

Withdrawn

4/13/04

MAR 4 2004

Place On Calendar

HOUSE FILE 2444

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 639)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to disclosure requirements for the transfer of
2 ownership of a motor vehicle and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

HF 2444

1 Section 1. Section 321.69, subsections 1, 2, 3, 4, 7, 8,
2 and 9, Code Supplement 2003, are amended to read as follows:

3 1. A certificate of title shall not be issued for a motor
4 vehicle unless a damage disclosure statement has been made by
5 the transferor of the vehicle and is furnished with the
6 application for certificate of title. A damage disclosure
7 statement ~~must~~ shall be provided by the transferor to the
8 transferee in a transfer of ownership of a motor vehicle. The
9 new certificate of title and registration receipt shall state
10 on the face ~~of the title the total cumulative dollar amount of~~
11 ~~damage reported by owners prior to the owner listed on the~~
12 ~~front of the title~~ whether a prior owner had disclosed that
13 the vehicle was damaged to the extent that it was a wrecked or
14 salvage vehicle as defined in section 321.52, subsection 4,
15 paragraph "d".

16 2. The damage disclosure statement required by this
17 section shall, at a minimum, state ~~the total retail dollar~~
18 ~~amount of all damage to the vehicle during the period of the~~
19 ~~transferor's ownership of the vehicle and~~ whether the
20 transferor knows if the vehicle was titled as a salvage,
21 rebuilt, or flood vehicle in this or any other state prior to
22 the transferor's ownership of the vehicle and, if not, whether
23 the transferor knows if the vehicle was damaged to the extent
24 that it was a wrecked or salvage vehicle as defined in section
25 321.52, subsection 4, paragraph "d", during or prior to the
26 transferor's ownership of the vehicle. ~~For the purposes of~~
27 ~~this section,~~ "damage" ~~refers to damage to the vehicle caused~~
28 ~~by fire, vandalism, collision, weather, falling objects,~~
29 ~~submersion in water, or flood, where the cost of repair is six~~
30 ~~thousand dollars or more per incident, but does not include~~
31 ~~normal wear and tear, glass damage, mechanical repairs or~~
32 ~~electrical repairs that have not been caused by fire,~~
33 ~~vandalism, collision, weather, falling objects, submersion in~~
34 ~~water, or flood.~~ "Damage" ~~does not include the cost of~~
35 ~~repairing, replacing, or reinstalling tires, lights,~~

1 batteries, windshields, windows, a sound system, or an
2 inflatable restraint system. A determination of the amount of
3 damage to a vehicle shall be based on estimates of the retail
4 cost of repairing the vehicle, including labor, parts, and
5 other materials, if the vehicle has not been repaired or on
6 the actual retail cost of repair, including labor, parts, and
7 other materials, if the vehicle has been repaired. Only
8 individual incidents in which the retail cost of repairs is
9 six thousand dollars or more are required to be disclosed by
10 this section. If the vehicle has incurred damage of six
11 thousand dollars or more per incident in more than one
12 incident, the damage amounts must be combined and disclosed as
13 the total of all separate incidents.

14 3. The damage disclosure statement shall be provided by
15 the transferor to the transferee at or before the time of
16 sale. However, if the transferor has a salvage certificate of
17 title for the vehicle, the transferor is not required to
18 disclose under this section the total retail cost of repairs
19 to the vehicle during the period of the transferor's ownership
20 of the vehicle. If the transferor is not a resident of this
21 state or if the transferee acquired the vehicle by operation
22 of law as provided in section 321.47, the transferee shall not
23 be required to submit a damage disclosure statement from the
24 transferor with the transferee's application for title unless
25 the state of the transferor's residence requires a damage
26 disclosure statement. However, the transferee shall submit a
27 damage disclosure statement with the transferee's application
28 for title indicating whether a salvage, or rebuilt, or flood
29 title had ever existed for the vehicle and, if not, whether
30 the vehicle had incurred prior damage of six thousand dollars
31 or more per incident, was damaged to the extent that it was a
32 wrecked or salvage vehicle as defined in section 321.52,
33 subsection 4, paragraph "d", during or prior to the
34 transferor's ownership of the vehicle and the year, make, and
35 vehicle identification number of the motor vehicle. The

1 transferee shall not be required to indicate whether the
2 ~~vehicle had incurred prior damage of six thousand dollars or~~
3 more per incident was damaged to the extent that it was a
4 wrecked or salvage vehicle as defined in section 321.52,
5 subsection 4, paragraph "d", under this subsection if the
6 transferor's certificate of title is from another state and if
7 it indicates that the vehicle is salvaged and not rebuilt or
8 is another state's salvage certificate of title.

9 4. A lessee who has executed a lease as defined in section
10 321F.1 shall provide a damage disclosure statement to the
11 lessor at the termination of the lease. The damage disclosure
12 statement shall be made on a separate disclosure document and
13 ~~shall state the total dollar amount of all damage to the~~
14 ~~vehicle which occurred during the term of the lease whether~~
15 the vehicle was damaged during the term of the lease to the
16 extent that it was a wrecked or salvage vehicle as defined in
17 section 321.52, subsection 4, paragraph "d". The lessee's
18 damage disclosure statement shall not be submitted with the
19 application for title, but the lessor shall retain the
20 lessee's damage disclosure statement for five years following
21 the date of the statement.

22 7. The damage disclosure statements shall be made on the
23 back of the certificate of title if the title is available to
24 the transferor at the time of sale. If the title is not
25 available at the time of sale or if the face of the
26 transferor's Iowa title contains no indication that the
27 vehicle was previously salvaged or titled as salvaged or a
28 salvage, rebuilt, or flood vehicle and the transferor knows or
29 reasonably should know that the vehicle was previously
30 salvaged or titled as salvaged or a salvage, rebuilt, or flood
31 vehicle in another state, the transferor shall make the
32 disclosure on a separate disclosure document. The damage
33 disclosure statement forms shall be as approved by the
34 department. The treasurer shall not accept a damage
35 disclosure statement and issue a title unless the back of the

1 title or separate disclosure document has been fully completed
2 and signed and dated by the transferee and the transferor, if
3 applicable. If a separate damage disclosure document from a
4 prior owner is required to be furnished with the application
5 for title, the transferor ~~must~~ shall provide a copy of the
6 separate damage disclosure document to the transferee at or
7 before the time of sale.

8 In addition to the information required in subsection 2, a
9 separate disclosure document shall state whether the vehicle's
10 certificate of title indicates the existence of damage prior
11 to the period of the transferor's ownership of the vehicle,
12 ~~and the amount of that damage if the transferor knows or~~
13 ~~reasonably should know of the prior damage,~~ and whether the
14 vehicle was titled as a salvage, rebuilt, or flood vehicle
15 during the period of the transferor's ownership of the
16 vehicle.

17 8. A person, authorized vehicle recycler licensed under
18 chapter 321H, or motor vehicle dealer licensed under chapter
19 322 shall not be liable to a subsequent owner, driver, or
20 passenger of a vehicle because a prior owner or lessee gave a
21 false or inaccurate damage disclosure statement or failed to
22 disclose that the vehicle had previously been damaged and
23 repaired or had been titled on a salvage, or rebuilt, or flood
24 certificate of title unless the person, recycler, or dealer
25 knew or reasonably should have known that the prior owner or
26 lessee gave a false or inaccurate damage disclosure statement
27 or failed to disclose that the vehicle had been damaged and
28 repaired or had been titled on a salvage, or rebuilt, or flood
29 certificate of title.

30 9. Except for ~~subsection 10~~ subsections 10 and 11, this
31 section does not apply to motor trucks and truck tractors with
32 a gross vehicle weight rating of sixteen thousand pounds or
33 more, vehicles more than ~~nine~~ five model years old,
34 motorcycles, motorized bicycles, and special mobile equipment.
35 This section does apply to motor homes. The requirement in

1 subsection 1 that the new certificate of title and
2 registration receipt shall state on the face of the title the
3 ~~total-cumulative-dollar-amount-of-damage~~ whether a prior owner
4 had disclosed that the vehicle was damaged to the extent that
5 it was a wrecked or salvage vehicle as defined in section
6 321.52, subsection 4, paragraph "d", does not apply to a
7 vehicle with a certificate of title bearing a designation that
8 the vehicle was previously titled on a salvage certificate of
9 title pursuant to section 321.52, subsection 4, paragraph "b",
10 or to a vehicle with a certificate of title bearing a
11 "REBUILT" or "SALVAGE" designation pursuant to section 321.24,
12 subsection 4 or 5. Except for ~~subsection 10~~ subsections 10
13 and 11, this section does not apply to new motor vehicles with
14 a true mileage, as defined in section 321.71, of one thousand
15 miles or less, unless such vehicle has incurred damage as
16 defined in subsection 2.

17

EXPLANATION

18 This bill amends Code section 321.69 relating to disclosure
19 requirements for the transfer of ownership of a motor vehicle.
20 Current law requires that a transferor must disclose damage
21 resulting from a single accident for which the cost of repairs
22 is \$6,000 or more, whether the damage was reported by prior
23 owners or sustained during the transferor's period of
24 ownership. The bill changes the amount of damage that must be
25 disclosed to match the standard for establishing a vehicle as
26 a wrecked or salvage vehicle, which is damage for which the
27 retail cost of repair exceeds 50 percent of the fair market
28 value of the vehicle before it became damaged. The current
29 requirement that a damage disclosure statement provide whether
30 the transferor knows if the vehicle was ever titled as a
31 salvage or flood vehicle is amended to include rebuilt titles.
32 A similar provision relating to vehicles transferred by
33 nonresidents is amended to require disclosure of a previous
34 flood title, in addition to salvage and rebuilt titles. The
35 bill also amends the requirement that a lessee make a damage

1 disclosure upon termination of a lease by changing the damage
2 standard for reporting to the wrecked or salvage vehicle
3 standard.

4 The bill retains the requirements that disclosures be made
5 prior to the time of sale of a vehicle and that they be in the
6 form of a statement on the face of the certificate of title or
7 on a separate disclosure document. The bill retains the
8 provision that licensed vehicle recyclers and motor vehicle
9 dealers are not liable to subsequent owners, drivers, or
10 passengers because of false or inaccurate damage disclosure
11 statements of prior owners or lessees, but the provision is
12 amended to include vehicles previously titled as flood
13 vehicles.

14 Disclosure requirements relating to nonoperative or missing
15 airbags apply for all motor vehicles except motor homes. The
16 bill makes a corrective amendment to provide that penalties
17 for airbag disclosure violations apply for all of these
18 vehicles as well. Under current law, vehicles more than nine
19 model years old are exempt from damage disclosure requirements
20 other than airbag disclosure requirements. The bill amends
21 the exemption by making it applicable to vehicles more than
22 five model years old.

23 Existing law provides that a person who knowingly makes a
24 false damage disclosure statement commits a fraudulent
25 practice. Otherwise, failure to comply with a duty imposed
26 under Code section 321.69 constitutes consumer fraud.

27
28
29
30
31
32
33
34
35

HOUSE FILE 2444

H-8202

1 Amend House File 2444 as follows:

2 1. Page 4, line 33, by striking the word "five"
3 and inserting the following: "seven".

By DOLECHECK of Ringgold
McCARTHY of Polk

H-8202 FILED MARCH 9, 2004

HOUSE FILE 2444

H-8211

1 Amend House File 2444 as follows:

2 1. Page 5, by inserting after line 16 the
3 following:

4 "Sec. ____ . Section 322A.11, subsection 4, Code
5 2003, is amended by striking the subsection."

6 2. Title page, line 1, by inserting after the
7 word "to" the following: "the transfer and sale of
8 motor vehicles including regulation of motor vehicle
9 dealers,".

10 3. Title page, line 2, by striking the words "and
11 providing penalties" and inserting the following: ",
12 and making penalties applicable".

13 4. By renumbering as necessary.

By HUSER of Polk
RAECKER of Polk

H-8211 FILED MARCH 9, 2004

Chair - Dolecheck
Klemme
Lykam

30-
SF

02444

HSB 639

TRANSPORTATION

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON ARNOLD)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to disclosure requirements for the sale, lease,
2 or trade of a motor vehicle and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 321.69, Code Supplement 2003, is
2 amended by striking the section and inserting in lieu thereof
3 the following:

4 321.69 SALVAGE, REBUILT, OR FLOOD VEHICLES -- MISSING OR
5 NONOPERATIVE AIRBAGS -- DISCLOSURE REQUIREMENTS.

6 1. Except as provided in subsection 6, a person shall not
7 sell, lease, or trade a motor vehicle if the person knows or
8 reasonably should know that the vehicle was titled as a
9 salvage, rebuilt, or flood vehicle in this or any other state
10 during or prior to the transferor's ownership of the vehicle
11 unless the person clearly discloses in writing prior to the
12 sale, lease, or trade to the person to whom the person is
13 selling, leasing, or trading the vehicle that the vehicle was
14 titled as a salvage, rebuilt, or flood vehicle in this or any
15 other state.

16 2. Except as provided in subsection 6, a person shall not
17 sell, lease, or trade a motor vehicle if the person knows or
18 reasonably should know that the motor vehicle contains a
19 nonoperative airbag that is part of an inflatable restraint
20 system, or that the motor vehicle has had an airbag removed
21 and not replaced, unless the person clearly discloses in
22 writing to the person to whom the person is selling, leasing,
23 or trading the vehicle, prior to the sale, lease, or trade,
24 that the airbag is missing or nonoperative. In addition, a
25 lessee who has executed a lease as defined in section 321F.1
26 shall provide the disclosure statement required in this
27 subsection to the lessor upon termination of the lease.

28 3. Authorized vehicle recyclers licensed under chapter
29 321H and motor vehicle dealers licensed under chapter 322
30 shall maintain copies of all written disclosures required
31 under this section where the recycler or dealer is either the
32 transferor or the transferee for five years following the date
33 of the disclosure. The copies shall be made available to the
34 department or the attorney general upon request.

35 4. A person, authorized vehicle recycler licensed under

1 chapter 321H, or motor vehicle dealer licensed under chapter
 2 322 shall not be liable to a subsequent owner, driver, or
 3 passenger of a vehicle because a prior owner or lessee gave a
 4 false or inaccurate disclosure or failed to make a disclosure
 5 required under this section unless the person, recycler, or
 6 dealer knew or reasonably should have known that the prior
 7 owner or lessee gave a false or inaccurate disclosure or
 8 failed to make a disclosure required by this section.

9 5. A person who knowingly makes a false disclosure or
 10 fails to make a disclosure required by this section commits a
 11 fraudulent practice. Failure of a person, authorized vehicle
 12 recycler licensed under chapter 321H, or motor vehicle dealer
 13 licensed under chapter 322 to comply with any duty imposed by
 14 this section constitutes a violation of section 714.16,
 15 subsection 2, paragraph "a".

16 6. This section does not apply to motor trucks and truck
 17 tractors with a gross vehicle weight rating of sixteen
 18 thousand pounds or more, motorcycles, motorized bicycles, and
 19 special mobile equipment. Subsection 1 does not apply to
 20 vehicles more than nine model years old. This section does
 21 apply to motor homes.

22 EXPLANATION

23 This bill rewrites Code section 321.69 relating to
 24 disclosure requirements for the transfer of ownership of a
 25 motor vehicle. The new language states that a person who
 26 sells, leases, or trades a motor vehicle must disclose in
 27 writing prior to the transaction that the motor vehicle was
 28 titled as a salvage, rebuilt, or flood vehicle in this or
 29 another state if the person knows or reasonably should know
 30 that fact. The bill eliminates the current requirement to
 31 disclose any damage to the vehicle for which the cost of
 32 repair is \$6,000 or more from a single incident. The bill
 33 also requires that a person who sells, leases, or trades a
 34 motor vehicle must disclose in writing prior to the
 35 transaction that the motor vehicle has a missing or

1 nonoperative airbag if the person knows or reasonably should
2 know that fact. In addition, a lessee must provide the airbag
3 disclosure to the lessor upon termination of a lease.

4 Motor trucks and truck tractors with a gross vehicle weight
5 rating of 16,000 pounds or more, motorcycles, motorized
6 bicycles, and special mobile equipment are exempt from the
7 disclosure requirements. Vehicles more than nine model years
8 old are exempt from the disclosure requirement applicable to
9 vehicles titled as salvage, rebuilt, or flood vehicles, but
10 are subject to the airbag disclosure requirements.

11 The bill requires licensed vehicle recyclers and licensed
12 motor vehicle dealers to maintain copies of written
13 disclosures, both given and received, for five years following
14 the date of the disclosure. The copies are to be made
15 available to the state department of transportation and the
16 attorney general upon request. The requirement under existing
17 law that all damage disclosure statements be retained by the
18 state department of transportation and made available to the
19 public and the attorney general is eliminated.

20 The bill provides that a person, licensed vehicle recycler,
21 or licensed motor vehicle dealer is not liable to a subsequent
22 owner, driver, or passenger of a vehicle because a prior owner
23 or lessee failed to provide a disclosure or gave a false or
24 inaccurate disclosure unless the person, recycler, or dealer
25 knew or reasonably should have known that fact.

26 The bill provides the same penalties currently prescribed
27 for violations of the damage disclosure law. A person who
28 fails to make a required disclosure or makes a false
29 disclosure commits a fraudulent practice. A disclosure law
30 violation committed by a licensed vehicle recycler or licensed
31 motor vehicle dealer is punishable as consumer fraud.

32
33
34
35