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A bill to be entitled

An act relating to motor vehicles; providing a popular name; amending s. 319.14, F.S.; defining "insurance recovery vehicle" and "salvage recovery vehicle"; providing prohibitions on the sale of such vehicles; providing penalties; amending s. 319.23, F.S.; requiring affidavit with application for title of used motor vehicles not previously issued certificate of title; providing penalties for violation or falsification; amending s. 319.30, F.S.; revising provisions for issuance to insurer of certificate of destruction and certificate of title upon total loss of vehicle; requiring the Department of Highway Safety and Motor Vehicles to create a program to promote and enhance public awareness of risks to consumers associated with buying used motor vehicles previously titled in other states; providing an effective date.

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

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

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

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

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29 (1)(a) No person shall knowingly offer for sale, sell, or
 30 exchange any vehicle that has been licensed, registered, or used
 31 as a taxicab, police vehicle, insurance recovery vehicle,
 32 salvage recovery vehicle, or short-term-lease vehicle, or a
 33 vehicle that has been repurchased by a manufacturer pursuant to
 34 a settlement, determination, or decision under chapter 681,
 35 until the department has stamped in a conspicuous place on the
 36 certificate of title of the vehicle, or its duplicate, words
 37 stating the nature of the previous use or ownership of the
 38 vehicle or the title has been stamped "Manufacturer's Buy Back"
 39 to reflect that the vehicle is a nonconforming vehicle. If the
 40 certificate of title or duplicate was not so stamped upon
 41 initial issuance thereof or if, subsequent to initial issuance
 42 of the title, the use of the vehicle is changed to a use
 43 requiring the notation provided for in this section, the owner
 44 or lienholder of the vehicle shall surrender the certificate of
 45 title or duplicate to the department prior to offering the
 46 vehicle for sale, and the department shall stamp the certificate
 47 or duplicate as required herein. When a vehicle has been
 48 repurchased by a manufacturer pursuant to a settlement,
 49 determination, or decision under chapter 681, the title shall be
 50 stamped "Manufacturer's Buy Back" to reflect that the vehicle is
 51 a nonconforming vehicle.

52 (b) No person shall knowingly offer for sale, sell, or
 53 exchange a rebuilt vehicle until the department has stamped in a
 54 conspicuous place on the certificate of title for the vehicle
 55 words stating that the vehicle has been rebuilt or assembled
 56 from parts, or is a kit car, glider kit, replica, or flood
 57 vehicle unless proper application for a certificate of title for

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58 a vehicle that is rebuilt or assembled from parts, or is a kit
59 car, glider kit, replica, or flood vehicle has been made to the
60 department in accordance with this chapter and the department
61 has conducted the physical examination of the vehicle to assure
62 the identity of the vehicle and all major component parts, as
63 defined in s. 319.30(1)(e), which have been repaired or
64 replaced. Thereafter, the department shall affix a decal to the
65 vehicle, in the manner prescribed by the department, showing the
66 vehicle to be rebuilt.

67 (c) As used in this section:

68 ~~1.4.~~ "Assembled from parts" means a motor vehicle or
69 mobile home assembled from parts or combined from parts of motor
70 vehicles or mobile homes, new or used. "Assembled from parts"
71 does not mean a motor vehicle defined as a "rebuilt vehicle" in
72 subparagraph 9. 3., which has been declared a total loss
73 pursuant to s. 319.30.

74 ~~2.8.~~ "Flood vehicle" means a motor vehicle or mobile home
75 that has been declared to be a total loss pursuant to s.
76 319.30(3)(a) resulting from damage caused by water.

77 ~~3.6.~~ "Glider kit" means a vehicle assembled with a kit
78 supplied by a manufacturer to rebuild a wrecked or outdated
79 truck or truck tractor.

80 4. "Insurance recovery vehicle" means a motor vehicle for
81 which the out-of-state documentation used to obtain Florida
82 title indicates that the owner is an insurance company or
83 contains a reassignment to or from an insurance company.

84 5. "Kit car" means a motor vehicle assembled with a kit
85 supplied by a manufacturer to rebuild a wrecked or outdated
86 motor vehicle with a new body kit.

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87 6.a.-e. "Lease vehicle" includes both short-term-lease
 88 vehicles and long-term-lease vehicles.

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

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

96 7.9. "Nonconforming vehicle" means a motor vehicle which
 97 has been purchased by a manufacturer pursuant to a settlement,
 98 determination, or decision under chapter 681.

99 8.1. "Police vehicle" means a motor vehicle owned or
 100 leased by the state or a county or municipality and used in law
 101 enforcement.

102 9.3. "Rebuilt vehicle" means a motor vehicle or mobile
 103 home built from salvage or junk, as defined in s. 319.30(1).

104 10.7. "Replica" means a complete new motor vehicle
 105 manufactured to look like an old vehicle.

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

110 12.10. "Settlement" means an agreement entered into
 111 between a manufacturer and a consumer that occurs after a
 112 dispute is submitted to a program, or an informal dispute
 113 settlement procedure established by a manufacturer or is
 114 approved for arbitration before the New Motor Vehicle
 115 Arbitration Board as defined in s. 681.102.

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116 (2) No person shall knowingly sell, exchange, or transfer
 117 a vehicle referred to in subsection (1) without, prior to
 118 consummating the sale, exchange, or transfer, disclosing in
 119 writing to the purchaser, customer, or transferee the fact that
 120 the vehicle has previously been titled, registered, or used as a
 121 taxicab, police vehicle, insurance recovery vehicle, salvage
 122 recovery vehicle, or short-term-lease vehicle or is a vehicle
 123 that is rebuilt or assembled from parts, or is a kit car, glider
 124 kit, replica, or flood vehicle, or is a nonconforming vehicle,
 125 as the case may be.

126 (3) Any person who, with intent to offer for sale or
 127 exchange any vehicle referred to in subsection (1), knowingly or
 128 intentionally advertises, publishes, disseminates, circulates,
 129 or places before the public in any communications medium,
 130 whether directly or indirectly, any offer to sell or exchange
 131 the vehicle shall clearly and precisely state in each such offer
 132 that the vehicle has previously been titled, registered, or used
 133 as a taxicab, police vehicle, insurance recovery vehicle,
 134 salvage recovery vehicle, or short-term-lease vehicle or that
 135 the vehicle or mobile home is a vehicle that is rebuilt or
 136 assembled from parts, or is a kit car, glider kit, replica, or
 137 flood vehicle, or a nonconforming vehicle, as the case may be.
 138 Any person who violates this subsection commits a misdemeanor of
 139 the second degree, punishable as provided in s. 775.082 or s.
 140 775.083.

141 (4) When a certificate of title, including a foreign
 142 certificate, is branded to reflect a condition or prior use of
 143 the titled vehicle, the brand must be noted on the registration
 144 certificate of the vehicle and such brand shall be carried

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145 forward on all subsequent certificates of title and registration
 146 certificates issued for the life of the vehicle.

147 (5) Any person who knowingly sells, exchanges, or offers
 148 to sell or exchange a motor vehicle or mobile home contrary to
 149 the provisions of this section or any officer, agent, or
 150 employee of a person who knowingly authorizes, directs, aids in,
 151 or consents to the sale, exchange, or offer to sell or exchange
 152 a motor vehicle or mobile home contrary to the provisions of
 153 this section commits a misdemeanor of the second degree,
 154 punishable as provided in s. 775.082 or s. 775.083.

155 (6) Any person who removes a rebuilt decal from a rebuilt
 156 vehicle with the intent to conceal the rebuilt status of the
 157 vehicle commits a felony of the third degree, punishable as
 158 provided in s. 775.082, s. 775.083, or s. 775.084.

159 (7) This section applies to a mobile home, travel trailer,
 160 camping trailer, truck camper, or fifth-wheel recreation trailer
 161 only when such mobile home or vehicle is a rebuilt vehicle or is
 162 assembled from parts.

163 (8) No person shall be liable or accountable in any civil
 164 action arising out of a violation of this section if the
 165 designation of the previous use or condition of the motor
 166 vehicle is not noted on the certificate of title and
 167 registration certificate of the vehicle which was received by,
 168 or delivered to, such person, unless such person has actively
 169 concealed the prior use or condition of the vehicle from the
 170 purchaser.

171 (9) Subsections (1), (2), and (3) do not apply to the
 172 transfer of ownership of a motor vehicle after the motor vehicle
 173 has ceased to be used as a lease vehicle and the ownership has

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174 been transferred to an owner for private use or to the transfer
 175 of ownership of a nonconforming vehicle with 36,000 or more
 176 miles on its odometer, or 34 months whichever is later and the
 177 ownership has been transferred to an owner for private use. Such
 178 owner, as shown on the title certificate, may request the
 179 department to issue a corrected certificate of title that does
 180 not contain the statement of the previous use of the vehicle as
 181 a lease vehicle or condition as a nonconforming vehicle.

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

184 319.23 Application for, and issuance of, certificate of
 185 title.--

186 (3) If a certificate of title has not previously been
 187 issued for a motor vehicle or mobile home in this state, the
 188 application, unless otherwise provided for in this chapter,
 189 shall be accompanied by a proper bill of sale or sworn statement
 190 of ownership, or a duly certified copy thereof, or by a
 191 certificate of title, bill of sale, or other evidence of
 192 ownership required by the law of the state or county from which
 193 the motor vehicle or mobile home was brought into this state.
 194 The application shall also be accompanied by:

195 (a)1. A sworn affidavit from the seller and purchaser
 196 verifying that the vehicle identification number shown on the
 197 affidavit is identical to the vehicle identification number
 198 shown on the motor vehicle; or

199 2. An appropriate departmental form evidencing that a
 200 physical examination has been made of the motor vehicle by the
 201 owner and by a duly constituted law enforcement officer in any
 202 state, a licensed motor vehicle dealer, a license inspector as

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203 provided by s. 320.58, or a notary public commissioned by this
 204 state and that the vehicle identification number shown on such
 205 form is identical to the vehicle identification number shown on
 206 the motor vehicle. ~~;~~ ~~and~~

207 (b) If the vehicle is a used car original, a sworn
 208 affidavit from the owner verifying that the odometer reading
 209 shown on the affidavit is identical to the odometer reading
 210 shown on the motor vehicle in accordance with the requirements
 211 of 49 C.F.R. s. 580.5 at the time that application for title is
 212 made. For the purposes of this section, the term "used car
 213 original" means a used vehicle coming into and being titled in
 214 this state for the first time.

215 (c) If the vehicle is an ancient or antique vehicle, as
 216 defined in s. 320.086, ~~the application shall be accompanied by a~~
 217 certificate of title; a bill of sale and a registration; or a
 218 bill of sale and an affidavit by the owner defending the title
 219 from all claims. The bill of sale must contain a complete
 220 vehicle description to include the vehicle identification or
 221 engine number, year make, color, selling price, and signatures
 222 of the seller and purchaser.

223 (d) If a certificate of title has not been issued for a
 224 used motor vehicle in this state, a sworn affidavit from the
 225 owner that the motor vehicle has never been declared a total
 226 loss and the motor vehicle was not purchased from a motor
 227 vehicle salvage yard or insurance company. Willful and
 228 deliberate violation of this paragraph or falsification of any
 229 document to avoid the requirements of this paragraph is
 230 punishable as provided in s. 319.33.

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232 Verification of the vehicle identification number is not
 233 required for any new motor vehicle; any mobile home; any trailer
 234 or semitrailer with a net weight of less than 2,000 pounds; or
 235 any travel trailer, camping trailer, truck camper, or fifth-
 236 wheel recreation trailer.

237 Section 4. Paragraph (b) of subsection (3) of section
 238 319.30, Florida Statutes, is amended to read:

239 319.30 Definitions; dismantling, destruction, change of
 240 identity of motor vehicle or mobile home; salvage.--

241 (3)

242 (b) The owner, including persons who are self-insured, of
 243 any motor vehicle or mobile home which is considered to be
 244 salvage shall, within 72 hours after the motor vehicle or mobile
 245 home becomes salvage, forward the title to the motor vehicle or
 246 mobile home to the department for processing. However, an
 247 insurance company which pays money as compensation for total
 248 loss of a motor vehicle or mobile home shall obtain the
 249 certificate of title for the motor vehicle or mobile home and,
 250 within 72 hours after receiving such certificate of title, shall
 251 forward such title to the department for processing. The owner
 252 or insurance company, as the case may be, may not dispose of a
 253 vehicle or mobile home that is a total loss before it has
 254 obtained a salvage certificate of title or certificate of
 255 destruction from the department. When applying for a salvage
 256 certificate of title or certificate of destruction, the owner or
 257 insurance company must provide the department with an estimate
 258 of the costs of repairing the physical and mechanical damage
 259 suffered by the vehicle for which a salvage certificate of title
 260 or certificate of destruction is sought. If the estimated costs

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261 of repairing the physical and mechanical damage to the vehicle
 262 are equal to 80 percent or more of the current retail cost of
 263 the vehicle, as established in any official used car or used
 264 mobile home guide, the department shall declare the vehicle
 265 unbuildable and print a certificate of destruction, which
 266 authorizes the dismantling or destruction of the motor vehicle
 267 or mobile home described therein. This certificate of
 268 destruction shall be reassignable a maximum of two times before
 269 dismantling or destruction of the vehicle shall be required, and
 270 shall accompany the motor vehicle or mobile home for which it is
 271 issued, when such motor vehicle or mobile home is sold for such
 272 purposes, in lieu of a certificate of title, and, thereafter,
 273 the department shall refuse issuance of any certificate of title
 274 for that vehicle. An insurer paying a total loss claim may
 275 obtain a certificate of destruction for such a vehicle ~~Nothing~~
 276 ~~in this subsection shall be applicable when a vehicle is worth~~
 277 ~~less than \$1,500 retail in undamaged condition in any official~~
 278 ~~used motor vehicle guide or used mobile home guide or,~~ when a
 279 stolen motor vehicle or mobile home is recovered in
 280 substantially intact condition and is readily resalable without
 281 extensive repairs to or replacement of the frame or engine, the
 282 insurer shall obtain a certificate of title in its own name
 283 before the vehicle may be sold or transferred. Any person who
 284 willfully and deliberately violates this paragraph or falsifies
 285 any document to avoid the requirements of this paragraph commits
 286 a misdemeanor of the first degree, punishable as provided in s.
 287 775.082 or s. 775.083.

288 Section 5. The Department of Highway Safety and Motor
 289 Vehicles shall create a program to promote and enhance public

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290 awareness of risks to consumers associated with buying used
291 motor vehicles previously titled in other states, including
292 risks associated with purchases of motor vehicles via the
293 Internet. The program shall also promote and enhance public
294 awareness of laws that are designed to protect used motor
295 vehicle consumers and any changes to those laws.

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