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To Salvage Title Task Force members
From Matt Burress, Legislative Analyst
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Subject Preliminary salvage title bill draft

This memo accompanies an initial bill draft, MB069, that the Salvage Title Task Force had requested. The bill draft attempts to capture a combination of comments and direction from task force members, some feedback from the Department of Public Safety, and a variety of technical and clarifying changes that we have identified. Below is an overview followed by some comments on policy considerations.

Overview

In broad terms, the draft contains the following components.

- **“Insurance loss” title brand.** The draft establishes a new title brand, “insurance loss,” that must be applied to in-state noncommercial vehicles that are outside the high-value or late-model thresholds when (1) acquired by an insurance company as a total loss, and (2) the vehicle is self-insured and sustains damage equal at least 80 percent of its cash value. Put another way, the current process to issue a “salvage” brand on damaged high-value and late-model vehicles remains unchanged, and a new brand is added for vehicles in the same circumstances (e.g., a total loss acquisition by an insurance company) that are not high-value or late-model. (*See sections 4, 5, and 9, subds. 2a and 6.*)
- **Written disclosure.** The draft expands disclosure requirements so that a vehicle dealer must provide written disclosure to a prospective buyer about a vehicle that has any title brand. The language also includes technical changes that centralize several oral disclosure requirements (that apply separately to different brands). (*See section 8, subdivision 2, with language stricken elsewhere and substantially reproduced in this subdivision; and section 11.*)

- **Blank appropriation.** An appropriation is made from the department’s operating account in an amount to be determined, which is designed to anticipate agency costs to revise the titling process. *(See section 10.)*
- **Various technical and clarifying changes.** The draft includes a number of changes that are designed to align state statutes with existing practices, resolve ambiguities regarding vehicles with out-of-state titles, and perform some technical cleanup and modernization. Taken together, these changes make up a rather substantial portion of the bill draft, but we opted to include them in this preliminary draft in order to provide task force members with a clearer set of options in potential legislation. The changes are primarily to:
 - Conform statutes with DVS practice and remove ambiguities regarding when damaged vehicles with out-of-state title must carry a “salvage” brand, which is **not** intended to modify current practice or requirements for out-state-vehicles *(see sections 5, subd. 1 (c), and 9, subd. 3);*
 - Revise terminology to refer to brands *(see sections 4, 5, and 9);*
 - Revise terminology on salvage titles to refer to a “salvage” brand instead of a separate type of title, since this is actual practice of DVS *(see sections 1, 5, 6, 7, and 11);*
 - Adjust the determination of a damage threshold for when notice is required in title applications, which is **not** intended to modify current practice or requirements, but rather is changed to (1) establish internal consistency in state statutes, as it appears that the section being changed in the draft were likely missed when a similar substantive change in the threshold was previously made in another statute; and (2) align with DVS practice *(see sections 2 and 3);*
 - Clarify that a title can bear more than one brand *(see section 4);* and
 - Remove a term definition that is made obsolete and is not used in statutes *(see section 11).*

Policy Considerations

While the department and stakeholders will likely have additional reactions, a couple of policy elements with the draft can be highlighted.

- The collection of vehicles that must receive a “salvage” brand is unchanged. The new “insurance loss” brand is for total loss vehicles that fall outside the thresholds high-value or late-model vehicles.
- The new “insurance loss” brand only applies to in-state vehicles, whereas damaged (or previously damaged and repaired) out-of-state vehicles get a “salvage” brand or a “prior salvage” brand, as appropriate. Thus in-state and out-of-state vehicles that have parallel circumstances can end up with different brands. (Recall, too, that in-state and out-state vehicles are already handled differently in current law: in-state total loss vehicles that do not meet the high-value or late-model thresholds will not

require a “salvage” or “prior salvage” brand and can instead be repaired and sold with a clean title.)

- The new “insurance loss” brand acts as a signifier of insurance total loss (or damage as a high percentage of vehicle value), but does not further specify the nature of the damage. Implied by this change is that the brand acts as a flag, and to be more fully informed a consumer would need to utilize a third-party service like CARFAX to check on the vehicle’s history.
- The initial draft gives discretion to the Department of Public Safety to specify written disclosure documentation requirements. Some possible alternative approaches include (1) requiring no documentation; or (2) further specify procedures for documenting the disclosure (e.g., that the dealer must retain a copy signed by the seller and prospective buyer) and document retention.
- The written disclosure requirement is established for vehicle dealers, but not for private party sales. This reflects the mandates in current law for oral disclosure, which mostly apply only to dealers. (An exception is for some types of flood damage, which under current law and in the bill draft must be disclosed by each subsequent seller.)
- The title branding and disclosure exemptions for commercial vehicles and motorcycles remain unchanged. As DVS staff had noted in task force presentations and discussion, most commercial vehicles (weighing 16,000 pounds or more) and motorcycles are exempted from the title branding and disclosure provisions. Minn. Stat. § 325F.6644. That is, such vehicles can sustain significant damage or be an insurance total loss but continue to have a “clear” title in Minnesota. The exemptions are not modified in the initial bill draft.

We are available for any questions or if the task force would like a revised bill draft. Also, a fiscal note has not yet been requested from the department. Once the task force considers a draft to be sufficiently developed, it can be requested.

MB/LS/rk