

Mark Sanford
Governor



Marcia S. Adams
Director

State of South Carolina
Department of Motor Vehicles

MEMORANDUM

TO: Shirley H. Rivers
Titles and Registration

FROM: Frank L. Valenta, Jr. *FLV*
General Counsel

SUBJECT: Former Salvage Titles Returning as "Clean" Titles from Another State

DATE: April 12, 2004

You have requested an opinion on the following situation. A vehicle had a South Carolina salvage title. The owner took the car to Georgia and acquired a clean title (i.e., without any mention of having had a salvage title in South Carolina). Now he has surrendered the Georgia title to obtain a new South Carolina title. You generated a salvage title because the former South Carolina title was a salvage title. The owner complained that he was entitled to a clean title because that is what he surrendered from Georgia.

Code Sections 56-19-480 and 56-19-485 address salvage titles. While these statutes do not anticipate this exact situation, it is clear that the statutes were written to make future purchasers of damaged vehicles aware of what they are buying. Section 56-19-480 says that a severely damaged car will, for the rest of its existence, either have a salvage title or a salvage-rebuilt title. Section 56-19-485 says that the process will be followed "to the extent necessary to inform the transferee of the exact condition of the vehicle." Section 56-19-485 also says, "No wrecked or salvaged out-of-state vehicle or South Carolina registered vehicle shall be registered under the laws of this State without such designation, and this designation must be applied to all subsequent transfers of the vehicle." That sentence does not exclude vehicles that left the state and returned with a clean title.

I see three reasons why DMV must follow this procedure. First, the statute makes clear that the purpose of the statute is to make people aware of what they are buying. It is intended to even out the marketplace by alerting people to conditions known to the seller but not visible to the buyer. If DMV knows that the vehicle suffered extensive damage, the Legislature wants DMV to alert the buying public. I can see no circumstances under South Carolina statutes where a vehicle, once designated as "salvage," "wrecked," or "salvaged-rebuilt" on its title can thereafter be issued a "clean" title.

Second, we can apply the logic test. If we were buying this vehicle tomorrow, would we want to know that this vehicle used to have a salvage title? Obviously the answer is yes. Would a South Carolina citizen be disgruntled if he bought the vehicle with a clean title and found out that the salvage designation had been 'laundered' off the vehicle by passing it through another state? Again, yes. If we asked the legislators who have worked to enact the salvage title laws whether DMV should let another state remove a salvage designation, I expect they would say "definitely not."

Third, once a vehicle undergoes extensive damage, its mechanical stability becomes questionable. While some salvaged vehicles might have no damage to the structural integrity, many do. If DMV were to allow salvage designations to be removed, we would allow sellers to give buyers incomplete information about the vehicle history. Then, if the structure collapsed on its own, injuring the occupants, or if the occupants were more severely injured in an accident because the structure of the vehicle did not withstand impact as well as a sound vehicle would have, DMV could well be named as a defendant in a resulting suit.

As an agency that has been assigned a major role in protecting the public, DMV must take the high road in this issue and insist that all South Carolina titles on a heavily-damaged vehicle be salvage or salvage-rebuilt, as long as they are titled here. The South Carolina DMV is certainly not bound by Georgia law or procedures in regard to a vehicle that previously had a salvage, wrecked, or salvaged-rebuilt designation on its South Carolina title.

In summary, to answer the customer, we will not issue this vehicle a clean South Carolina title. Since this apparently is not an isolated situation, you need to assure that all employees understand how such titles are to be processed.

c Marcia S. Adams, Executive Director
 Annie L. Phelps, Administrator, Procedures and Compliance