

CHAPTER 45**CONSUMER PROTECTION PROVISIONS PERTAINING TO MOTOR VEHICLES****S.F. 214**

AN ACT to provide greater protection for consumers who purchase or lease motor vehicles and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.24, unnumbered paragraphs 4 and 10, Code 1995, are amended to read as follows:

If the prior certificate of title is from another state and indicates that the vehicle was rebuilt the new certificate of title ~~and the registration receipt~~ shall contain the designation of "REBUILT" stamped or printed on its face together with the name of the state issuing the prior title. The designation of "REBUILT" and the name of the other state shall be retained on all subsequent Iowa certificates of title ~~and registration receipts~~ for the vehicle. If the prior certificate of title is from another state and indicates that the vehicle was rebuilt the registration receipt shall contain the designation of "REBUILT" stamped and printed on its face. The stamped designation of "REBUILT" shall be located on the center of the right side of the registration receipt in black letters no bigger than sixteen point type. The designation shall be retained on the face of all subsequent registration receipts for the vehicle.

If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, or a junking certificate has been issued for the vehicle but a certificate of title will not be reissued under section 321.52, subsection 3, and the vehicle qualifies as an antique vehicle under section 321.115, subsection 1, the county treasurer or department may register the vehicle but shall as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

Sec. 2. Section 321.52, subsection 3, unnumbered paragraph 2, Code 1995, is amended to read as follows:

However, upon application the department upon a showing of good cause may issue a certificate of title after the fourteen-day period for a junked vehicle for which a junking certificate has been issued. For purposes of this subsection, "good cause" means that the junking certificate was obtained by mistake or inadvertence. If a person's application to the department is denied, the person may make application for a certificate of title under the bonding procedure as provided in section 321.24, if the vehicle qualifies as an antique

vehicle under section 321.115, subsection 1, or the person may seek judicial review as provided under sections 17A.19 and 17A.20.

Sec. 3. Section 321.52, subsection 4, paragraphs a* and b, Code 1995, are amended to read as follows:

a. A vehicle rebuilder or a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered in this state, upon acquisition of a wrecked or salvage vehicle, shall surrender the certificate of title or manufacturer's or importer's statement of origin properly assigned, together with an application for a salvage certificate of title to the county treasurer of the county of residence of the purchaser or transferee within fifteen days after the date of assignment of the certificate of title for the wrecked or salvage motor vehicle. This subsection applies only to vehicles with a fair market value of five hundred dollars or more, based on the value before the vehicle became wrecked or salvage. Upon payment of a fee of two dollars, the county treasurer shall issue a salvage certificate of title which shall bear the word "SALVAGE" stamped or printed on the face of the title in a manner prescribed by the department. A salvage certificate of title may be assigned to an educational institution, a new motor vehicle dealer licensed under chapter 322, a person engaged in the business of purchasing bodies, parts of bodies, frames or component parts of vehicles for sale as scrap metal, a salvage pool, or an authorized vehicle recycler licensed under chapter 321H. An authorized vehicle recycler licensed under chapter 321H or a new motor vehicle dealer licensed under chapter 322 may assign a salvage certificate of title to any person. A vehicle on which ownership has transferred to an insurer of the vehicle, as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of the vehicle, shall be deemed to be a wrecked or salvage vehicle and the insurer shall comply with this subsection to obtain a salvage certificate of title within fifteen days after the date of assignment of the certificate of title of the vehicle.

b. When a wrecked or salvage vehicle has been repaired, the owner may apply for a regular certificate of title by paying the appropriate fees and surrendering the salvage certificate of title and a properly executed salvage theft examination certificate. The county treasurer shall issue a regular certificate of title which shall bear a designation stamped or printed on the face of the title and stamped and printed on the registration receipt indicating that the vehicle was previously titled on a salvage certificate of title in a form approved by the department. This designation shall be included on every Iowa certificate of title and registration receipt issued thereafter for the vehicle. The stamped designation shall be in black and shall be in letters no bigger than sixteen point type and located on the center of the right side of the registration receipt. However, if ownership of a stolen vehicle has been transferred to an insurer organized under the laws of this state or admitted to do business in this state, or if the transfer was the result of a settlement with the owner of the vehicle arising from damage to or the unrecovered theft of the vehicle, and if the insurer certifies to the county treasurer on a form approved by the department that the insurance company has received one or more written estimates which states that the retail cost of repairs including labor, parts, and other materials of all damage to the vehicle is less than three thousand dollars, the county treasurer shall issue to the insurance company the regular certificate of title and registration receipt without this designation.

Sec. 4. Section 321.69, subsections 2, 7, and 8, Code 1995, are amended to read as follows:

2. The damage disclosure statement required by this section shall, at a minimum, state the total retail dollar amount of all damage to the vehicle during the period of the transferor's ownership of the vehicle and whether the transferor knows if the vehicle was titled as a salvage or flood vehicle in this or any other state prior to the transferor's ownership of the vehicle. For the purposes of this section, "damage" refers to damage to the vehicle caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood, where

*Paragraph "a" amendment not enacted

the cost of repair is three thousand dollars or more per incident, but does not include normal wear and tear, glass damage, mechanical repairs or electrical repairs that have not been caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood. "Damage" does not include the cost of repairing, replacing, or reinstalling an inflatable restraint system. A determination of the amount of damage to a vehicle shall be based on estimates of the retail cost of repairing the vehicle, including labor, parts, and other materials, if the vehicle has not been repaired or on the actual retail cost of repair, including labor, parts, and other materials, if the vehicle has been repaired. Only individual incidents in which the retail cost of repairs is three thousand dollars or more are required to be disclosed by this section. If the vehicle has incurred damage of three thousand dollars or more per incident in more than one incident, the damage amounts must be combined and disclosed as the total of all separate incidents.

7. A person, authorized vehicle recycler licensed under chapter 321H, or motor vehicle dealer licensed under chapter 322 shall not be liable to a subsequent owner of a vehicle because a prior owner or lessee gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had previously been damaged and repaired or had been titled on a salvage or rebuilt certificate of title unless the person, recycler, or dealer knew or reasonably should have known that the prior owner or lessee gave a false or inaccurate damage disclosure statement or failed to disclose that the vehicle had been damaged and repaired or had been titled on a salvage or rebuilt certificate of title.

8. This section does not apply to motor trucks and truck tractors with a gross vehicle weight rating of sixteen thousand pounds or more, vehicles more than nine model years old, ~~vehicles with titles stating the vehicle is salvage or rebuilt~~, motorcycles, motorized bicycles, and special mobile equipment. The section does apply to motor homes.

Sec. 5. Section 321.69, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A lessee who has executed a lease as defined in section 321F.1 shall provide a damage disclosure statement to the lessor at the termination of the lease. The damage disclosure statement shall be made on a separate disclosure document and shall state the total dollar amount of all damage to the vehicle which occurred during the term of the lease. The lessee's damage disclosure statement shall not be submitted with the application for title, but the lessor shall retain the lessee's damage disclosure statement for five years following the date of the statement.

Sec. 6. Section 322G.2, subsection 13, Code 1995, is amended to read as follows:

13. "Motor vehicle" means a self-propelled vehicle purchased or leased in this state, except as provided in section 322G.15, and primarily designed for the transportation of persons or property over public streets and highways, but does not include mopeds, motorcycles, motor homes, or vehicles over ten thousand pounds gross vehicle weight rating.

Sec. 7. Section 322G.11, Code 1995, is amended to read as follows:

322G.11 DEALER LIABILITY.

This chapter, except for the requirements of section 322G.12, does not impose any liability on a franchised motor vehicle dealer or create a cause of action by a consumer against a dealer. A dealer shall not be made a party defendant in any action involving or relating to this chapter, except as provided in this section. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including but not limited to any refunds or vehicle replacements, incurred by the manufacturer pursuant to this chapter, in the absence of a finding by a court that the related repairs had been carried out by the dealer in a manner substantially inconsistent with the manufacturer's published instructions. A manufacturer who is found by a court to have improperly charged back a dealer because of a violation of this section is liable to the injured dealer for full reimbursement plus reasonable costs and any attorney's fees.

Sec. 8. Section 322G.12, Code 1995, is amended to read as follows:
322G.12 RESALE OF RETURNED VEHICLES.

Subsequent to December 31, 1991, a manufacturer who accepts the return of a motor vehicle pursuant to a settlement, determination, or decision under this chapter shall notify the state department of transportation and report the vehicle identification number of that motor vehicle within ten days after the acceptance. The state department of transportation shall note the fact that the motor vehicle was returned pursuant to this chapter on the title for the motor vehicle. A person shall not knowingly lease; or sell, either at wholesale or retail; or transfer a title to a motor vehicle returned by reason of a settlement, determination, or decision pursuant to this chapter or a similar statute of any other state unless the nature of the nonconformity is clearly and conspicuously disclosed to the prospective transferee, lessee, or buyer. The attorney general shall prescribe by rule the form, content, and procedure pertaining to such a disclosure statement, recognizing the need of manufacturers to implement a uniform disclosure form. The manufacturer shall make a reasonable effort to ensure that such disclosure is made to the first subsequent retail buyer or lessee. For purposes of this subsection, "settlement" includes an agreement entered into between the manufacturer and the consumer that occurs after the dispute has been submitted to a state-operated dispute resolution program or to a manufacturer-established program certified in this or any other state, but does not include agreements reached in informal proceedings prior to the first written or oral presentation to the certified state-operated or state-certified dispute resolution program by either party. "Settlement" also includes an agreement entered into between a manufacturer and a consumer that occurs after the dispute has been submitted to a dispute resolution program that is not state-operated or state-certified.

Sec. 9. Section 322G.15, Code 1995, is amended to read as follows:
322G.15 EFFECTIVE DATES.

This chapter applies to motor vehicles originally purchased or leased in this state by consumers on or after July 1, 1991. Except for section 322G.3, subsections 1 and 2, and section 322G.6, subsection 1, this chapter applies to motor vehicles originally purchased or leased in other states, if the consumer is a resident of this state at the time the consumer's rights are asserted under this chapter. Section 322G.14, which concerns rulemaking, shall take effect May 9, 1991.

Sec. 10. EFFECTIVE DATE. The amendments to section 321.69, subsections 2 and 8, in section 4 of this Act take effect on the date the state department of transportation prescribes the appropriate forms or January 1, 1996, whichever date is earlier. The remainder of this Act takes effect on July 1, 1995.

Approved April 20, 1995