

**HOUSE COMMITTEE ON  
INTERSTATE COMMERCE**

March 19, 2019

Senate Bill 822, S.D.1 Relating to Rebuilt Vehicles

Chair Ohno, Vice-Chair Kobayashi and members of the House Committee on Interstate Commerce, I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about S.B. 822, S.D.1 Relating to Rebuilt Vehicles, and more specifically, including Flood and Electronics Damage in the definition of “total loss” for the purposes of determining whether a vehicle should have a “rebuilt title.”

Under current law, a vehicle that is declared a total loss can only be subject to a branded “rebuilt vehicle” title if there is material damage to its “frame, unitized structure, or suspension system,” and the cost to repair is greater than the vehicle’s market value. When an auto insurer makes this determination, and the car is subsequently rebuilt, it must be branded with a “rebuilt title,” which warns future purchasers that the car has been declared a total loss and might have hidden defects that could affect its safe operation.

Unfortunately, Hawaii law does not require a car that has sustained significant flood damage and likewise declared a total loss to be similarly branded. This is because the current definition does not include flood damage, or damage to a car’s electronics within the definition of “total loss” for the purposes of labeling it with a “rebuilt title.” Although this might have made some sense in the early 1990’s when the statute was last amended, today’s cars have increased electronics, and a flooded vehicle, particularly one damaged by salt water, should have a branded title if it is rebuilt to warn subsequent purchasers.

S.B. 822, S.D.1 corrects this oversight by specifically adding “flood” and damage “to [a] vehicle’s electronics” to the definition of “total loss” for titling purposes. This is both a consumer protection and safety issue, and is particularly relevant in Hawaii where severe storms can and do cause vehicle flood damage.

We respectfully ask the Committee to pass this bill “as is” as received from the Senate.

Thank you for the opportunity to present this testimony.



John Uekawa, President  
Dave Roll, Executive Director

HADA TESTIMONY WITH COMMENTS EXPRESSING GRAVE CONCERN  
REGARDING SB822 SD1  
RELATING TO REBUILDT VEHICLES

Presented to the Committee on Intrastate Commerce  
At the Public Hearing, 9 a.m. Tuesday, March 19, 2019  
Conference Room 430, Hawaii State Capitol

Chair Ohno, Vice Chair Kobayashi and members of the committee:

This bill proposes to include flood damage and material damage to a motor vehicle's electronics in the definition of "rebuilt vehicle" in section 286-2, Hawaii Revised Statutes. HADA provides **comments expressing grave concern** about the bill which may have the effect of putting flood damaged, salt-water, fully-immersed rebuilt vehicles back on the roadways.

Please see the definition the National Automobile Dealers Association has suggested the American Association of Motor Vehicle Administrators use in their upcoming publication of branding best practices. HADA believes a definition of flood damaged vehicle should be added to the law.

"Flood damaged vehicle" is a vehicle that has been submerged in water to the point that rising water has reached over the doorsill, has entered the passenger compartment, and has caused damage to any electrical, computerized, or mechanical components.

Note: The term specifically does not include a vehicle that an inspection conducted by an insurance claim representative or a motor vehicle repairer, indicates:

- has no electrical, computerized, or mechanical components that were damaged by water; or
- has one or more electrical, computerized, or mechanical components that were damaged by water and all such damaged components have been repaired or replaced.

Without a definition like that, any water incursion could be "flood" and the result would be lots of flood damaged cars which really aren't.

Making all flood-damaged vehicles "rebuilt vehicles" is a departure from current law and practice. It also conflicts with federal law (the Anti Car Theft Act), which categorizes flood vehicles generally as "salvage automobiles". The National Motor Vehicle Title Information System regulations are in accord with the Anti Car Theft Act on this.

The Anti Car Theft Act of 1992 states the following:

(7) The term "salvage automobile" means any automobile which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on roads or highways would exceed the fair market value of the automobile immediately prior to the occurrence causing its damage.

HADA reached out to Abul Hassan, the DMV administrator at the City and County of Honolulu, and he provided us the following information on their current process:

“Current process: Insurance company submits Salvage Transmittal form, notarized affidavit stating “total loss”, and vehicle title released by the Registered Owner and Legal Owner. Transfer section will then issue a Salvage Certificate to the insurance company, who will then sell the damaged vehicle at auction, such as IAAI or COPART. In the event vehicle owner decides to keep that salvaged vehicle, insurance company will notify DMV in writing that the owner has decided to retain that vehicle. Transfer section will then notify the Registered Owner by mail to turn plates into storage or repair & recertify. Either way, repairs will need to be made back to original manufacturer’s specifications and then recertified by a state-licensed Salvage Repair Dealer (6 on Oahu) before safety inspection and re-registration, with body-type changed to example ‘4DSD-SLVG’.

There is no official method to inspect flood-damaged vehicles. Visual inspection can only confirm floodwater lines/markings but there’s nothing to fix if the car runs and everything works. We have no way to tell if electronics are in safe operating conditions, or if the airbags will deploy in the event of an accident. The current method of inspecting out-of-state salvaged, rebuilt, or flood vehicles coming into Honolulu is: 1) match the VIN 2) confirm vehicle has been repaired 3) airbag/SRS light in proper working condition. “

In speaking with the initiator of the bill, an insurance company representative, there was concern expressed by the bill’s proponent that HADA’s request for a definition of “flood damaged vehicle” would be placed in Section 286-2. He suggested that a more appropriate section would 286-51.5, but his concern was that the title of this bill only deals with “Rebuilt vehicles” and not “junking of nonrepairable vehicles.

**[§286-51.5] Junking of nonrepairable vehicle.** Any owner of a vehicle, whether it is currently registered or not currently registered, which is incapable of safe

operation for use on the public highway and which has no resale value except as a source of parts or scrap only, or which the owner irreversibly designates as a source of parts or scrap, may junk the vehicle upon presenting to the director of finance a signed statement of fact of the junking together with such other relevant facts as may be required by the director of finance, and the signed certificate of title. All nonrepairable vehicles that are junked under this section shall never again be titled or registered. [L 1998, c 3, §2]

HADA thus proposes the following amendment to this section:

“ A vehicle declared a total loss due to flood damage to electronics in section 286-2 shall never again be titled or registered.”

The proponent of SB822 SD1 asks HADA to support the bill in its current form, and encourages us to propose this amendment next year, but our concerns remain about labeling flood damaged vehicles, especially salt water flood damaged vehicles, as “rebuilt” without definitions in state law for “Flood damage vehicle” and proper branding on the title to show that the vehicle was previously a salvage vehicle due to flood damage.

Thank you for the opportunity to testify on this bill with our grave concerns about the possibility of late-model, salt-water immersed vehicles, that have experienced damage to electrical equipment, including immersion of airbags, being put back on the roadways.

Respectfully submitted,

David H. Rolf

For the Members of the Hawaii Automobile Dealers Association