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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/12

SPONSOR Morales LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Salvage Vehicle Definitions and Sales SB 122

ANALYST Chabot

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	\$100.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)  
 General Services Department (GSD)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 122 appropriates \$100.0 thousand from the general fund to the TRD for the purpose of licensing salvage vehicle pools as dealers. The bill amends Sections 66-1-4.4, 66-1-4.16, 66-3-10.1, and 66-4-1 NMSA 1978 NMSA and defines “salvage vehicle pool,” provides for licensing, sale, and branding of licenses of salvaged vehicles, and reconciles multiple amendments to the same sections of the law.

### FISCAL IMPLICATIONS

The appropriation of \$100.0 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2013 shall revert to the general fund. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

### SIGNIFICANT ISSUES

This bill defines “salvage vehicle pool” as a dealer engaged in the business of selling, transferring, auctioning or disposing of total loss or salvage vehicles on behalf of owners,

insurance companies, authorized adjusters, leasing companies, self-insured persons or financial institutions.

The bill requires the certificate of title or ownership be branded to state: SALVAGE VEHICLE – NOT FOR RESALE WITHOUT DISCLOSURE. WARNING: A SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION, AND SOME STATES PROHIBIT REGISTRATION OF CERTAIN SALVAGE TITLE VEHICLES OR REQUIRE INSPECTIONS BEFORE A VEHICLE MAY BE REGISTERED. SOME STATES MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED. MANY INSURANCE COMPANIES WILL NOT INSURE SALVAGE VEHICLES OR MAY DO SO ONLY AT A DIMINISHED VALUE FOR PAYMENT OF A CLAIM.

A salvage or non-repairable vehicle may only be conveyed to a licensed auto recycler. A salvage vehicle pool shall sell a salvage vehicle only to a licensed auto recycler.

GSD states the bill will have no impact on its operation as it uses state disposal methods.

DPS anticipates it will be required to interface with auto recyclers and salvage yards when the character of a salvage vehicle comes in to question. This may be in the form of providing vehicle identification number inspection and other secondary inspections on a vehicle to determine if in fact it is the vehicle listed on the title.

## **TECHNICAL ISSUES**

TRD points out the use of the word “dealer” in the definition of “salvage vehicle pool” on page 6 is circular. In another part of the bill “person is used. It recommends replacing “dealer” with either “person” or “a business operated by a person” through the bill.

TRD states printing the title disclaimer language on the title will cover printed data on the title making it hard to read and Motor Vehicle Division anticipates the need for a separate and distinct Salvage Certificate of Title form. It recommends changing page 9, line 19 through page 10, line 5 to read: “The brand shall be signified by the use of a distinctive certificate of title conspicuously titled “Salvage Certificate of Title” or stamped on the front of the certificate of title, centrally aligned immediately above the signature line, in capital letters and in twelve-point, boldfaced Arial font.”

TRD is of the opinion language of page 10, lines 6-8 incorrectly equates salvage and non-repairable vehicles and restricts the sale of salvage-branded vehicles to auto recyclers and dismantlers. The designation of a vehicle as “salvage” (defined in Section 66-1-4.16C NMSA 1978) indicates it has been damaged to the extent it is uneconomical to repair, not that it cannot be safely operated on public roads. Sale of these vehicles only to licensed auto recyclers is not appropriate.

A more detailed discussion of these technical issues is in the attached TRD analysis.

## **OTHER SUBSTANTIVE ISSUES**

Since this bill licenses salvage vehicle pool operators, the TRD should assess charging a fee for licensing that off-sets the cost of establishing the program instead on relying on general fund.

Attachment

TRD Analysis dated January 30, 2012

GAC/svb:amm

**BILL ANALYSIS AND FISCAL IMPACT REPORT**  
**Demesia Padilla, Secretary, Taxation and Revenue Department**

**January 30, 2012**

**Bill:** SB-122

**Sponsor:** Senator Howie Morales

**Short Title:** Salvage Vehicle Definitions & Sales

**Description:** SB-122 amends the Motor Vehicle Code to require that the Taxation and Revenue Department license salvage vehicle pools as a dealer. For purposes of this proposal a “salvage vehicle pool” means a dealer engaged in the business of selling, transferring, auctioning or disposing of total loss or salvage vehicles on behalf of owners, insurance companies, authorized adjusters, leasing companies, self-insured persons or financial institutions.

SB-122 also makes it unlawful to sell a salvage or nonrepairable vehicle unless the certificate of title is branded as a salvage vehicle.

**Effective Date:** July 1, 2012

**Fiscal Impact:** None.

**Policy Issues:** A salvage brand is a permanent indicator on a vehicle’s title that the vehicle has been severely damaged, not that it cannot be safely operated. As written, this bill would unreasonably restrict the vehicle owner’s ability to sell a salvage-branded vehicle. Moreover, it is not clear that there is any need for the additional licensing of salvage vehicle pools as distinct from dealers or auto recyclers.

**Technical Issues:** The use of the word “dealer” in the definition of “salvage vehicle pool” (p. 6 lines 1-5) is circular. In another part of the bill, the word used is “person”, which is more nearly correct. The word “dealer” should be replaced with “person” or “a business operated by a person.”

Printing the extensive new salvage title disclaimer language on the title will cover the printed data on the title, making it hard to read. In addition, MVD anticipates implementation of a separate, distinct Salvage Certificate of Title form. Suggest changing the proposed language of the bill (p. 9 line 19 through p. 10 line 5) to read, “The brand shall be signified by the use of a distinctive certificate of title conspicuously titled “Salvage Certificate of Title” or stamped on the front of the certificate of title, centrally aligned immediately above the signature line, in capital letters and in twelve-point, boldfaced arial font.”

The bill’s language on p. 10, lines 6-8 incorrectly equates salvage and nonrepairable vehicles and restricts the sale of salvage-branded vehicles to auto recyclers and dismantlers. The designation of a vehicle as “salvage” (see definition of “salvage vehicle” at Section 66-1-4.16C NMSA 1978) indicates that it has been damaged to the extent that it is uneconomical to repair, not that it cannot be safely operated on public roads. There is no reason to prohibit the sale of these vehicles to individuals or to dealers for resale.

Finally, a salvage vehicle pool currently sells its salvage vehicles to licensed dealers, which is appropriate. The limitation on sales of salvage vehicles to licensed auto recyclers is appropriate for nonrepairable vehicles, as provided for in current statute and rule, but not for salvage vehicles. See the **Technical Issues – Detailed Discussion** section on page 2.

**Administrative & Compliance Impact:** Implementation of this bill (as it is currently written) will have a low impact for IT. Listed are the affected programs and time estimates:

- MVD 2.0 (40 hrs)
  - Modify title print application to incorporate the Salvage Title disclaimer language
- Mainframe Batch (40 hrs)
  - Modify mainframe application print job to incorporate the Salvage Title disclaimer language
- User Acceptance Testing (20 hrs)
- Total Hours: 100
- 100 hours at \$50/hour = \$5,000

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2012	FY2013	FY2014	FY 12-14		
5	0	0	5	NR	TRD-ITD Operating Budget

\* In thousands of dollars. Parentheses ( ) indicate a cost saving. \*\* Recurring (R) or Non-Recurring (NR).

**Related Bills:** None.

**Technical Issues – Detailed Discussion:**

SECTION 2

[Proposed new definition in 66-1-4.16]

D. "salvage vehicle pool" means a dealer engaged in the business of selling, transferring, auctioning or disposing of total loss or salvage vehicles on behalf of owners, insurance companies, authorized adjusters, leasing companies, self-insured persons or financial institutions;

Problem: The use of the word “dealer” in this definition is circular. In another part of the bill, the word used is “person”, which is more correct.

Suggested revision is to replace the word “dealer” with “person” or “a business operated by a person”.

SECTION 3

[Proposed new subsection of 66-3-10.1]

B. The brand described in Subsection A of this section shall include a disclaimer and shall read: "SALVAGE VEHICLE - NOT FOR RESALE WITHOUT DISCLOSURE. WARNING: A SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION, AND SOME STATES PROHIBIT REGISTRATION OF CERTAIN SALVAGE TITLE VEHICLES OR REQUIRE INSPECTIONS BEFORE A VEHICLE MAY BE REGISTERED. SOME STATES MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED. MANY INSURANCE COMPANIES WILL NOT INSURE SALVAGE VEHICLES OR MAY DO SO ONLY AT A DIMINISHED VALUE FOR PAYMENT OF A CLAIM." The brand shall be stamped on the front of the certificate of title, centrally aligned immediately above the signature line, in capital letters and in twelve-point, boldfaced arial font.

Problem: Currently, New Mexico does not have a distinct salvage title certificate. Suggested revision is to change the proposed language of the bill by adding the highlighted words below:

The brand shall be signified by the use of a distinctive certificate of title conspicuously titled “Salvage Certificate of Title” or stamped on the front of the certificate of title, centrally aligned immediately above the signature line, in capital letters and in twelve-point, boldfaced arial font.

SECTION 3

[Proposed revision of 66-3-10.1(B), now designated (C) in bill]

66-3-10.1[B.] C. An owner of a salvage or nonrepairable vehicle shall sell or otherwise convey that

vehicle only to a licensed [wrecker of vehicles] auto recycler or a person licensed by a jurisdiction outside of this state and who provides proof of a license to process vehicles by dismantling, wrecking, shredding, crushing or selling motor vehicle parts or scrap material or otherwise disposing of motor vehicles.

As worded, this bill would prohibit the sale of a salvage vehicle to any person other than a licensed auto recycler. While this sales restriction is appropriate with respect to “nonrepairable” vehicles, it is totally inappropriate with respect to salvage vehicles. There are thousands of salvage vehicles duly registered and titled in this state that are completely safe and roadworthy. It is totally inappropriate to enact a prohibition on the sale of these vehicles by their private owners to other private individuals or dealers, and there is no reason to do so.

#### SECTION 4

Proposed new subsection 66-4-1(A)(2) a salvage vehicle pool. Any person engaged in the business of selling, transferring, auctioning or disposing of total loss or salvage vehicles on behalf of owners, insurance companies, authorized adjusters, leasing companies, self-insured persons or financial institutions shall be presumed to be conducting the business of a dealer operating as a salvage vehicle pool. A salvage vehicle pool shall sell a salvage vehicle only to a licensed auto recycler;

The sentence above is also inappropriate for reasons similar to those in the previous comment. A salvage vehicle pool currently sells its salvage vehicles to licensed dealers, which is appropriate. The limitation on sales only to licensed auto recyclers is appropriate for non-repairable vehicles, but not salvage vehicles.