



Legal Services Advocacy Project

Testimony of Ron Elwood Before the Salvage Title Task Force

December 15, 2021

Chair Jasinski and Members:

My name is Ron Elwood. I am the Supervising Attorney of the Legal Services Advocacy Project (LSAP). LSAP is a statewide division of Legal Aid, conducting legislative and administrative policy advocacy on behalf of our clients and on behalf of all low-income Minnesotans, elder Minnesotans, and Minnesotans with disabilities across the state.

Thank you allowing me the opportunity to speak with you today on the Salvage Title issue.

At the outset, let me make my interests and involvement in this issue crystal clear. My only interests are in consumer protection, consumer knowledge, and public safety.

As the Task Force's charge clearly states, the purpose of the salvage title designation is to provide make buyers of used and previously totaled cars more informed when they are contemplating purchasing a vehicle.

And let me pause to be clear that I am only concerned with commercial transactions between prospective buyers and used car dealers – not in individual purchases at auto auctions.

The salvage title designation can convey a sense of the roadworthiness of a vehicle that a person is considering purchasing. It should provide a warning of possible structural or mechanical defects that could render a car unsafe and dangerous.

The question before you is whether our current salvage title law gives consumers the information they need to be informed purchasers – to know whether a car they are looking to buy from an auto dealer is safe or not. And if the answer to that question is no – and I think it is no – then what should replace it?

The current law creates a demarcation line for the salvage title designation for “late model” cars (that is, cars 6 years old or newer) and “high value” cars (that is, cars worth more or less than \$9,000. Are those the right demarcation lines?

More importantly, wherever the line is drawn does that title designation provide the prospective buyer with the information they need to know whether the car they are looking to buy commercially is safe, or a death trap?

The current demarcation line is arbitrary. Two vehicles that suffer the same exact damage and are equally safe or unsafe get two different treatments. If the car is worth \$9,100 an appropriate warning – a salvage title designation – obtains. But a different vehicle, worth \$8,900 and possibly unsafe is put back in the stream of commerce and the buyer has no indication that there may be a safety problem.

For example, a quick check of Carfax came up with a mix of prices for the same year car. One for instance – a relatively late model 2014 Toyota Corolla with 166,000 miles – was listed for \$8,884. It falls neither in the “late model” category nor the “high value” category.

Had this car been totaled – and unsafe -- it would not have been designated as salvaged and the buyer would have no indication of potential danger.

But again, is the title the right place to provide the guidance and warnings for which the salvage designation is intended? If the title is not the proper (pun intended) vehicle for conveying this vital information to prospective buyers, what is?

The ideal solution – an objective inspection for structural and mechanical damage -- is simply impossible. Today, a salvage vehicle is inspected by the state – not for roadworthiness but rather for stolen parts.

While identifying stolen parts is important for crime prevention, it is not really what the consumer cares about when at a used car lot contemplating a vehicle purchase. If we had unlimited funds and were willing to set up a government or nonprofit infrastructure to evaluate the safety of totaled cars, this problem would be solved. But that is not going to happen.

So we’re left with proxies called salvage title designations.

The bill that passed unanimously on the Senate floor would have designated all cars totaled as salvage. That would certainly send the signal for a buyer to beware. It would also ensure that all vehicles with structural or mechanical damage that renders them unsafe would be flagged for consumers. And it would serve to likely prevent vehicles that are damaged but not obvious to the naked eye from being sold at inflated prices that do not reflect the condition of the vehicle. It is our client’s who are more often subject to this marketplace flaw.

But that bill is overinclusive. As you know, the older the car, the less cosmetic damage it takes to total it. Therefore, while ALL unsafe cars would be included, so would cars that could actually put back in the stream of commerce and be driven safely. This could serve to reduce the supply and raise the price of used cars. (As we are experiencing right now for another reason – the tightening of the supply chain.)

Any other proposal to move the yardsticks on “late model” or “high value” but fall short of eliminating those definitions would be underinclusive. Certainly changing the definitions to include more cars would move in the right direction, be a compromise, and theoretically give more consumers more information about the potential roadworthiness of a vehicle they are contemplating purchasing.

I know the question for me that would come next from you is, “well if this method of title designation is not the right method to provide prospective car buyers the information they need, then what do you propose?”

Regrettably, I don’t have the magic solution – we’ve all been at this for at least three years now (and before that, in 1988 – before my time – when these definitions were put in place).

But I will leave you with this: Generally I would suggest that the Task Force think about a means to provide car buyers at used cars dealers with at the very least a clear disclosure – not in tiny print or buried in stacks of paper the buyer needs to sign, to be glossed over and ignored by the consumer -- that the vehicle they are thinking about buying:

- a. Has been at one point totaled by the insurance company;
- b. If true, the seller has not conducted a safety inspection and also does not know that the airbags are functioning; and
- c. The buyer may take the car to their own mechanic to check it out for safety.

Again, thank you for the opportunity to discuss this issue with you today.