

1999 SENATE TRANSPORTATION

SB 2321

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2321

Senate Transportation Committee

Conference Committee

Hearing Date January 29, 1999

Tape Number	Side A	Side B	Meter #
1		x	1
February 11, 1999-Tape 2	x		5,428-End
February 11-Tape 2		x	1-1182
Committee Clerk Signature <i>Aori A. Schaeplauer</i>			

Minutes:

SENATOR SCHOBINGER opened the hearing on SB 2321. Committee members present included: Sens. R. Schobinger, D. Mutch, D. Cook, D. O'Connell, V. Thompson, and D. Bercier. SENATOR KEITH TOMAC, DISTRICT 31 testified in support of SB 2321. We need to continue to discuss this issue until we find a solution. This bill involves the damage disclosure statement that is currently required if one buys a car that has more than \$5,000 worth of damage or 40% of the value. My constituent will testify later that he did buy a vehicle that had some damage but had he known the vehicle was damaged as much as it was he would not have purchased it in the first place.

This bill states if the damage meets the thresholds that are currently in existence then on the damage disclosure at the time of sale there must be the full dollar amount of damage. This will allow an informed consumer to make a choice. I hope it doesn't happen where we repeal the

whole section on informing the consumer and just stating a “buyer beware” clause. This may allow the consumer to sue and allow out of state interests to come into ND and wash the title hurting consumers in another state. Let’s require that the seller reveal the total amount of damage so the consumer can make a purchase with their eyes open.

SENATOR COOK I want to categorize vehicle damage into three categories: (1) damage under \$5,000 or 40% of the vehicle can be fixed and nothing will show up on registration; (2) damage under 75% but over 40% is where we need damage disclosure forms; and (3) damage over 75% of the vehicle requires a salvage title, correct?

SENATOR TOMAC I believe that is correct. In the third category, salvage titles may be changed to damage disclosure titles.

SENATOR COOK The gentleman who will testify, the vehicle he bought should have had a salvage title but did not?

SENATOR TOMAC It did at one time have a salvage title but was changed to a damage title.

REPRESENTATIVE DENNIS RENNER, DISTRICT #31 testified in support of SB 2321.

LORON SKUTTEBERG, CARSON testified in support of SB 2321. I bought a vehicle and was told it fell under the \$5,000 damage disclosure. After three weeks, I did not receive the title so I did some research. I found out it had a salvage title and \$12,000 worth of damage to it. It was a 1994 Buick and I paid \$9,000 for it; it had \$12,000 worth of damage.

SENATOR BERCIER Did you try to return it?

LORON SKUTTEBERG I did return the title but I lost \$1,000 on it.

SENATOR COOK It seems the problem is with the salvage title and not necessarily the damage disclosure.

LORON SKUTTEBERG One statement in damage disclosure-the owner shall disclose this damage when selling the car. If the money the insurance company pays the owner for the car is included on the damage disclosure it takes all of the questions away.

SENATOR COOK When you bought the car were you aware of damage disclosure and salvage cars?

LORON SKUTTEBERG I knew it was in place but I didn't know much about it.

SENATOR COOK If we did not have a damage disclosure law and it was more of a "buyer beware" would you have inspected the car more thoroughly.

LORON SKRETTEBERG It comes down to trusting the people who sell you the car.

JACQUIE WHITE, BURLINGTON testified in support of SB 2321. I purchased a car in 1996.

I was told the car had been vandalized by a baseball bat. The windows and lights were shattered and because of this it had to be repainted. The salesman explained the damage disclosure to me and said the limit was at \$3,000. The car was in beautiful shape. I purchased the car and things started going wrong with it right away. A year and a half later the transmission went out on a two year old car. When I took it in to have it fixed, they found sand and gravel in the bottom of the transmission and asked me if it had been in the flood. Upon further digging in the motor vehicle department and more electrical problems with my car, I found the car had been stolen from its previous owner and driven into a lake. I was told it had \$3,000 worth of damage when it actually had \$7,100 worth of damage. There was no salvage damage on any of the titles. The insurance company informed the Attorney General's office that they had totaled out the car and it had been sold through the salvage pool but there was no salvage title stamped on our title. Had I known this I certainly would not have bought the car.

SENATOR COOK Where was the car fixed?

JACQUIE WHITE It was fixed at a repair shop in Minot.

SENATOR COOK I wonder what the penalty is for someone who fixes a car and doesn't disclose the proper information.

TOM SMITH, INSURANCE COMPANIES testified in a neutral position. We have some concerns about this bill. When an insurance company insures a vehicle, there are occasions when a vehicle is damaged up to 70% to 80% of its value. They will then total out the vehicle and pay the owner of the vehicle the value of the vehicle depending on what it is listed in the Blue Book. The vehicle still has a value to it. The insurance companies will sell the vehicle to the salvage yards. They may have made a \$9,000 payment to the owner of that vehicle but then were only paid \$2,000 from the salvage yard. I'm not sure that will work on this type of situation whether you have to disclose the \$12,000 or the amount of the actual cost to repair the vehicle. On a federal level if a vehicle was damaged at 75% or more then the vehicle would have to carry the status of a salvage title for the life of that vehicle. It died on the federal level, however.

KEITH KISER, DIRECTOR OF THE MOTOR VEHICLE DEPARTMENT We are responsible for administrating the collection and the recording of the information relating to the damage disclosure act. I am testifying in a neutral position. We are concerned because this bill will create more work for our office and we are not in position right now to do the work in our budget.

SENATOR COOK If a vehicle is transferred from one family member, do you just sign over the title or do you also have to sign a damage disclosure form saying there wasn't any damage?

KEITH KISER The procedure right now is that you would have to do a damage disclosure form on every transfer of ownership for vehicles that fall within the age category. There is always a requirement to fill out a damage disclosure when the vehicle is transferred.

SENATOR COOK To get full protection, a seller will get a form when they first buy the car. They are also available through the Internet and mail. The first question a consumer should ask is about the damage disclosure. How many people come in to transfer a title with no damage disclosure?

KEITH KISER There are significant numbers. Private sales are the least likely to be aware of the damage disclosure.

SENATOR COOK A typical transaction when sold the car is to get the title and then the damage disclosure form needs to be filled out.

KEITH KISER The seller needs to complete the form.

SENATOR COOK We need to educate people so they know this law is for their benefit.

KEITH KISER Yes, we do need to educate and protect the buyer.

SENATOR THOMPSON The witnesses talked about the difficulty finding the information. How could we find that information before we buy?

KEITH KISER I don't know, just keep asking questions.

SENATOR THOMPSON We have to protect against those who aren't honest.

KEITH KISER There are more problems with private party transactions but there are some problems with dealerships.

SENATOR THOMPSON There is not a smooth transition in following up on damaged and totaled vehicles.

KEITH KISER The records are in our office to find out the information. The information regarding damage on a vehicle only comes into our office after the vehicle is sold. Under the current law, if a vehicle has under \$5,000 or 40% damage there is no requirement telling the buyer how much damage was done.

SENATOR COOK How many states have damage disclosure laws?

KEITH KISER ND, SD, and IA have damage disclosure laws that I'm aware of; most states have something that relates to salvage laws.

SENATOR COOK If a vehicle was damaged in ND and was transferred to Minnesota to be repaired the seller may never be required to inform the buyer that the car was damaged because Minnesota does not have the damage disclosure law, correct?

KEITH KISER Because we don't have consistent laws, there is the opportunity to wash off the brand that was on that title.

SENATOR COOK No matter how we improve this, there will always be a certain element of buyer beware. We don't want to give the perception to the buyers that they are safe under this law and don't have to beware.

KEITH KISER There is always an element of risk. You cannot depend on 100% safety with the damage disclosure.

SENATOR COOK We should focus more on the penalties or the people who are intentionally trying to clean up the title so the proper information is not on it.

KEITH KISER I don't know if there are any simple solutions.

SENATOR THOMPSON How long does it take for a consumer to check on a vehicle?

KEITH KISER It would take five or ten minutes to track the history of that vehicle. If you are the owner of that vehicle, we don't charge you to do that.

SENATOR THOMPSON Do most of the people who do that check come in after the fact?

KEITH KISER The majority of the people do this after the fact. There are services on the Internet that will do these checks for you.

SENATOR COOK Do we not have any lemon laws where Loron would have been protected and received his money back?

KEITH KISER The lemon laws apply only to new vehicle purchases. No, we do not.

SENATOR TOMAC The question I have is how do we solve it? We need to provide more access to the consumer. Another missing element is that the insurance companies are not required to take possession of the title. If an insurance company was required to take possession of a salvage title, there would be a true record of what actually had gone wrong with that vehicle.

SENATOR SCHOBINGER How would it work with a title held by a financial institute for an insurance company to take possession of that title?

SENATOR TOMAC I'm sure the process is in place.

SENATOR COOK How would that apply to car dealerships? They don't get their name on the title.

SENATOR TOMAC I'm not sure but it's a small step. But that would certainly create a log with what is going on with that vehicle.

DAVE HUEY, ASSISTANT ATTORNEY GENERAL testified in a neutral position by answering questions. We get about one complaint a week in this area because of the economic loss. Typically, the insurance companies have to make a damage disclosure, but it never gets

filed with the Department of Motor Vehicle because they never title the vehicle in their own name. They only become on record when there is a title transfer.

SENATOR COOK Are any of these complaints from those who had expensive cars with damage and were required to put a damage disclosure on it and now because it's not worth what it was before, they want more from the insurance companies?

DAVE HUEY No. When an insurance company pays out on a vehicle they will pay what it costs to fix the vehicle. They won't pay you for the market loss if you want to sell the vehicle.

SENATOR COOK If there is \$5,000 worth of hail damage on a car and it is completely fixed isn't that car worth more than a vehicle with damage disclosure?

DAVE HUEY I don't try to second guess the market place.

SENATOR COOK Would you offer anything different as a solution?

DAVE HUEY I don't have any solutions. The two biggest weaknesses are: (1) the ease of the salvage title being converted to a damage title; and (2) there ought to be a record of the chain of title. This way there is a record of what the insurance company has paid out on the life of a vehicle.

SENATOR BERCIER I don't think the title should have the ability to change back. The buyer should make that decision.

DAVE HUEY That may also be a solution.

KEITH KISER I just want to point out that vehicle history is accessible either by phone, mail or Internet.

SENATOR SCHOBINGER Is there any other testimony? We will close SB 2321.

February 11, 1999-Tape 2

SENATOR COOK How many would like to repeal this section? We created a branded title to remove the "buyer beware" notion so that a buyer can buy a car and feel safe doing that but even with the branded title we can't remove the "buyer beware" market. There is no assurance amongst a number of cars that they should have a branded title. It is still a "buyer beware" market but what we are doing is giving a false sense of communication that it is not a "buyer beware" market and we do more harm than we do good. My other concern about this bill is that it was introduced for the man from Carson who got ripped off when buying a car. The problem there is that he couldn't get all of his money back. If we want to solve a problem, we should do something that should get their money back if something like that happens. There is a lot of misinformation about what a branded title does.

SENATOR SCHOBINGER It did directly benefit me (he gave an example).

SENATOR COOK Were you not saved by a salvage title?

SENATOR THOMPSON Senator Cook may be right but I would hate to give up. I would rather that we try to make it work better. On line 12, it says "the statement must disclose the total amount". Mr. Smith testimony suggested just the cost of the vehicle.

TOM SMITH The legislation said disclose the amount of insurance payment or something.

SENATOR B. STENEHJEM It's fine if you want an estimate of the damage but what business of it is on the person buying the car how much the guy got from insurance for it.

TOM SMITH The individual testifying said the vehicle was involved in an accident and the insurance company totaled out the vehicle. They will often pay the value of the vehicle and then they pay a portion of the vehicle and then sell it to a salvage yard to recoup a little money.

Salvage titles in ND can be cleaned. We need to make sure once a vehicle does have a salvage

title on it that it can't be cleaned because to tie it to the insurance payments it could cause a lot of confusion. Once a vehicle has been totaled it should have a salvage title. Many times, once a vehicle has a salvage title it can be inspected and changed but it should have a "previously salvaged" mark on it.

SENATOR B. STENEHJEM Would this bill be in better shape if on page 1, line 13 after "motor vehicle" the rest of the underscored sentence was removed?

TOM SMITH It would be a lot more workable.

SENATOR B. STENEHJEM The damage was covered by insurance but what about a \$500 or \$1000 deductible. So \$3,000 worth of damage looks like \$2,000.

SENATOR O'CONNELL I propose an amendment to remove half of line 12 and all of lines 13 and 14.

SENATOR THOMPSON I second it.

SENATOR SCHOBINGER I don't have a problem keeping the disclosure law that we have now and putting on page 3, line 6 "previously salvaged".

SENATOR O'CONNELL I withdraw my amendment motion.

SENATOR THOMPSON I withdraw my motion.

SENATOR THOMPSON I make a motion for an amendment to take out the underscore on lines 12-14 on page 1 and on page 3 we take out line 7 -10.

SENATOR SCHOBINGER I second the amendment.

SENATOR THOMPSON Any other changes are just technical.

A voice vote was taken on the proposed amendment. It passed unanimously.

SENATOR B. STENEHJEM Does it make sense on page 1, line 22 the motor vehicle body damage means a change in the body or structure of the motor vehicle? I like it better in the beginning where it says motor vehicle damage means a change in the body or structure of motor vehicle.

SENATOR THOMPSON I think Legislative Council did that. Motor vehicle damage maybe they are taking about engine damage instead of body damage. It's specifying what body is.

SENATOR COOK I'd like to further amend this. On page 2, line 2 change \$5,000 to \$8,000.

SENATOR MUTCH I second that motion.

A voice vote was taken (4 Yeas, 2 Nays and 1 Absent and Not Voting). Amendment was adopted.

SENATOR COOK I motion for a Do Pass as Amended.

SENATOR THOMPSON I second that motion.

SENATOR SCHOBINGER I will vote against the bill as it stands. I think \$5,000 or 40% is already pretty high. It raises as the vehicle gets more expensive.

A roll call vote was taken (4 Yeas, 2 Nays, and 1 Absent and Not Voting).

Senator Cook will carry SB 2321.

*Feb
2/12/99*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2321

Page 1, line 12, remove "The statement must disclose the total amount of"

Page 1, remove lines 13 and 14

Page 2, line 2, overstrike "five" and insert immediately thereafter "eight"

Page 3, line 7, remove "In addition, the owner of the vehicle shall provide a damage disclosure"

Page 3, remove lines 8 and 9

Page 3, line 10, remove "39-05-17.2."

Renumber accordingly

Date: February 11, 1999

Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2321

Senate Transportation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Sen. Cook Seconded By Sen. Thompson

Senators	Yes	No	Senators	Yes	No
Sen. B. Stenehjem-Chairman	X				
Sen. R. Schobinger-V. Chair		X			
Sen. Duane Mutch	X				
Sen. Dwight Cook	X				
Sen. David O'Connell		X			
Sen. Vern Thompson	X				
Sen. Dennis Bercier	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Cook

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2321: Transportation Committee (Sen. B. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2321 was placed on the Sixth order on the calendar.

Page 1, line 12, remove "The statement must disclose the total amount of"

Page 1, remove lines 13 and 14

Page 2, line 2, overstrike "five" and insert immediately thereafter "eight"

Page 3, line 7, remove "In addition, the owner of the vehicle shall provide a damage disclosure"

Page 3, remove lines 8 and 9

Page 3, line 10, remove "39-05-17.2."

Renumber accordingly

1999 HOUSE TRANSPORTATION

SB 2321

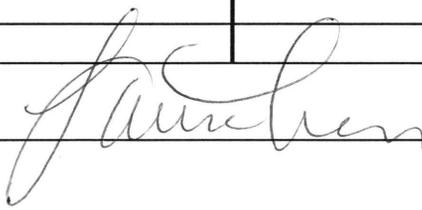
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2321

House Transportation Committee

Conference Committee

Hearing Date March 11, 1999

Tape Number	Side A	Side B	Meter #
1		x	22.5-44.8
Committee Clerk Signature 			

Minutes:

CHAIRMAN KEISER OPENED THE HEARING ON SB 2321; A BILL RELATING TO VEHICLE DAMAGE DISCLOSURE.

SENATOR TOMAC opened the hearing on SB 2321. (See written testimony).

CHAIRMAN KEISER asked Sen. Tomac why the Senate amended the change of 5,000 to 8,000.

SENATOR TOMAC said he didn't know. He noted that he was not consulted when the Senate Transportation committee made the change.

REPRESENTATIVE DENNIS RENNER, District 31, testified in support of SB 2321. He simply offered his support, saying that it is a good bill and that he urged a Do Pass.

LAWRENCE SCRETTEBERG, Carson, testified in support of SB 2321. (See attached article about Skretteberg.) He noted that when this happened to him, it was devastating. When you

sign a damage disclosure, you only see if it has been damaged. It does not say if it has been salvaged. This will add that.

KENT OLSON, ND Professional Insurance Agents, testified in support of SB 2321. He urged support of the bill.

REP. MEYER asked what the salvage title does.

KENT said that the salvage title is put on when the vehicle has had a significant loss of worth.

The title will have a salvage title on it when the vehicle is fixed.

JACKIE WHITE, Minot, testified in support of SB 2321. She noted an experience that happened to her in September of 1996. She bought a used vehicle from a Minot dealer and was informed of a damage disclosure. She was told that the vehicle had been vandalized with a baseball bat and that there was just over \$3,000 worth of damage. Once she had purchased the vehicle, many little things started happening. At 40,000 miles, the transmission fell out. When they took it apart, sand and gravel was found in the bottom of the transmission. The truth then came out that the vehicle had actually been stolen and driven into a lake. It had sustained over \$7,100 worth of damage.

REP. LEMIEUX asked Jackie what the value of the car was in comparison.

JACKIE said that a damage disclosure subtracts \$2,000 from the book value automatically. This car she bought for \$7,500 and it was only worth \$2,000 on resale.

BILL DELMORE, American Family Insurance and the Kelsch Law Firm, testified to answer a question brought forth. He noted that the change from 5 to 8,000 may be a problem.

REP. LEMIEUX asked if the disclosure being the suggested retail price might be a better method to approach this.

BILL said that that was true, however the percentage might be a better way to look at it. If an \$18,000 car sustained \$9,000 worth of damage, that may lead to misperceptions.

DAVID HUEY, Attorney General's Office, testified neutrally on SB 2321. He mentioned that the Attorney General's Office participated in crafting this legislation and that they are in favor of the concept of the bill, but not in the amendment that the Senate passed. They are against raising the threshold from 5 to \$8,000 as it has much been a source of contention.

CHAIRMAN KEISER CLOSED THE HEARING ON SB 2321.

REP. MICKELSON moved to ADOPT THE AMENDMENT to move \$8,000 back to \$5,000.

REP. MEYER seconded the motion. The motion carried. The amendment was adopted on a unanimous voice vote.

REP. MICKELSON moved a DO PASS AS AMENDED. REP. MEYER seconded the motion. the motion carried.

ROLL CALL - 8 YEA, 2 NAE, 5 ABSENT AND NOT VOTING.

FLOOR ASSIGNMENT - REP. MICKELSON

90369.0301
Title.0400

Adopted by the Transportation Committee
March 12, 1999

VR
3/12/99

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2321 3/15/99 **HTRN**

Page 1, line 24, remove the overstrike over "~~five~~" and remove "eight"

Renumber accordingly

LC am. 0301
Title 10400

Date: 3/12
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2321

House Transportation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken More amendment

Motion Made By Rep Mickelson Seconded By Rep Meyer

Representatives	Yes	No	Representatives	Yes	No
Representative Keiser, Chair			Representative Thorpe		
Representative Mickelson, V. Ch.					
Representative Belter					
Representative Jensen					
Representative Kelsch					
Representative Kempenich					
Representative Price					
Representative Sveen	VOICE VOTE				
Representative Weisz					
Representative Grumbo					
Representative Lemieux					
Representative Mahoney					
Representative Meyer					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

more \$8000 back to \$5000

Date: 3/12
Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2321

House Transportation Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DP AS Amended

Motion Made By Rep Mickelson Seconded By Rep Meyer

Representatives	Yes	No	Representatives	Yes	No
Representative Keiser, Chair	✓		Representative Thorpe		✓
Representative Mickelson, V. Ch.	✓				
Representative Belter					
Representative Jensen	✓				
Representative Kelsch	✓				
Representative Kempenich					
Representative Price	✓				
Representative Sveen	✓				
Representative Weisz					
Representative Grumbo		✓			
Representative Lemieux					
Representative Mahoney	✓				
Representative Meyer	✓				
Representative Schmidt					

Total (Yes) 8 No 2

Absent 5

Floor Assignment Rep Mickelson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 15, 1999 8:42 a.m.

Module No: HR-46-4749
Carrier: Mickelson
Insert LC: 90369.0301 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2321, as engrossed: **Transportation Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 2 NAYS, 5 ABSENT AND NOT VOTING). Engrossed SB 2321 was placed on the Sixth order on the calendar.

Page 1, line 24, remove the overstrike over "~~five~~" and remove "eight"

Renumber accordingly

1999 TESTIMONY

SB 2321

SNOWMOBILES

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997 POLARIS XC600, 1000 miles, great shape, \$900 OBO. Also, twin pipes for 500 Indy, triple pipes for T or XC/XCR. 348-3592.

991 YAMAHA EXCITER II '00 snowmobile, rebuilt engine, other new parts, \$1800 OBO. 1987 Polaris Indy triple 600, \$1400 OBO. 663-99.

998 SKIDOO MXZ 670, excellent condition, full warranty. Call 221-3242 leave message.

996 ARCTIC CAT ZRT 600, new parts & many accessories. In good condition, 3500 miles. Call 258-8092.

993 ARCTIC CAT 550, FI, 2200 miles, custom paint, excellent condition, with cover & helmet, \$2800 OBO. 255-9529.

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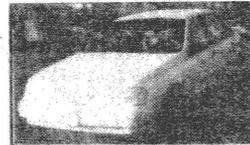
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Silverado 3/4 Ton 4x4
350, V8, 4 speed, PS,
PB, air, tilt; cruise, grill
guard, R. boards,
sold it new



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Silverado 3/4 Ton 4x4
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Law not a guarantee

Car damage disclosure doesn't always give complete story

JOE GARDYASZ, Bismarck Tribune

When Loron Skretteberg drove his 1994 Buick Century off the lot last November, he knew from the dealer that the car had been damaged. What he didn't know — and what the dealer didn't have to tell him — was that the car had been totaled in a previous accident.

Under North Dakota's vehicle damage disclosure law, sellers of any 1991 or older model vehicle are required to disclose in writing whether it has sustained damage above set limits.

However, as the Carson resident learned, the law doesn't necessarily protect consumers from buying cars that have had significantly more damage than they've been led to believe.

When Skretteberg bought the car in November 1997, the dealer told him it had sustained \$3,000 in damage to the doors, which had been repaired.

The law requires that, for a title to be transferred, the seller must complete a form telling the buyer if there has been damage to the vehicle. The seller must mark "yes" on the form if the damage is greater than \$5,000, or 40 percent of the pre-damaged value.

'It's certainly less than a perfect system. The intent when the law was passed in 1991, was to make consumers more aware there was something about the car they should be aware of that may affect their buying decision on that vehicle.'

Keith Kiser, director of Motor Vehicles Division

to buy it with a new title replacing the salvage title, indicating only that there had been damage.

"I thought that with this law they had to tell you that, but they don't," said Skretteberg, after taking the matter to two different private attorneys and filing a complaint with the attorney general's office.

Returning the car to the dealer a month later, Skretteberg got back most of the \$7,600 he paid for the car — less \$1,000 kept by the dealer.

Parrell Grossman, the attorney general's consumer protection division director, said there was no evidence the dealer broke the law.

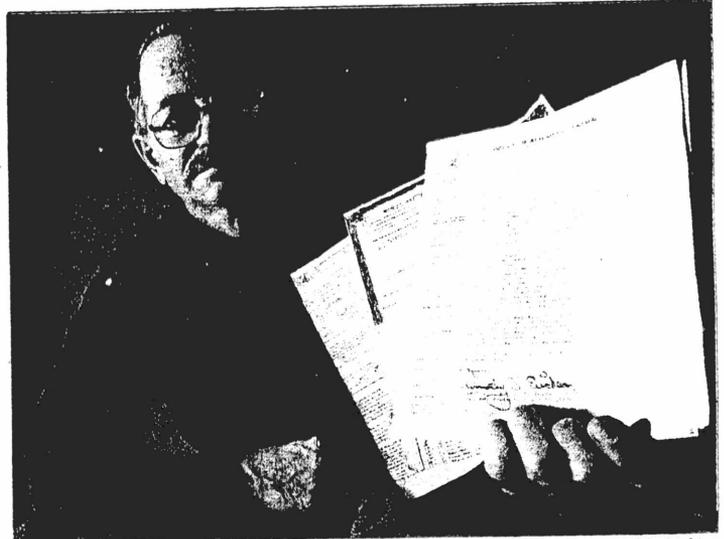
"We told (Skretteberg) that it would be difficult to argue to a court that fraud was involved," Grossman said. "It appears to be a question of whether he understood the document he signed or not."

Was there a loophole in the law that allowed him to unknowingly buy a totaled car?

"I don't think there was a loophole, because the individual knew there had been damage on the vehicle and could have contacted the Department of Transportation," Grossman said.

If there had been a pattern of activity of a dealer or individual selling vehicles in which repairs exceeded the limits and the forms did not indicate there had been damage, the attorney general's office would prosecute for fraud, he added.

Of the 10 to 15 damage disclosure complaints they handle each year, the majority involve sales between private parties rather than a sale by a dealer, Grossman said. "We really don't think this is a problem that arises



Loron Skretteberg of Carson holds a portion of the paperwork he uncovered that showed the used car he bought, a 1994 Buick Century, below, had significant damage. The state's vehicle damage disclosure law requires sellers to indicate whether cars have been damaged, but the required form falls short of telling the whole story.

out of our local North Dakota dealers," he said.

Grossman said he's aware of two cases in which North Dakota dealers got stung with cars that they had bought from out of state auctions that were later found to be damaged. In both cases the dealers

absorbed the customers' money and absorbed the loss, he said.

Last year the attorney general's office received an "assurance of discontinuance" agreement from an individual who was buying wrecked cars from insurance companies and reselling them after making repairs.

In most cases they investigate, proving someone knowingly sold a damaged vehicle and the amount of damage is difficult, Grossman said. For that reason, few cases go forward for prosecution.

North Dakota is among just a handful of states that have enacted a damage disclosure law for vehicles. Because of this, it can be virtually impossible to track down information on some vehicles that have come from out of state.

"In some cases, depending on what's happened to the vehicle, it can be virtually impossible to find out whether it's been wrecked," said Keith Kiser, director of the Motor Vehicles Division.

Simply getting a "no" marked on the form doesn't mean a potential buyer shouldn't get more information about the car, said Kiser. Additionally, because the actual amount of damage doesn't have to be stated on the form, getting a "yes" should also trigger more questions.

"It's certainly less than a perfect system," Kiser said. "The intent when the law was passed in 1991 was to make consumers more aware there was something



about the car they should be aware of that may affect their buying decision on that vehicle."

Since the law became effective in 1992, approximately 6,000 vehicles have been sold that had damage exceeding the damage disclosure limits.

Car buyers can protect themselves by having a vehicle inspected by a reputable mechanic or body shop before they buy, Grossman said. Consumers also have a couple of routes to check the vehicle's history before buying, using the vehicle identification number.

One is to request a title search of the vehicle through the Motor Vehicle Division's records section, which can provide same-day service if the vehicle has been titled only in North Dakota. Searches involving out-of-state titles usually take longer, said Lyle Paulson, administrator of dealer licensing.

An online source of title information is Car Facts, at www.carfactsreport.com, which charges a \$12.50 fee payable by credit card for a vehicle history.

Now that he's learned a hard lesson, Skretteberg said he simply wouldn't buy a car that carries a damage disclosure statement indicating damage.

"Why would a guy want to put himself through that?" he said. "But I guess if you really want to buy it, you'd better get up to the state (capital) and find out if you can get it."

Value of new limits differs for consumers, businesses

JOE GARDYASZ, Bismarck Tribune

From a car buyer's perspective, the vehicle damage disclosure law was weakened last year by the Legislature, says Keith Kiser, director of the state's Motor Vehicles Division.

Effective Aug. 1, 1997, the Legislature raised the limit on what must be reported as damaged vehicle from \$3,000 to the greater of \$5,000 or 40 percent of the pre-damaged value.

Under the law, a seller must provide a damage disclosure statement attesting to his or her best knowledge whether the vehicle has been damaged above those limits as a requirement for the title to be transferred.

"Personally I believe it's less effective from a consumer's perspective, because the thresholds have been expanded," Kiser said. "It has simply allowed more damage to go unreported."

"I think what they were trying to do was raise the threshold so that not as many sellers would be impacted financially from a damaged vehicle. It depends on which side of the coin you're on, I guess."

The problem with a flat rate was the relative difference a \$3,000 repair is to various vehicles, said Rep. George Keiser of Bismarck.

"Three thousand dollars on a little car is one thing; \$3,000 on a Mercedes is a bumper system," he said. "That law wasn't working well because it didn't discriminate between high-value and low-value cars."

Keiser had introduced a different version of the

bill, which failed, that would have instituted requirements beyond the 40 percent limit, using a formula based on the percentage of damage.

That approach would have addressed the lost value to a seller whose vehicle was damaged in an accident that may not have been their fault, Keiser said.

"To discover that you will have a significant reduction in resale value after an accident is very frustrating," he said. "Once a person gets burned on (lost value), they're calling us as legislators."

Regardless, Keiser said the revised law is unquestionably an improvement.

"It just doesn't provide the consumer with as much protection as I would have preferred," he said.