

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 600

H. P. 534

House of Representatives, February 3, 1981

Referred to the Committee on Transportation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Strout of Corinth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Require a Certificate of Salvage for Certain Motor Vehicles.**

Be it enacted by the People of the State of Maine, as follows:

**Sec. 1.** 29 MRSA § 2352, sub-§ 1, ¶B, sub-¶¶ (2) and (3), as repealed and replaced by PL 1975, c. 745, § 13, are amended to read:

(2) For filing notice of a security interest after the first certificate of title has been issued; ~~and~~

(3) For a certificate of title after a transfer; ~~and~~

**Sec. 2.** 29 MRSA § 2352, sub-§ 1, ¶B, sub-¶ (4) is enacted to read:

(4) For a certificate of salvage pursuant to section 2377;

**Sec. 3.** 29 MRSA § 2352, sub-§ 1, ¶C, sub-¶¶ (1) and (2), as repealed and replaced by PL 1975, c. 745, § 13, are amended to read:

(1) For a corrected certificate of title or certificate of salvage; and

(2) For a duplicate certificate of title or certificate of salvage pursuant to section 2377;

**Sec. 4.** 29 MRSA c. 21, sub-c. II, first 2 lines are repealed and the following enacted in their place:

## SUBCHAPTER II

## CERTIFICATE OF TITLE AND CERTIFICATE OF SALVAGE

**Sec. 5. 29 MRSA § 2362, first sentence**, as enacted by PL 1973, c. 586, § 1, is amended to read:

No certificate of title or certificate of salvage pursuant to section 2377 need be obtained for:

**Sec. 5-A. 29 MRSA § 2362, sub-§ 11**, as amended by PL 1979, c. 541, Pt. B, § 37, is further amended to read:

**11. Special mobile equipment.** Special mobile equipment as defined in section 1, subsection 14; ~~or~~

**Sec. 5-B. 29 MRSA § 2362, sub-§ 12**, as enacted by PL 1979, c. 541, Pt. B, § 38, is amended to read:

**12. Special equipment.** Special equipment as defined in section 1, subsection 13-A; or

**Sec. 6. 29 MRSA § 2362, sub-§ 13** is enacted to read:

**13. Salvage vehicle.** A vehicle declared a total loss by an insurance company if a certificate of salvage or other comparable document has been issued by another state.

**Sec. 7. 29 MRSA § 2363, last ¶**, as enacted by PL 1979, c. 364, § 5, is repealed and the following enacted in its place:

The Secretary of State may, upon application in accordance with section 2364, issue a certificate of salvage pursuant to section 2377, upon surrender of a certificate of title and evidence that a vehicle, by reason of its condition or circumstance, was declared a total loss by an owner or by an insurance company.

**Sec. 8. 28 MRSA § 2364, sub-§ 1, first sentence**, as amended by PL 1977, c. 294, § 5, is further amended to read:

The application for the first certificate of title, or for a certificate of salvage pursuant to section 2377, in this State of a vehicle shall be made by the owner to the Secretary of State on the form he prescribes and shall contain:

**Sec. 9. 29 MRSA § 2364, sub-§ 1, ¶ C**, as last amended by PL 1977, c. 564, § 110, is further amended to read:

C. The date of purchase by the applicant, the name and address of the person from whom the vehicle was acquired and, if application for certificate of title, the names and addresses of any lienholders in the order of their priority and the dates of their security agreements and, if a new vehicle, the application shall be accompanied by a manufacturer's or importer's certificate of origin and, if a used vehicle, the application shall be accompanied by a previous certificate of title; and

**Sec. 10. 29 MRSA § 2364, sub-§ 1, ¶D**, as enacted by PL 1973, c. 586, § 1, is amended to read:

**D.** Any further information the Secretary of State reasonably requires to identify the vehicle and to enable him to determine whether the owner is entitled to a certificate of title or certificate of salvage and the existence or nonexistence of security interests in the vehicle.

**Sec. 11. 29 MRSA § 2364, sub-§ 3, ¶A**, as enacted by PL 1973, c. 586, § 1, is amended to read:

**A.** Any certificate of title or certificate of salvage issued by the other state or country;

**Sec. 12. 29 MRSA § 2364, sub-§ 4** is enacted to read:

**4. Vehicle declared total loss.** If a vehicle, by reason of its condition or circumstance, is declared a total loss by an owner or insurer, the insurance company or any person who purchases or acquires such a vehicle to be repaired or rebuilt for operation on the highway shall file an application for certificate of salvage pursuant to section 2377. The application shall contain or be accompanied by:

**A.** A certificate of title or manufacturer's certificate of origin; and

**B.** Any other information or documents the Secretary of State reasonably requires.

**Sec. 13. 29 MRSA § 2364-A, sub-§ 1**, as enacted by PL 1979, c. 185, § 1, is amended to read:

**1. Filing for certificate of title or certificate of salvage pursuant to section 2377.** The new owner of a vehicle who is unable to obtain the certificate of origin, certificate of title, certificate of salvage or assignment of these documents showing sale to him, may file with the Secretary of State an application for certificate of title in his name or application for certificate of salvage pursuant to section 2377. The new owner of the vehicle shall provide the required filing fee and evidence that he is the true owner of the vehicle. The new owner shall also provide:

**A.** Evidence or notarized statements that there are no prior outstanding liens against the vehicle; and

**B.** Evidence that he has been unsuccessful in his attempt to have the manufacturer's certificate of origin, certificate of title, certificate of salvage or other documents transferred or assigned to him because the prior owner cannot be located, has ignored the request or refuses to transfer or assign the documents to him.

**Sec. 14. 29 MRSA § 2364-A, sub-§ 2, ¶¶ A and B**, as enacted by PL 1979, c. 185, § 1, are amended to read:

A. Request the prior owner or holder of the certificate of origin, certificate of title, **certificate of salvage** or other documents to remit these documents to the Secretary of State or make the necessary assignments; or

B. Notify the prior owner, at his last known address, of his intent to issue a title certificate or a **certificate of salvage pursuant to section 2377** to the new owner.

**Sec. 15. 29 MRSA § 2364-A, sub-§§ 3, 4 and 5, as enacted by PL 1979, c. 185, § 1, is amended to read:**

**3. Issuance of certificate of title or certificate of salvage to new owner.** The Secretary of State shall issue a certificate of title or a **certificate of salvage** to the new owner if the prior owner or holder of the documents as described in this section remits these documents to the Secretary of State and properly assigns the documents to the new owner.

A. In the event that the prior owner or holder of the manufacturer's certificate of origin, certificate of title, **certificate of salvage** or other documents fails to provide the documents or make the necessary assignments in accordance with the request of the Secretary of State, the Secretary of State may issue a certificate of title or a **certificate of salvage** to the new owner provided that:

(1) The prior owner or holder of the documents does not contest, within 15 days of receiving notice, the intent of the Secretary of State to issue a ~~title certificate~~ **certificate of title or certificate of salvage** to the new owner; and

(2) There is satisfactory proof of ownership based upon the evidence submitted and the results of the investigation of the Secretary of State.

**4. Statement on certificate of title or certificate of salvage.** The ~~title certificate of title or certificate of salvage~~ issued in accordance with subsection 3, paragraph A, shall include a statement clearly visible to the holder thereof to read: "This certificate may be subject to the rights of a prior owner." The ~~title certificate of title~~ shall be sent to the first ~~lien holder~~ **lienholder** listed on the certificate or, if none, to the new owner. **A certificate of salvage shall be sent to the owner named thereon.**

**5. Certificate of title or certificate of salvage.** If the Secretary of State fails to receive any notice of interest of a prior owner within 6 months from the issuance of the certificate of title or **certificate of salvage**, the holder of this certificate may be issued a certificate in ordinary form to replace the one issued as described in subsection 4.

**Sec. 16. 26 MRSA § 2365, as enacted by PL 1973, c. 586, § 1, is amended to read:**

**§ 2365. Secretary of State to check identification number**

The Secretary of State, upon receiving application for a first certificate of title or **certificate of salvage**, shall check the identification number of the vehicle shown in the application against the records of vehicles required to be maintained

by section 2366 and against the record of stolen and converted vehicles required to be maintained by section 2444.

**Sec. 17. 29 MRSA § 2366, sub-§ 1**, as enacted by PL 1973, c. 586, § 1, is amended to read:

**1. Certificate.** The Secretary of State shall file each application received and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title or certificate of salvage pursuant to section 2377, shall issue a certificate of title or a certificate of salvage of the vehicle.

**Sec. 18. 29 MRSA § 2366, sub-§ 2, first sentence**, as enacted by PL 1973, c. 586, § 1, is amended to read:

The Secretary of State shall maintain at his central office a record of all certificates of title and certificates of salvage issued by him:

**Sec. 19. 29 MRSA § 2367, sub-§ 1, first sentence**, as enacted by PL 1973, c. 586, § 1, is amended to read:

Each certificate of title or certificate of salvage pursuant to section 2377 issued by the Secretary of State shall contain:

**Sec. 20. 29 MRSA § 2367, sub-§ 1, ¶ C**, as enacted by PL 1973, c. 586, § 1, is amended to read:

C. The names and addresses of any lienholders, in the order of priority as shown on the application for certificate of title or, if the application is based on a certificate of title, as shown on the certificate;

**Sec. 21. 29 MRSA § 2367, sub-§§ 3, 4 and 5**, as enacted by PL 1973, c. 586, § 1, are amended to read:

**3. Forms.** The certificate of title or certificate of salvage shall contain forms for assignment and warranty of title by the owner and for assignment and warranty of title by a dealer, and may contain forms for applications for a certificate of title by a transferee, the naming of a lienholder and the assignment or release of the security interest of a lienholder.

**4. Prima facie evidence.** A certificate of title or certificate of salvage issued by the Secretary of State is prima facie evidence of the facts appearing on it.

**5. Levies.** A certificate of title for a vehicle or a certificate of salvage is not subject to garnishment, attachment, execution or other judicial process, but this subsection does not prevent a lawful levy upon the vehicle.

**Sec. 22. 29 MRSA § 2368**, as enacted by PL 1973, c. 586, § 1, is amended to read:

#### **§ 2368. Mailing certificate**

The certificate of title shall be mailed to the first lienholder named on it or, if none, to the owner. A certificate of salvage shall be mailed to the owner named thereon.

**Sec. 23. 29 MRSA § 2369, sub-§§ 1 and 2**, as enacted by PL 1973, c. 586, § 1, are amended to read:

**1. Withholding.** Withhold issuance of a certificate of title or certificate of salvage until the applicant presents documents reasonably sufficient to satisfy the Secretary of State as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

**2. Bond.** As a condition of issuing a certificate of title or certificate of salvage, require the applicant to file with the Secretary of State a bond in the form prescribed by the Secretary of State and executed by the applicant, and either accompanied by the deposit of cash with the Secretary of State or executed by a person authorized to conduct a surety business in this State. The bond shall be in an amount equal to 1½ times the value of the vehicle as determined by the Secretary of State and conditioned to indemnify any prior owner and lienholder 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 or certificate of salvage 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 3 years or prior thereto, if the vehicle is no longer registered in this State and the currently valid certificate of title or certificate of salvage is surrendered to the Secretary of State, unless the Secretary of State has been notified of the pendency of an action to recover the bond.

**Sec. 24. 29 MRSA § 2370, first sentence**, as enacted by PL 1973, c. 586, § 1 is amended to read:

The Secretary of State shall refuse issuance of a certificate of title or certificate of salvage, if any required fee is not paid or if he has reasonable ground to believe that:

**Sec. 25. 29 MRSA § 2371, sub-§ 1, 2nd sentence**, as enacted by PL 1973, c. 586, § 1, is amended to read:

The duplicate certificate of title or certificate of salvage shall contain the legend, "This is a duplicate certificate and may be subject to the rights of a person under the original certificate."

**Sec. 26. 29 MRSA § 2371, sub-§ 2**, as enacted by PL 1973, c. 586, § 1, is amended to read:

**2. Time.** The Secretary of State shall not issue a new certificate of title or certificate of salvage to a transferee upon application made on a duplicate until 15 days after receipt of the application.

**Sec. 27. 29 MRSA § 2371, sub-§ 3, first sentence**, as enacted by PL 1973, c. 586, § 1, is amended to read:

A person recovering an original certificate of title or certificate of salvage for which a duplicate has been issued shall promptly surrender the original certificate to the Secretary of State.

**Sec. 28. 29 MRSA § 2372, sub-§ 3**, as enacted by PL 1973, c. 586, § 1, is amended to read:

**3. Retention.** If a security interest is reserved or created at the time of the transfer, the certificate of title or certificate of salvage shall be retained by or delivered to the person who becomes the lienholder, and the parties shall comply with section 2403.

**Sec. 29. 29 MRSA § 2373, first sentence**, as amended by PL 1977, c. 294, § 10, is further amended to read:

If a dealer buys a vehicle and holds it for resale and procures the certificate of title or certificate of salvage from the owner or the lienholder within 10 days after delivery to him of the vehicle, he need not send the certificate to the Secretary of State but, upon transferring the vehicle to another person other than by the creation of a security interest, shall within 20 days of the date of the sale, execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of the lienholder holding a security interest created or reserved at the time of the resale and the date of his security agreement, in the spaces provided therefor on the certificate or as the Secretary of State prescribes, and mail or deliver the certificate to the Secretary of State, or in the case of a security interest created or reserved at the time of the sale, the lienholder or assignee shall, within 20 days of the date of the sale, mail or deliver the certificate to the Secretary of State, with the transferee's application for a new certificate.

**Sec. 30. 29 MRSA § 2374, sub-§§ 1 and 3**, as enacted by PL 1973, c. 586, § 1, are amended to read:

**1. Other than voluntary transfer.** If the interest of an owner in a vehicle passes to another other than by voluntary transfer, the transferee shall, except as provided in subsection 2, promptly mail or deliver to the Secretary of State the last certificate of title or certificate of salvage, if available, proof of the transfer and his application for a new certificate in the form the Secretary of State prescribes.

**3. Interest transferred.** A person holding a certificate of title or certificate of salvage whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the Secretary of State upon request of the Secretary of State. The delivery of the certificate pursuant to the request of the Secretary of State does not affect the rights of the person surrendering the certificate, and the action of the Secretary of State in issuing a new certificate of title or certificate of salvage as provided is not conclusive upon the rights of an owner or lienholder named in the old certificate.



**Sec. 31. 29 MRSA § 2375, first sentence**, as enacted by PL 1973, c. 586, § 1, is amended to read:

An application for a certificate of title or certificate of salvage shall be accompanied by the required fee when mailed or delivered to the Secretary of State.

**Sec. 32. 29 MRSA § 2376, 2nd ¶**, as enacted by PL 1979, c. 185, § 2, is amended to read:

The Secretary of State may issue a new certificate of title or certificate of salvage as provided in section 2364-A.

**Sec. 33. 29 MRSA § 2376, last ¶**, as enacted by PL 1977, c. 294, § 11, is amended to read:

The Secretary of State may require before he issues a certificate of title or certificate of salvage that any vehicle for which an application for certificate of title or certificate of salvage is made be inspected in a manner prescribed by him for conformity to the description given in the application.

**Sec. 34. 29 MRSA § 2377**, as last amended by PL 1977, c. 294, § 12, is repealed and the following enacted in its place:

**§ 2377. Dismantling, destruction, repair or rebuilding of vehicle**

1. Insurer to obtain certificate of salvage. When a vehicle, as defined by section 1, subsection 20, for which a Maine certificate of title has been issued, is, by reason of condition or circumstance declared a total loss by an insurer, the insurance company or its authorized agent shall, within 10 days from the date of settlement of the insurance claim, surrender the certificate of title to the Secretary of State and make application for certificate of salvage in accordance with section 2364. The Secretary of State shall issue a certificate of salvage to the insurance company on a form he prescribes. At the time the vehicle is sold, the insurance company or its agent shall endorse the assignment of ownership on the certificate of salvage and surrender it to the buyer of the vehicle. The vehicle may not again be titled or registered for operation on the highways of Maine, unless there is compliance with subsection 3.

2. Surrender and cancellation of certificate. Surrender and cancellation of a certificate shall conform to the following.

A. An owner who scraps, dismantles, compresses or destroys a vehicle shall surrender the certificate of title or certificate of salvage to the Secretary of State for cancellation at the time he scraps, dismantles, compresses or destroys the vehicle.

B. Any person who purchases or acquires a vehicle to be scrapped, dismantled, compressed or destroyed shall immediately surrender the certificate of title or certificate of salvage to the Secretary of State for cancellation.

**C. Any person who repairs or rebuilds for operation on the highway a vehicle which, by reason of its condition or circumstance, has been declared a total loss by an owner or insurance company, shall comply with subsection 3 and shall:**

**(1) If the vehicle was not previously insured, obtain the certificate of title from the owner of the vehicle and make application for certificate of salvage in accordance with section 2364; or**

**(2) If the vehicle was previously insured, obtain a certificate of salvage from the insurance company if a certificate of salvage was last issued in this State or in another jurisdiction whose laws require the issuance of certificates of salvage; or, if no certificate of salvage was issued by another jurisdiction for a vehicle last registered and titled there, obtain a certificate of title from the insurance company and, in accordance with section 2364, make application for certificate of salvage in this State.**

**3. Repaired or rebuilt vehicle. If a vehicle, which was declared a total loss by an owner or by an insurance company, is repaired or rebuilt for operation on the highways, the vehicle may not again be titled or registered for operation in this State unless:**

**A. The identification number of the vehicle and its component parts are inspected for identity and the vehicle is inspected for safety by an official Maine inspection station or by an authorized agent of the Secretary of State;**

**B. If necessary, the Secretary of State assigns a new vehicle identification number to the vehicle upon application for a vehicle identification number in accordance with section 103; and**

**C. Upon demand of the Secretary of State or his authorized agents, a repairer or rebuilder produces receipts of purchase of the vehicle or for component parts used in the repairing or rebuilding process, or both.**

**4. Assigned vehicle identification number. The Secretary of State shall charge a fee of \$10 for each vehicle identification number he assigns pursuant to subsection 3, paragraph B.**

**5. Violation. Whoever violates any provision of this section shall be guilty of a Class D crime.**

**Sec. 35. 29 MRSA § 2378, sub-§ 1, as amended by PL 1979, c. 663, § 183, is further amended to read:**

**1. Findings. Pursuant to chapter 17, the Secretary of State shall suspend or revoke a certificate of title, a certificate of salvage or a certificate of registration, upon notice and reasonable opportunity to be heard in accordance with section 2354, if he finds:**

**A. The certificate of title, certificate of salvage or registration was fraudulently procured or erroneously issued;**

**B. The vehicle has been scrapped, dismantled or destroyed; or**

C. A person fails to mail or deliver a certificate of title, **certificate of salvage** or an application for certificate of title or **certificate of salvage** within 10 days after the time required by this chapter.

**Sec. 36. 29 MRSA § 2378, sub-§§ 3 and 4**, as repealed and replaced by PL 1977, c. 294, § 13, is amended to read:

**3. Certificate mailed.** When the Secretary of State suspends or revokes a certificate of title, **certificate of salvage** or certificate of registration, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate of title, **certificate of salvage** or certificate of registration and registration plates to the Secretary of State.

**4. Seizure.** The Secretary of State or his authorized agents may seize and impound any certificate of title, **certificate of salvage** or certificate of registration and registration plates which have been suspended or revoked.

**Sec. 36-A. 29 MRSA § 2401, sub-§ 3**, as enacted by PL 1973, c. 586, § 1, is amended to read:

**3.** A security interest in a vehicle created by a manufacturer or dealer who holds the vehicle for sale, but a buyer in the ordinary course of trade from the manufacturer or dealer takes free of the security interest; or

**Sec. 37. 29 MRSA § 2401, sub-§ 4** is enacted to read:

**4.** A lien given for a vehicle declared a total loss by an insurance company, except if the vehicle is repaired or rebuilt in accordance with section 2377, subsection 3.

**Sec. 38. 29 MRSA § 2402, sub-§ 2, first sentence**, as repealed and replaced by PL 1975, c. 745, § 20, is amended to read:

A security interest is perfected by the delivery to the Secretary of State of the manufacturer's ~~statement~~ **certificate of origin** or existing certificate of title or **certificate of salvage**, if any, an application for a certificate of title containing the name and address of the lienholder and the date of his security agreement and the required fee.

**Sec. 39. 29 MRSA § 2442, sub-§ 1**, as last amended by PL 1979, c. 663, § 184, and c. 673, § 11, is repealed and the following enacted in its place:

**1. Penalty.** A person who, with fraudulent intent, commits any of the following is guilty of a Class D crime:

**A.** Alters, forges or counterfeits a certificate of title or certificate of salvage;

**B.** Alters or forges an assignment of a certificate of title, certificate of salvage or an assignment or release of a security interest on a certificate of title or a form the Secretary of State prescribes.

**C. Has possession of or uses a certificate of title or certificate of salvage knowing it had been altered, forged or counterfeited;**

**D. Uses a false or fictitious name or address, makes a material false statement, fails to disclose a security interest or conceals any other material fact in an application for a certificate of title or certificate of salvage; or**

**E. Sells or exchanges, offers to sell or exchange or gives away any certificate of title, certificate of salvage or any manufacturer's vehicle identification number plate of any vehicle.**

**Sec. 40.** 29 MRSA § 2443, sub-§ 1, as amended by PL 1979, c. 663, § 185, is repealed and the following enacted in its place:

**1. Penalty.** A person who commits any of the following acts is guilty of a Class E crime:

**A. With fraudulent intent, permits another, not entitled thereto, to use or have possession of a certificate of title or a certificate of salvage;**

**B. Willfully fails to mail or deliver a certificate of title, certificate of salvage or application thereof to the Secretary of State within 10 days after the time required by this chapter;**

**C. Willfully fails to deliver to his transferee a certificate of title or certificate of salvage within 10 days after the time required by this chapter; or**

**D. Willfully violates any provision of this chapter, except as provided in section 2442.**

**Sec. 41.** 29 MRSA § 2444, sub-§ 3, as enacted by PL 1973, c. 586, § 1, is amended by adding at the end a new sentence to read:

**An operator of a place of business for garaging, repairing, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of 6 months, may comply with section 895-A.**

**Sec. 42.** 29 MRSA § 2444, sub-§ 4, as amended by PL 1977, c. 694, § 533, is further amended to read:

**4. Suspension.** The Secretary of State may suspend, pursuant to chapter 17, the certificate of registration of a vehicle whose theft or conversion is reported to him pursuant to this section; until the Secretary of State learns of its recovery or that the report of its theft or conversion was erroneous, he shall not issue a certificate of title or certificate of salvage for the vehicle.

#### STATEMENT OF FACT

This bill creates a certificate of salvage for vehicles declared a total loss after accident, vandalism or arson.

A certificate of salvage would be an effective anti-theft measure in that it would

assist in providing proof of vehicle ownership, provide a vehicle audit trail and, most importantly, remove the standard certificate of title from circulation so that it could not be used to cover the identity of stolen vehicles.

As a consumer protection, a certificate of salvage would provide a clue to a buyer that the vehicle was previously accident damaged, vandalized or burned, a fact sometimes not disclosed to a consumer.