



Date: April 18, 2007

To: Senator Alan Lowenthal, Chair  
Members, Senate Transportation and Housing Committee

From: Rex D. Frazier, President  
Michael A. Gunning, Vice President  
Michael A. Paiva, Senior Legislative Advocate  
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Re: SB 498 (Oropeza): Vehicles: Total Loss Salvage  
Senate Transportation and Housing Committee  
Hearing April 24, 2007  
**PIFC Position: Oppose**

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The Personal Insurance Federation of California, representing insurers who write nearly 45% of the auto insurance sold in the state, including State Farm, Farmers, Safeco, 21<sup>st</sup> Century, Progressive and NAMIC, **opposes SB 498** by Senator Oropeza.

Originally, SB 498 would have only prohibited a person (insurer), who determines that a vehicle due to salt water damage is a total loss salvage vehicle, from selling, consigning, or otherwise transferring that vehicle to a salvage pool in California. The bill was recently amended to also prohibit a salvage pool, auto dismantler, dealer, or salvage vehicle rebuilder from knowingly buying, selling, consigning, or transferring that vehicle except to a licensed automobile dismantler to be crushed, demolished, or destroyed. Citing Hurricanes Katrina, Rita and Wilma as evidence, the bill seeks to prevent the sale of such vehicles to consumers in California.

The bill is fraught with many challenges. The attempt to resolve these problems has a fatal flaw in that the individual titling laws of every state prohibit the bill from ever being effective. The bill does nothing to prevent title washing of vehicles by third parties, and does not prevent third parties from bringing the vehicles into California. Its potential impact on inter-state commerce could violate Federal law and there are potential economic impacts to insurers and the environment.

SB 498 presumes that other states have a title brand for a saltwater flood damaged total loss vehicle. Not even California has this designation. Secondly, in the absence of a title designation compliant with California law, this imposes a burden on insurers in other states to create some form of notice or process so that the vehicle is not sold into a California salvage pool. If not, and the vehicle ends up in California, it will be traced back to the insurer who could potentially be held liable for any breakdown in the process. This is also a burden on interstate commerce and an extra-territorial law.

### **Environmental and Practical Realities**

For vehicles that are declared a total loss salvage nonrepairable, the vehicle identification number is retired, the vehicle cannot be repaired, but may be sold for parts. There are realities presented when vehicles cannot be sold for salvage regardless of the amount of flooding or the amount of time the vehicle was exposed to the saltwater, etc. It would have taken 18 months of crushing cars 24 hours a day to crush all the Katrina cars. The process might just now be complete. And if it is not possible to salvage and sell the sheet metal or other parts, where do you put all of these crushed cars? The environmental hazard could be staggering.

### **Economic Realities**

Selling totaled vehicles for salvage is not a sideline for insurers. It keeps the cost of insurance down. For instance, the sheet metal for the thousands of State Farm Katrina cars totaled presented a value of *\$40-45 million*. That value is lost if the vehicles are crushed. Moreover, it would cost another *\$10 million* to crush the vehicles, and it would impact the cost of sheet metal in the market to have that sheet metal removed entirely from the market. Salvage is not a sideline; it is vital to keeping insurance and other costs down.

### **Consumer Protection in the wake of Katrina**

As is often the case after a catastrophe, the industry and other interested parties have stepped up in an effort to make sure consumers are fully informed. In the aftermath of the hurricanes in the Gulf, several of our members met with and worked with the National Insurance Crime Bureau (NICB) and the Louisiana State Police to design a consumer information process. The NICB created a database of all vehicle identification numbers of Katrina total loss vehicles and even to this day, consumers have access to this database to track whether or not the vehicle about to be purchased was a Katrina total loss (we can make this website available to the Committee).

Further, the Legislative findings of the bill makes a statement that the, *"The National Insurance Crime Bureau online database listed seven hurricane-damaged 2005 Nissans that were sold at a southern California auto salvage auction late last year."* According to the NICB, this statement is incorrect because their (online) database is a search-only database that contains only vehicle identification numbers and hull identification numbers. It does not describe the extent of any damage to a vehicle that might be contained in it. The findings also have a quote from the State Insurance Commissioner about the number of vehicles that may have been damaged in Hurricanes Katrina, Rita and Wilma. There has been no verification of this number either from NICB or Experian. Experian does track flooded vehicles, but only if the state of origin has branded the vehicle as flooded.

### **Why SB 498 is Unnecessary and May be Counterproductive**

- To the extent it creates burdens that are inconsistent with or in addition to other state's title branding law it is an unconstitutional burden on Interstate Commerce
- To the extent it attempts to regulate claim handling, salvage processing, title branding, or auto sales in other states it is an unconstitutional burden on Interstate Commerce
- It does not prevent title washing of vehicles by third parties, and does not prevent those third parties from bringing the vehicles into California
- Because of the serious economic consequences flowing from the inability to salvage parts, this bill could actually encourage the designation of these vehicles as repairable—putting on the roads the very cars Senator Oropeza wishes to take off the road

- The bill ignores the environmental and practical realities of crushing tens of thousands of cars
- Consumers need only refer to the NICB database to determine if a vehicle was a total loss from Katrina

For the above reasons, **PIFC opposes SB 498 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.

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Floor Analyses