

Nonrepairable and Rebuilt Vehicle Definitions

Virginia Department of Motor Vehicles
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Executive Summary

In 2016, the Department of Motor Vehicles (DMV) was charged to conduct a stakeholder study to examine several issues regarding salvage vehicles. Draft legislation was included as part of the report submitted to the General Assembly subsequent to the study. The legislation, enacted as Ch. 342 and Ch. 362 of the 2017 Acts of Assembly, eliminated the definition of “cosmetic damage” and amended the definitions of “nonrepairable vehicle” and “rebuilt vehicle” to exclude an estimated cost of repair valuation in Chapter 16 of Title 46.2 of the *Code of Virginia* (“the *Code*”). Although the majority of the study stakeholders supported the draft legislation, the support was not unanimous. As a result, when the legislation was enacted, it contained a sunset provision allowing the amended definitions to expire on June 30, 2021, and required DMV to submit a report to the General Assembly on the number of salvage and nonrepairable certificates issued between July 2, 2014, and June 30, 2020, comparing the number of salvage certificates issued for the three years immediately before and after the legislative changes. The report may be found at <https://rga.lis.virginia.gov/Published/2020/RD647/PDF>. Budget language contained in the 2021 Appropriation Act continued the current definitions found in the *Code* until June 30, 2022.¹

If no action is taken by the General Assembly, the current *Code* definitions of “nonrepairable vehicle” and “rebuilt vehicle” will expire on June 30, 2022. If this happens, contingent definitions of these terms will become effective, requiring DMV to revert to older, administratively inefficient titling practices for salvage vehicles. Returning to the contingent definitions will require vehicle owners, often insurance companies, to submit a repair estimate for their vehicles when applying for a salvage certificate and will also require DMV to complete an administrative review of the repair estimate before issuing a salvage certificate. Based upon that paper review, DMV may be required to issue a nonrepairable certificate (instead of a salvage certificate) to some vehicles, removing the decision-making authority from the owner or insurance company - the person with hands-on experience with the vehicle. In addition to reinstating an inefficient administrative process and burdening owners and insurance companies with an additional requirement before obtaining a salvage certificate, branding vehicles as nonrepairable based on an administrative review of a repair estimate immediately diminishes the current value of the vehicle to its owner and the vehicle’s potential market value if it is later sold. The primary impact of branding a vehicle as nonrepairable rather than salvage is economic. Highway safety is not impacted by the title brand a damaged vehicle receives.

DMV invited salvage industry stakeholders for a virtual discussion about the current and contingent definitions on July 15, 2021.² DMV and industry stakeholders, including auto rebuilders and insurance companies, support the 2017 legislation that eliminated the inefficient titling practices and support the repeal of the sunset provisions at this time.

Other industry stakeholders, including salvage parts dealers and some auto recyclers, who are largely unaffected by the titling process and gain financially if more vehicles are branded as nonrepairable, support returning to the administratively inefficient titling practices and oppose the repeal of the sunset provisions.

DMV recommends repeal of the existing sunset provisions, retaining the current *Code* definitions and DMV process for issuing salvage certificates.³

¹ Item 436 U, Chapter 552 of the 2021 Acts of Assembly.

² A list of participants in the July 15, 2021 discussion is included as Appendix A.

³ Draft legislation for the repeal of the sunset provisions is attached as Appendix B.

Introduction

Salvage is likely the most studied issue in DMV agency history. Stakeholder studies were conducted in 1998-1999, 2007-2008, 2014, 2016, 2019, and a discussion with stakeholders took place on July 15, 2021.⁴ In addition to legislative changes following those studies, significant legislation was enacted in other years, including 2003, 2006, 2009, and 2012.⁵ In the salvage industry, a financial benefit to one sector of the industry can adversely impact another sector of the industry. These financial impacts also affect consumers. The affected consumers include some of the most financially vulnerable residents of the Commonwealth, who are often purchasers of inexpensive repaired and rebuilt vehicles. The competing financial interests of involved stakeholders make unanimous consent on any issue unlikely.

In 2016, the Department of Motor Vehicles (DMV) conducted a stakeholder study to examine issues regarding salvage vehicles. The participating stakeholders included representatives of the Association of Chiefs of Police, auto auctions, auto rebuilders, auto recyclers, insurance companies, motor vehicle dealers, salvage parts dealers, scrap metal dealers, Virginia Sheriffs' Association, and Virginia State Police.

One of the results of the study was a recommendation by a majority of the stakeholders to eliminate the requirement in the *Code of Virginia* ("the Code") that an estimated cost of repair be used to distinguish between a salvage vehicle and a nonrepairable vehicle.

The requirement to submit an estimate of the cost of repair was the major complaint stakeholders made in the 2016 study about the process of applying for a salvage certificate. Vehicle owners and insurance companies observed that the process was burdensome and unclear, required DMV to make administrative determinations when applying the law, and resulted in some vehicles that were branded in other states as salvage being branded as nonrepairable in Virginia. DMV was required to review each estimate and make follow-up calls to owners and insurance companies if the paperwork was incomplete or unclear.

The primary impact of branding a vehicle as nonrepairable rather than salvage is economic. Highway safety is not impacted by the title brand a damaged vehicle receives. Stakeholders in favor of the current definitions benefit from more efficient titling practices and higher market value salvage vehicles. Stakeholders in favor of the older definitions benefit from a greater number of low market value nonrepairable vehicles.

The majority of stakeholders participating in the 2016 study recommended legislation eliminating the requirement that an estimated cost of repair be used to determine whether a vehicle was to be branded as salvage or nonrepairable. The stakeholders supporting this recommendation included auto rebuilders, automobile dealers, and insurance companies. The recommendation solved several problems: it eliminated a burdensome requirement placed on owners and insurance companies seeking a salvage certificate for damaged vehicles; it eliminated a time-consuming and inefficient step in the titling process that caused delays in titling at DMV; and it avoided having a vehicle that had been branded as salvage in another state being branded as nonrepairable in Virginia. The process in place today allows the vehicle owner, often an insurance company, to evaluate whether the vehicle is nonrepairable or salvage and to apply for the appropriate certificate. Eliminating the requirement for a repair estimate made the titling process for these vehicles more efficient and allowed DMV to issue salvage certificates for damaged vehicles in a more timely manner.

⁴ The 2019, 2016, and 2014 study reports can be found at <https://www.dmv.virginia.gov/general/#studies.asp>.

⁵ See Appendix C for a summary of significant changes to salvage law since 2000.

The recommendation was not unanimous. The stakeholders opposed to the recommendation argued that it would lead to fewer vehicles being branded as nonrepairable and more vehicles being branded as salvage. These stakeholders included auto recyclers and salvage parts dealers.

Representatives of auto recyclers and salvage parts dealers, who are rarely involved in the titling process because they obtain the vehicles after a salvage or nonrepairable certificate has been issued, specifically objected to the recommendation on the grounds that salvage vehicles sold for parts are more expensive than nonrepairable vehicles sold for parts. They clearly enunciated at the time of the proposed changes the main objection was economic and made to protect corporate profits.⁶

Following this recommendation, legislation enacted as Ch. 342 and Ch. 362 of the 2017 Acts of Assembly eliminated the definition of “cosmetic damage” and amended the definitions of “nonrepairable vehicle” and “rebuilt vehicle” to exclude an estimated cost of repair valuation. Although the majority of the study stakeholders supported the recommendation, the support was not unanimous. As a result, when the legislation was enacted, it contained a sunset provision causing the amended definitions to expire on June 30, 2021, and required DMV to submit a report to the General Assembly on the number of salvage and nonrepairable certificates issued for the three years immediately before and after the legislative changes. The report may be found at <https://rga.lis.virginia.gov/Published/2020/RD647/PDF>.

If the sunset provisions are not repealed, vehicle owners and insurance companies will again be required to submit a physical copy of the estimated cost of repairs when applying for a salvage certificate.

Most Recent Discussion with Industry Partners

During the 2021 General Assembly Session, legislation was introduced to repeal the sunset provisions. When the bill was heard in committee, a lobbyist on behalf of salvage parts dealers testified that the current definitions allow unsafe vehicles to be driven on the highways of the Commonwealth. Uncomfortable with that possibility, the General Assembly members did not advance the bill. However, additional discussions with legislators and the administration led to language being added to the 2021 Appropriation Act to continue the current definitions found in the *Code* until June 30, 2022.⁷

As a condition of the additional year granted by the General Assembly, DMV agreed to hold a discussion with industry stakeholders specifically to discuss the safety allegation and to discuss whether the current definitions have any negative impact on the industry and submit a report to the Chairs of the Senate and House Transportation Committees. Stakeholders, including representatives of auto auctions, auto recyclers, the insurance industry, local law enforcement, motor vehicle dealers, rebuilders, salvage parts dealers, the Virginia Coalition of Motorcyclists, and the Virginia State Police were invited to participate in a virtual discussion on July 15, 2021, and were asked to share and present any available data relevant to the current definitions’ impact on highway safety and the salvage industry.

During the discussion on July 15, 2021, DMV reviewed the background of the 2017 legislative changes, the current proposal to repeal the sunset provisions, the data collected in the report submitted to

⁶ In letters found in Appendix B of the 2016 DMV Salvage Study Report (<https://www.dmv.virginia.gov/general/#studies.asp>), stakeholders opposed to the recommendation wrote, “The elimination of the 90% damage threshold for declaring a vehicle non-repairable will have an adverse effect on my business and my industry. I believe that there will be fewer vehicles available and the cost of available vehicles will increase. This will result in a financial burden on my business and threaten my ability to retain my employees.”

⁷ Item 436 U, Chapter 552 of the 2021 Acts of Assembly.

the General Assembly in December 2020, and how the current and past definitions affect applicants for a nonrepairable or salvage certificate and the titling process. Stakeholders shared whether the current definitions and titling process have adversely affected the salvage industry or if current practices allow unsafe vehicles on the road. Prior to the date and time scheduled for the discussion, DMV urged stakeholders to share any relevant data regarding the highway safety of vehicles that have been rebuilt after receiving a salvage certificate.

During the meeting with stakeholders, DMV reviewed the following terms currently defined in Va. Code § 46.2-1600:

"Nonrepairable vehicle" means any vehicle that has been determined by its insurer or owner to have no value except for use as parts and scrap metal or for which a nonrepairable certificate has been issued or applied for.

"Rebuilt vehicle" means (i) any salvage vehicle that has been repaired for use on the public highways or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

If the sunset provisions are not repealed, the following contingent definitions found in Va. Code § 46.2-1600 prior to July 1, 2017, will become effective on July 1, 2022:

"Cosmetic damage," as applied to a vehicle, means damage to custom or performance aftermarket equipment, audio-visual accessories, nonfactory-sized tires and wheels, custom paint, and external hail damage. "Cosmetic damage" does not include (i) damage to original equipment and parts installed by the manufacturer or (ii) damage that requires any repair to enable a vehicle to pass a safety inspection pursuant to § 46.2-1157. The cost for cosmetic damage repair shall not be included in the cost to repair the vehicle when determining the calculation for a nonrepairable vehicle.

"Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose estimated cost of repair, excluding the cost to repair cosmetic damages, exceeds 90 percent of its actual cash value prior to damage; (ii) any vehicle that has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable certificate has been issued or applied for; or (iii) any other vehicle that has been damaged, is inoperable, and has no value except for use as parts and scrap metal.

"Rebuilt vehicle" means (i) any salvage vehicle that has been repaired for use on the public highways and the estimated cost of repair did not exceed 90 percent of its actual cash value or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

If the sunset provisions are not repealed, the contingent definitions will become effective and vehicle owners and insurance companies will be required to submit a physical copy of the estimated cost of repairs when applying for a salvage certificate.

DMV Data

As predicted by the 2016 stakeholders, DMV data shows that after the definitions changed in 2017, fewer nonrepairable certificates were issued and more salvage certificates were issued. During that time period, the total number of combined salvage and nonrepairable certificates issued rose from 28,130 in FY 2015 to 83,051 in FY 2020. However, additional data shows that most salvage vehicles are not rebuilt and issued a rebuilt title and registered to be driven in the Commonwealth. Rebuilt vehicle examinations rose from 4,573 in FY 2015 to 7,391 in FY 2020.⁸ Although the disposition of the remaining salvage vehicles is not tracked by DMV, they may be sold for parts, sold for scrap, or moved outside the Commonwealth or the country. Salvage parts dealers and auto recyclers have argued that purchasing salvage vehicles for parts is more expensive than purchasing nonrepairable vehicles for parts. If this argument is accurate, branding a vehicle as nonrepairable effectively diminishes its market value at the vehicle owner's expense and making it more cost effective for salvage parts dealers to purchase.

The data regarding the number of rebuilt vehicle examinations conducted is relevant because a vehicle cannot be legally driven if it is issued *either* a salvage certificate or a nonrepairable certificate. If a salvage vehicle is repaired, passes a state motor vehicle safety inspection (a program administered by the Virginia State Police and required annually in the Commonwealth), and passes a rebuilt vehicle examination (a program administered by DMV and required once of every rebuilt vehicle to ascertain that no stolen parts were used to repair the vehicle), then it may be titled with a branded rebuilt vehicle title, registered, and legally driven. A vehicle issued a nonrepairable certificate can never be repaired and legally driven again on the highways of the Commonwealth. The number of rebuilt vehicle examinations conducted shows that only a small percentage of the vehicles issued a salvage certificate are later rebuilt and driven in the Commonwealth.

DMV Titling Process

The statutory definitions affect the DMV titling process for issuing salvage certificates. A statutory definition mandating that an estimated cost of repair (excluding the cost to repair cosmetic damages) exceeding 90 percent of a vehicle's actual cash value prior to damage requires vehicle owners and insurance companies to submit an estimate for the cost of repair. If the repair estimate exceeds the statutory threshold, the vehicle is issued a nonrepairable certificate instead of a salvage certificate. Reviewing the submitted estimates (including the repair to value ratio and the exclusion of cosmetic damage) is a labor-intensive process and includes follow-up phone calls with vehicle owners and insurance companies.

In the 2016 study report, DMV predicted that it would achieve cost savings and efficiencies as a result of the amended definitions, which were realized. After the legislative changes were made, DMV was able to shift resources away from reviewing cost of repair estimates while also improving turnover times in the Vehicle Branding Work Center. Returning to the pre-2017 definitions will result in reverting to the more labor-intensive and time consuming processes in place prior to July 1, 2017. DMV estimates that up to five full time employees will be necessary to reinstate the pre-2017 processes if the sunset provision is not repealed. DMV will incur annual staffing and equipment costs of approximately \$340,275 and would need to dedicate five existing positions to accommodate this need, diverting existing

⁸ Virginia DMV data shows that 80,278 salvage certificates were issued by Virginia DMV in fiscal year 2021. In fiscal year 2021, DMV law enforcement examiners performed 6,432 rebuilt vehicle exams. Data for other years is available in the December 2020 report to the General Assembly found at <https://rga.lis.virginia.gov/Published/2020/RD647/PDF>.

resources from other services.

No stakeholder produced any data, study, or other evidence that highway safety is impacted by the current statutory definitions or DMV titling process. Representatives of the insurance industry, rebuilders, and auto auctions indicated they did not believe the current definitions or process have an adverse safety impact. In the 2019 Salvage Study, safety was discussed extensively and stakeholders indicated that the cost of a single expensive replacement part could drive a vehicle to be branded as nonrepairable under the old definitions whether or not that part had any impact on vehicle safety. Representatives of salvage parts dealers and auto recyclers reiterated a concern that unsafe vehicles are placed back on the road, without citing any study, data, or evidence to support the position. Representatives of local and state law enforcement expressed no opinion regarding the safety impact.

Next, discussion turned to whether the current definitions or titling process have adversely affected the salvage industry. Stakeholders agreed that the primary impact of the current definitions is economic. Representatives of the insurance industry, rebuilders, and auto auctions indicated that the current process is simpler and eliminates the problem of vehicles titled as salvage in other states being titled as nonrepairable in Virginia after the Virginia consumer has purchased the vehicle. These representatives reiterated that the economic impact of having a vehicle declared salvage instead of nonrepairable has no bearing on highway safety. Representatives of salvage parts dealers indicated that the reduction in the number of nonrepairable vehicles makes obtaining vehicle parts more expensive for their industry.

Twice during the meeting, a representative of the salvage parts dealers incorrectly claimed Virginia's current definition of "nonrepairable vehicle" does not align with the American Motor Vehicle Association's (AAMVA) recommendation for best practices for salvage and junk vehicles. In fact, the AAMVA best practices defines a nonrepairable vehicle as one that is "damaged or wrecked to the extent that it cannot be repaired for operation on a public road; or only of value as a source of parts or scrap metal; or flood damaged" and does not recommend using an estimated cost of repair to determine nonrepairable status.⁹ The current definition of "nonrepairable vehicle" in the *Code* is aligned with the definition in AAMVA's best practice document. Reverting to the pre-2017 definition and using the estimated cost of repair as relative to a vehicle's pre-damage value would bring Virginia's definition out of alignment with what AAMVA recommends.

At the end of the discussion held on July 15, 2021, industry stakeholders attending the discussion were asked whether they favored or opposed the repeal of the sunset provision.

- Those in favor of the repeal of the sunset provision and retaining the current definitions included representatives of auto auctions, auto rebuilders, automobile dealers, and insurance companies.
- Those opposed to the repeal of the sunset provisions and advocating for a return to the pre-2017 definitions included representatives of auto recyclers and salvage parts dealers.
- Those attending the discussion who expressed no preference included representatives of motorcyclists and local and state law enforcement.

⁹ AAMVA. (December 2019). *Salvage and Junk Vehicle Best Practice*. Retrieved August 18, 2021, from <https://www.aamva.org/Best-Practices/>.

Policy Impact

The primary impact of declaring a damaged vehicle either salvage or nonrepairable is economic. A nonrepairable vehicle can be sold only for parts or scrap, and a salvage vehicle can be sold for parts, scrap, or repair, making the salvage vehicle more valuable.

Branding a vehicle nonrepairable because it needs an expensive part (or two) relative to the value of the vehicle reduces the pool of vehicles that can be rebuilt. This impact is borne by the most economically vulnerable consumers, who are often purchasers of inexpensive repaired vehicles. The industry stakeholders most negatively impacted are rebuilders.

However, branding a vehicle salvage instead of nonrepairable decreases the stream of relatively inexpensive, but high-quality, nonrepairable vehicles available for parts. The industry stakeholders most negatively impacted are salvage parts dealers, who may ultimately pass on any price increase to end users purchasing used parts for repair.

Requiring DMV to brand a vehicle nonrepairable based upon a paper review immediately diminishes both the value of the vehicle to its current owner/insurance company and the potential market value of the vehicle, regardless of either the owner/insurance company's assessment of the vehicle's value or the market's determination of the value, which also makes the vehicle less expensive for a salvage parts dealer to acquire. In essence, the former process places DMV in the position of determining whether a vehicle is nonrepairable or salvage based on paperwork, ignoring the educated opinion of the vehicle owner or insurance company – the person with actual, hands-on experience of physically viewing and examining the vehicle.

In addition to the economic impact on the vehicle, the former process, requiring the owner or insurance company to submit an estimate for the cost of repair, represented a potential expense and a delay when titling the vehicle. The burden of any increased expense or delay resulting from reverting to the former, less efficient titling process would rest on all owners of damaged vehicles, including consumers, insurance companies, and rebuilders applying for a rebuilt vehicle title after a salvage vehicle is rebuilt.

A final economic impact shared by the taxpayers of the Commonwealth and DMV customers would be the need to shift agency resources away from other vital tasks to address the increased workload in DMV's Vehicle Branding Work Center if the former statutory definitions are reinstated. DMV estimates reinstating the previous process, and accounting for the tremendous increase in the volume of salvage certificates issued, will require the addition of up to five full time employees. The annual expense for five additional employees in the Vehicle Branding Work Center would be \$340,275. Failure to repeal the sunset provisions will undermine the efficiencies that have been achieved since the legislation passed in 2017.

During the 2021 Special Session I, a lobbyist for a salvage parts dealer asserted the current definitions of "nonrepairable vehicle" and "rebuilt vehicle" allow unsafe vehicles to be driven on Virginia's highways. No data was provided at that time to support that claim. Despite repeated requests from DMV for data, studies, or other evidence, no stakeholder, including those represented by the lobbyist making the claim, has ever produced any evidence supporting the assertion that the definitions affect road safety. Safety was discussed extensively during a 2019 Salvage Study and again with industry stakeholders on July 15, 2021. During those meetings, stakeholders agreed the primary impact of branding a vehicle as a nonrepairable vehicle rather than a salvage vehicle is economic. Contrary to the allegation, multiple industry stakeholders have asserted using a cost of repair relative to a vehicle's pre-

accident value is **not** a reliable indicator of whether the vehicle can be repaired for safe operation on the highway. Further, the same representatives who claimed the current definitions affect highway safety during the 2021 General Assembly Session repeatedly stated during the 2019 Salvage Study they would provide evidence about vehicle safety and never provided any.

In comparison, the data from the DMV report submitted in December 2020 shows that of the total pool of vehicles that received either a salvage or nonrepairable brand only 9.1% of vehicles were rebuilt and retitled to be driven on the highways of the Commonwealth in FY2018-FY2020, the three year period after the definitions changed. In the three years prior to the legislative change, FY2014-FY2017, 10.6% of the total pool of vehicles that received either a salvage or nonrepairable brand were rebuilt and retitled to be driven on the highways of the Commonwealth.¹⁰ The data contradicts the assertion that the change in definitions allowed unsafe vehicles to be driven on highways.

Conclusion

The stakeholders impacted by the definitions at issue are consumers, including the financially vulnerable consumers of rebuilt vehicles, the current owners of any damaged vehicle that meets the definition of salvage vehicle or nonrepairable vehicle, DMV, and those businesses involved in the salvage vehicle industry including auto auctions, salvage parts dealers, auto rebuilders, auto recyclers, insurance companies, motor vehicle dealers, and scrap metal recyclers.

The negative economic impact of reverting to the pre-2017 definitions rests on vehicle owners and insurance companies, rebuilders and consumers of rebuilt vehicles, and DMV. The positive impact accrues to salvage parts dealers and automotive recyclers.

Prior to 2017, when substantially fewer salvage certificates were issued than in FY2021, there was often a delay in the Vehicle Branding Work Center that affected all industry participants: owners, insurers, rebuilders, auto auctions, parts dealers and recyclers, and auto dealers, as vehicle ownership could not be transferred while awaiting title processing in the Vehicle Branding Work Center.

The legislative changes made in 2017 had the effect intended by the stakeholders. Changing the definitions made it simpler to apply for a salvage certificate, reduced the administrative burden placed on DMV to review estimates of repair costs, and avoided having a vehicle branded as salvage in another state being branded as nonrepairable in Virginia. In addition, the legislative changes had the effect anticipated by opponents of the legislation, the number of nonrepairable certificates issued decreased while the number of salvage certificates issued increased. While salvage vehicles may hold more value to their owners than nonrepairable vehicles, the data shows no lack of vehicles available for parts.

For these reasons, DMV recommends the repeal of the sunset provisions contained in Chapters 342 and 362 of the 2017 Acts of Assembly, allowing the current definitions and DMV titling processes to remain in place.

¹⁰ See pages 3-4 of the DMV report found at <https://rga.lis.virginia.gov/Published/2020/RD647/PDF>.

Appendices

Appendix A – Participants in the July 15, 2021, Virtual Discussion

Name	Agency, Company or Association
Millicent Ford	Department of Motor Vehicles
Joseph Hill	Department of Motor Vehicles
Jessica Averette	Department of Motor Vehicles
Brad Berg	Department of Motor Vehicles
Kevin Bogner	Department of Motor Vehicles
Greg Cavalli	Department of Motor Vehicles
Samuel Davenport	Department of Motor Vehicles
Melanie Lester	Department of Motor Vehicles
Matthew Martin	Department of Motor Vehicles
Angela Schneider	Department of Motor Vehicles
Melissa Velazquez	Department of Motor Vehicles
Jessica Andrews	Automotive Recyclers Association
George Aznavorian	East Coast Auto
Mark Binder	Copart
Robb Bohannon	HuntonAK (LKQ Corporation)
Matt Caddy	LKQ Corporation
Benny Cunningham	Cunningham Brothers
Matt Danielson	Virginia Coalition of Motorcyclists
George Dodson	State Farm
Nancy Egan	American Property Casualty Insurance Assn.
Gerald Faries	Copart
Kristin Givens	State Farm
Alex Hageli	American Property Casualty Insurance Assn.
Andreas Heiss	LKQ Corporation
Cynthia Hudson	Sands Anderson (State Farm)
Andrew Kirkner	National Association of Mutual Insurance Companies
Lynn Martin	L&B Auto Inc.
Kevin Park	Insurance Auto Auction
Dana Schrad	VA Association of Chiefs of Police
Capt. Sean Stewart	Virginia State Police
Lisa Street	Lew's Auto Service
Sammy Wright	Church Street Auto

Appendix B – Draft Legislation

SUMMARY

Nonrepairable vehicle and rebuilt vehicle definitions. Repeal the second enactment clause of Chapter 342 of the Acts of Assembly of 2017 and the third enactment clause of Chapter 362 of the Acts of Assembly of 2017, both of which contain a sunset provision for the enacted legislation. Repeal of the sunset provision allows the current Code definitions of “nonrepairable vehicle” and “rebuilt vehicle” to remain in effect and prevents the reintroduction of the term “cosmetic damage” into Chapter 16 of Title 46.2 of the Code of Virginia.

A BILL to repeal the second enactment of Chapter 342 of the Acts of Assembly of 2017 and the third enactment of Chapter 362 of the Acts of Assembly of 2017, relating to nonrepairable and rebuilt vehicles.

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 342 of the Acts of Assembly of 2017 and the third enactment of Chapter 362 of the Acts of Assembly of 2017 are repealed.

Appendix C – Summary of Legislative Changes to Salvage Law

DMV has conducted multiple stakeholder studies to address definitional and procedural issues involving salvage vehicles and the salvage industry. At each salvage stakeholder study, as in all other stakeholder studies, DMV attempts to address and resolve not only those issues explicitly described in charge letters, but other issues that stakeholders or the agency raise. Part of the study process is attempting to resolve any problems that have arisen that have led to the need for legislation.

Over the past twenty years, DMV and stakeholders have explored and recommended changes to the definitions of “late model,” “salvage vehicle,” “repaired vehicle,” “repairable vehicle,” “auto recycler,” “cosmetic damage,” recommended amending the thresholds for when a vehicle is determined “nonrepairable,” and defined when a vehicle is no longer considered a vehicle. DMV and stakeholders also worked to improve processes involving the salvage (also called rebuilt vehicle) examinations, permitting insurers to offer affidavits in lieu of title when a title is lost, allowing licensees to sell vehicles to out-of-state buyers if licensed out-of-state, clarifying licensee record keeping requirements, and allowing a nonnegotiable title to be issued in certain circumstances.

DMV and stakeholders also discussed vehicle and consumer safety. During the 2019 Salvage study, DMV provided DMV data, requested and received National Motor Vehicle Title Information System data, and requested stakeholders to provide any available data pertaining to salvage practices and vehicle safety. Neither DMV nor any stakeholder was able to provide any data to support the idea that Virginia’s salvage process or laws allow unsafe vehicles to be lawfully driven on the roads of the Commonwealth.

Timeline

The following timeline outlines major salvage issues that have been addressed since 2000. DMV led salvage task forces or studies in 1998-1999, 2007-2008, 2014, 2016, and 2019, and has always kept communication with industry stakeholders open to address concerns, even without formal study charges.

Ch. 257 of the 2000 Acts of Assembly amended the definition of “late model vehicle” to include vehicles manufactured during the past six model years (instead of the last five model years) and having an actual cash value prior to damage of at least \$7,500 (instead of \$5000), to account for increased costs of parts and vehicles, generally. The definition of “salvage vehicle” was amended to redefine when a stolen vehicle becomes salvage. Created the prospective purchaser’s transcript to reveal vehicle history, including brands, to individuals looking to buy a vehicle.

Ch. 304 of the 2003 Acts of Assembly introduced the term “repaired vehicle,” defined as a salvage vehicle with less repair costs than the amount needed to require the vehicle to be defined as a rebuilt vehicle. Required “repaired” branding on titles.

Ch. 615 of the 2006 Acts of Assembly increased the salvage examination fee from \$25 to \$125 to account for DMV staffing costs, increased demand, and a desire for quicker turnaround. DMV discussed this internally and with stakeholders for 3 years outside of a study.

Ch. 171 of the 2009 Acts of Assembly created an option for insurance companies to use affidavits in lieu of title in order to obtain titles from DMV when existing titles are lost for vehicles acquired through the claims process.

Ch. 664 of the 2009 Acts of Assembly amended the definition of “late model vehicle” to include vehicles manufactured in the past five model years (instead of six) and any vehicle with an actual cash value of at least \$10,000 (instead of \$7,500), intended as an adjustment for inflation. Also required then-new State Water Control Board permitting or proof of exemption for salvage dealers.

Ch. 64 and Ch. 280 of the 2012 Acts of Assembly introduced the term “repairable vehicle,” defined as a repaired vehicle whose owner does not accept it after repair and exempts that vehicle from requirements of the chapter.

2014 Study (report available here: <https://rga.lis.virginia.gov/Published/2014/RD479/PDF>)

DMV was charged to study issues associated with salvage, nonrepairable, and rebuilt vehicles with a focus on issues surrounding cosmetically damaged vehicles versus operationally damaged vehicles when determining whether a vehicle is nonrepairable.

Issues addressed expanded to include:

- An enhanced inspection process to determine the roadworthiness of salvage vehicles by either enhancing the safety inspection or by enhancing the rebuilt vehicle examination to include a roadworthiness check. (see changes enacted in 2015 which represented a compromise that could be accomplished within Virginia’s existing processes).
- An examination of whether changes should be made to vehicle branding, the threshold for vehicles to be declared nonrepairable, and the definition of late-model vehicle (see changes enacted in 2015).
- Defining when a vehicle is no longer a vehicle (see changes enacted in 2015).
- Whether out-of-state buyers should be licensed or registered in Virginia (see changes enacted in 2015).
- Creating an umbrella category of auto recycler to encompass demolisher, salvage dealer, and scrap metal processor and consolidating the licenses required into one license (see changes enacted in 2015).
- Requiring the use of DMV’s vehicle disposition report system for all auto recycler licensees (no legislative change).
- Creating insurance notifications and requirements for rebuilt vehicles (no legislative change).

Ch. 33 and Ch. 177 of the 2015 Acts of Assembly added the term “auto recycler,” defined to encompass all licensees; added the term “cosmetic damage,” defined so as to exclude the cost to repair cosmetic damage from the calculation when determining if a vehicle is nonrepairable; increased from 75% to 90% the estimated cost of repair/actual cash value ratio a salvage vehicle can sustain and be rebuilt (leaving the percentage at 75 for late model vehicles, excluding the cost to repair engine, transmission, or drive axle assembly damage); eliminated the “repaired” brand; clarified that a nonrepairable vehicle is no longer a

vehicle that can be driven on the roads; required a rebuilt vehicle to pass a state safety inspection before DMV can conduct its rebuilt vehicle examination and retitle the vehicle; allowed DMV salvage inspectors to stop the rebuilt vehicle examination if any part of the vehicle appears unsafe or noncompliant with statutes; allowed sales of salvage vehicles at auction to licensees of other states; and clarified record-keeping requirements for licensees.

2016 Study (report available here: https://www.dmv.virginia.gov/documents/salvage_oct16.pdf)

DMV was charged to study issuing a nonnegotiable title to vehicles that had received a nonrepairable or equivalent brand in another state, but were subsequently rebuilt, retitled, and registered for use in another state before being brought into Virginia, and dedicating additional DMV law enforcement resources to gathering data on the salvage process in lieu of additional reporting requirements through NMVTIS or another electronic system.

Issues addressed expanded to include:

- Amending the definition of “nonrepairable vehicle” based on the percentage of damage to eliminate the need to submit a physical copy of the estimated cost of repair and also to avoid a vehicle declared salvage in another jurisdiction from being nonrepairable in Virginia based solely on the estimated cost of repair (see changes enacted in 2017).
- Allowing dealer license plates to be used to transport salvage vehicles from a salvage rebuilder or dealer’s business location to a state safety inspection location and back (see changes enacted in 2017).
- Addressing the process by which self-storage unit operators can dispose of a motor vehicle left by the owner (no legislative change).

Ch. 277 of the 2017 Acts of Assembly authorized a nonnegotiable title to be issued for vehicles branded nonrepairable or equivalent in another state, but subsequently rebuilt, titled, and registered by another state before being brought into Virginia. The vehicle cannot be sold to another person, but can be transferred in limited circumstances as directed by statute, and must be declared to be nonrepairable if it will no longer be used.

Ch. 342 and Ch. 362 of the 2017 Acts of Assembly deleted the definition of “cosmetic damage” and amended the definitions of “nonrepairable vehicle” and “rebuilt vehicle” to exclude an estimated cost of repair valuation. These acts sunset July 1, 2021, and required DMV to submit a report to the General Assembly on the number of salvage and nonrepairable certificates issued between July 2, 2014, and June 30, 2020, comparing fiscal years 2015-2017 and 2018-2020. The report may be found here: <https://rga.lis.virginia.gov/Published/2020/RD647/PDF>.

2019 Study (report available here: <https://rga.lis.virginia.gov/Published/2019/RD687/PDF>)

DMV was charged to study the salvage vehicle definition and how surrounding jurisdictions define salvage vehicle (no legislative change); whether any consumer has been adversely affected by obtaining and registering a motor vehicle previously declared a total loss and reported to the National Motor Vehicle Title Information System (NMVTIS) without the consumer’s prior knowledge (no legislative change); the potential harm caused by lack of vehicle history information on non-late model, total loss

vehicles (no legislative change); whether the rebuilt vehicle examination is necessary for all rebuilt salvage vehicles (no legislative change); the fiscal impact of making any proposed changes to the salvage vehicle process (no legislative change); and any data on the number of clean title vehicles reported to NMVTIS in 2017 and 2018 as compared to the number of registered clean title vehicles that were previously reported to NMVTIS (no legislative change).

Issues addressed expanded to include:

- The proposal during the 2019 General Assembly Session contained in HB 1780 and SB 1364 removing the requirement that a vehicle be late model in the definitions of rebuilt vehicle and salvage vehicle, effectively expanding those definitions to include older vehicles that sustain a certain percentage of repair costs relative to the vehicle's value (no legislative change).
- Salvage/nonrepairable certificate processing time and volume, the data collected on certificates issued before and after the 2017 legislation, and alternative processes by which DMV could issue salvage certificates under current law (no legislative change).
- The increase in the number of salvage certificates issued since 2017 and the possible reasons for that increase (no legislative change).
- Insurance industry practices involved in a total loss declaration for a vehicle and application for a salvage certificate or a title for those vehicles (no legislative change).
- The lack of data linking branding non-late model vehicles as nonrepairable to improved consumer safety (no legislative change).
- Any safety issues resulting from Virginia's salvage law or salvage practices. DMV does not have any data to support the conclusion that any part of Virginia's salvage process or laws (title branding practices or inspections) leads to unsafe vehicles being placed on the road. DMV requested all stakeholders to provide any data regarding vehicle safety and vehicle branding. No stakeholder provided any data to show that Virginia's current law or processes allow unsafe vehicles to be lawfully driven on the roads of the Commonwealth (no legislative change).

The stakeholder group recommended no legislative changes and none are made in the 2020 General Assembly Session. Note: the definition of "nonrepairable vehicle" is intrinsic to both the discussion of the definition of "salvage vehicle" and to the discussion of whether an insurance company's declaration that a vehicle is a total loss makes the vehicle nonrepairable. After discussing these items, stakeholders did not recommend any change to the definitions in effect. DMV shared the heart of these discussions with the American Association of Motor Vehicle Administrators (AAMVA) in response to the organization's best practice recommendations.

AAMVA Salvage and Junk Vehicle Best Practice recommendations, December 2019

During the course of preparing of the 2019 Salvage Study report, DMV had the opportunity to review and comment on the AAMVA Salvage and Junk Vehicle best practice recommendations published in final form in December, 2019.

Specifically, DMV noted to AAMVA that the recommendation to “strongly limit exclusions to definitions to maintain consistency” which specifically addresses “broad exclusions to these definitions based on model year” caused concern. DMV noted that the definition of salvage vehicle, specifically as it relates to model year, was briefly discussed in a 2016 stakeholder study and was the sole purpose of the 2019 stakeholder study. The agency noted that the majority of stakeholders recommended continuing Virginia’s practice of including the language “late model” in the salvage definition. In making this recommendation, the study group found that allowing the owners of older vehicles, including insurers, discretion to apply for a salvage certificate for older model vehicles enables the vehicle owner to make an individual assessment of the vehicle’s damage. The stakeholders found this individual assessment valuable because Virginia law does not define “total loss.” Here, an insurance company’s total loss designation is often an economic assessment unrelated to the vehicle’s safety, and the cost to repair an older, less valuable vehicle can easily exceed 75% of the vehicle’s pre-damage value.

Appendix D – Stakeholder Responses to Report Draft



October 1, 2021

Mr. Greg Cavalli
Virginia Department of Motor Vehicles
Senior Policy Analyst
2300 West Broad Street
Richmond, VA 23269

Dear Mr. Cavalli:

On behalf of LKQ Corporation, we are pleased to submit comments on the recent DMV report on Nonrepairable and Rebuilt Vehicle Definitions. We appreciate DMV holding a stakeholder meeting on July 15th as well.

LKQ Corporation is the leading provider of alternative and specialty parts to repair and accessorize automobiles and other vehicles. The company offers its customers a broad range of replacement systems, components, equipment and parts to repair and accessorize automobiles, trucks, and recreational and performance vehicles. Given that a large part of our business comes from purchasing and recycling salvage and nonrepairable vehicles, we understand and have a vested interest in this issue.

We strongly believe that the current definitions of “nonrepairable vehicle” and “rebuilt vehicle” should expire on June 30, 2022. The current definitions are ambiguous and have led to potentially thousands of vehicles being misclassified.

DMV has stated that these definitions need to be kept in place, as the previous definitions required them to perform extra administrative work, as there were 50-60 vehicles per year where staff needed to follow-up with vehicle owners and insurance companies to assess repair estimates to determine whether the vehicle should be deemed salvage or nonrepairable. What has occurred now is that in order to save time, we have created a system where potentially thousands of vehicles are misclassified.

DMV states in the Executive Summary that “highway safety is not impacted by the title brand a damaged vehicle receives”. The American Association of Motor Vehicle Administrators (AAMVA) appears to disagree. Their Salvage and Junk Vehicle Best Practice Recommendations December 2019 report states that “when vehicles are unbranded or underbranded, they are more susceptible for sale by individuals offering them for sale for more than their true value, by individuals who can superficially “repair” the vehicle and offer them for resale without disclosing prior damage, or by criminals who can use the clean-title paperwork to cover stolen vehicles and stolen parts”.

The report goes on to state “however, many jurisdictions do not offer a junk (non-repairable) brand or designation. In other states, the definition is highly subjective, and the threshold is not well defined, or **the determination is left entirely to the owner.** No junk (non-repairable) brand

or designation means vehicles that are significantly damaged and should be intended for permanent destruction are sold with ownership documents that allow for repair of the vehicle or the use of paperwork, which increases the opportunity for numerous types of fraud”. Virginia’s current definition is highly subjective and not well defined, and allows the owner or insurer to determine if the vehicle is nonrepairable. It was more clearly defined before the 2017 legislation, where a threshold was in place for determining what constituted a nonrepairable vehicle.

DMV consistently states that this change is necessary because it makes titling more efficient. In order to make the process more efficient, a process has been created where there is no differentiation between salvage and nonrepairable vehicles. DMV’s report states that “no stakeholder produced any data, study, or other evidence that highway safety is impacted by the current statutory definition or DMV titling process”. We have consistently stated, per AAMVA best practices, that the current statutory definition presents the potential for unsafe vehicles to be put back on the road, and that it creates the potential for numerous types of fraud. We cannot understand why DMV would support policy that moves away from industry best practices.

On page three of report, DMV states that “they (representatives from auto recyclers and salvage parts dealers) clearly enunciated at the time of the proposed changes the main objection was economic and made to protect corporate profits.” It could also be said that the current definitions protect the profits of insurers, as salvage vehicles are valued higher than nonrepairable vehicles. We believe the differentiator here is the AAMVA best practices which are not based on which industry profits more. Furthermore, it is not just LKQ Corporation that opposes this policy. As an example, attached with this letter is a letter opposing the policy from a small, family-owned auto parts company in Stafford. Companies like M&M Auto Parts, Inc., and other auto recyclers that are small businesses, are not protecting corporate profits. This change has had a substantial impact on their ability to remain competitive as well.

On page 6 of the report DMV states that “twice during the meeting a representative of the salvage parts dealers incorrectly claimed Virginia’s current definition of “nonrepairable vehicle” does not align with the American Motor Vehicle’s Association (AAMVA) recommendation for best practices for salvage and junk vehicles”. This is misleading. We did not question AAMVA’s definition of a nonrepairable vehicle – we all agree that nonrepairable vehicles are those that should never be placed back on the road. Where we disagree is where the best practices for salvage and junk vehicles states that “in other states, the definition is highly subjective, and the threshold is not well defined, or the determination is left entirely to the owner”. Virginia’s current definition of a nonrepairable vehicle clearly states that a nonrepairable vehicle is “any vehicle that has been determined **by its insurer or owner**, to have no value except for use as parts and scrap metal or for which a nonrepairable certificate has been issued or applied for.” It is the lack of a damage threshold that is a problem in this definition, not the fact that the vehicle is heavily damaged. Before 2017, there was a clear damage threshold.

When DMV insisted on changing the definition of nonrepairable vehicles in the *Code* in 2017, we were adamantly opposed because we believed this change would detrimentally impact the availability of nonrepairable vehicles, which our company purchases and recycles. We also believe the change is bad for consumers, as it creates an ambiguous definition for nonrepairable vehicles, which creates the potential for unsafe vehicles to enter the marketplace in Virginia.

DMV's December 2020 report shows that previous to the enactment of the 2017 law, the number of salvage and nonrepairable certificates issued each year were relatively equal (the data in the December report show that in FY 2017 51% of the cars in the marketplace were salvage, and 49% were nonrepairable). In FY 2020, of all of the certificates issued, 96% were salvage certificates, and 4% were nonrepairable certificates. The percentage of nonrepairable vehicles has dropped each year since the enactment of the 2017 law. Below is the data from DMV's December 2020 report:

Fiscal Year	Salvage Certificates	Nonrepairables
FY 2015	14,449	13,681
FY 2016	24,407	22,810
FY 2017	31,053	29,469
FY 2018	61,890	6,457
FY 2019	65,996	3,409
FY 2020	79,532	3,519

The change in the definitions of "nonrepairable vehicle" and "rebuilt vehicle" are the only explanation for this reduction. This should be a concern for Virginia given that nonrepairable vehicles are those intended for permanent destruction that cannot be placed back on the road. Without clear distinctions between these two categories, it is clear that the default is to classify badly damaged vehicles as salvage.

Given the substantial drop in nonrepairable vehicles in the Commonwealth, and the best practices recommendations from AAMVA, we strongly recommend against repealing the existing sunset provisions, and reinstating clearer distinctions in the *Code* for salvage and nonrepairable vehicles. Reinstating a threshold for nonrepairable vehicles is critical to ensuring the safety of all Virginians who travel the roads of the Commonwealth, and equips all potential buyers with knowledge on the history of any vehicle they may purchase.

Please do not hesitate to contact me if you have any questions. I can be reached at (305) 720-1877.

Respectfully,



Andreas Heiss
Government Affairs Representative
LKQ Corporation

Cc: Robert T. Bohannon, Director, Government Affairs, Hunton Andrews Kurth LLP



**AUTO PARTS, INC.
Stafford, Va**

This letter, submitted to DMV as a response to the 2016 Stakeholder Study, was attached to the LKQ letter on the preceding page.

September 30, 2016

Craig Whitham
Virginia Department of Motor Vehicles
P.O. Box 27412
Richmond, VA 23269

Dear Mr. Whitham:

On behalf of my company, M & M Auto Parts, with operations in Fredericksburg and Stafford, Virginia, I am writing you to express my opposition to the proposed DMV legislation on non-repairable vehicles.

The elimination of the 90% damage threshold for declaring a vehicle non-repairable will have an adverse effect on my business and my industry. I believe that there will be fewer vehicles available and the cost of available vehicles will increase. This will result in a financial burden on my business and threaten my ability to retain my employees.

I also believe this legislation will expose consumers to potentially purchase vehicles that have been severely damaged.

Even though I oppose this legislation I would consider as an alternative that a title brand of Salvage Rebuilt be prominently displayed on the title of every vehicle that an insurance company decides is not worthy of repair. This would alert potential consumers to the fact that a vehicle was damaged to an extent that warrants further investigation on their part. This would enable businesses to repair any vehicle they may choose and at the same time protect consumers.

Thank you for your consideration.

Sincerely,

Charles R. Morrow
C.E.O.

**U. S. TOLL FREE
(800) 545-6855
LOCAL
(540) 659-2211**

The Reliable Recycler!

**EMAIL
PARTS@MMAUTO.COM
FAX
(540) 659-5691**

Appendix E: DMV Response to LKQ Letter Dated October 1, 2021



COMMONWEALTH of VIRGINIA

Department of Motor Vehicles
2300 West Broad Street

Richard D. Holcomb
Commissioner

Post Office Box 27412
Richmond, VA 23269-0001

January 5, 2022

Andreas Heiss
Government Affairs Representative
LKQ Corporation

Dear Mr. Heiss:

Thank you for your letter of October 1, 2021, submitting comments on DMV's Nonrepairable and Rebuilt Vehicle Definitions Report. I would like to take this opportunity to respond to your letter.

LKQ quotes from the American Association of Motor Vehicle Administrators' (AAMVA) Salvage and Junk Vehicle Best Practice Recommendations December 2019 report: "When vehicles are unbranded or underbranded, they are more susceptible for sale by individuals offering them for sale for more than their true value, by individuals who can superficially "repair" the vehicle and offer them for resale without disclosing prior damage, or by criminals who can use the clean-title paperwork to cover stolen vehicles and stolen parts".[sic]
DMV response:

Every vehicle at issue in the discussion is branded as either salvage or nonrepairable. A salvage vehicle which is repaired and rebuilt has a branded rebuilt title. All of these brands will alert a prospective purchaser that the vehicle has suffered significant damage. A rebuilt salvage vehicle must pass a motor vehicle safety inspection before it can receive a branded rebuilt title.

A nuance expressed by multiple stakeholders during the 2019 Salvage Stakeholder Study was that prior to 2017, it was easier for an insurance company to obtain a "clean title" than a salvage certificate for an older damaged vehicle. Defining a nonrepairable vehicle as one whose estimated cost of repair, excluding the cost to repair cosmetic damages, exceeds 90 percent of its actual cash value prior to damage effectively meant insurance companies needed to submit a repair estimate when applying for a salvage certificate to show the vehicle was not "nonrepairable." It was actually easier for the insurance company to apply for a "clean title" on damaged older vehicles than a salvage certificate because the older vehicle was not required to be declared as salvage. When that happened, the damaged vehicle was not branded as salvage or nonrepairable. Stakeholders asserted they see fewer "clean titles" on older vehicles now than they did before the 2017 changes. DMV does not have any data supporting or negating the

observation, but if true, reverting to the pre-2017 definitions may result in more “clean titles” on older damaged vehicles and may partly explain the increase in salvage certificates issued after the 2017 legislative changes.

LKQ further quotes the AAMVA report: “However, many jurisdictions do not offer a junk (non-repairable) brand or designation. In other states, the definition is highly subjective, and the threshold is not well defined, or the determination is left entirely to the owner. No junk (non-repairable) brand or designation means vehicles that are significantly damaged and should be intended for permanent destruction are sold with ownership documents that allow for repair of the vehicle or the use of paperwork, which increases the opportunity for numerous types of fraud”. In its letter, LKQ asserts, “Virginia’s current definition is highly subjective and not well defined, and allows the owner or insurer to determine if the vehicle is nonrepairable. It was more clearly defined before the 2017 legislation, where a threshold was in place for determining what constituted a nonrepairable vehicle.”

While LKQ has accurately quoted the introductory remarks in the AAMVA best practices document, the document recommends the following definitions of junk or nonrepairable vehicle: “A vehicle that is damaged or wrecked to the extent that it cannot be repaired for operation on a public road; or only of value as a source of parts or scrap metal; or flood damaged.” This definition is substantially similar to Virginia’s current definition: “any vehicle that has been determined by its insurer or owner to have no value except for use as parts and scrap metal or for which a nonrepairable certificate has been issued or applied for.” Notably, AAMVA’s recommended junk or nonrepairable vehicle definition does not include the use of a damage percentage to determine if a vehicle is junk or nonrepairable. AAMVA’s recommended definition of salvage vehicle does use a damage percentage to determine when a vehicle is salvage. Virginia’s definition of salvage vehicle uses the same damage percentage. These distinctions are subtle, but important. During the 2019 stakeholder study, Virginia’s salvage stakeholders were adamant that the damage percentage does not determine whether a vehicle can be repaired safely, but was more likely to reflect on the expense of parts relative to the value of the vehicle being repaired.

Virginia’s current definition allows the owner (most often an insurance company) to make the determination that a vehicle is nonrepairable, but the pre-2017 definition also authorized the owner to make that determination. DMV contends that both the owner (most often an insurance company) and the salvage vehicle market (often licensed salvage dealers) are both better able to make the repairable/nonrepairable determination than DMV. The change effected by the 2017 definitions allows an insurance company, after using its expertise to evaluate a vehicle through its claims process, to obtain a salvage certificate instead of a nonrepairable certificate without DMV rejecting the application based on the percentage of damage in an estimate of repair.

LKQ states in its letter: “DMV consistently states that this change is necessary because it makes titling more efficient. In order to make the process more efficient, a process has been created where there is no differentiation between salvage and nonrepairable vehicles.”

This statement is inaccurate. The process becomes more efficient if DMV employees are not required to conduct a time-consuming and largely meaningless paper review of repair

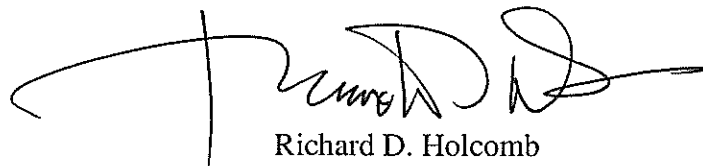
estimates. There is a meaningful difference between a salvage vehicle and a nonrepairable vehicle. The nonrepairable vehicle can never be rebuilt and registered. Leaving the decision to the vehicle owner or insurance company is a logical, defensible decision. In reality, ordinary consumers are not purchasing either salvage or nonrepairable vehicles because they cannot be registered or driven on the highways. Licensed salvage dealers are buying these salvage and nonrepairable vehicles (both with branded certificates) either for parts, to rebuild, or for demolition for scrap. Any rebuilt salvage vehicle retains a branded title and passes a motor vehicle safety inspection. Presumably, both a licensed rebuilder (anyone who rebuilds two or more salvage vehicles in a 12 month period), and an individual obtaining a salvage branded vehicle to repair, have a vested interest in the quality of the product produced.

LKQ asserts, "DMV's report states that "no stakeholder produced any data, study, or other evidence that highway safety is impacted by the current statutory definition or DMV titling process." We have consistently stated, per AAMVA best practices, that the current statutory definition presents the potential for unsafe vehicles to be put back on the road, and that it creates the potential for numerous types of fraud. We cannot understand why DMV would support policy that moves away from industry best practices."

As stated above, DMV believes the current Virginia definition of nonrepairable vehicle conforms to AAMVA's best practices definition.

While LKQ has previously asserted that DMV is allowing unsafe vehicles to be placed on the highways of the Commonwealth, LKQ has neither produced or referred DMV to any safety data supporting this allegation. The AAMVA best practices document does not cite any safety studies or data. DMV has queried stakeholders, including insurance industry representatives, about whether any such data or studies exist and no party has been able to provide any such data, study, or other evidence.

Sincerely,



Richard D. Holcomb

RDH: als

Cc: Shannon Valentine, Secretary of Transportation
Robert T. Bohannon, Director, Government Affairs, Hunton Andrews Kurth LLP