

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§286- Salvage certificate.** (a) An application for a salvage certificate shall be accompanied by a fee in an amount determined by the director of finance and shall contain:

- (1) The name and address of the applicant;
- (2) A description of the vehicle being salvaged; and
- (3) Any further information reasonably required by the director of finance.

(b) A salvage certificate shall authorize the holder of the certificate to possess, transport but not drive upon a highway, and transfer ownership in a salvage vehicle.

(c) A salvage certificate shall contain the word “salvage” on the face of the certificate and shall be made upon forms prescribed by the director of finance.”

SECTION 2. Chapter 437B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§437B- Bond required to work on salvage, wrecked, or dismantled motor vehicles; forfeiture.** (a) Any motor vehicle repair dealer desiring to engage in the business of restoring or rebuilding salvaged, wrecked, or dismantled vehicles shall submit to the board a performance bond, with corporate surety satisfactory to the board. The amount of the bond shall be not less than \$25,000 and the condition of the bond shall be the satisfactory rebuilding or restoration of salvaged, wrecked, or dismantled vehicles.

(b) When the board finds that a licensee has wilfully departed from or disregarded accepted practices of workmanship with respect to work performed under section 437B-11(11), the board may, in accordance with chapter 91, order the forfeiture to the State of the performance bond submitted under subsection (a).”

SECTION 3. Section 286-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

**““Rebuilt vehicle” means any vehicle which has been declared a total loss by a police officer or an insurer and has been rebuilt or repaired to operate on public highways. For the purpose of this definition, a vehicle shall not be deemed to have been declared a total loss by an insurer, despite such a**

declaration, if there has been no material damage to the vehicle's engine, transmission, or suspension system, and the projected cost of repairing the vehicle exceeds the market value of the vehicle at the time of the incident causing it to be declared a total loss."

SECTION 4. Section 286-26, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Any vehicle which has been involved in an accident[, when it is determined by a police officer that the vehicle's equipment has been damaged so as to render the vehicle unsafe, shall be so certified before it is operated again.] shall be certified as provided in subsection (e) before it is operated again if:

- (1) It is determined by a police officer or an insurer that the vehicle's equipment has been damaged so as to render the vehicle unsafe; or
- (2) It is rebuilt or restored."

SECTION 5. Section 286-41, Hawaii Revised Statutes, is amended to read as follows:

**"§286-41 Application for registration; full faith and credit to current certificates; this part not applicable to certain equipment. (a)** Every owner of a motor vehicle which is to be operated upon the public highways shall, for each vehicle owned, except as herein otherwise provided, apply to the director of finance of the county where the vehicle is to be operated, for the registration thereof.

**(b)** Application for the registration of a vehicle shall be made upon the appropriate form furnished by the director of finance and shall contain the name, occupation, and address of the owner and legal owner; and, if the applicant is a member of the United States naval or military forces, the applicant shall give his organization and station. All applications shall also contain a description of the vehicle, including the name of the maker, the type of fuel for the use of which it is adapted (e.g., gasoline, diesel oil, liquefied petroleum gas), the serial or motor number, and the date first sold by the manufacturer or dealer, and such further description of the vehicle as is called for in the form, and such other information as may be required by the director of finance, to establish legal ownership.

**(c)** If the vehicle to be registered is specially constructed, reconstructed, rebuilt, or an imported vehicle, such fact shall be stated in the application and upon the registration of every imported motor vehicle, which has been registered theretofore in any other state or county, the owner shall surrender to the director of finance his certificates of registration or other evidence of such form of registration as may be in the applicant's possession or control. The director of finance shall grant full faith and credit to the currently valid certificates of title and registration describing such vehicle, the ownership thereof, and any liens

noted thereon, issued by any title state or county in which the vehicle was last registered. The acceptance by the director of finance of a certificate of title or of registration issued by another state or county, as hereinabove provided, in the absence of knowledge that the certificate is forged, fraudulent, or void, shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the director of finance by reason of so accepting the certificate.

(d) The provisions of this part requiring the registration of motor vehicles shall not apply to special mobile equipment nor to implements of husbandry temporarily drawn, moved, or otherwise propelled upon the public highways.”

SECTION 6. Section 286-42, Hawaii Revised Statutes, is amended to read as follows:

“§286-42 County finance director’s duties. (a) The county director of finance shall examine and to the best of his ability determine the genuineness and regularity of every registration and transfer of registration of a vehicle as in this part provided, in order that every certificate issued for a vehicle shall contain true statements of the ownership thereof, and to prevent the registration of a vehicle by any person not entitled thereto, and the director of finance may require any applicant to furnish such information, in addition to that contained in the application, as may be necessary to satisfy the director of finance of the truth and regularity of the application.

(b) For the purpose of registering standard makes and body types of new passenger motor vehicles the director of finance may accept the certificate of any licensed motor vehicle dealer certifying to the weight and identification of such vehicle. The director of finance of any county may accept the certificate of the director of finance of any other county as to weight and identification of any such vehicle.

(c) In the event the director of finance is not satisfied as to the ownership of any vehicle sought to be registered, unless the applicant presents satisfactory evidence to the director of finance of the applicant’s ownership of the vehicle and as to any liens thereon, the director of finance may accept from the applicant a bond or securities in such form as may be determined by the director of finance in an amount equal to the value of the vehicle. The bond or securities and the deposit thereof shall be conditioned to protect the director of finance and any subsequent purchaser of the vehicle or person acquiring any lien thereon or the successor in interest of any such person against any loss or damage on account of any defect in or undisclosed encumbrance upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person shall have a right of action to recover on any such bond or securities for any breach of the conditions for which the same was deposited. The aggregate

liability of the surety to all such persons shall in no event exceed the amount of the bond and interest thereon, plus a reasonable attorney's fee to be allowed by the court incurred to procure the recovery under the bond. The bond or securities shall (unless suit has been instituted thereon) be returned and surrendered at the end of three years or prior thereto in the event that the vehicle is no longer registered and the currently valid certificate of ownership is surrendered to the director of finance. Any licensed dealer who has filed and has in effect a bond of an amount in excess of the value of any vehicle in question shall not be required to furnish an additional bond under this section.

(d) Whenever the registration of any motor vehicle discloses that it is adapted for the use of a fuel other than gasoline, the director of finance shall inform the director of taxation of such registration, and upon each transfer of any such motor vehicle the director shall be informed thereof.

(e) The county finance director, upon being notified by the designated county department that a vehicle has been inspected and approved as a reconstructed vehicle, shall cause that fact to be shown upon the registration certificate and registration records for that vehicle."

SECTION 7. Section 286-48, Hawaii Revised Statutes, is amended to read as follows:

"§286-48 **Certificates of ownership of salvaged motor vehicles.** (a) Whenever a motor vehicle subject to registration under this part is sold as salvage[,] or conveyed to an insurance company, in the ordinary course of business or as the result of a total loss insurance settlement[,] where the insurance company receives the certificates of registration and ownership, the purchaser or, if an insurance company[,] its authorized agent, shall within ten days from the purchase, or the settlement of the insurance loss, forward the motor vehicle's endorsed certificate of ownership or other evidence of title, certificate of registration, [and] license plates, and an application for a salvage certificate as provided for in section 286- , to the director of finance. If the certificate of registration or one or both license plates are lost, an affidavit, duly notarized and signed by the party responsible for the compliance of this section stating that he has no knowledge of the location of the certificate of registration or the license plates, shall be filed with the director of finance of the county having jurisdiction over the vehicle. In any event the certificate of ownership or other evidence of title shall be forwarded to the director of finance.

(b) Upon receipt of the certificate of ownership, certificate of registration, license plates, and application for a salvage certificate, the director of finance shall issue a salvage certificate in the name of the purchaser or insurance company.

[(b)] (c) Upon resale of the salvage vehicle the seller or, if the seller is an insurance company[,] its authorized agent, shall transfer the salvage certificate

and issue a bill of sale to the purchaser which shall be on a form prescribed by the director of finance. The seller shall sell the salvage vehicle only to a person licensed pursuant to chapter 437B, sections 289-4, or 445-232, or any person who executes an affidavit which states whether or not the salvage vehicle would be used to construct a rebuilt vehicle as defined in section 286-2 and that if the salvage vehicle is to be rebuilt, that the purchaser will register the rebuilt vehicle as required by this chapter.

[(c)] (d) In the event the salvage vehicle is rebuilt so as to be capable of again operating on the highways of this State, the motor vehicle shall not be licensed for such operation, nor shall the ownership thereof be transferred until there is submitted to the director of finance [with the]:

- (1) The prescribed bill of sale[, an];
- (2) An appropriate application for registration of the rebuilt or restored motor vehicle along with the salvage certificate and a certificate of inspection signed by a [person authorized by the director of finance] registered or certified motor vehicle repair dealer, attesting [to the motor vehicle's mechanical fitness and safety, plus any] that the original recognized vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year were utilized and adhered to; and

(3) Any other document and fee required by the director of finance. The counties may, by ordinance, establish the fee to be charged for the inspection of rebuilt motor vehicles.

(e) Whenever a certificate of registration and certificate of ownership is issued for a motor vehicle with respect to which a salvage certificate has been previously issued, the new certificates shall conform to the requirements of section 286-47 and:

- (1) Bear the words "Rebuilt Vehicle"; and
- (2) Appear in such a manner as to distinguish them from the certificate of registration and certificate of ownership for motor vehicles other than rebuilt or restored motor vehicles.

[(d)] (f) In the event a total loss insurance settlement between an insurance company and its insured results in the retention of the salvage vehicle by the insured, then in such event, the insurance company or its authorized agent shall, within ten days from the date of settlement, notify the director of finance of such retention by its insured. The notification shall be on a form prescribed by the director of finance."

SECTION 8. Section 437B-11, Hawaii Revised Statutes, is amended to read as follows:

“[[ ]§437B-11[ ]] **Prohibited practices.** The following acts or omissions related to the repair of motor vehicles shall be grounds for invoking the enforcement procedures of section 437B-12:

- (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading;
- (2) Causing or allowing a customer to sign any work order which does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;
- (3) Failing or refusing to give a customer a copy of any document requiring his signature, as soon as the customer signs such document;
- (4) Any other conduct which constitutes fraud;
- (5) Conduct constituting gross negligence;
- (6) Failure to comply with this chapter or regulations adopted pursuant to it;
- (7) Any wilful departure from or disregard of accepted practices or workmanship;
- (8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of a motor vehicle;
- (9) Having repair work subcontracted without the knowledge or consent of the customer unless the motor vehicle repair dealer, mechanic, or apprentice demonstrates that the customer could not reasonably have been notified;
- (10) Conducting the business of motor vehicle repair in a place other than stated on the registration except that mobile repair facilities may be permitted if the registration so indicates[.];
- (11) Rebuilding or restoring of rebuilt vehicles as defined in section 286-2 in such a manner that it does not conform to the original vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year.”

SECTION 9. Section 289-2, Hawaii Revised Statutes, is amended to read as follows:

“§289-2 **Unlicensed person not to engage in business.** It shall be unlawful for any person or organization, not duly licensed under this chapter, to engage in the business of:

- (1) Purchasing or selling used motor vehicle parts or accessories; or

- (2) Engaging in the business of wrecking, salvaging, or dismantling motor vehicles for the purpose of reselling the parts or accessories thereof; or
- (3) Rebuilding wrecked or dismantled vehicles for the purpose of resale].”

SECTION 10. Section 437B-1, Hawaii Revised Statutes, is amended by amending the definition of “repair of motor vehicles” to read as follows:

““Repair of motor vehicles” means all maintenance of, and modifications and repairs to motor vehicles, including the rebuilding or restoring of rebuilt vehicles as defined in section 286-2, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the board by rule determines may be performed by persons without the skills and knowledge required of motor vehicles mechanics and apprentices. No service shall be designated as minor, for purposes of this section, if the board finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.”

SECTION 11. The director of the department of commerce and consumer affairs may utilize the special fund created in section 26-9(m) to implement the sections of this bill relating to chapter 437B.

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 13. Statutory material to be repealed is bracketed. New material is underscored.<sup>1</sup>

SECTION 14. This Act shall take effect on January 1, 1985.

(Approved June 8, 1984.)

**Note**

1. Edited pursuant to HRS §23G-16.5.