

SESSION OF 2021

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 36**

As Agreed to April 6, 2021

Brief*

SB 36 would amend procedures related to certain vehicle identification number (VIN) checks and transfer of ownership of certain salvage vehicles; prohibit a motor vehicle from being towed out of Kansas without the consent of the driver or owner of the vehicle; and make technical changes, including changes to remove outdated language.

VIN Inspections

The bill would state an employee of a salvage vehicle pool would have VIN checks performed by the Kansas Highway Patrol (KHP) on vehicles at a salvage vehicle pool facility within five business days of the date the application was submitted if:

- An employee of a salvage vehicle pool has submitted an application for six or more vehicles to be checked; and
- The salvage vehicle pool submitting the application sells at least 2,000 vehicles combined per year from the salvage vehicle pool's licensed locations in Kansas, as reported to the Kansas Department of Revenue.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The bill would require the KHP to notify the salvage vehicle pool if it cannot complete the checks within five business days, the reasons for the delay, and the date (within ten business days from the date of application) that the checks will begin.

The salvage vehicle pool would be required to provide the KHP with:

- The address of the salvage vehicle pool facility;
- The approximate location within the facility of the vehicles to be checked; and
- Enclosed office space for use by the KHP during such checks.

The bill would require the salvage vehicle pool to clearly mark the vehicles that are to be checked, but would state the salvage vehicle pool would not be required to move the vehicles within the facility for purposes of the checks.

The bill would authorize the Superintendent of the KHP to promulgate rules and regulations regarding VIN inspection training for employees of new vehicle dealers. [*Note:* Under continuing law, trained and certified employees of a new vehicle dealer may perform VIN inspections on motor vehicles the new vehicle dealer purchases.]

Continuing law states a salvage vehicle pool, as an agent for a third party, is primarily engaged in the business of storing, displaying, and offering for sale salvage vehicles. A salvage vehicle is defined as one that cannot be registered because it has been wrecked or damaged to the extent that it cannot meet safety requirements, for which the cost of repairs is 75 percent or more of fair market value for the vehicle, or which the insurer has declared a total loss and the insurer has taken title.

Ownership Documents

The bill would authorize a salvage vehicle pool or a salvage vehicle dealer to apply for an ownership document for a vehicle without forwarding a certificate of title for the vehicle to the Division of Vehicles (Division), Kansas Department of Revenue, under certain circumstances. A salvage vehicle pool is defined in continuing law as “any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles.” Continuing law defines a salvage vehicle dealer as “any person engaged in the business of buying, selling, or exchanging used vehicles and primarily engaged in the business of the distribution at wholesale or retail of used motor vehicle parts and includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.”

The bill would authorize a salvage vehicle pool or a salvage vehicle dealer to apply for an ownership document for a vehicle if the following conditions are met:

- The salvage vehicle pool or salvage vehicle dealer has possession of the vehicle at the request of an insurance company;
- The insurance claim for the vehicle has been closed without payment or denied by the insurance company; and
- The vehicle has remained unclaimed at the salvage vehicle pool or salvage vehicle dealer facility for more than 30 days.

The bill would require an application for an ownership document provide sufficient evidence that at least two written notices were delivered by certified mail to the address provided by the Division’s ownership verification, or through another courier service that provides proof of delivery, to the owner and any lienholder of the vehicle identified in Division

records requesting the vehicle be removed from the salvage vehicle pool or salvage vehicle dealer facility.

The bill would require a salvage vehicle dealer to also provide sufficient evidence to the Division of the request by the insurance company to obtain possession of the vehicle. The bill would require the notice to specify the vehicle owner and any lienholder identified in Division records would have at least 30 days from the receipt of the notice to remove the vehicle. If the salvage vehicle pool or salvage vehicle dealer does not receive proof of delivery of the notices, the bill would require the salvage vehicle pool or salvage vehicle dealer to publish a notice of the application for an ownership document in a newspaper of general circulation in the county where the vehicle is located.

If the most recent ownership document for the vehicle was not issued by the State of Kansas, the bill would require the application for an ownership document to include evidence of a VIN inspection of the vehicle by the KHP and, when applicable, of part numbers to verify the foreign title is genuine and matches such numbers. The bill also would require the application to indicate whether a salvage title or a nonrepairable vehicle certificate is requested. The bill would require the Division to issue to the salvage vehicle pool a salvage title or a nonrepairable vehicle certificate free and clear of all liens, security interests, and encumbrances upon receipt of the application and all required information.

Towing and Towed Vehicle Sales

The bill would prohibit a person providing towing services from towing a vehicle to a location outside of Kansas without the consent of the driver or owner of the vehicle, a motor club of which the driver or owner of the vehicle is a member, or the insurance company processing a claim with respect to the vehicle or an agent of such insurance company.

The bill would amend a statute regarding the sale of a vehicle that has been abandoned after it has been towed to require every person intending to sell a vehicle pursuant to this statute for which the last registered owner and any lienholders cannot be verified by the Division to obtain an interstate search of registered owners and lienholders unless the vehicle is 15 years of age or older or the Division has determined the vehicle is a nonrepairable vehicle.

The bill would require notice of an auction of a towed and abandoned vehicle, authorized in continuing law after certain notices have been sent by certified mail to any registered owner and lienholders and the total amount due has not been paid, to be published at least seven days prior to the scheduled auction in a newspaper published in the county or city where the sale is to take place or, if no newspaper is published in the county, in a newspaper of general circulation in the county. Current law does not specify time between public notice and auction.

Definitions

The bill would specify as applicable a definition of “wrecker or towing service” in motor carrier statutes: the act of transporting, towing, or recovering with a wrecker, tow truck, or car carrier, any vehicle not owned by the operator of the wrecker, tow truck, or car carrier for which the operator receives compensation or other personal gain, either directly or indirectly, unless the vehicle being towed is owned by the operator of the wrecker, tow truck, or car carrier. It also would define “person” in statutes regarding abandoned and disabled vehicles as every natural person, firm, association, partnership, or corporation, as in the Uniform Act Regulating Traffic on Highways. A “nonrepairable vehicle” is defined in continuing law as a vehicle that has been damaged to the extent it is incapable of safe operation on highways and has no value except as a source of parts or scrap.

Conference Committee Action

The Conference Committee agreed to the provisions of SB 36, as amended by the House Committee on Transportation, and to add the contents of SB 158, as amended by the Senate Committee on Transportation, regarding vehicle towing and the sale of towed vehicles.

Background

The bill contains the provisions of SB 36, as amended by the House Committee on Transportation, and SB 158, as amended by the Senate Committee on Transportation.

SB 36 (VIN Inspections)

SB 36 was introduced by the Senate Committee on Transportation at the request of a representative of LKQ Corporation.

[*Note:* SB 36 contains provisions similar to those of 2020 SB 374 as passed by the Senate and 2020 HB 2501 as amended by the Senate Committee on Transportation.]

Senate Committee on Transportation

In the Senate Committee hearing, two representatives of Copart (a salvage pool with locations in Kansas) and a representative of Insurance Auto Auctions provided **proponent** testimony. A representative of LKQ Corporation provided written-only **proponent** testimony. Proponents stated the bill would expedite the title and end-of-vehicle-life process to move vehicles that have been subject to insurance claim and have not been claimed by owners or lienholders, but for which the salvage vehicle pool or salvage vehicle dealer does not have a title or a nonrepairable vehicle certificate. They noted the KHP would control the certification

process for those who would be authorized to perform VIN inspections on behalf of the KHP.

The Superintendent of the KHP and a representative of the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association provided written-only **opponent** testimony. The opponents raised concerns that inspections would be performed by those with financial interest in the outcome of the inspection and could increase the incidence of fraud or undetected theft.

No neutral testimony was provided.

The Senate Committee adopted amendments described as technical and conforming the bill to original intent. The amendments included removing a certificate of title from the documents that could be issued for such a vehicle.

House Committee on Transportation

In the House Committee hearing, a representative of Insurance Auto Auctions and two representatives of Copart provided **proponent** testimony.

A representative of the KHP provided **opponent** testimony, noting KHP VIN inspections ensure integrity in labeling a damaged vehicle as salvage (with a higher resale value), nonrepairable, or nonhighway; stating the lack of proper documentation of ownership may prevent a vehicle from receiving a VIN inspection; and stating KHP inspectors had kept up with requests for VIN checks. A representative of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs Association provided written-only opponent testimony.

No other testimony was provided.

The House Committee amended the bill to remove authorization for employees of certain salvage vehicle pools to be certified by the KHP to perform VIN checks of vehicles at the salvage vehicle pool's licensed location and a provision related to remittance of fees under that arrangement, and to add provisions requiring the KHP to perform VIN checks at the salvage vehicle pool within five business days under certain circumstances. [Note: The Conference Committee retained these amendments.]

SB 158 (Towing and Towed Vehicle Sales)

SB 158 was introduced by the Senate Committee on Transportation at the request of a representative of the Kansas Motor Carriers Association (KMCA).

Senate Committee on Transportation

In the Senate Committee hearing, a KMCA representative provided **proponent** testimony. He described the bill as a consumer protection measure that would encourage local ordinances or resolutions concerning tows from private property. He stated the bill would be similar to Missouri law and designed to keep vehicles from being towed from one state to the other to avoid a state's vehicle lien laws. He stated the KMCA concurred with two requests for amendment: a request from the insurance industry that an insurance company or agent be added to those who could request a vehicle be towed to another state and a request from Copart to ensure requirements for interstate searches for owners and lienholders would apply only to towing and recovery possessory lien law.

A representative of the Division provided written-only **proponent** testimony. No other testimony was provided.

The Senate Committee amended the bill to add an insurance company or agent to those who could request a

vehicle be towed to another state, to specify requirements for interstate searches for owners and lienholders would apply only to towing and recovery possessory lien law, and to increase the age of a vehicle from 10 to 15 years before an interstate search for owners and lienholders would not be required. [Note: The Conference Committee retained these amendments.]

Fiscal Information

SB 36 (VIN Inspections)

According to the fiscal note prepared by the Division of the Budget on SB 36 as introduced, the KHP indicates enactment of the bill would require additional expenditures of between \$5,000 and \$10,000 from the VIN Fee Fund in FY 2022 to develop new forms, training, curriculum, and manuals, and to fund salaries and wages expenditures for oversight and audit purposes.

The Kansas Department of Revenue indicates it would require \$11,890 from the State General Fund in FY 2022 to implement the bill and modify the vehicle registration system.

Any fiscal effect is not reflected in *The FY 2022 Governor's Budget Report*.

SB 158 (Towing and Towed Vehicle Sales)

According to the fiscal note prepared by the Division of the Budget on SB 158 as introduced, the Kansas Department of Revenue indicates enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources.

Vehicle; salvage vehicle; VIN inspection; vehicle title; towing; notification

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