April 8, 2013

The Honorable Ed Hooper, Chairman
Transportation and Economic Development Appropriations Subcommittee
Florida House of Representatives
402 South Monroe Street
The Capitol, Room 222
Tallahassee, FL 32399-1300

Re: Oppose HB 7125 Eliminating the 80% Threshold for Certificate of Destruction

Dear Chairman Hooper,

The National Salvage Vehicle Reporting Program (NSVRP) is a leading not-for-profit law enforcement support organization dedicated to reducing auto theft, title fraud and abuse. NSVRP works closely with the U.S. Department of Justice, the FBI, Customs and Border Protection and other parties to help further our mutual objectives. In addition, NSVRP is recognized by the Department of Justice as an independent third party standards body for the National Motor Vehicle Title Information System (NMVTIS), which was created as a result of the Anti-Car Theft Acts of 1992 and 1996. NSVRP's board is comprised of representatives of local and national law enforcement organizations.

In fulfilling our mission of reducing auto theft, title fraud and abuse, NSVRP routinely monitors the sale of used and salvage vehicles, tracking vehicles that are erroneously and sometimes illegally offered for sale with unbranded or 'clean' titles, vehicles whose titles are 'skipped' when sellers avoid reporting requirements illegally or through state and federal loopholes and vehicles whose titles are 'washed' using interstate transfers. In many cases, NSVRP is able to track these potentially unsafe and fraudulently or improperly branded cars from insurers and other parties through the salvage auctions and middlemen as they ultimately pass into the hands of unsuspecting consumers, or when their paperwork is used to 'clone' stolen vehicles.

NSVRP has developed a number of recommendations for states to consider as a standard in order to improve the integrity and standardization of title branding and to better protect the public. One of the key recommendations is that the trigger for branding as a non-repairable brand must be well defined. Florida's current 80% threshold not only protects consumers by keeping badly damaged and potentially shoddily repaired wrecks off the road, but it also helps to protect them from the fraud that ensues in so many cases from the improper branding and valuation of salvage vehicles.

When a wrecked or flooded vehicle is deemed a total loss by an insurance company, that insurance company has determined that the vehicle is not worth the cost that it would take to repair that vehicle. In any case whatsoever, a vehicle declared a total loss by an insurance company should be considered a salvage vehicle. The next decision point comes when the insurance company disposes of that vehicle. In most cases, insurance companies sell the vehicles that they have acquired through total loss pay-offs at salvage pool auctions.

According to testimony in the Florida Senate Transportation Committee on March 14, 2013, by Copart, one of the two largest salvage pool auction operations in the United States, cars that are sold with nonrepairable titles sell for an average of $1200, while vehicles sold at auction as repairable typically sell for $1500 to $2000 more

80 Urban Street, Stamford, Connecticut 06905-3965
Phone: (203) 975-9889 Fax: (203) 975-9864 administrator@nsvrp.org

per vehicle. The thrust of this testimony seems to imply that salvage owners such as insurance companies and the auction companies that sell those vehicles on their behalf believe they have a strong economic incentive to be able to sell more cars with repairable titles. It has been our observation from the field that the enhanced value can result from situations where the clean title paperwork adds to that value independent of the actual condition of the vehicle.

Furthermore, Copart has testified in multiple hearings that any potential harm posed by replacing an 80% threshold for Certificate of Destruction with a subjective definition of nonrepairable will be mitigated by the requirement also contained in the bill that all entities report into the National Motor Vehicle Title Information System (NMVTIS). While NSVRP strongly recommends that all states invoke NMVTIS reporting requirements in order to help facilitate state-based enforcement, all reporting entities including insurers, fleet operators such as rental car companies, salvage pools, tow operators, automotive dismantlers and recyclers and others, are already required by federal regulation to report each salvage vehicle they take into their possession into NMVTIS, with some limited exceptions.

Despite this federal requirement, and despite assertions by Copart in recent Florida Senate hearings that this reporting is being rigorously followed by the auction companies and by others, the research conducted by NSVRP, a law enforcement support organization recognized by the U.S. Department of Justice in the NMVTIS Final Rule (Federal Register, January 30, 2009, p. 5759) as an independent third party standards body for NMVTIS, shows this is not the case.

In fact, NSVRP's monitoring of several auctions in the state of Florida over a period of eight weeks in September and October of 2012 showed a significant number of instances of non-reporting by both major auction companies – Copart and Insurance Auto Auctions, Inc. (IAA) – which NSVRP believes to be clear violations of NMVTIS requirements. NSVRP can share details of some of these vehicles upon request, but the vehicles in question are typically insurance paid total-loss vehicles that are being sold by insurers at major auctions, often with erroneously clean titles, and without being reported into NMVTIS by the insurer, rental car or other self-insured fleet operator or the auction company.

Unfortunately, improper titling, branding and structural corruption by major participants in the process of the sale of used and salvage cars is always a problem, but it becomes most visible when natural disasters strike, such as what we are seeing in the used and salvage vehicle markets in the aftermath of Hurricane Sandy. As an example, NSVRP pulled a sample of 213 Hurricane Sandy flood loss vehicles that were offered for sale through a number of IAA and Copart salvage auctions sales after Hurricane Sandy and which were noted by those auctions on their websites as having been flood damaged vehicles.

Each of the vehicles was required to be reported into NMVTIS within 30 days of having been acquired by the salvage auctions. After waiting well beyond the 30-day reporting time period, NSVRP reviewed the NMVTIS system to see if these vehicles were in fact reported by the salvage auctions. Of the 213 vehicles sampled, 123 of those vehicles were not reported by these auctions into the NMVTIS system as having been handled, as required under federal law. Of these 123 violations, 61 violations were by Copart and 62 by IAA.

One of these vehicles was purchased at auction by a used car business based in Florida and has been offered for resale by that dealer as a 'lemon free' clean used car. In conducting research for its recent submission to the Federal Trade Commission urging the Commission to strengthen its Used Car Rule (http://www.ftc.gov/os/comments/usedcarrulenprm/563688-00109-85685.pdf), NSVRP tracked and

80 Urban Street, Stamford, Connecticut 06905-3965
Phone: (203) 975-9889 Fax: (203) 975-9864 administrator@nsvrp.org

documented the Hurricane Sandy flood damaged vehicle offered for sale in an online New Jersey IAA auction on Nov. 29, 2012, by a national rental car fleet operator. The vehicle was a NY titled car, and was required to have its original title surrendered and to be issued an MV-907a salvage certificate for resale. In addition, the rental fleet owner was obligated to report the total-loss flood into NMVTIS and did not do so. The vehicle was transferred from NY to NJ and offered for sale at a NJ location of the auction company under improper NY clean title paperwork. The auction was also obligated to report the vehicle into NMVTIS to acknowledge that they acquired control of it for the purpose of offering it for resale and they did not.

In this case the buyer that purchased the vehicle for resale was based in Miami, Florida, and the vehicle was posted on websites including Craigslist and Lemonfree.com as a prime vehicle being offered for sale for about $12,000. Flood cars often do not have physical impact damage, and so can be cleaned and buffed to appear to be in great shape when they in fact are unreliable and subject to continual failure problems. The organization looking to resell this total loss, clean title Sentra to an unsuspecting consumer at near retail book value was no small-time, inexperienced group. The business posting the Craigslist ad – BestCarPriceUSA.com – leads to more than a dozen other businesses and multiple parties, a number with criminal records for automotive-related crimes. Clearly this is all set up in a way that is designed to defraud an unsuspecting consumer. When unethical resellers buy these vehicles and then offer them for resale to the public as clean-title, prime used cars they place unsuspecting consumers' finances, health and safety at risk.

NSVRP has identified nearly 50 other total-loss flood loss vehicles from this same national rental car company which were also resold under clean titles and which were not reported into NMVTIS either by the rental car company or by the salvage auction company even though both were required to report into NMVTIS. Of these additional vehicles, none were reported into NMVTIS by the rental car fleet company as required under federal law, and none were reported into NMVTIS by the auction company – in this case IAA – as being handled for sale.

Many of these vehicles also do not show up in the various commercial car history reporting services, even those offered by the insurers (including some of their own total loss Hurricane Sandy paid off losses). This is in large part due to the failure of the parties to get proper branding or to conduct proper NMVTIS reporting.

All of these violations can provide increased returns for sellers, and may be a strong motivation to bend or break the rules. While Copart has testified that insurers benefit when Certification of Destruction standards are lowered, it is important to understand that auctions also directly benefit when vehicles sell for a higher value since the auction gets a fee from the buyer that is based upon the auction price paid. Higher auction results can also generate new salvage supply contracts for the auctions because insurers are always looking to improve their own returns.

Based upon this demonstrated behavior of insurers and auto auctions of offering inaccurately titled vehicles for sale and the fact that they have an economic interest in doing so, they should not be given any additional incentive to bypass non-repairable branding in the interest of maximizing their profits on the resale of vehicles to Florida consumers that the insurance companies have in most cases already determined to be total loss vehicles not worth the cost of repairs.

As Florida legislators have deliberated regarding whether to eliminate a testable standard for Certificate of Destruction, NSVRP has provided many examples of vehicles sold with inexplicably clean or repairable titles that can open the door to fraud – whether through sale of a undisclosed former wreck to an unsuspecting consumer or through re-use of clean title paperwork of an obviously irreparable vehicle to title and resell a stolen vehicle. NSVRP Board Member and recently retired FBI SSA Ryan Toole shared an example of a 2007 Chevrolet Tahoe (see attached Toole Testimony Example One) that was burned beyond recognition and yet was offered at a Jacksonville auction with a repairable salvage title when the insurer chose to drastically underestimate the cost to repair the vehicle at just under 80% of its actual cash value.

IAA recently testified that the Tahoe sold at auction as scrap for $125. That may very well be the case, as there does not to appear to be any export information or re-registration of the vehicle subsequent to the auction. Therefore this appears to be a situation in which the insurer and the salvage auction abused the titling and branding system by offering an obviously and possibly fraudulently underbranded vehicle for sale, but no criminal bought the vehicle to take advantage of the paperwork, unlike the 2004 Honda Pilot example which SSA Toole (Ret.) also provided (see attached Toole Testimony Example Two). That Honda Pilot, which was burnt out but was able to be sold as a repairable salvage vehicle due to the fact that New Jersey has no nonrepairable brand – i.e. Certificate of Destruction requirement – was a total loss vehicle recovered from the insured by a major national insurance company who understated the damage appraisal and got a clean NJ title for the burnt vehicle in 2007. It was later auctioned off by the largest salvage auction chain, Copart, and this virtually worthless vehicle was acquired at auction for several thousand dollars with the auction proceeds being shared between the insurer and the salvage auction. In addition to the auction sale price the buyer had to pay a buyer's fee to the auction, as well as any transportation costs. The Pilot was purchased by a used car operation with ties to an international organized crime group and there is now a vehicle registered in a third state under the VIN of the paperwork of the burnt vehicle that was sold at auction.

Another example of inexplicably and obviously unrepairable clean title vehicles increasing the returns for the vehicle's owner and the auction company is a 2007 Porsche (see attached Example Three) that was sold at a Copart Auction with an underbranded title for $16,500 even though it was a complete total loss with no usable critical parts at all. The vehicle was purchased by a German buyer represented by an agent who purchased several similar high-end clean-title nonrepairable vehicles for the same buyer in the same year and exported the vehicle, which ultimately ended up in the hands of an international organized criminal group.

While titling rules vary by state, these are examples of the types of fraud that can occur when total loss vehicles do not get properly classified by insurers and other sellers, are not properly branded and are not properly and swiftly reported into the appropriate state and federal databases by those entities such as auto auctions that are handling them prior to being offered for resale. Based upon the subjectivity of the nonrepairable definition with which Florida's 80% testable threshold for Certificate of Destruction is proposed to be replaced, NSVRP believes that the ease with which nonrepairable titling will be able to be avoided in Florida if this change is made will further expose Florida residents to unnecessary fraud and potential physical and financial harm.

NSVRP strongly recommends that the House Transportation and Economic Development Appropriations Subcommittee prevent any language that eliminates testable standards for requiring a vehicle to receive a Certificate of Destruction from moving forward.

Currently, Section 319.30 of the Florida Statute requires a total loss vehicle that is damaged over 80% of its retail value to receive a Certificate of Destruction that prevents the vehicle from returning to Florida's roads and highways. This very important section of the statute, which was created through extensive meetings and discussion between consumers, law enforcement, the auto recycling industry, the insurance industry, the salvage auto auction industry and all stakeholders impacted by these laws, has up to now protected consumers by insuring that heavily damaged total loss vehicles are designated as non-repairable.

A similar effort to eliminate the 80 percent threshold for declaring total loss vehicles as non-repairable was made this session in Florida's Senate, and the amendment sponsor prudently chose to withdraw the language.

Vehicles that are damaged over 80 percent of their value are typically not safe to be repaired. If a vehicle is damaged in such a way that it makes sense to be repaired for an insured, and the repair is actually made for that insured, then such a vehicle does not have its ownership transferred and it need not get a repairable brand. However, when total loss vehicles do not get properly classified by insurers and other sellers, are not properly branded and are not properly and swiftly reported into the appropriate state and federal databases by those entities such as auto auctions that are handling them prior to being offered for resale, the net result is that intermediate commercial buyers are knowingly buying thousands of these vehicles. Some are taking advantage of the undocumented damage status to then turn around and offer these cars for resale to an unsuspecting public. Others, such as the many examples that abound of fully burnt cars with clean titles, have been tracked to stolen vehicles that were retitled under the purchased VIN. A significant new and alarming trend consists of large volumes of inaccurately clean-title cars being bought for export as part of trade based money-laundering schemes. All of these factors can lead to enhanced bidding on improperly branded cars, thus providing increased returns for the insurance companies or any other sellers.

Clearly, HB 7125 would be a dramatic and significant change to Florida's titling laws. NSVRP believes that elimination of a fixed damage threshold for requiring a total loss vehicle to be branded by the Florida Department of Highway Safety and Motor Vehicles as a non-rebuildable vehicle is bad public policy. Branding is designed to protect the public.

NSVRP has made a number of recommendations for states to consider as a standard in order to improve the integrity and standardization of title branding and to better protect the public. Those recommendations can be accessed at http://www.nsvrp.com/uploads/Best_Practices_Guidelines_for_Total.pdf. Additionally, members of NSVRP would be happy to discuss this matter with you further at your convenience. NSVRP may be reached at:

National Salvage Vehicle Reporting Program
80 Urban Street
Stamford, CT 06905-3965
Phone: 203-975-9889
Email: administrator@nsvrp.org

Sincerely,

Howard Nusbaum
Administrator, National Salvage Vehicle Reporting Program
Vice Chairman, North American Export Committee

Toole Testimony Example One: FL Vehicle Auctioned with Repair Costs Estimated by Insurance Company at Below 80% of ACV

VEHICLE DETAILS

This vehicle has massive damage and clearly cannot be repaired at any cost, yet a seemingly precise estimate of just below 75% of actual cash value (ACV) was reported by the insurance company. As a result, the damage estimate was below the 80 percent threshold for requiring a non-repairable branding on the salvage certificate, and it was auctioned off with a repairable salvage title. This type of behavior is not unusual. NSVRP has identified many other such examples at these auctions.

The estimated repair cost is created by the insurer that provided the total loss vehicle to be auctioned. Typically, the insurer that produces the initial estimate and declares it a total loss is the same entity to determine the estimated repair cost, which determines the title branding.

The practice of securing better titles by insurers can lead to higher bidding both by unsuspecting bidders who use such repair estimates as a guide as to how much it will cost to repair a vehicle they purchase, as well as cases where under-assigned branding is used to buy paperwork by parties who will then commit a theft and VIN clone to change the identify of a stolen vehicle.

Branch:	Jacksonville
Vehicle:	2007 CHEVROLET TAHOE C1500
Stock Number:	4164452

Note 4/8/13: There does not to appear to be any export information or re-registration of this vehicle subsequent to the auction. Therefore this appears to be a case in which the insurer and the salvage auction abused the titling and branding system, but no criminal bought the vehicle to take advantage of the paperwork, unlike the 2004 Honda Pilot example which follows.

Live Auction:	8/19/200 9:30:00 AM ET I-bid LIVE
Online Bidding Close:	This auction is closed to pre-bidding. I-bid Live bidding begins at the time indicated.
Auction Type:	Open
Who Can Buy:	DEA ,DIS ,EXP ,LBU ,REB ,SCR ?

Additional Vehicle Information

Body Style:	WAGON 4 DOOR
Engine Size:	4.8L V8 SFI NS
Estimated Repair Cost:	$19,792.00
ACV:	$26,925.00
Driver Airbag:	NONE
Passenger Airbag:	NONE
Left Side Airbag:	NONE
Right Side Airbag:	NONE
VIN Status:	OK

Toole Testimony Example Two: Fraudulently Under Valued Repair Estimates Lead to VIN Cloning and Other Criminal Activity

This is a case in which the insurance company under-estimated the damage of an obviously irreparable vehicle thereby avoiding the need to issue a non-rebuildable title, allowing the insurer and the auction company to enrich themseves by getting more at auction for the underbranded vehicle than they would have earned had the vehicle been properly branded.

Today, a vehicle with the same VIN is registered in Michigan. It appears the original burnt-out but underbranded Honda Pilot was purchased at a NJ Copart salvage auction for the paperwork by what is now known to be an international organized crime group.

Copart Member Access

Lot # 11754646 - 2004 HONDA PILOT EX

Glossary of Terms

No Image Available

Lot Details

ACV:	$22,993 USD
Repair Cost:	$19,015 USD
Title State/Type:	NJ CERTIFICATE OF TITLE
Odometer:	0 NOT ACTUAL
Primary Damage:	BURN
Secondary Damage:	
VIN:	2HKYF18484H597096
Body Style:	4DR SPORT UTILITY
Color:	BLACK
Engine:	3.5L 6
Drive:	ALL WHEEL DRIVE
Cylinders:	6
Fuel:	GAS
Keys:	NO
Special Note:	

Highlights

[redacted]

INSURANCE VEHICLE

AutoCheck

Bid Information

Facility:	NJ - GLASSBORO EAST
Sale Date:	02/13/07
Sale Time:	12:00 PM EST
Item # / Grid/Row:	2018 / *SALE
Sales Status:	Sold
Bid Status:	Never Bid

Notice:
Sale has ended.

Services

Pre-approval Information

THIS VEHICLE IS BEING SOLD AS "AS-IS, WHERE-IS" ALL BIDS ARE BINDING AND ALL SALES ARE FINAL (What this means)

Copart Member Protection Pledge

Share / Save

Virtual Sale Starts :	**TUESDAY 2/13/2007 at 12:00 PM EST**
Pick Up Location :	NJ - GLASSBORO EAST
Sale Date :	2/13/07 Item# 2018
Description :	2004 HONDA PILOT EX
Color :	BLACK
VIN :	2HKYF18484H597096
ACV :	$22,993 USD
Repair Cost :	$19,016 USD
Title Type :	CLEAN TITLE
Loss Type :	COLLISION
Mileage :	0 N
Damage Type :	BN
Keys:	NO
Current Bid:	**$2,900 USD**

Example Three: 2007 Porsche purchased for $16,500

AutoDataDirect, Inc.

National Vehicle History / Title Pointer

Retrieved On: Sun April 07, 2013 02:46:05 PM EDT

Vehicle Information

VIN: WP0AD29997S783467 **Year:** 2007 **Make:** Porsche **Model:** 911 Carrera 4

Vehicle Brands

No brand information found in NMVTIS

Title Information

Title: Pennsylvania 01/09/2007 000000060 Miles

Junk/Salvage/Insurance Reporting

No Junk/Salvage Reports

No Insurance Reports

The attached photo is a 2007 Porsche that was sold at a Copart salvage auction for $16,500.00. NMVTIS shows there is no brand on file as reported by Pennsylvania, the last state of title before export.