

By the Committees on Transportation; Banking and Insurance;
and Senator Atwater

306-2500-04

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

23

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

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

28 Section 2. Section 319.14, Florida Statutes, is
29 amended to read:

30 319.14 Sale of motor vehicles registered or used as
31 taxicabs, police vehicles, insurance recovery vehicles,

1 salvage recovery vehicles, lease vehicles, or rebuilt vehicles
2 and nonconforming vehicles.--

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

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

1 title for a vehicle that is rebuilt or assembled from parts,
2 or is a kit car, glider kit, replica, or flood vehicle has
3 been made to the department in accordance with this chapter
4 and the department has conducted the physical examination of
5 the vehicle to assure the identity of the vehicle and all
6 major component parts, as defined in s. 319.30(1)(e), which
7 have been repaired or replaced. Thereafter, the department
8 shall affix a decal to the vehicle, in the manner prescribed
9 by the department, showing the vehicle to be rebuilt.

10 (c) As used in this section:

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

17 ~~2.8.~~ "Flood vehicle" means a motor vehicle or mobile
18 home that has been declared to be a total loss pursuant to s.
19 319.30(3)(a) resulting from damage caused by water.

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

23 4. "Insurance recovery vehicle" means a motor vehicle
24 for which the out-of-state documentation used to obtain
25 Florida title indicates that the owner is an insurance company
26 or contains a reassignment to or from an insurance company,
27 except for a stolen motor vehicle that is recovered in
28 substantially intact condition and is readily resalable
29 without extensive repairs to or replacement of the frame or
30 engine.

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1 5. "Kit car" means a motor vehicle assembled with a
2 kit supplied by a manufacturer to rebuild a wrecked or
3 outdated motor vehicle with a new body kit.

4 ~~6.a.c.~~ "Lease vehicle" includes both short-term-lease
5 vehicles and long-term-lease vehicles.

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

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

13 ~~7.9.~~ "Nonconforming vehicle" means a motor vehicle
14 which has been purchased by a manufacturer pursuant to a
15 settlement, determination, or decision under chapter 681.

16 ~~8.1.~~ "Police vehicle" means a motor vehicle owned or
17 leased by the state or a county or municipality and used in
18 law enforcement.

19 ~~9.3.~~ "Rebuilt vehicle" means a motor vehicle or mobile
20 home built from salvage or junk, as defined in s. 319.30(1).

21 ~~10.7.~~ "Replica" means a complete new motor vehicle
22 manufactured to look like an old vehicle.

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

27 12. "Salvage company" means a person not licensed in
28 Florida who would otherwise be required to be licensed as a
29 salvage motor vehicle dealer if operating in Florida.

30 ~~13.10.~~ "Settlement" means an agreement entered into
31 between a manufacturer and a consumer that occurs after a

1 | dispute is submitted to a program, or an informal dispute
2 | settlement procedure established by a manufacturer or is
3 | approved for arbitration before the New Motor Vehicle
4 | Arbitration Board as defined in s. 681.102.

5 | (2) No person shall knowingly sell, exchange, or
6 | transfer a vehicle referred to in subsection (1) without,
7 | prior to consummating the sale, exchange, or transfer,
8 | disclosing in writing to the purchaser, customer, or
9 | transferee the fact that the vehicle has previously been
10 | titled, registered, or used as a taxicab, police vehicle,
11 | insurance recovery vehicle, salvage recovery vehicle,or
12 | short-term-lease vehicle or is a vehicle that is rebuilt or
13 | assembled from parts, or is a kit car, glider kit, replica, or
14 | flood vehicle, or is a nonconforming vehicle, as the case may
15 | be.

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

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1 (4) When a certificate of title, including a foreign
2 certificate, is branded to reflect a condition or prior use of
3 the titled vehicle, the brand must be noted on the
4 registration certificate of the vehicle and such brand shall
5 be carried forward on all subsequent certificates of title and
6 registration certificates issued for the life of the vehicle.

7 (5) Any person who knowingly sells, exchanges, or
8 offers to sell or exchange a motor vehicle or mobile home
9 contrary to the provisions of this section or any officer,
10 agent, or employee of a person who knowingly authorizes,
11 directs, aids in, or consents to the sale, exchange, or offer
12 to sell or exchange a motor vehicle or mobile home contrary to
13 the provisions of this section commits a misdemeanor of the
14 second degree, punishable as provided in s. 775.082 or s.
15 775.083.

16 (6) Any person who removes a rebuilt decal from a
17 rebuilt vehicle with the intent to conceal the rebuilt status
18 of the vehicle commits a felony of the third degree,
19 punishable as provided in s. 775.082, s. 775.083, or s.
20 775.084.

21 (7) This section applies to a mobile home, travel
22 trailer, camping trailer, truck camper, or fifth-wheel
23 recreation trailer only when such mobile home or vehicle is a
24 rebuilt vehicle or is assembled from parts.

25 (8) No person shall be liable or accountable in any
26 civil action arising out of a violation of this section if the
27 designation of the previous use or condition of the motor
28 vehicle is not noted on the certificate of title and
29 registration certificate of the vehicle which was received by,
30 or delivered to, such person, unless such person has actively
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1 concealed the prior use or condition of the vehicle from the
2 purchaser.

3 (9) Subsections (1), (2), and (3) do not apply to the
4 transfer of ownership of a motor vehicle after the motor
5 vehicle has ceased to be used as a lease vehicle and the
6 ownership has been transferred to an owner for private use or
7 to the transfer of ownership of a nonconforming vehicle with
8 36,000 or more miles on its odometer, or 34 months whichever
9 is later and the ownership has been transferred to an owner
10 for private use. Such owner, as shown on the title
11 certificate, may request the department to issue a corrected
12 certificate of title that does not contain the statement of
13 the previous use of the vehicle as a lease vehicle or
14 condition as a nonconforming vehicle.

15 (10) Subsections (1), (2), and (3) do not apply to
16 reassignment transactions on motor vehicles that have been
17 reassigned to companies in other states which would otherwise
18 be licensed as motor vehicle auctions in Florida, when such
19 reassignment is required by laws or rules of other states.

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

22 319.23 Application for, and issuance of, certificate
23 of title.--

24 (3) If a certificate of title has not previously been
25 issued for a motor vehicle or mobile home in this state, the
26 application, unless otherwise provided for in this chapter,
27 shall be accompanied by a proper bill of sale or sworn
28 statement of ownership, or a duly certified copy thereof, or
29 by a certificate of title, bill of sale, or other evidence of
30 ownership required by the law of the state or county from
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1 which the motor vehicle or mobile home was brought into this
2 state. The application shall also be accompanied by:

3 (a)1. A sworn affidavit from the seller and purchaser
4 verifying that the vehicle identification number shown on the
5 affidavit is identical to the vehicle identification number
6 shown on the motor vehicle; or

7 2. An appropriate departmental form evidencing that a
8 physical examination has been made of the motor vehicle by the
9 owner and by a duly constituted law enforcement officer in any
10 state, a licensed motor vehicle dealer, a license inspector as
11 provided by s. 320.58, or a notary public commissioned by this
12 state and that the vehicle identification number shown on such
13 form is identical to the vehicle identification number shown
14 on the motor vehicle. ; ~~and~~

15 (b) If the vehicle is a used car original, a sworn
16 affidavit from the owner verifying that the odometer reading
17 shown on the affidavit is identical to the odometer reading
18 shown on the motor vehicle in accordance with the requirements
19 of 49 C.F.R. s. 580.5 at the time that application for title
20 is made. For the purposes of this section, the term "used car
21 original" means a used vehicle coming into and being titled in
22 this state for the first time.

23 (c) If the vehicle is an ancient or antique vehicle,
24 as defined in s. 320.086, ~~the application shall be accompanied~~
25 ~~by~~ a certificate of title; a bill of sale and a registration;
26 or a bill of sale and an affidavit by the owner defending the
27 title from all claims. The bill of sale must contain a
28 complete vehicle description to include the vehicle
29 identification or engine number, year make, color, selling
30 price, and signatures of the seller and purchaser.

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1 (d) If a certificate of title has not been issued for
2 a used motor vehicle in this state, a sworn affidavit from the
3 owner that the motor vehicle has never been declared a total
4 loss and the motor vehicle was not purchased from a motor
5 vehicle salvage yard or insurance company. The requirements of
6 this paragraph do not apply to used motor vehicles purchased
7 or received in trade by a motor vehicle dealer. Willful and
8 deliberate violation of this paragraph or falsification of any
9 document to avoid the requirements of this paragraph is
10 punishable as provided in s. 319.33.

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12 Verification of the vehicle identification number is not
13 required for any new motor vehicle; any mobile home; any
14 trailer or semitrailer with a net weight of less than 2,000
15 pounds; or any travel trailer, camping trailer, truck camper,
16 or fifth-wheel recreation trailer.

17 Section 4. Subsection (3) of section 319.30, Florida
18 Statutes, is amended to read:

19 319.30 Definitions; dismantling, destruction, change
20 of identity of motor vehicle or mobile home; salvage.--

21 (3)(a)1. As used in this section, a motor vehicle or
22 mobile home is a "total loss":

23 a. When an insurance company pays the vehicle owner to
24 replace the wrecked or damaged vehicle with one of like kind
25 and quality or when an insurance company pays the owner upon
26 the theft of the motor vehicle or mobile home; or

27 b. When an uninsured motor vehicle or mobile home is
28 wrecked or damaged and the cost, at the time of loss, of
29 repairing or rebuilding the vehicle is 80 percent or more of
30 the cost to the owner of replacing the wrecked or damaged
31 motor vehicle or mobile home with one of like kind and

1 quality, except when a vehicle is worth less than \$1,500
2 retail in undamaged condition in any official
3 used-motor-vehicle guide or used-mobile-home guide.

4 2. A motor vehicle or mobile home shall not be
5 considered a "total loss" if the insurance company and owner
6 of a motor vehicle or mobile home agree to repair, rather than
7 to replace, the motor vehicle or mobile home. However, if the
8 actual cost to repair the motor vehicle or mobile home to the
9 insurance company exceeds 100 percent of the cost of replacing
10 the wrecked or damaged motor vehicle or mobile home with one
11 of like kind and quality, the owner shall forward to the
12 department, within 72 hours after the agreement, a request to
13 brand the certificate of title with the words "Total Loss
14 Vehicle." Such a brand shall become a part of the vehicle's
15 title history.

16 (b) The owner, including persons who are self-insured,
17 of any motor vehicle or mobile home which is considered to be
18 salvage shall, within 72 hours after the motor vehicle or
19 mobile home becomes salvage, forward the title to the motor
20 vehicle or mobile home to the department for processing.
21 However, an insurance company which pays money as compensation
22 for total loss of a motor vehicle or mobile home shall obtain
23 the certificate of title for the motor vehicle or mobile home
24 and, within 72 hours after receiving such certificate of
25 title, shall forward such title to the department for
26 processing. The owner or insurance company, as the case may
27 be, may not dispose of a vehicle or mobile home that is a
28 total loss before it has obtained a salvage certificate of
29 title or certificate of destruction from the department. When
30 applying for a salvage certificate of title or certificate of
31 destruction, the owner or insurance company must provide the

1 department with an estimate of the costs of repairing the
2 physical and mechanical damage suffered by the vehicle for
3 which a salvage certificate of title or certificate of
4 destruction is sought. If the estimated costs of repairing the
5 physical and mechanical damage to the vehicle are equal to 80
6 percent or more of the current retail cost of the vehicle and
7 the vehicle is worth at least \$1,500 in undamaged condition,
8 as established in any official used car or used mobile home
9 guide, the department shall declare the vehicle unrebuildable
10 and print a certificate of destruction, which authorizes the
11 dismantling or destruction of the motor vehicle or mobile home
12 described therein. This certificate of destruction shall be
13 reassignable a maximum of two times before dismantling or
14 destruction of the vehicle shall be required, and shall
15 accompany the motor vehicle or mobile home for which it is
16 issued, when such motor vehicle or mobile home is sold for
17 such purposes, in lieu of a certificate of title, and,
18 thereafter, the department shall refuse issuance of any
19 certificate of title for that vehicle. An insurer paying a
20 total loss claim may obtain a certificate of destruction for
21 such a vehicle ~~Nothing in this subsection shall be applicable~~
22 ~~when a vehicle is worth less than \$1,500 retail in undamaged~~
23 ~~condition in any official used motor vehicle guide or used~~
24 ~~mobile home guide or, when a stolen motor vehicle or mobile~~
25 ~~home is recovered in substantially intact condition and is~~
26 ~~readily resalable without extensive repairs to or replacement~~
27 ~~of the frame or engine, the insurer shall obtain a certificate~~
28 ~~of title in its own name before the vehicle may be sold or~~
29 ~~transferred.~~ Any person who willfully and deliberately
30 violates this paragraph or falsifies any document to avoid the
31 requirements of this paragraph commits a misdemeanor of the

1 first degree, punishable as provided in s. 775.082 or s.
2 775.083.

3 Section 5. The Department of Highway Safety and Motor
4 Vehicles shall create a program to promote and enhance public
5 awareness of risks to consumers associated with buying used
6 motor vehicles previously titled in other states, including
7 risks associated with purchases of motor vehicles via the
8 Internet. The program shall also promote and enhance public
9 awareness of laws that are designed to protect used motor
10 vehicle consumers and any changes to those laws.

11 Section 6. This act shall take effect upon becoming a
12 law.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 CS/SB 2698

17 This CS exempts motor vehicle dealers, and persons selling
18 used motor vehicles to dealers, from the requirements to sign
19 an affidavit stating the vehicle has never been declared a
total loss and the vehicle was not purchased from a salvage
yard or insurance company.
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