

# CONGRESS NEEDS TO MOVE FORWARD ON A RESPONSIBLE TITLE BRANDING MEASURE

Mr. LOTT. Mr. President, a few weeks ago I reintroduced the National Salvage Motor Vehicle Consumer Protection Act, S. 655. This bipartisan bill has several cosponsors including Senator BREAUX. It is similar to the measure that Senator Ford and I coauthored during the 105th Congress.

This responsible legislation is important to used car buyers and motorists across the country because it will help curtail motor vehicle titling fraud. It does so by providing states with incentives to adopt minimal uniform definitions and standards that promote greater disclosure to potential used vehicle purchasers.

During the last Congress, this legislation received the formal support of over 55 of our colleagues from both sides of the aisle and a modified version passed the House of Representatives by an overwhelming majority last October.

Mr. President, every year used car buyers throughout the nation are cheated by those who pass off rebuilt salvage vehicles as undamaged. These consumers are never notified that the used vehicle they purchased was totaled and subsequently rebuilt. Often times, they find out only when the supposedly undamaged car or truck they bought is taken in for repair. It is at this point that they find their vehicle has been rebuilt and that it may pose a safety hazard. One where the cost of repair far exceeds the vehicle's worth or which cannot be fixed for safe operation.

Today, used car buyers and automobile dealers are paying over \$4 billion dollars annually for vehicles that have been rebuilt—many of which are virtually worthless. It is happening in Mississippi and in your own states. Title laundering is a growing problem. It must be stopped.

Congress recognized the primary reason that millions of structurally unsafe vehicles were being placed back on America's roads and highways was due to the lack of uniformity in state titling rules. That is why the 103rd Congress passed the Anti-Car Theft Act of 1992 which required the Department of Transportation (DOT) to establish a task force, the Motor Vehicle Titling, Registration and Salvage Advisory Committee, to study problems related to motor vehicle fraud and theft. The Act directed the Committee to include representatives from several cabinet agencies, police chiefs and municipal auto theft investigators, State motor vehicle officials, industry and insurance representatives, recyclers, salvage yard operators, and scrap processors. Their primary function was to develop reasonable and balanced recommendations that would protect consumers.

The Salvage Advisory Committee was formed in 1993. It was chaired by the Chief of the Odometer Fraud Staff for the National Highway Traffic Safe-

ty Administration. It included the Justice Department's Assistant Director for Consumer Litigation and a senior attorney from the Criminal Justice Division. It also included several Secretaries of State, State DMV Directors and other stakeholders. These are the experts on the front line who deal with titling issues on a day-to-day basis that Congress chose for the Committee. The Salvage Advisory Committee deliberated for almost a year and issued its findings in February 1994. The Committee's report identified a series of practical, well thought out solutions to address the issue of title washing. It included the establishment of national uniform titling definitions and standards for salvage, rebuilt salvage, flood, and non-repairable passenger vehicles.

This esteemed group knew what would work and what would not. They did not recommend a complex, overly burdensome titling and registration scheme. Instead, they identified a few definitions that should be standardized and minimal procedures that should be adopted by states.

The task force recommended that a passenger vehicle that experiences damage exceeding 75% of its pre-accident value be designated as "salvage."

It also recommended that salvage vehicles that have been repaired for safe operation be branded "rebuilt salvage," have an inspection to determine whether stolen parts were used to fix the vehicle, and have a decal permanently affixed to the driver's door jamb indicating the vehicle's history.

The Salvage Committee identified a nonrepairable vehicle as a passenger motor vehicle that is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap.

Another recommendation included the carrying forward of all brands on new title documents so that the terms used in one state would be identified on the titles of other states where the vehicle is re-registered.

Mr. President, Senator Ford and I simply authored a bill during the last Congress that codified these task force recommendations.

The bill also included a slightly modified definition of flood vehicles. One that focuses on the electrical and mechanical damage resulting from excessive water. The task force originally recommended that all passenger vehicles submerged in water that has reached over the door sill or has entered the passenger or trunk damage be designated as a flood vehicle.

Upon further reflection, and actual real world experience, the flood definition in this legislation was modified to brand only those vehicles that suffer debilitating damage instead of simply cosmetic damage, such as wet carpeting, that would have occurred under the original flood definition. The reason for this change was to ensure that a consumer's vehicle is not branded as a flood vehicle merely because its floor mats got wet. It makes no sense to

brand a car or a truck as a flood vehicle, causing a significant and unnecessary devaluation of its worth, when the vehicle's operating functions and electrical, mechanical or computerized components are not damaged by water. This legislation also improves upon the task force's recommendations by including any vehicle acquired by an insurer as part of a water damage settlement.

S. 655, the National Salvage Motor Vehicle Consumer Protection Act retains these important provisions and also includes additional technical corrections offered by state Attorneys General, consumer groups, and the U.S. Department of Transportation. Modifications that improve the legislation but do not take it in a completely different direction than proposed by the Salvage Advisory Committee. The changes I have made are consistent with the Supreme Court's decision in *New York v. United States*, 505 U.S. 144. The bill now includes the complete range of modifications that states are willing to make to their own titling rules and procedures. To push the envelope further by advancing prescriptive federal titling standards would seriously hinder Congress' efforts to achieve full state participation. Stricter titling requirements, those that create unnecessary and onerous procedures, additional paperwork, and more bureaucracy may also impose an unfunded mandate on states.

Mr. President, my colleagues and I believe that it is time to act upon the task force's now five-year old recommendations by enacting the National Salvage Motor Vehicle Consumer Protection Act. A number of hearings have been held on this issue in both the House of Representatives and the Senate. All with the same conclusion—title washing is a serious problem affecting the wallets of used car buyers and the safety of motorists nationwide. Since the Salvage Advisory Committee issued its report in 1994, consumers have lost as much as \$20 billion and as many as 8 million more potentially structurally unsafe vehicles have been placed back on our nation's roads and highways. Some of the unsafe salvage vehicles stealthfully returned to the road were previous Department of Transportation crash test cars. These are cars that were deliberately wrecked, then rebuilt and sold to unsuspecting buyers across America.

The National Salvage Motor Vehicle Consumer Protection Act would help put unscrupulous rebuilders out of business. It is a workable and well accepted legislative solution. It establishes a rational voluntary uniform titling regime that state Motor Vehicle administrators support. The bill is also supported by law enforcement agencies, consumers, and the automobile and insurance industries because it is a common sense approach that will effectively curtail title laundering.

It is a program that state legislatures will adopt because it is a win-win

for consumers, states, and industry. That is key. Congress should not spin its wheels and push for a burdensome and overly complex titling scheme that most states will reject even if they are eligible to receive offsetting federal funding or are penalized in some way for not adopting such a scheme. The only winners under such a scenario are the thieves and charlatans who will continue to take advantage of state inconsistencies by washing the titles of severely damaged vehicles.

Instead of being a federal mandate, The National Salvage Motor Vehicle Consumer Protection Act provides participating states with a new incentive grant to adopt uniform titling and registration standards. These standards will protect the used car buyers in their states from unknowingly purchasing totaled and subsequently rebuilt vehicles. The authorized funding can be used by states to issue new titles, establish and administer vehicle theft or safety inspections, enforce titling requirements, and for other related purposes.

Mr. President, since this is a voluntary program, no state will be penalized for non participation.

Mr. President, this particular approach was recommended by the Department of Transportation. It was a sound recommendation and I accepted it.

This modification is good public policy since it no longer links state participation with federal seed money for states to participate in the National Motor Vehicle Title Information System (NMVTIS).

NMVTIS is beneficial to states because it will allow them to instantaneously share and retrieve titling and registration information with each other. The effectiveness of NMVTIS depends on the total number of states that choose to participate in the system. Thus, it is important to have the maximum number of states using NMVTIS whether or not they utilize common terms. The Congressional Budget Office concluded in 1997 that a penalty-based titling branding scheme which denies states funding for NMVTIS would significantly reduce the number of states that choose to utilize the system. This, in turn, would severely undermine the intent of the 103rd Congress which created NMVTIS and would jeopardize the overall effectiveness of a nationwide titling information system.

I think it is also important to note that the National Salvage Motor Vehicle Consumer Protection Act does not recommend definitions or standards that none of the 50 states currently have in place. Instead, this legislation accepts, codifies, and in some cases improves upon the recommendations put forward by a Congressionally mandated task force. A commission created by a Democratically controlled Congress to specifically address the issue of title fraud.

The National Salvage Motor Vehicle Consumer Protection Act goes even further in the direction of promoting

disclosure by requiring a written disclosure statement be provided to purchasers of rebuilt salvage vehicles. It permits states to use terms that are synonymous with those identified in the bill. And, it expressly allows states to adopt even greater disclosure standards than are provided for in the legislation. In the case of salvage vehicles, it lets states adopt an even lower threshold than 75% if they so choose. It does not, however, establish a minimum baseline of 65%, a threshold that no state in the union has today. None. The 65% threshold would negatively affect tens of millions of car owners with low value vehicles. A proposal advanced by some that would unnecessarily brand for life the vehicles of low income drivers involved in minor accidents such as fender-benders.

There are similar counter-productive proposals that would brand vehicles that have only slight cosmetic and structural damage such as a dented front end and a busted headlight. Who benefits from this? Who will be harmed by this? I want answers to these questions. America's motor vehicle owners deserve answers to these questions.

I think my colleagues will agree that Congress should not force states into enacting standards that adversely impact consumers or titling provisions that not even one state has chosen to adopt. Remember, these well intentioned but impractical, confusing, and unwise proposals have been around for many years. States, as well as the task force, expressly rejected them. No one who works on vehicle titling issues wants them.

Let me say again that the National Salvage Motor Vehicle Consumer Protection Act creates a voluntary federal titling program. It creates minimal national standards while offering participating states the flexibility they need and want to adopt additional disclosure requirements and more stringent provisions. It provides appropriate vehicle titling terms and definitions that do not unnecessarily devalue vehicles or cause repairable automobiles to be junked. The bill focuses on pre-purchase disclosure, helps motorists by requiring the tracking of salvage vehicle VIN numbers, continues consumers' ability to pursue private rights of actions available under state law, and allows states to adopt new civil and criminal penalties. And, it has widespread support.

The National Salvage Motor Vehicle Consumer Protection Act is the right legislative solution to combat title fraud. It solves the problem without creating new problems and new headaches for consumers, for states, and for industry. It is time for Congress to pass this important measure.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, April 19, 1999, the federal debt stood at \$5,624,235,766,178.82 (Five trillion, six hundred twenty-four billion, two hundred thirty-five million, seven hundred

sixty-six thousand, one hundred seventy-eight dollars and eighty-two cents).

Five years ago, April 19, 1994, the federal debt stood at \$4,565,951,000,000 (Four trillion, five hundred sixty-five billion, nine hundred fifty-one million).

Ten years ago, April 19, 1989, the federal debt stood at \$2,776,338,000,000 (Two trillion, seven hundred seventy-six billion, three hundred thirty-eight million).

Fifteen years ago, April 19, 1984, the federal debt stood at \$1,487,346,000,000 (One trillion, four hundred eighty-seven billion, three hundred forty-six million).

Twenty-five years ago, April 19, 1974, the federal debt stood at \$470,921,000,000 (Four hundred seventy billion, nine hundred twenty-one million) which reflects a debt increase of more than \$5 trillion—\$5,153,314,766,178.82 (Five trillion, one hundred fifty-three billion, three hundred fourteen million, seven hundred sixty-six thousand, one hundred seventy-eight dollars and eighty-two cents) during the past 25 years.

#### WATER RESOURCES DEVELOPMENT ACT OF 1999

Mr. KERRY. Mr. President, I rise to discuss the Water Resources Development Act of 1999. This bill has passed the Senate under unanimous consent thanks to the leadership of its sponsor Senator WARNER, and Senator CHAFEE, Chair of the Environment and Public Works Committee and Senator BAUCUS, the ranking member on the Committee. I want to thank the Senators for their work.

Included in this legislation is a request that the Army Corps of Engineers evaluate plans to alleviate flooding and make other improvements to the Muddy River, which runs through Brookline and Boston, Massachusetts. This is an urgently needed project.

The Muddy River flows through mostly urban-residential areas in Brookline and Boston before emptying into the Charles River. The River has flooded several times in the past, with two particularly severe floods in 1996 and 1998. The 1996 flood was a presidentially declared disaster. It lasted three days, submerged parts of Brookline and Boston in knee-deep water, flooded underground Massachusetts Bay Transportation Authority stations and halted commuter train traffic, and extensively damaged homes and businesses. Massachusetts Governor Paul Cellucci estimates that the cost of these two floods exceeded \$100,000,000. Preventing future damage from floods is a top priority for the Town of Brookline, the City of Boston and the State of Massachusetts, and each has pledged to do their part to find a solution.

Specifically, the Water Resources Development Act of 1999 asks the Secretary of the Army to evaluate a study called the "Emerald Necklace Environmental Improvement Master Plan: