

By Senator Atwater

25-1650-04

See HB

1                                   A bill to be entitled  
2           An act relating to motor vehicles; providing a  
3           popular name; amending s. 319.14, F.S.;  
4           defining "insurance recovery vehicle" and  
5           "salvage recovery vehicle"; providing  
6           prohibitions on the sale of such vehicles;  
7           providing penalties; amending s. 319.23, F.S.;  
8           requiring affidavit with application for title  
9           of used motor vehicles not previously issued  
10          certificate of title; providing penalties for  
11          violation or falsification; amending s. 319.30,  
12          F.S.; revising provisions for issuance to  
13          insurer of certificate of destruction and  
14          certificate of title upon total loss of  
15          vehicle; requiring the Department of Highway  
16          Safety and Motor Vehicles to create a program  
17          to promote and enhance public awareness of  
18          risks to consumers associated with buying used  
19          motor vehicles previously titled in other  
20          states; providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

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24           Section 1. This act shall be known by the popular name  
25 the "Auto Fraud Prevention Act of 2004."

26           Section 2. Section 319.14, Florida Statutes, is  
27 amended to read:

28           319.14 Sale of motor vehicles registered or used as  
29 taxicabs, police vehicles, insurance recovery vehicles,  
30 salvage recovery vehicles, lease vehicles, or rebuilt vehicles  
31 and nonconforming vehicles.--

1           (1)(a) No person shall knowingly offer for sale, sell,  
2 or exchange any vehicle that has been licensed, registered, or  
3 used as a taxicab, police vehicle, insurance recovery vehicle,  
4 salvage recovery vehicle, or short-term-lease vehicle, or a  
5 vehicle that has been repurchased by a manufacturer pursuant  
6 to a settlement, determination, or decision under chapter 681,  
7 until the department has stamped in a conspicuous place on the  
8 certificate of title of the vehicle, or its duplicate, words  
9 stating the nature of the previous use or ownership of the  
10 vehicle or the title has been stamped "Manufacturer's Buy  
11 Back" to reflect that the vehicle is a nonconforming vehicle.  
12 If the certificate of title or duplicate was not so stamped  
13 upon initial issuance thereof or if, subsequent to initial  
14 issuance of the title, the use of the vehicle is changed to a  
15 use requiring the notation provided for in this section, the  
16 owner or lienholder of the vehicle shall surrender the  
17 certificate of title or duplicate to the department prior to  
18 offering the vehicle for sale, and the department shall stamp  
19 the certificate or duplicate as required herein. When a  
20 vehicle has been repurchased by a manufacturer pursuant to a  
21 settlement, determination, or decision under chapter 681, the  
22 title shall be stamped "Manufacturer's Buy Back" to reflect  
23 that the vehicle is a nonconforming vehicle.

24           (b) No person shall knowingly offer for sale, sell, or  
25 exchange a rebuilt vehicle until the department has stamped in  
26 a conspicuous place on the certificate of title for the  
27 vehicle words stating that the vehicle has been rebuilt or  
28 assembled from parts, or is a kit car, glider kit, replica, or  
29 flood vehicle unless proper application for a certificate of  
30 title for a vehicle that is rebuilt or assembled from parts,  
31 or is a kit car, glider kit, replica, or flood vehicle has

1 | been made to the department in accordance with this chapter  
2 | and the department has conducted the physical examination of  
3 | the vehicle to assure the identity of the vehicle and all  
4 | major component parts, as defined in s. 319.30(1)(e), which  
5 | have been repaired or replaced. Thereafter, the department  
6 | shall affix a decal to the vehicle, in the manner prescribed  
7 | by the department, showing the vehicle to be rebuilt.

8 | (c) As used in this section:

9 | ~~1.4.~~ "Assembled from parts" means a motor vehicle or  
10 | mobile home assembled from parts or combined from parts of  
11 | motor vehicles or mobile homes, new or used. "Assembled from  
12 | parts" does not mean a motor vehicle defined as a "rebuilt  
13 | vehicle" in subparagraph ~~9.3.~~, which has been declared a  
14 | total loss pursuant to s. 319.30.

15 | ~~2.8.~~ "Flood vehicle" means a motor vehicle or mobile  
16 | home that has been declared to be a total loss pursuant to s.  
17 | 319.30(3)(a) resulting from damage caused by water.

18 | ~~3.6.~~ "Glider kit" means a vehicle assembled with a kit  
19 | supplied by a manufacturer to rebuild a wrecked or outdated  
20 | truck or truck tractor.

21 | 4. "Insurance recovery vehicle" means a motor vehicle  
22 | for which the out-of-state documentation used to obtain  
23 | Florida title indicates that the owner is an insurance company  
24 | or contains a reassignment to or from an insurance company.

25 | 5. "Kit car" means a motor vehicle assembled with a  
26 | kit supplied by a manufacturer to rebuild a wrecked or  
27 | outdated motor vehicle with a new body kit.

28 | ~~6.a.c.~~ "Lease vehicle" includes both short-term-lease  
29 | vehicles and long-term-lease vehicles.

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1           b. "Long-term-lease vehicle" means a motor vehicle  
2 leased without a driver and under a written agreement to one  
3 person for a period of 12 months or longer.

4           ~~c.2.a.~~ "Short-term-lease vehicle" means a motor  
5 vehicle leased without a driver and under a written agreement  
6 to one or more persons from time to time for a period of less  
7 than 12 months.

8           ~~7.9.~~ "Nonconforming vehicle" means a motor vehicle  
9 which has been purchased by a manufacturer pursuant to a  
10 settlement, determination, or decision under chapter 681.

11           ~~8.1.~~ "Police vehicle" means a motor vehicle owned or  
12 leased by the state or a county or municipality and used in  
13 law enforcement.

14           ~~9.3.~~ "Rebuilt vehicle" means a motor vehicle or mobile  
15 home built from salvage or junk, as defined in s. 319.30(1).

16           ~~10.7.~~ "Replica" means a complete new motor vehicle  
17 manufactured to look like an old vehicle.

18           11. "Salvage recovery vehicle" means a motor vehicle  
19 for which the out-of-state documentation used to obtain  
20 Florida title indicates that the owner is a salvage company or  
21 contains a reassignment to or from a salvage auction.

22           ~~12.10.~~ "Settlement" means an agreement entered into  
23 between a manufacturer and a consumer that occurs after a  
24 dispute is submitted to a program, or an informal dispute  
25 settlement procedure established by a manufacturer or is  
26 approved for arbitration before the New Motor Vehicle  
27 Arbitration Board as defined in s. 681.102.

28           (2) No person shall knowingly sell, exchange, or  
29 transfer a vehicle referred to in subsection (1) without,  
30 prior to consummating the sale, exchange, or transfer,  
31 disclosing in writing to the purchaser, customer, or

1 transferee the fact that the vehicle has previously been  
2 titled, registered, or used as a taxicab, police vehicle,  
3 insurance recovery vehicle, salvage recovery vehicle,or  
4 short-term-lease vehicle or is a vehicle that is rebuilt or  
5 assembled from parts, or is a kit car, glider kit, replica, or  
6 flood vehicle, or is a nonconforming vehicle, as the case may  
7 be.

8 (3) Any person who, with intent to offer for sale or  
9 exchange any vehicle referred to in subsection (1), knowingly  
10 or intentionally advertises, publishes, disseminates,  
11 circulates, or places before the public in any communications  
12 medium, whether directly or indirectly, any offer to sell or  
13 exchange the vehicle shall clearly and precisely state in each  
14 such offer that the vehicle has previously been titled,  
15 registered, or used as a taxicab, police vehicle, insurance  
16 recovery vehicle, salvage recovery vehicle,or  
17 short-term-lease vehicle or that the vehicle or mobile home is  
18 a vehicle that is rebuilt or assembled from parts, or is a kit  
19 car, glider kit, replica, or flood vehicle, or a nonconforming  
20 vehicle, as the case may be. Any person who violates this  
21 subsection commits a misdemeanor of the second degree,  
22 punishable as provided in s. 775.082 or s. 775.083.

23 (4) When a certificate of title, including a foreign  
24 certificate, is branded to reflect a condition or prior use of  
25 the titled vehicle, the brand must be noted on the  
26 registration certificate of the vehicle and such brand shall  
27 be carried forward on all subsequent certificates of title and  
28 registration certificates issued for the life of the vehicle.

29 (5) Any person who knowingly sells, exchanges, or  
30 offers to sell or exchange a motor vehicle or mobile home  
31 contrary to the provisions of this section or any officer,

1 agent, or employee of a person who knowingly authorizes,  
2 directs, aids in, or consents to the sale, exchange, or offer  
3 to sell or exchange a motor vehicle or mobile home contrary to  
4 the provisions of this section commits a misdemeanor of the  
5 second degree, punishable as provided in s. 775.082 or s.  
6 775.083.

7 (6) Any person who removes a rebuilt decal from a  
8 rebuilt vehicle with the intent to conceal the rebuilt status  
9 of the vehicle commits a felony of the third degree,  
10 punishable as provided in s. 775.082, s. 775.083, or s.  
11 775.084.

12 (7) This section applies to a mobile home, travel  
13 trailer, camping trailer, truck camper, or fifth-wheel  
14 recreation trailer only when such mobile home or vehicle is a  
15 rebuilt vehicle or is assembled from parts.

16 (8) No person shall be liable or accountable in any  
17 civil action arising out of a violation of this section if the  
18 designation of the previous use or condition of the motor  
19 vehicle is not noted on the certificate of title and  
20 registration certificate of the vehicle which was received by,  
21 or delivered to, such person, unless such person has actively  
22 concealed the prior use or condition of the vehicle from the  
23 purchaser.

24 (9) Subsections (1), (2), and (3) do not apply to the  
25 transfer of ownership of a motor vehicle after the motor  
26 vehicle has ceased to be used as a lease vehicle and the  
27 ownership has been transferred to an owner for private use or  
28 to the transfer of ownership of a nonconforming vehicle with  
29 36,000 or more miles on its odometer, or 34 months whichever  
30 is later and the ownership has been transferred to an owner  
31 for private use. Such owner, as shown on the title

1 certificate, may request the department to issue a corrected  
2 certificate of title that does not contain the statement of  
3 the previous use of the vehicle as a lease vehicle or  
4 condition as a nonconforming vehicle.

5 Section 3. Subsection (3) of section 319.23, Florida  
6 Statutes, is amended to read:

7 319.23 Application for, and issuance of, certificate  
8 of title.--

9 (3) If a certificate of title has not previously been  
10 issued for a motor vehicle or mobile home in this state, the  
11 application, unless otherwise provided for in this chapter,  
12 shall be accompanied by a proper bill of sale or sworn  
13 statement of ownership, or a duly certified copy thereof, or  
14 by a certificate of title, bill of sale, or other evidence of  
15 ownership required by the law of the state or county from  
16 which the motor vehicle or mobile home was brought into this  
17 state. The application shall also be accompanied by:

18 (a)1. A sworn affidavit from the seller and purchaser  
19 verifying that the vehicle identification number shown on the  
20 affidavit is identical to the vehicle identification number  
21 shown on the motor vehicle; or

22 2. An appropriate departmental form evidencing that a  
23 physical examination has been made of the motor vehicle by the  
24 owner and by a duly constituted law enforcement officer in any  
25 state, a licensed motor vehicle dealer, a license inspector as  
26 provided by s. 320.58, or a notary public commissioned by this  
27 state and that the vehicle identification number shown on such  
28 form is identical to the vehicle identification number shown  
29 on the motor vehicle. ~~and~~

30 (b) If the vehicle is a used car original, a sworn  
31 affidavit from the owner verifying that the odometer reading

1 shown on the affidavit is identical to the odometer reading  
2 shown on the motor vehicle in accordance with the requirements  
3 of 49 C.F.R. s. 580.5 at the time that application for title  
4 is made. For the purposes of this section, the term "used car  
5 original" means a used vehicle coming into and being titled in  
6 this state for the first time.

7 (c) If the vehicle is an ancient or antique vehicle,  
8 as defined in s. 320.086, ~~the application shall be accompanied~~  
9 ~~by~~ a certificate of title; a bill of sale and a registration;  
10 or a bill of sale and an affidavit by the owner defending the  
11 title from all claims. The bill of sale must contain a  
12 complete vehicle description to include the vehicle  
13 identification or engine number, year make, color, selling  
14 price, and signatures of the seller and purchaser.

15 (d) If a certificate of title has not been issued for  
16 a used motor vehicle in this state, a sworn affidavit from the  
17 owner that the motor vehicle has never been declared a total  
18 loss and the motor vehicle was not purchased from a motor  
19 vehicle salvage yard or insurance company. Willful and  
20 deliberate violation of this paragraph or falsification of any  
21 document to avoid the requirements of this paragraph is  
22 punishable as provided in s. 319.33.

23  
24 Verification of the vehicle identification number is not  
25 required for any new motor vehicle; any mobile home; any  
26 trailer or semitrailer with a net weight of less than 2,000  
27 pounds; or any travel trailer, camping trailer, truck camper,  
28 or fifth-wheel recreation trailer.

29 Section 4. Paragraph (b) of subsection (3) of section  
30 319.30, Florida Statutes, is amended to read:

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1           319.30 Definitions; dismantling, destruction, change  
2 of identity of motor vehicle or mobile home; salvage.--

3           (3)

4           (b) The owner, including persons who are self-insured,  
5 of any motor vehicle or mobile home which is considered to be  
6 salvage shall, within 72 hours after the motor vehicle or  
7 mobile home becomes salvage, forward the title to the motor  
8 vehicle or mobile home to the department for processing.

9 However, an insurance company which pays money as compensation  
10 for total loss of a motor vehicle or mobile home shall obtain  
11 the certificate of title for the motor vehicle or mobile home  
12 and, within 72 hours after receiving such certificate of  
13 title, shall forward such title to the department for  
14 processing. The owner or insurance company, as the case may  
15 be, may not dispose of a vehicle or mobile home that is a  
16 total loss before it has obtained a salvage certificate of  
17 title or certificate of destruction from the department. When  
18 applying for a salvage certificate of title or certificate of  
19 destruction, the owner or insurance company must provide the  
20 department with an estimate of the costs of repairing the  
21 physical and mechanical damage suffered by the vehicle for  
22 which a salvage certificate of title or certificate of  
23 destruction is sought. If the estimated costs of repairing the  
24 physical and mechanical damage to the vehicle are equal to 80  
25 percent or more of the current retail cost of the vehicle, as  
26 established in any official used car or used mobile home  
27 guide, the department shall declare the vehicle unrebuildable  
28 and print a certificate of destruction, which authorizes the  
29 dismantling or destruction of the motor vehicle or mobile home  
30 described therein. This certificate of destruction shall be  
31 reassignable a maximum of two times before dismantling or

1 destruction of the vehicle shall be required, and shall  
2 accompany the motor vehicle or mobile home for which it is  
3 issued, when such motor vehicle or mobile home is sold for  
4 such purposes, in lieu of a certificate of title, and,  
5 thereafter, the department shall refuse issuance of any  
6 certificate of title for that vehicle. An insurer paying a  
7 total loss claim may obtain a certificate of destruction for  
8 such a vehicle ~~Nothing in this subsection shall be applicable~~  
9 ~~when a vehicle is worth less than \$1,500 retail in undamaged~~  
10 ~~condition in any official used motor vehicle guide or used~~  
11 ~~mobile home guide or,~~ when a stolen motor vehicle or mobile  
12 home is recovered in substantially intact condition and is  
13 readily resalable without extensive repairs to or replacement  
14 of the frame or engine, the insurer shall obtain a certificate  
15 of title in its own name before the vehicle may be sold or  
16 transferred. Any person who willfully and deliberately  
17 violates this paragraph or falsifies any document to avoid the  
18 requirements of this paragraph commits a misdemeanor of the  
19 first degree, punishable as provided in s. 775.082 or s.  
20 775.083.

21 Section 5. The Department of Highway Safety and Motor  
22 Vehicles shall create a program to promote and enhance public  
23 awareness of risks to consumers associated with buying used  
24 motor vehicles previously titled in other states, including  
25 risks associated with purchases of motor vehicles via the  
26 Internet. The program shall also promote and enhance public  
27 awareness of laws that are designed to protect used motor  
28 vehicle consumers and any changes to those laws.

29 Section 6. This act shall take effect upon becoming a  
30 law.

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