

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1382

Introduced by

Representative Keiser

1 A BILL for an Act to create and enact a new section to chapter 26.1-40 of the North Dakota  
2 Century Code, relating to coverage for loss of value to insured motor vehicles and motor  
3 vehicle body damage; to amend and reenact sections 39-05-17.2 and 39-05-20.2 of the North  
4 Dakota Century Code, relating to motor vehicle body damage disclosure and salvage certificate  
5 of title; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new section to chapter 26.1-40 of the North Dakota Century Code is  
8 created and enacted as follows:

9 **Definitions - Loss of value - Covered unless specifically excluded.**

10 **1. As used in this section:**

11 **a. "Loss of value" means the loss of market value or residual diminution of value**  
12 **caused by a covered occurrence under a valid motor vehicle policy which**  
13 **remains after the physical damage to the vehicle is repaired.**

14 **b. "Policy" means a motor vehicle policy providing coverage for collision or**  
15 **comprehensive damages.**

16 **2. Every policy may provide optional coverage for any loss of value to a motor vehicle**  
17 **the same as it would any other covered loss under the policy.**

18 **3. When a policy provides coverage for loss of value, the loss is recoverable under**  
19 **the policy only when the vehicle is sold or traded. It is the responsibility of the**  
20 **insured to provide adequate proof of the loss of value to the insurer. Knowingly**  
21 **presenting or causing the presentation of any false or misleading information**  
22 **regarding loss of value to an insurer is a fraudulent insurance act under section**  
23 **26.1-02.1-02 and is subject to the penalties provided in section 26.1-02.1-05.**

4. When a policy provides coverage for loss of value, the policy must allow a claim for the loss to be made within the three years following the occurrence of the event which caused the loss. The policy may provide a longer time period in which to make a claim for loss of value. The policy must provide coverage of claims for loss of value in a manner at least as favorable to the insured or claimant as the following:

- a. For claims made in year one, one hundred percent of the loss of value.
- b. For claims made in year two, ninety percent of the loss of value.
- c. For claims made in year three, eighty percent of the loss of value.

**SECTION 2. AMENDMENT.** Section 39-05-17.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-05-17.2. Body damage disclosure - Rules - When required - Penalty.**

1. Before January 1, 1992, the The department shall adopt rules relating to the manner and form of disclosing motor vehicle body damage on the certificate of title to a motor vehicle. The rules must provide for a damage disclosure statement from the transferor to the transferee at the time ownership of a motor vehicle is transferred and provide that the department must refuse to transfer the title without the required damage disclosure statement.
2. Motor vehicle body damage disclosure requirements apply only to the transfer of title on all current year models of motor vehicles and those models manufactured in the four years before the current model year. When a motor vehicle has been subject to this disclosure requirement and more than five years have elapsed since the date of manufacture, the holder of the certificate of title with the damage disclosure may have the disclosure removed and a new certificate of title issued for a fee of five dollars.
3. As used in this section, "motor vehicle damage" means a change in the body structure of a motor vehicle, generally resulting from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage to the motor vehicle which exceeds forty percent of the predamage retail value of the motor vehicle as determined by the national automobile dealers official used car guide. The term does not include body or structural modifications, normal

wear and tear, glass damage, hail damage, or items of normal maintenance and repair.

4. Any person repairing, replacing parts, or performing body work on a motor vehicle that is less than five years old shall provide a statement to the owner of the motor vehicle when the motor vehicle has sustained motor vehicle damage requiring disclosure under this section. The owner shall disclose this damage when ownership of the motor vehicle is transferred.

5. The amount of damage to a motor vehicle is determined by adding the retail value of all labor, parts, and material used in repairing the damage. When the retail value of labor has not been determined by a purchase in the ordinary course of business, for example when the labor is performed by the owner of the vehicle, the retail value of the labor is presumed to be the product of the repair time, as provided in a generally accepted autobody repair flat rate manual, multiplied by thirty-five dollars.

6. A person who violates rules adopted pursuant to this section is guilty of a class A misdemeanor.

**SECTION 3. AMENDMENT.** Section 39-05-20.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**39-05-20.2. Issuance of salvage certificate of title.** ~~Any person or organization who completely destroys or completely dismantles a vehicle so as to cause that vehicle to lose its identity~~ The owner of a vehicle that is damaged in excess of seventy-five percent of its retail value shall forward the title for that vehicle to the department within ten days and the department shall issue a salvage certificate of title. If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The applicant shall include with the application a certificate of inspection in the form required by the department, the salvage certificate of title, and a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle, a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to

- 1 conform to the description given in the application, or unless other proof of the identity of the
- 2 vehicle has been provided to the satisfaction of the department.