

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 782

Introduced by DeKay, 40; Dungan, 26.

Read first time January 18, 2023

Committee:

- 1 A BILL FOR AN ACT relating to motor vehicles; to amend sections 60-171,
- 2 60-173, 60-1401, and 60-1401.02, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to salvage branded
- 4 certificates of title; to define and redefine terms; to provide
- 5 requirements for consumer care of motor vehicles as prescribed; and
- 6 to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-171, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 60-171 For purposes of sections 60-171 to 60-177:

4 (1) Consumer care has the same meaning as in section 60-1401.10;

5 (2) ~~(1)~~ Cost of repairs means the estimated or actual retail cost of
6 parts needed to repair a vehicle plus the cost of labor computed by using
7 the hourly labor rate and time allocations for repair that are customary
8 and reasonable. Retail cost of parts and labor rates may be based upon
9 collision estimating manuals or electronic computer estimating systems
10 customarily used in the insurance industry;

11 (3) ~~(2)~~ Flood damaged means damage to a vehicle resulting from being
12 submerged in water to the point that rising water has reached over the
13 floorboard, has entered the passenger compartment, and has caused damage
14 to any electrical, computerized, or mechanical components. Flood damaged
15 specifically does not apply to a vehicle that an inspection, conducted by
16 an insurance claim representative or a vehicle repairer, indicates:

17 (a) Has no electrical, computerized, or mechanical components
18 damaged by water; or

19 (b) Had one or more electrical, computerized, or mechanical
20 components damaged by water and all such damaged components were repaired
21 or replaced;

22 (4) ~~(3)~~ Late model vehicle means a vehicle which has (a) a
23 manufacturer's model year designation of, or later than, the year in
24 which the vehicle was wrecked, damaged, or destroyed, or any of the six
25 preceding years or (b)(i) in the case of vehicles other than all-terrain
26 vehicles, utility-type vehicles, and minibikes, a retail value of more
27 than ten thousand five hundred dollars until January 1, 2010, and a
28 retail value of more than ten thousand five hundred dollars increased by
29 five hundred dollars every five years thereafter or (ii) in the case of
30 all-terrain vehicles, utility-type vehicles, or minibikes, a retail value
31 of more than one thousand seven hundred fifty dollars until January 1,

1 2010, and a retail value of more than one thousand seven hundred fifty
2 dollars increased by two hundred fifty dollars every five years
3 thereafter;

4 (5) (4) Manufacturer buyback means the designation of a vehicle with
5 an alleged nonconformity when the vehicle (a) has been replaced by a
6 manufacturer or (b) has been repurchased by a manufacturer as the result
7 of court judgment, arbitration, or any voluntary agreement entered into
8 between the manufacturer or its agent and a consumer;

9 (6) (5) Previously salvaged or rebuilt each mean the designation of
10 a rebuilt vehicle which was previously required to be issued a salvage
11 branded certificate of title and which has been inspected as provided in
12 section 60-146;

13 (7) (6) Retail value means the actual cash value, fair market value,
14 or retail value of a vehicle as (a) set forth in a current edition of any
15 nationally recognized compilation, including automated databases, of
16 retail values or (b) determined pursuant to a market survey of comparable
17 vehicles with respect to condition and equipment; ~~and~~

18 (8) (7) Salvage means the designation of a vehicle that ~~which~~ is:

19 (a) A late model vehicle which has been wrecked, damaged, or
20 destroyed to the extent that the estimated total cost of repair to
21 rebuild or reconstruct the vehicle to its condition immediately before it
22 was wrecked, damaged, or destroyed and to restore the vehicle to a
23 condition for legal operation, meets or exceeds seventy-five percent of
24 the retail value of the vehicle at the time it was wrecked, damaged, or
25 destroyed; ~~or~~

26 (b) Voluntarily designated by the owner of the vehicle as a salvage
27 vehicle by obtaining a salvage branded certificate of title, without
28 respect to the damage to, age of, or value of the vehicle; or ~~or~~

29 (c) Deemed a structurally totaled vehicle by a facility that
30 performs consumer care and by an insurance company that insured the
31 vehicle at the time it sustained the damage that caused it to be deemed a

1 structurally totaled vehicle; and

2 (9)(a) Structurally totaled vehicle means a vehicle totaled due to a
3 kink or crease in a frame rail, a unibody, or a structural component,
4 including an engine cradle or a rear differential;

5 (b) Structurally totaled vehicle does not include a vehicle deemed a
6 total loss due to hail or cosmetic damage; and

7 (c) Structurally totaled vehicle does not include a vehicle if the
8 cost to perform repairs does not exceed seventy-five percent of the
9 actual cash value of the vehicle.

10 Sec. 2. Section 60-173, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 60-173 (1) When an insurance company acquires a salvage vehicle
13 through payment of a total loss settlement on account of damage or as a
14 result of a determination that the vehicle is a structurally totaled
15 vehicle, the company shall obtain the certificate of title from the
16 owner, surrender such certificate of title to the county treasurer, and
17 make application for a salvage branded certificate of title which shall
18 be assigned when the company transfers ownership. An insurer shall take
19 title to a salvage vehicle for which a total loss settlement is made
20 unless the owner of the salvage vehicle elects to retain the salvage
21 vehicle.

22 (2) If the owner elects to retain the salvage vehicle, the insurance
23 company shall notify the department of such fact in a format prescribed
24 by the department. The department shall immediately enter the salvage
25 brand onto the computerized record of the vehicle. Beginning on the
26 implementation date designated by the director pursuant to subsection (3)
27 of section 60-1508, the insurance company shall report electronically to
28 the department using the electronic reporting system. The insurance
29 company shall also notify the owner of the owner's responsibility to
30 comply with this section. The owner shall, within thirty days after the
31 settlement of the loss, forward the properly endorsed acceptable

1 certificate of title to the county treasurer in the county designated in
2 section 60-144. Upon receipt of the certificate of title, the county
3 treasurer shall issue a salvage branded certificate of title for the
4 vehicle unless the vehicle has been repaired and inspected as provided in
5 section 60-146, in which case the county treasurer shall issue a
6 previously salvaged branded certificate of title for the vehicle.

7 (3) An insurance company may apply to the department for a salvage
8 branded certificate of title without obtaining a properly endorsed
9 certificate of title from the owner or other evidence of ownership as
10 prescribed by the department if it has been at least thirty days since
11 the company obtained oral or written acceptance by the owner of an offer
12 in an amount in settlement of a total loss. The insurance company shall
13 submit an application form prescribed by the department for a salvage
14 branded certificate of title accompanied by an affidavit from the
15 insurance company that it has made at least two written attempts and has
16 been unable to obtain the proper endorsed certificate of title from the
17 owner following an oral or written acceptance by the owner of an offer of
18 an amount in settlement of a total loss and evidence of settlement.

19 Sec. 3. Section 60-1401, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 60-1401 Sections 60-1401 to 60-1441 and sections 5, 6, and 7 of this
22 act shall be known and may be cited as the Motor Vehicle Industry
23 Regulation Act.

24 Any amendments to the act shall apply to franchises subject to the
25 act which are entered into, amended, altered, modified, renewed, or
26 extended after the date of the amendments to the act except as otherwise
27 specifically provided in the act.

28 All amendments to the act shall apply upon the issuance or renewal
29 of a dealer's or manufacturer's license.

30 Sec. 4. Section 60-1401.02, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 60-1401.02 For purposes of the Motor Vehicle Industry Regulation
2 Act, the definitions found in sections 60-1401.03 to 60-1401.40,
3 60-1401.42, and 60-1401.43 and sections 5 and 6 of this act apply.

4 Sec. 5. Original equipment manufacturer part means a part for a
5 motor vehicle that is manufactured by the manufacturer of the motor
6 vehicle.

7 Sec. 6. Original equipment manufacturer procedure means the best
8 practice to provide consumer care through manuals and guidance provided
9 by the manufacturer of the motor vehicle receiving such consumer care.

10 Sec. 7. Any person performing consumer care shall follow the
11 estimating system as commonly accepted and used by insurance companies
12 for guidelines for all repairs to motor vehicles except for use of
13 original equipment manufacturer parts.

14 Sec. 8. Original sections 60-171, 60-173, 60-1401, and 60-1401.02,
15 Reissue Revised Statutes of Nebraska, are repealed.