House Bill 171 (AS PASSED HOUSE AND SENATE)

By: Representative Rice of the 51st and Forster of the 3rd

A BILL TO BE ENTITLED

AN ACT

To amend Code Sections 40-3-36 and 43-43-3 of the Official Code of Georgia Annotated, relating to certificates of title for scrap motor vehicles, so as to authorize the use of a statement of the vehicle owner who does not have a valid title upon the sale of such vehicle; to prescribe conditions for use of the statement; to authorize the Department of Revenue to promulgate such statement; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 40-3-36 of the Official Code of Georgia Annotated, relating to cancellation of certificates of title for scrap motor vehicles, is amended by revising subsections (a) and (b) as follows:

"(a)(1) Any registered owner or authorized agent of a registered owner who in any manner sells or disposes of any motor vehicle as scrap metal or parts only or who scraps, dismantles, or demolishes a motor vehicle shall within 72 hours mail or deliver the certificate of title to the commissioner for cancellation.

(2) Notwithstanding any other provision of this article to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle is worth $750.00 or less and is at least 12 model years old. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section 43-43-1. The department shall promulgate a form for the statement which shall include, but not be limited to:

(A) A statement that the vehicle shall never be titled again; it must be dismantled or scrapped;

(B) A description of the vehicle including the year, make, model, vehicle identification number, and color;

(C) The name, address, and driver´s license number of the owner;

(D) A certification that the owner:

(i) Never obtained a title to the vehicle in his or her name; or

(ii) Was issued a title for the vehicle, but the title was lost or stolen;

(E) A certification that the vehicle:

(i) Is worth $750.00 or less;

(ii) Is at least 12 model years old; and

(iii) Is not subject to any secured interest or lien.

(F) An acknowledgment that the owner realizes this form will be filed with the department and that it is a felony, punishable by imprisonment for not fewer than one nor more than three years or a fine of not less than $1,000.00 nor more than $5,000.00, or both, to knowingly falsify any information on this statement;

(G) The owner´s signature and the date of the transaction;

(H) The name and address of the business acquiring the vehicle;

(I) A certification by the business that $750.00 or less was paid to acquire the vehicle; and

(J) The business agent´s signature and date along with a printed name and title if the agent is signing on behalf of a corporation.

(3) The used motor vehicle parts dealer or scrap metal processor shall mail or otherwise deliver the statement required under paragraph (2) of this subsection to the department within 72 hours of the completion of the transaction, requesting that the department cancel the Georgia certificate of title and registration.

~~(2)~~(4)(A) The registered owner of any motor vehicle which is damaged to the extent that its restoration to an operable condition would require the replacement of the front clip assembly, which includes the fenders, hood, and bumper; the rear clip assembly, which includes the quarter panels, the floor panel assembly, and the roof assembly, excluding a soft top; the frame; and a complete side, which includes the fenders, door, and quarter panel shall mail or deliver the certificate of title to the commissioner for cancellation.

(B) A motor vehicle owner who retains possession of a damaged vehicle which is a salvage motor vehicle as defined in paragraph (11) of Code Section 40-3-2 shall surrender the license plates and registration for such vehicle, shall not operate such vehicle upon the roads of this state, and shall not sell, trade, or otherwise dispose of such vehicle prior to obtaining a salvage certificate of title for such vehicle.

(C) Any insurance company which acquires a damaged motor vehicle by virtue of having paid a total loss claim shall mail or deliver the certificate of title to the commissioner for cancellation. In every case in which a total loss claim is paid and the insurance company does not acquire such damaged motor vehicle, the insurance company paying such total loss claim, the vehicle owner, and the lienholder or security interest holder, as applicable, shall take the following steps to secure a salvage certificate of title for such motor vehicle:

(i) If the vehicle owner is in possession of the certificate of title, the owner shall deliver the certificate of title to the insurance company prior to any payment of the claim, and the insurance company shall mail or deliver the certificate of title, an application for a salvage certificate of title, and the form provided by the commissioner for issuance of a salvage certificate of title;

(ii) If the certificate of title has been lost, destroyed, or misplaced, the vehicle owner shall, prior to payment of the claim on such vehicle, complete an application for a replacement title on the form provided by the commissioner and deliver such application and form to the insurance company and the insurance company shall mail or deliver such application and form to the commissioner for issuance of a replacement original title marked salvage;

(iii) If the lienholder or security interest holder has possession of the certificate of title, the vehicle owner shall complete an application for a replacement title on a form provided by the commissioner and shall deliver the completed form to the insurance company prior to the payment of the claim; the insurance company shall thereafter mail or deliver the application to the commissioner with notice of the payment of the total loss claim and the name and address of the lienholder or security interest holder in possession of the title. The commissioner shall mail notice to the lienholder or security interest holder that a total loss claim has been paid on the vehicle and that the title to such vehicle has been canceled, and the commissioner shall provide to the lienholder or security interest holder a salvage certificate of title for such vehicle, provided that the validity of the security interest shall not be affected by issuance of a salvage certificate of title. The lienholder or security interest holder shall, within ten days after receipt of such notice of total loss claim and cancellation of the original certificate of title, mail or deliver the canceled original certificate of title to the commissioner; or

(iv) For the sole purpose of payment of a total loss claim, for any vehicle ten years of age or older for which neither the vehicle owner nor the lienholder or security interest holder, if any, possesses a certificate of title, the vehicle owner shall deliver the vehicle license plate and certificate of registration for such vehicle to the

insurance company prior to payment of any claim and the insurance company shall mail or deliver the license plate and certificate of registration to the commissioner with a completed form provided by the commissioner; provided, however, that the vehicle owner shall not operate such vehicle and the owner shall obtain a certificate of title for such vehicle as provided by law, which certificate of title shall then be subject to cancellation as provided in this paragraph.

(D) The department shall give priority to the title submissions provided for in subparagraph (C) of this paragraph and shall issue a salvage certificate of title for such vehicles within seven days of receipt of such submissions by an insurance company."

"(b) Except as provided in subsection (a) of this Code section, any person, firm, or corporation which purchases or otherwise acquires a salvage motor vehicle shall apply to the commissioner for a salvage certificate of title for such motor vehicle within 30 days of the purchase or acquisition of the motor vehicle or within 30 days of the payment of a total loss claim as provided in paragraph ~~(2)~~(4) of subsection (a) of this Code section to the registered owner of the salvage motor vehicle, if the person, firm, or corporation intends to operate or to sell, convey, or transfer the motor vehicle; and no such person, firm, or corporation shall sell, transfer, or convey a salvage motor vehicle until such person, firm, or corporation has applied for and obtained a salvage certificate of title."

SECTION 2.

Code Section 43-43-3 of the Official Code of Georgia Annotated, relating to cancellation of certificates of title for scrap motor vehicles, is revised as follows:

"43-43-3.

Should a scrap metal processor be presented the certificate of title or vehicle license plate for any vehicle or scrap vehicle purchased, that scrap metal processor shall mail or deliver the same to the Department of Revenue as required by law. In lieu of a certificate of title, an affidavit in accordance with the provisions of subsection (a) of Code Section 40-3-36 shall be obtained by a scrap metal processor. All other requirements of subsection (a) of Code Section 40-3-36 shall be complied with, including maintenance of a copy of such affidavit, and any other rules promulgated pursuant thereto."

SECTION 3.

This Act shall become effective on July 1, 2007.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.