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SAFECO  
PROGRESSIVE  
NAMIC

## MEMORANDUM

Date: June 21, 2006

To: The Honorable Alan Lowenthal, Chair  
Members, Senate Transportation Committee

From: Rex D. Frazier, President  
Michael A. Gunning, Vice President  
Michael A. Paiva, Senior Legislative Advocate

Re: AB 1854 (Oropeza): Vehicles: Nonrepairable  
Senate Transportation Committee Hearing June 27, 2006  
Amended May 11, 2006

### **PIFC Position: Oppose Unless Amended**

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The Personal Insurance Federation of California, representing insurers who write 44% of the auto insurance sold in the state, including State Farm, Farmers, Safeco, 21<sup>st</sup> Century, Progressive, and NAMIC is, **opposed unless amended to AB 1854** by Assembly Member Oropeza.

AB 1854 proposes to prohibit the titling, registration, sale or transfer of vehicles or their component parts if the vehicle has been submerged in salt water. The Federation has tried from the introduction of the bill to work with the author's office to address her concern that, ".....California car buyers have a greater guarantee that any used vehicle they buy has not been exposed to salt water damage." Unfortunately, the intent of this bill, to address the potential problem of Gulf Coast flood-damaged vehicles from being sold with a clean title, cannot be addressed by changing the laws in California – solving this problem requires a federal titling law.

The bill has subsequently been amended to now require that vehicles partially exposed to saltwater be deemed non-repairable and crushed. It is the Federation's belief that the supporters of this measure have failed to demonstrate that corrosion-protected sheet metal and other plastic car parts are damaged because of exposure to saltwater. As a result, perfectly good and salvageable parts will be crushed along with the damaged parts. We believe this is a drastic overreaction and a bad idea for consumers.

Recycled parts are often used to repair damaged vehicles. The availability of these parts helps keep the cost of repairs down for consumers (both those with and without car insurance). For those with insurance, keeping the cost of repairs down is important for at least two reasons: 1) Repair costs are a big component of insurance premiums. 2) Rising repair costs will result in insurers being forced to declare more vehicles total losses. This is a problem for consumers who don't have the money to purchase a new vehicle or still owe money on a now-totaled vehicle. AB 1854, in its current form, does not address how this program would be implemented and enforced. Who would be responsible for ensuring the vehicles are actually crushed? Without a brand on these vehicles' titles, how would a salvage purchaser know that the vehicle is to be crushed and how would the state be able to enforce the provisions in this bill?

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It is the Federation's belief that our suggested amendments will provide a far better solution to the rare problem of vehicles being submerged in salt water. More importantly, our proposed amendments will also benefit any subsequent purchaser of the vehicle salvage, because it will give them important information about the vehicle they are considering to purchase.

In sum, our suggested amendments would:

- 1) Create a requirement for vehicles to be deemed non-repairable based on a defined amount of saltwater damage;
- 2) Create a title designation for these types of vehicles so consumers and dismantlers who purchase these vehicles know what they're buying;
- 3) Prohibit anyone who purchases these nonrepairable vehicles from selling parts from the vehicles if the parts have been damaged by the saltwater.

These amendments would come closest to addressing the author's original concerns of protecting unknowing consumers from purchasing a vehicle damaged by saltwater. While it's true this would require the expense of a new title designation, it's the only way to address the author's fundamental concerns, short of adoption by the federal government of a national titling law.

For the above reasons, **PIFC is opposed to AB 1854 unless it is amended and urges your no vote.** If you have any additional questions regarding our position, please do not hesitate to contact Michael A. Gunning at (916) 442-6646.

attachment

cc: Honorable Jenny Oropeza, Author  
Jennifer Gress, Senate Transportation Committee  
Ted Morley, Senate Republican Caucus  
Cynthia Bryant, Deputy Legislative Secretary, Office of the Governor  
Kathleen Webb, Office of the Insurance Advisor

## Proposed PIFC Amendments to AB 1854

- All sections are from the Vehicle Code
- Intent of amendments
  - Adds two new sections in the definitions portion of the Vehicle Code (430.5 and 430.6). These definitions are for the terms "nonrepairable saltwater flood vehicle" and "nonrepairable saltwater flood vehicle certificate." These new sections basically parallel existing Section 431 and Section 432.
  - Makes changes to 11515.2, which governs how nonrepairable vehicles are treated. These changes basically treat nonrepairable saltwater flood vehicles in the same way, with one exception (certain parts must be destroyed).
  - Adds 11515.2(f), which mandates that certain parts from nonrepairable saltwater flood vehicles must be destroyed. The intent here is that this mandate would apply to whomever purchases the nonrepairable saltwater flood vehicle.

### 430.5 "Nonrepairable saltwater flood vehicle"

A "nonrepairable saltwater flood vehicle" is a vehicle of a type otherwise subject to registration that meets the criteria specified in subdivision (a) or (b). The vehicle shall be issued a nonrepairable saltwater flood vehicle certificate and the vehicle, the vehicle frame, or unitized frame and body, as applicable, and as defined in Section 670.5, shall not be titled or registered.

(a) A nonrepairable saltwater flood vehicle is a vehicle that has had its passenger compartment immersed, in whole or in part, in saltwater, such that water has entered the vehicle's main instrument panel and the vehicle's mechanical, electronic, electrical, fuel, brake, or safety systems, or its computer based components have been compromised, impaired, or destroyed as a result.

(b) A nonrepairable saltwater flood vehicle is a vehicle that has been damaged by saltwater and which the owner irreversibly designates solely as a source of parts or scrap metal.

### 430.6 "Nonrepairable saltwater flood vehicle certificate"

A "nonrepairable saltwater flood vehicle certificate" is a vehicle ownership document issued to the owner of a nonrepairable saltwater flood vehicle. Ownership of the vehicle may only be transferred two times on a nonrepairable saltwater flood vehicle certificate. A vehicle for which a nonrepairable saltwater flood vehicle certificate has been issued may not be titled or registered for use on the roads or highways of California. A nonrepairable saltwater flood vehicle certificate shall be conspicuously labeled with the words "nonrepairable -- saltwater flood" across the front.

11515.2. Nonrepairable vehicles; Duties of insurance company, salvage pool, owner, etc.; Certificate of ownership; Nonrepairable vehicle certificate; Nonrepairable saltwater flood vehicle certificate; Punishment for violations

(a) If an insurance company makes a total loss settlement on a nonrepairable vehicle or nonrepairable saltwater flood vehicle and takes possession of that vehicle, either itself or through an agent, the insurance company, an occupational licensee of the department authorized by the insurance company, or a salvage pool authorized by the insurance company, shall, within 10 days after receipt of title by the insurer, free and clear of all liens, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department. An occupational licensee of the department may submit a certificate of license plate destruction in lieu of the actual license plate. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the fee, shall issue a nonrepairable vehicle certificate or nonrepairable saltwater flood vehicle certificate for the vehicle.

(b) If the owner of a nonrepairable vehicle or nonrepairable saltwater flood vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the fee, shall issue a nonrepairable vehicle certificate or nonrepairable saltwater flood vehicle certificate for the vehicle.

(c) If a nonrepairable vehicle or nonrepairable saltwater flood vehicle is not the subject of an insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department.

(d) If a nonrepairable vehicle or nonrepairable saltwater flood vehicle is not the subject of an insurance settlement, a self-insurer, as defined in Section 16052, shall, within 10 days of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department.

(e) Prior to sale or disposal of a nonrepairable vehicle or nonrepairable saltwater flood vehicle, the owner, owner's agent, or salvage pool, shall obtain a properly endorsed nonrepairable vehicle certificate or nonrepairable saltwater flood vehicle certificate and deliver it to the purchaser within 10 days after payment in full for the nonrepairable vehicle or nonrepairable saltwater flood vehicle and shall also comply with Section 5900. The department shall accept the endorsed nonrepairable vehicle certificate or nonrepairable saltwater flood vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees, including, but not limited to, the fees required by Section 9265, as may be required by the department.

(f) A purchaser of a nonrepairable saltwater flood vehicle as scrap or for dismantling must destroy and shall not resell any mechanical, electronic, electrical, computer, fuel, brake or safety system parts that have been structurally or mechanically compromised, impaired, or damaged by immersion in saltwater.

~~(g)~~-(f) This section does not apply to a vehicle that has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a nonrepairable vehicle or nonrepairable saltwater flood vehicle.

~~(h)~~ ~~(g)~~ A nonrepairable vehicle certificate or nonrepairable saltwater flood vehicle certificate shall be conspicuously labeled with the words "NONREPAIRABLE VEHICLE" or "NONREPAIRABLE SALTWATER FLOOD VEHICLE" across the front of the certificate, as appropriate.

~~(i)~~ ~~(h)~~ A violation of subdivision (a), (b), (d), ~~or~~ ~~(e)~~, or (f) is a misdemeanor, pursuant to Section 40000.11. Notwithstanding Section 40000.11, a violation of subdivision (c) is an infraction, except that, if committed with intent to defraud, a violation of subdivision (c) is a misdemeanor.