropriate title fee, license fees, and motor vehicle excise tax.

- In all cases where there is no record of a previous title, the Motor Vehicle Division will check the national crime information center (NCIC) computer to determine that the vehicle is not listed as a stolen vehicle.
- a. If a record of a previous certificate of title is found, the Motor Vehicle Division will advise the applicant of the name and address of the last owner of the vehicle but will take no further action to issue a certificate of title. The applicant must obtain the certificate of title from the last owner or obtain an order of the court awarding ownership to the applicant. The foundation of this decision process is based on NDCC 39-05-19 - Obtaining certificate of title for vehicle when ownership obtained by other than voluntary means and NDCC 39-05-20 sub 1. Transferee may obtain new certificate of title upon inability to obtain old certificate - proof of ownership - appeal.

Disclaimer—Due to the implementation of privacy laws, if there is a North Dakota record of the vehicle; (form SFN 51269) will need to be completed. An out-of-state vehicle title record search implemented by Motor Vehicle is obtained through teletype inquiries. The teletype inquiries frequently result in return vehicle responses which also include warnings in regards to dissemination of this vehicle information as being a violation of privacy laws in that state. When teletype responses provides a vehicle record, that state of record information is shared with the applicant who then is referred to the state which holds the vehicle record to proceed according to the laws and policy of that state.

3. **How does one get an antique vehicle roadworthy?** Motor Vehicle Refers to Article 37 - Chapter 37- 12 Special Motor Vehicles. This chapter includes General Considerations; Body Requirements; Chassis Requirements; etc. Article 37-12-02-01 number 3, states "Nothing contained in this chapter shall preclude the motor vehicle division director from requiring a certificate of inspection to ensure compliance with the standard".
4. **Could someone bring a vehicle to North Dakota and "launder" the title?** After Katrina, there were a number of vehicles that were "laundered throughout the nation. If the VIN number shows that a vehicle was Junk, Scrap, Non-repairable, etc North Dakota cannot title or register this vehicle. However, this decision is made based on policy. SB 2076 would give us statutory language to deny titling such a vehicle and align North Dakota's procedures related to these severely damaged vehicles with the procedures adopted in many other states.

SB 2076 will allow North Dakota to refuse to accept titles for vehicles from any other state or foreign country that are branded as:

Certificate of Destruction
Dismantler
Junk
Non-Rebuildable

Parts Only
Unrepairable
Non-Repairable
Cars Program: Parts Only/Do not Retitle – (Maryland issues these)
Scrap
Crushed
**Or any other indication, symbol, or word of the like kind.

Requirements of states issuing these types of brands do so when a vehicle's only residual value is for scrap or used parts and their current statute does not mandate a percentage of damage. Under the laws of those states they cannot be rebuilt or re-titled nor can the component part displaying the vehicle identification number for title purposes be used as a replacement part. These vehicles must be disposed of as scrap or crushed only and cannot be reconstructed, made operable, or re-titled.

North Dakota does not want to be in the position of potentially violating the laws of the state that issued any of the above-noted brands by re-titling in North Dakota.

5. What occurred in 1998 to start the policy?

Keith Kiser (North Dakota Motor Vehicle Director in 1998) stated there were concerns about a company or individual purchasing these severely damaged vehicles and then "washing" the junk brand information from the title and being issued a negotiable North Dakota title that could be used to resell the vehicle to an innocent buyer.

6. If a junk yard dealer wants to "harvest" working parts off of various junked vehicles to create a new vehicle, which VIN number would rule (the VIN on the body) and is there a process in place to make this customized vehicle roadworthy?

- If an existing VIN number is found on the body that VIN would be used to identify the vehicle. However if there was no VIN one would be assigned by Motor Vehicle or through North Dakota Highway Patrol.
- If Motor Vehicle was informed that this is a reconstructed vehicle, we would request an inspection from the North Dakota Highway Patrol.

7. If the vehicle is involved in a crash what is the current North Dakota process to make it road worthy.

Scenario 1 – According to NDCC 39-05-17.2 - If a vehicle has sustained damage which equals or exceeds the greater of \$8,000 or 40% of pre-damaged retail value, once put back on the road the vehicle title will be branded as previously damage.

Scenario 2 – According to NDCC 39-05-20.2 – If the damage is in excess of seventy-five percent the title for that vehicle will require a branding at salvage or previously salvage. Inspection determines the vehicle brand status. Once this type of vehicle passes inspection the vehicle can become roadworthy. A complete description of this process is in NDCC previously quoted.

DAMAGE/SALVAGE DISCLOSURE STATEMENTNorth Dakota Department of Transportation, Motor Vehicle Division
18609 (Rev. 07-2009)Motor Vehicle Division
ND Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0780
Telephone (701) 328-2725
Fax (701) 328-1487
Web site: www.dot.nd.gov

This form must be completed for all vehicles less than nine (9) model years old.

This form must be signed by the transferor (seller), given to the transferee (buyer), and accompany the application for title when submitted by the transferee (buyer).

Transferee (Buyer) Legal Name			Daytime Telephone Number	
Address		City	State	Zip Code
Year	Make	Model	Style	
Vehicle Identification Number			Title Number	
Name of Transferor (Seller)			Daytime Telephone Number	
Address		City	State	Zip Code

A person repairing, replacing parts, or performing body work on a motor vehicle that is less than nine (9) years old shall provide a statement to the owner of the motor vehicle when the motor vehicle has sustained motor vehicle damage requiring disclosure under this section. The owner shall disclose this damage when ownership of the motor vehicle is transferred. When a vehicle is damaged in excess of seventy-five percent of its retail value as determined by the national automobile dealers association official used car guide, the person repairing, replacing parts, or performing body work on the motor vehicle that is less than nine (9) years old shall also advise the owner of the motor vehicle that the owner of the vehicle must comply with section 39-05-20.2. (See Below)

The amount of damage to a motor vehicle is determined by adding the retail value of all labor, parts, and material used in repairing the damage. When the retail value of labor has not been determined by a purchase in the ordinary course of business, for example when the labor is performed by the owner of the vehicle, the retail value of the labor is presumed to be the product of the repair time, as provided in a generally accepted autobody repair flat rate manual, multiplied by thirty-five dollars.

DAMAGE DISCLOSURE: NDCC 39-05-17.2

Within the past eight (8) years, has this vehicle sustained body or structural damage from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage to the motor vehicle which equals or exceeds the greater of \$8,000 or forty percent of the predamage retail value of the motor vehicle as determined by the national automobile dealers association official used car guide? The term does not include body or structural modifications, normal wear and tear, glass damage, hail damage, or items of normal maintenance and repair.

Yes No

Type of Damage (check all that apply): Collision Weather Theft Interior Other
 Water Vandalism Fire Under Carriage

Has this vehicle been damaged in excess of seventy-five percent (75%) of its retail value? Yes No

Explanation of Damage

Signature of Transferor (Seller)

Date

X

Any person who makes a false statement on this form is guilty of a Class A Misdemeanor.

SALVAGE CERTIFICATE OF TITLE: NDCC 39-05-20.2

The owner of a vehicle that is damaged in excess of seventy-five percent of its retail value as determined by the national automobile dealers association official used car guide, shall forward the title for that vehicle to the department within ten days and the department shall issue a salvage certificate of title. Glass damage and hail damage must be excluded in the determination of whether a vehicle has been damaged in excess of seventy-five percent of the vehicle's retail value. If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The applicant shall include with the application a certificate of inspection in the form required by the department, the salvage certificate of title, and a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle, a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application, or unless other proof of the identity of the vehicle has been provided to the satisfaction of the department.

CERTIFICATE OF VEHICLE INSPECTION

North Dakota Department of Transportation
 Motor Vehicle Division
 2486 (Rev. 06-2009)

TITLE NO.

The vehicle described must be inspected by a trooper of the Highway Patrol to verify compliance with state laws before title or registration will be issued by the Department of Transportation. If the vehicle passes inspection, this form, bearing the signature of the qualified trooper and accompanied by all required documents, must be forwarded to the Department of Transportation, Motor Vehicle Division, 608 E. Boulevard Ave., Bismarck, North Dakota 58505, before the vehicle will be registered. If vehicle is already licensed and titled, this form may be used to rescind the license and title if the vehicle is found to be illegally equipped.

Year	Make	Model	Style	VIN	Number of Axles
------	------	-------	-------	-----	-----------------

REASON FOR INSPECTION

Vehicle Identification Number has been affixed in a secure manner and inspected by the Highway Patrol (check one):

- Motor Vehicle to be affixed on left front pillar post between door hinges.
- Mobile Home/Trailer to be affixed on hitch.
- Motorcycle to be affixed on the frame.
- Public Vehicle Identification number replacement.
- Rebuilt Modified Antique Homemade Other _____

NOTE: If vehicle is antique, is it equipped with original or equivalent parts? Yes No - Explain _____

MOTOR VEHICLE OR 4-WHEELED UNCONVENTIONAL	MOTORCYCLE OR 3-WHEELED UNCONVENTIONAL	TRAILER
Does the vehicle meet the following requirements? (See Chapter 39-21 NDCC and Article 37-12 NDAC) PASS FAIL <input type="checkbox"/> Headlights (39-21-02, 39-21-03, 39-21-20) <input type="checkbox"/> Taillights (39-21-04) <input type="checkbox"/> License Plate Light (39-21-04) (3) <input type="checkbox"/> Clearance Lights and Reflectors (39-21-05, 39-21-07 through 39-21-12) <input type="checkbox"/> Stoplights (39-21-06) (1) <input type="checkbox"/> Turn Signals (39-21-06(2), 39-21-19) <input type="checkbox"/> Brakes (39-21-32, 39-21-33) (37-12-02-03(1)) <input type="checkbox"/> Horn (39-21-36) (37-12-02-04) <input type="checkbox"/> Exhaust System (39-21-37) (37-12-02-03(3)) <input type="checkbox"/> Mirrors (39-21-38) (37-12-02-02(5)) <input type="checkbox"/> Windshield - Tinted Windows (39-21-39) (1) (4) <input type="checkbox"/> Windshield Wipers (39-21-39) (2) (3) <input type="checkbox"/> Bumper Height (39-21-45.1) (37-12-02-03(2)) <input type="checkbox"/> Door Latches (37-12-02-02(1)) <input type="checkbox"/> Floor Pan (37-12-02-02(2)) <input type="checkbox"/> Hood Latches (37-12-02-02(3)) <input type="checkbox"/> Steering Wheel (37-12-02-02(4)) <input type="checkbox"/> Fenders (37-12-02-03(4)) <input type="checkbox"/> Fuel System (37-12-02-03(5)) <input type="checkbox"/> Steering and Suspension (37-12-02-03(6)) <input type="checkbox"/> Tires (37-12-02-03(7))	(See Chapter 39-27 NDCC) PASS FAIL <input type="checkbox"/> Frame and Chassis (39-27-03) <input type="checkbox"/> Brakes (39-27-04) (39-27-04.1) <input type="checkbox"/> Tires, Wheel and Rims (39-27-05) <input type="checkbox"/> Steering and Suspension (39-27-06) <input type="checkbox"/> Fuel System (39-27-07) <input type="checkbox"/> Muffler (39-27-08) <input type="checkbox"/> Mirror (39-27-09) <input type="checkbox"/> Fenders (39-27-10) <input type="checkbox"/> Seal (39-27-11) <input type="checkbox"/> Chain Guard (39-27-12) <input type="checkbox"/> Vehicle Stand (39-27-13) <input type="checkbox"/> Glazing (39-27-14) <input type="checkbox"/> Horn (39-27-15) <input type="checkbox"/> Speedometer and Odometer (39-27-16) <input type="checkbox"/> Lighting Equipment (39-27-17) (39-27-17.1) <input type="checkbox"/> Passenger Seat (39-27-18) <input type="checkbox"/> Footrest (39-27-20) <input type="checkbox"/> Highway Bars (39-27-21)	(See Chapter 39-21 NDCC) PASS FAIL <input type="checkbox"/> Taillights (39-21-04) <input type="checkbox"/> Clearance Lights & Reflectors (39-21-05, 39-21-10) <input type="checkbox"/> Stoplights (39-21-06, 39-21-08) <input type="checkbox"/> Turn Signals (39-21-06, 39-21-08) <input type="checkbox"/> Safety Chains or Brakes (39-21-32)

Overall Body Condition of Vehicle: Good Fair Poor

CERTIFICATE OF REPAIRS FOR SALVAGE VEHICLE

Name	Address	City	State	Zip Code
------	---------	------	-------	----------

I certify that I have rebuilt the above described vehicle. I further certify: The frame of the vehicle was not in need of repair or has been repaired in such a manner that the repairs will not detract from the overall performance of the vehicle and the chassis is now in a condition that would be comparable to the chassis of a similar vehicle which has not been damaged in an accident. The wheel alignment for the vehicle is within the tolerances allowed for vehicles of the same make, year model, and style.

X _____
 Signature Date

Inspection is "only" to verify the above-described vehicle has met minimum equipment requirements as required by state law.

INSPECTED BY:

Signature of Inspecting Officer

Badge Number

Date

PENALTY: Any person making a false statement on this certificate of which another penalty is not specifically provided is guilty of a class B misdemeanor.

**CHAPTER 37-12-05
INSPECTION OF SALVAGE VEHICLES**

Section
37-12-05-01 Procedure

37-12-05-01. Procedure. A highway patrol officer, when inspecting a salvage vehicle under the provisions of North Dakota Century Code section 39-05-20.2, must inspect the following equipment to determine it is in compliance with the provisions of North Dakota Century Code chapter 39-21 and North Dakota Administrative Code article 52-04: headlights, turn signals, windshield, mirrors, horn, brakes, exhaust system, taillights, stoplights, license plate lights, clearance lights and reflectors, bumper heights, tires, fenders, steering wheel, steering and suspension, hood latches, door latches, floor pan, and fuel system. In addition to inspecting the listed equipment, a highway patrol officer may require an additional statement from the rebuilder of the salvage vehicle prior to the completion of the certificate of inspection. The additional signed statement, as a part of form SFN 2486, shall require the rebuilder to certify the following:

1. The frame of the salvage vehicle was not in need of repair or has been repaired in such a manner that the repairs will not detract from the overall performance of the vehicle and the frame is now in a condition that would be comparable to the frame of a similar vehicle which had not been damaged in an accident.

2. The wheel alignment is within the tolerances allowed for vehicles of the same make, year model, and style. Highway patrol officers may require this additional certification when they determine the salvage vehicle may have suffered damage to frame, chassis, or wheel alignment as a result of an accident.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02, 39-02-03

Law Implemented: NDCC 39-05-20.2

**Senate Transportation Committee
March 3, 2011 - Ft. Totten Room**

**North Dakota Department of Transportation
Linda Sitz, Director of Motor Vehicle Division
SB 2076**

Mr. Chairman and members of the committee, I'm Linda Sitz, Director of the Motor Vehicle Division at the North Dakota Department of Transportation (DOT.) Thank you for giving me the opportunity to present information to you today.

The DOT filed Senate Bill 2076 as an agency bill. The National Motor Vehicle Title Information System (NMVTIS) database, when complete, will allow any state the ability to verify titling brands in other states before issuing a ND title. In fact the law prescribes we "shall" do this background check on all vehicles coming into the state.

The difference between this database and a Car Fax type database is junk and salvage yards and insurance companies are required to report vehicles in their possession to NMVTIS creating an extensive database of damaged or stolen vehicles.

Currently North Dakota only has three brands it can give vehicles that have been severely damaged, "salvaged," "previously salvaged" and "previously damaged." These vehicles could under certain circumstances be back on the road.

Approximately 20 states use the following titling brands; Scrap, Parts Only, Un-repairable, Non-rebuildable, Certificate of Destruction, and Dismantler. States assigning these titling brands means the motor vehicle has been so severely damaged that the state has determined it cannot ever be re-titled or registered for use on their roads.

Several years ago, when another state was bringing in severely damaged vehicles and "washing" the titles, Motor Vehicle developed a policy whereby we would not put these vehicles on the road. We would like to codify this policy by enacting this legislation incorporating these brands into our existing categories to prevent these vehicles from erroneously being placed on any roads.

Now why are we asking for this? First, if we knowingly put a vehicle back on the road that another jurisdiction has deemed so severely damaged that it should not go on their roads, we worry about potential liability. We have to ask ourselves the question why would North Dakota want to accept the liability another state chose to avoid with these brands.

Another way North Dakota could incur liability, is if one of our citizens sold one of these vehicles to a person in another state and that state would not register it, the buyer has now purchased a vehicle they are unable to use. In this case, both the seller and the state could be subject to legal action.

In addition, the Automobile Dealer Association of North Dakota has expressed concern that these vehicles could end up on their lots and create a potential liability for them when sold.

With these brands, other states have made a policy decision to simply remove these severely damaged vehicles from the road to avoid these liability concerns.

For all of these reasons, we would ask that you support SB2076.

Mr. Chairman, I would be happy to answer any questions at this time. Thank you.

North Dakota participates in NMVTIS. This national database allows both us and consumers to trace the title history of a vehicle. A vehicle that is titled in Michigan, sells in North Dakota and then is sold to someone in Texas will have full title history as it moves from state to state. A vehicle that is titled as salvage in one state will be titled as salvage in another state because title brand history is available through NMVTIS. This system insures that title information is retained historically, so the consumer can review all brands a vehicle has held at each change in ownership. This way a vehicle branded as junk after sustaining major damage cannot become a clean title in another jurisdiction, because the title brand will always travel with the vehicle.

We filed Senate Bill 2076 as an agency bill that allows Motor Vehicle to recognize brands such as *scrap, parts-only, junk, unrepairable, nonrebuildable, certificate of destruction, dismantler* or similar notations indicating the vehicle cannot be titled and registered for use on our public roadways. This codifies the policy we have followed for 12 years to protect North Dakota consumers and dealers.

HB1405 appears to be contrary to this effort. If, in fact, another state does not title a vehicle because it has sustained enough damage to prevent titling and registration, we would need to:

- develop and build a process on how to treat vehicles without brands, like those that come from Canada as they do not title vehicles,
- research the brand types of each state,
- request documentation from the prior state to determine standards they established to give the branding placed on the title,
- determine why they refused to title, and,
- require insurance information and damage reports from other states to be able to evaluate the actual damage incurred by the vehicle.

Questionable brands would need to be researched in depth and analyzed to determine if the brand could be switched to North Dakota "Salvage or Previously Salvaged"- currently the only brands we have to expose damage to a vehicle. This research takes approximately 3-4 hours per title. As our economy has grown, so has the demand for our services. As things stand today, we would not be able to allocate staff for this added service.

In North Dakota, titling a vehicle as a salvage vehicle implies a level of certainty that the vehicle is potentially road-worthy. By accepting the brands that we deem as non-roadworthy and non-rebuildable and forcing them to be titled in North Dakota, we run the risk of "washing brands" or putting unsafe vehicles on the roads thereby creating a situation in which our citizens are potentially endangered.

Using NMVTIS, we could eliminate this time consuming and imprecise process while still protecting the public and our dealers.

Thank you, Mr. Chairman, I would be happy to answer any questions.

**Testimony – House Bill 1405
House Transportation Committee
Submitted by
Jody Skogen, NDHP**

February 3, 2011
Fort Totten Room; 9:15 AM

Good morning Chairman Ruby and members of the House Transportation Committee. I'm Lieutenant Jody Skogen and I serve as the Safety and Education Officer for the North Dakota Highway Patrol. I am here today to testify on behalf of the North Dakota Highway Patrol in opposition to House Bill 1405.

The potential impact on our resources is a concern. North Dakota does not allow a vehicle that has a damaged or salvage title to transfer ownership until it passes an inspection. This inspection, per administrative rule, can only be performed by a member of North Dakota Highway Patrol. The number of these inspections has gradually increased. Demand in larger North Dakota cities now dictates that on a weekly basis troopers be assigned an entire shift performing vehicle inspections.

Our primary concern is safety related. House Bill 1405 will allow vehicles which other states have determined to be damaged beyond the point of repair to be repaired, inspected, and returned to the roadways. The potential safety issues created by the passage of this bill may jeopardize motorists on North Dakota roadways, a concept that goes against our very mission.

This concludes my testimony. I will be happy to answer any questions you may have.