AN ACT

ENTITLED, An Act to repeal and revise certain motor vehicle and boat damage and salvage disclosure requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 32-3-51.5 be amended to read as follows:

32-3-51.5. Any motor vehicle, trailer, or semitrailer whose title has been marked by another state or jurisdiction, shall receive a title, which shall contain similar damage disclosure information. However, if the title has been branded as salvage or with any other similar brand by another state or jurisdiction the applicant shall receive a salvage title or, at the option of the owner, a junking certificate.

Section 2. That § 32-3-51.7 be repealed.

Section 3. That § 32-3-51.8 be repealed.

Section 4. That § 32-3-51.9 be repealed.

Section 5. That § 32-3-51.10 be repealed.

Section 6. That § 32-3-51.14 be repealed.

Section 7. That § 32-3-51.15 be repealed.

Section 8. That § 32-3-51.18 be amended to read as follows:

32-3-51.18. Any vehicle that is required to be titled pursuant to this chapter and is sold or offered for sale by a vehicle dealer or a used vehicle dealer as defined in § 32-6B-1 shall display a sticker, decal, or notice that discloses damage to the vehicle for which the current title denotes a salvage brand or similar brand denoting damage to that vehicle. The department shall promulgate rules pursuant to chapter 1-26 to prescribe the format and construction of the sticker, decal, or notice. If the dealer fails to comply with this section, the purchaser of the motor vehicle may return the motor vehicle to the dealer within ten days after receiving the title, and the dealer shall make a full refund

to the purchaser.

Section 9. That § 32-3-51.19 be amended to read as follows:

32-3-51.19. For purposes of §§ 32-3-51.5, 32-3-51.20, and 32-3-51.21, the term, salvage vehicle, means any motor vehicle that an insurer or self insurer determines a total loss due to theft or to damage caused by fire, vandalism, collision, weather, submersion in water, or flood. This section does not apply to any motor vehicle more than ten model years old or with a gross vehicle weight rating of more than sixteen thousand pounds.

Section 10. That § 32-3-51.21 be amended to read as follows:

32-3-51.21. If an insurer or self insurer declares a vehicle to be a total loss but does not acquire ownership of the vehicle, the owner shall obtain a salvage title for the vehicle. The insurer or self insurer shall, in writing, notify the owner of the obligation to obtain a salvage title before the owner sells or transfers the title. If the owner sells or transfers the ownership of the vehicle without first obtaining a salvage title, the owner is guilty of a Class 1 misdemeanor. This section does not apply to any motor vehicle more than ten model years old or with a gross vehicle weight rating of more than sixteen thousand pounds.

Section 11. That § 32-3-51.22 be amended to read as follows:

32-3-51.22. If a stolen vehicle is recovered, the insurer or self insurer shall, within thirty days of recovery, inspect the vehicle and apply for a title as follows:

(1) If the vehicle has no damage or the damage is less than that defined in § 32-3-51.19, surrender the existing salvage title to the department. The department shall promptly issue a title marked as a recovered theft with no salvage notation.

However, if the condition of the vehicle is such that it would have been determined a salvage vehicle as defined in § 32-3-51.19 due to the damage to the vehicle, the salvage title is retained and the insurer or self insurer is not required to apply for a title pursuant to this section.

Section 12. That § 32-3A-38 be amended to read as follows:

32-3A-38. The department may upon written request and receipt of a five dollar fee furnish a person a certified abstract of the title history. The abstract may include all documents filed with the department to establish the title history of the boat. The fee shall be deposited in the state motor vehicle fund. Governmental entities and their subdivisions are exempt from this fee requirement.

Section 13. That § 32-3A-38.1 be repealed.

Section 14. That § 32-3A-38.2 be repealed.

Section 15. That § 32-3A-38.3 be amended to read as follows:

32-3A-38.3. The department shall retain each damage disclosure statement received. The statement shall become part of the title history available to the public.

Section 16. That § 32-3A-38.4 be repealed.

Section 17. That § 32-3A-38.5 be repealed.

Section 18. That § 32-3A-38.6 be amended to read as follows:

32-3A-38.6. Any large boat that is required to be titled pursuant to this chapter and is sold or offered for sale by a boat dealer as defined in § 32-3A-2 shall display a sticker, decal, or notice that discloses previous damage to the large boat as determined by the department in rules promulgated pursuant to chapter 1-26. The rules shall also prescribe the format and construction of the sticker, decal, or notice.

Section 19. That § 32-3A-38.7 be repealed.

Section 20. That § 32-6B-3.2 be amended to read as follows:

32-6B-3.2. Before a South Dakota titled vehicle may be sold by a consignee or at a public auction pursuant to § 32-6B-3, the consignee or auctioneer shall have in possession an odometer reading certified by the owner of the motor vehicle and a South Dakota title for the motor vehicle. A violation of this section is a Class 2 misdemeanor.

Section 21. That § 32-6B-36 be amended to read as follows:

32-6B-36. Any auction agency operating under the provisions of this chapter may accept for sale at its option vehicles which are owned by vehicle dealers regularly licensed in either this or some other state, or by the following entities if the vehicle is owned and titled by the entity and acquired incident to its regular business:

(1) Any regulated lender as defined in § 54-3-14 or any financing institution licensed pursuant to chapter 54-4;

(2) Any financial institution chartered or licensed in any other jurisdiction. However, such entity is not required to have a title in its name if the entity provides a title in the name of the customer and documentation as required by the department to substantiate a repossession transaction; or

(3) Any insurance company authorized to do business in either this state or some other state.

An auction agency may also accept from any manufacturer any vehicle that is owned by the manufacturer and that has a manufacturer's certificate of origin or a valid title. Any vehicle with a manufacturer's certificate of origin sold for a manufacturer may only be offered to the manufacturer's franchised dealers with the same line vehicle make.

Any vehicle dealer, regularly licensed by this or some other state, may purchase any vehicle from an auction agency, except as otherwise prohibited by this section. Any auction agency that accepts for sale any vehicle not authorized by this section is guilty of a Class 1 misdemeanor.

Section 22. That ARSD 61:24:03:05 be amended to read as follows:

61:24:03:05. Contents of consignment contract. The contract required by SDCL chapters 32-6B and 32-7B must contain, at a minimum, the following information:

(1) The name and address of the consignor (the owner);

(2) The name and address of the consignee (the dealer or auctioneer);

(3) The title number, the year, the make, and the serial number or hull identification number of the vehicle or boat;

(4) If applicable, the completed odometer disclosure;

(5) The agreed upon price or range;

(6) The agreed-upon amount that the owner is to pay the dealer or auctioneer;

(7) The length of time the vehicle or boat will be with the dealer or auctioneer;

(8) Disclosure by the dealer or auctioneer that the sale is a consignment sale;

(9) The signature of the owner and the dealer or auctioneer; and

(10) If applicable, the lienholder's information.

Section 23. That ARSD 61:24:03:06 be amended to read as follows:

61:24:03:06. Records to be made available prior to consignment sale. Prior to a consignment sale, the following documents must be available at the dealership or auction for inspection by the department at all times after the vehicle, snowmobile, manufactured home, or boat is delivered to the consignee for sale:

(1) The South Dakota title in the name of the consignor;

(2) A completed and signed consignment sales contract containing the information required in § 61:24:03:05;

(3) If not included in the contract, the vehicle's odometer reading certified by the owner; and

(4) A seller's permit.

A Federal Trade Commission (FTC) Buyer Guide must be displayed in a vehicle being offered for sale on consignment on the dealer lot.

Section 24. That ARSD 64:28:03:04.04 be amended to read as follows:

64:28:03:04.04. Design and display of notice that discloses a salvage brand or other similar brand denoting damage to a vehicle. The notice must be printed on white NCR (No Carbon

Required) paper, measuring four inches by six inches. The original is to be retained by the dealer and the copy is to be given to the purchaser. The information is to be printed in 12-point (minimum) Universe Bold capital letters.

Starting at the top of the permit, the permit must contain the following wording:

DISCLOSURE NOTICE

SOUTH DAKOTA LAW REQUIRES A DEALER TO POST A NOTICE ON ANY VEHICLE OR BOAT THAT HAS A TITLE OR OWNERSHIP DOCUMENT THAT DENOTES A SALVAGE BRAND OR SIMILAR BRAND DENOTING DAMAGE TO THE VEHICLE OR BOAT.

ACKNOWLEDGEMENT OF NOTICE UPON SALE OF VEHICLE OR BOAT:

THE DOCUMENTS TO THIS VEHICLE OR BOAT INDICATES A DISCLOSURE OF PRIOR

_____ SALVAGE

_____ OTHER BRAND DENOTING DAMAGE

_____

PRINTED NAME OF PURCHASER

_____

PURCHASER'S SIGNATURE DATE

The disclosure notice must be posted on the inside of a side window, with the front of the form facing the outside, so that the notice is clearly visible at all times on each vehicle or boat that contains a salvage title or similar brand denoting damage to the vehicle that is offered for sale to consumers. The dealer is responsible for keeping the notice posted at all times that a vehicle or boat is available for sale to consumers.

At the time of sale of the vehicle or boat, the dealer shall remove the notice and shall have the

purchaser sign and date it. The dealer shall retain the signed notice along with copies of the title document for five years from the date of the sale.

Section 25. That ARSD 64:28:03:04 be amended to read as follows:

64:28:03:04. Damage disclosure statement. A damage disclosure statement may be obtained from any county treasurer's office or the Division of Motor Vehicles, 445 E. Capitol, Pierre, South Dakota 57501-3185. The Division of Motor Vehicles shall provide each licensed dealer in South Dakota with the damage disclosure statement.

Section 26. That ARSD 64:28:03:04.03 be repealed.

An Act to repeal and revise certain motor vehicle and boat damage and salvage disclosure requirements.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1113

_____
Chief Clerk

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_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1113
File No. ____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State