

CHAMBER ACTION

1 The Committee on Transportation recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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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.--

(1)(a) No person shall knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, insurance recovery vehicle, salvage recovery vehicle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, until the department has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use or ownership of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. If the certificate of title or duplicate was not so stamped upon initial issuance thereof or if, subsequent to initial issuance of the title, the use of the vehicle is changed to a use requiring the notation provided for in this section, the owner or lienholder of the vehicle shall surrender the certificate of title or duplicate to the department prior to offering the

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52 | vehicle for sale, and the department shall stamp the certificate
53 | or duplicate as required herein. When a vehicle has been
54 | repurchased by a manufacturer pursuant to a settlement,
55 | determination, or decision under chapter 681, the title shall be
56 | stamped "Manufacturer's Buy Back" to reflect that the vehicle is
57 | a nonconforming vehicle.

58 | (b) No person shall knowingly offer for sale, sell, or
59 | exchange a rebuilt vehicle until the department has stamped in a
60 | conspicuous place on the certificate of title for the vehicle
61 | words stating that the vehicle has been rebuilt or assembled
62 | from parts, or is a kit car, glider kit, replica, or flood
63 | vehicle unless proper application for a certificate of title for
64 | a vehicle that is rebuilt or assembled from parts, or is a kit
65 | car, glider kit, replica, or flood vehicle has been made to the
66 | department in accordance with this chapter and the department
67 | has conducted the physical examination of the vehicle to assure
68 | the identity of the vehicle and all major component parts, as
69 | defined in s. 319.30(1)(e), which have been repaired or
70 | replaced. Thereafter, the department shall affix a decal to the
71 | vehicle, in the manner prescribed by the department, showing the
72 | vehicle to be rebuilt.

73 | (c) As used in this section:

74 | 1.4. "Assembled from parts" means a motor vehicle or
75 | mobile home assembled from parts or combined from parts of motor
76 | vehicles or mobile homes, new or used. "Assembled from parts"
77 | does not mean a motor vehicle defined as a "rebuilt vehicle" in
78 | subparagraph 9. 3., which has been declared a total loss
79 | pursuant to s. 319.30.

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80 ~~2.8.~~ "Flood vehicle" means a motor vehicle or mobile home
81 that has been declared to be a total loss pursuant to s.
82 319.30(3)(a) resulting from damage caused by water.

83 ~~3.6.~~ "Glider kit" means a vehicle assembled with a kit
84 supplied by a manufacturer to rebuild a wrecked or outdated
85 truck or truck tractor.

86 4. "Insurance recovery vehicle" means a motor vehicle for
87 which the out-of-state documentation used to obtain Florida
88 title indicates that the owner is an insurance company or
89 contains a reassignment to or from an insurance company, except
90 for a stolen motor vehicle that is recovered in substantially
91 intact condition and is readily resalable without extensive
92 repairs to or replacement of the frame or engine.

93 5. "Kit car" means a motor vehicle assembled with a kit
94 supplied by a manufacturer to rebuild a wrecked or outdated
95 motor vehicle with a new body kit.

96 ~~6.a.e.~~ "Lease vehicle" includes both short-term-lease
97 vehicles and long-term-lease vehicles.

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

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

105 7.9. "Nonconforming vehicle" means a motor vehicle which
106 has been purchased by a manufacturer pursuant to a settlement,
107 determination, or decision under chapter 681.

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108 ~~8.1.~~ "Police vehicle" means a motor vehicle owned or
109 leased by the state or a county or municipality and used in law
110 enforcement.

111 ~~9.3.~~ "Rebuilt vehicle" means a motor vehicle or mobile
112 home built from salvage or junk, as defined in s. 319.30(1).

113 ~~10.7.~~ "Replica" means a complete new motor vehicle
114 manufactured to look like an old vehicle.

115 11. "Salvage recovery vehicle" means a motor vehicle for
116 which the out-of-state documentation used to obtain Florida
117 title indicates that the owner is a salvage company or contains
118 a reassignment to or from a salvage company.

119 12. "Salvage company" means a person not licensed in this
120 state who would otherwise be required to be licensed as a
121 salvage motor vehicle dealer if operating in this state.

122 ~~13.10.~~ "Settlement" means an agreement entered into
123 between a manufacturer and a consumer that occurs after a
124 dispute is submitted to a program, or an informal dispute
125 settlement procedure established by a manufacturer or is
126 approved for arbitration before the New Motor Vehicle
127 Arbitration Board as defined in s. 681.102.

128 (2) No person shall knowingly sell, exchange, or transfer
129 a vehicle referred to in subsection (1) without, prior to
130 consummating the sale, exchange, or transfer, disclosing in
131 writing to the purchaser, customer, or transferee the fact that
132 the vehicle has previously been titled, registered, or used as a
133 taxicab, police vehicle, insurance recovery vehicle, salvage
134 recovery vehicle, or short-term-lease vehicle or is a vehicle
135 that is rebuilt or assembled from parts, or is a kit car, glider

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136 | kit, replica, or flood vehicle, or is a nonconforming vehicle,
137 | as the case may be.

138 | (3) Any person who, with intent to offer for sale or
139 | exchange any vehicle referred to in subsection (1), knowingly or
140 | intentionally advertises, publishes, disseminates, circulates,
141 | or places before the public in any communications medium,
142 | whether directly or indirectly, any offer to sell or exchange
143 | the vehicle shall clearly and precisely state in each such offer
144 | that the vehicle has previously been titled, registered, or used
145 | as a taxicab, police vehicle, insurance recovery vehicle,
146 | salvage recovery vehicle, or short-term-lease vehicle or that
147 | the vehicle or mobile home is a vehicle that is rebuilt or
148 | assembled from parts, or is a kit car, glider kit, replica, or
149 | flood vehicle, or a nonconforming vehicle, as the case may be.
150 | Any person who violates this subsection commits a misdemeanor of
151 | the second degree, punishable as provided in s. 775.082 or s.
152 | 775.083.

153 | (4) When a certificate of title, including a foreign
154 | certificate, is branded to reflect a condition or prior use of
155 | the titled vehicle, the brand must be noted on the registration
156 | certificate of the vehicle and such brand shall be carried
157 | forward on all subsequent certificates of title and registration
158 | certificates issued for the life of the vehicle.

159 | (5) Any person who knowingly sells, exchanges, or offers
160 | to sell or exchange a motor vehicle or mobile home contrary to
161 | the provisions of this section or any officer, agent, or
162 | employee of a person who knowingly authorizes, directs, aids in,
163 | or consents to the sale, exchange, or offer to sell or exchange

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164 a motor vehicle or mobile home contrary to the provisions of
 165 this section commits a misdemeanor of the second degree,
 166 punishable as provided in s. 775.082 or s. 775.083.

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

171 (7) This section applies to a mobile home, travel trailer,
 172 camping trailer, truck camper, or fifth-wheel recreation trailer
 173 only when such mobile home or vehicle is a rebuilt vehicle or is
 174 assembled from parts.

175 (8) No person shall be liable or accountable in any civil
 176 action arising out of a violation of this section if the
 177 designation of the previous use or condition of the motor
 178 vehicle is not noted on the certificate of title and
 179 registration certificate of the vehicle which was received by,
 180 or delivered to, such person, unless such person has actively
 181 concealed the prior use or condition of the vehicle from the
 182 purchaser.

183 (9) Subsections (1), (2), and (3) do not apply to the
 184 transfer of ownership of a motor vehicle after the motor vehicle
 185 has ceased to be used as a lease vehicle and the ownership has
 186 been transferred to an owner for private use or to the transfer
 187 of ownership of a nonconforming vehicle with 36,000 or more
 188 miles on its odometer, or 34 months whichever is later and the
 189 ownership has been transferred to an owner for private use. Such
 190 owner, as shown on the title certificate, may request the
 191 department to issue a corrected certificate of title that does

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192 not contain the statement of the previous use of the vehicle as
193 a lease vehicle or condition as a nonconforming vehicle.

194 (10) Subsections (1), (2), and (3) do not apply to
195 reassignment transactions on motor vehicles that have been
196 reassigned to companies in another state that would otherwise be
197 licensed as motor vehicle auctions in this state when such
198 reassignment is required by the laws or rules of the other
199 state.

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

202 319.23 Application for, and issuance of, certificate of
203 title.--

204 (3) If a certificate of title has not previously been
205 issued for a motor vehicle or mobile home in this state, the
206 application, unless otherwise provided for in this chapter,
207 shall be accompanied by a proper bill of sale or sworn statement
208 of ownership, or a duly certified copy thereof, or by a
209 certificate of title, bill of sale, or other evidence of
210 ownership required by the law of the state or county from which
211 the motor vehicle or mobile home was brought into this state.
212 The application shall also be accompanied by:

213 (a)1. A sworn affidavit from the seller and purchaser
214 verifying that the vehicle identification number shown on the
215 affidavit is identical to the vehicle identification number
216 shown on the motor vehicle; or

217 2. An appropriate departmental form evidencing that a
218 physical examination has been made of the motor vehicle by the
219 owner and by a duly constituted law enforcement officer in any

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220 state, a licensed motor vehicle dealer, a license inspector as
 221 provided by s. 320.58, or a notary public commissioned by this
 222 state and that the vehicle identification number shown on such
 223 form is identical to the vehicle identification number shown on
 224 the motor vehicle. ~~;~~ ~~and~~

225 (b) If the vehicle is a used car original, a sworn
 226 affidavit from the owner verifying that the odometer reading
 227 shown on the affidavit is identical to the odometer reading
 228 shown on the motor vehicle in accordance with the requirements
 229 of 49 C.F.R. s. 580.5 at the time that application for title is
 230 made. For the purposes of this section, the term "used car
 231 original" means a used vehicle coming into and being titled in
 232 this state for the first time.

233 (c) If the vehicle is an ancient or antique vehicle, as
 234 defined in s. 320.086, ~~the application shall be accompanied by a~~
 235 certificate of title; a bill of sale and a registration; or a
 236 bill of sale and an affidavit by the owner defending the title
 237 from all claims. The bill of sale must contain a complete
 238 vehicle description to include the vehicle identification or
 239 engine number, year make, color, selling price, and signatures
 240 of the seller and purchaser.

241 (d) If a certificate of title has not been issued for a
 242 used motor vehicle in this state, a sworn affidavit from the
 243 owner that the motor vehicle has never been declared a total
 244 loss and the motor vehicle was not purchased from a motor
 245 vehicle salvage yard or insurance company. Willful and
 246 deliberate violation of this paragraph or falsification of any

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247 document to avoid the requirements of this paragraph is
 248 punishable as provided in s. 319.33.

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 250 Verification of the vehicle identification number is not
 251 required for any new motor vehicle; any mobile home; any trailer
 252 or semitrailer with a net weight of less than 2,000 pounds; or
 253 any travel trailer, camping trailer, truck camper, or fifth-
 254 wheel recreation trailer.

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

257 319.30 Definitions; dismantling, destruction, change of
 258 identity of motor vehicle or mobile home; salvage.--

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

261 a. When an insurance company pays the vehicle owner to
 262 replace the wrecked or damaged vehicle with one of like kind and
 263 quality or when an insurance company pays the owner upon the
 264 theft of the motor vehicle or mobile home; or

265 b. When an uninsured motor vehicle or mobile home is
 266 wrecked or damaged and the cost, at the time of loss, of
 267 repairing or rebuilding the vehicle is 80 percent or more of the
 268 cost to the owner of replacing the wrecked or damaged motor
 269 vehicle or mobile home with one of like kind and quality, except
 270 when a vehicle is worth less than \$1,500 retail in undamaged
 271 condition in any official used motor vehicle guide or used
 272 mobile home guide.

273 2. A motor vehicle or mobile home shall not be considered
 274 a "total loss" if the insurance company and owner of a motor

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275 | vehicle or mobile home agree to repair, rather than to replace,
 276 | the motor vehicle or mobile home. However, if the actual cost to
 277 | repair the motor vehicle or mobile home to the insurance company
 278 | exceeds 100 percent of the cost of replacing the wrecked or
 279 | damaged motor vehicle or mobile home with one of like kind and
 280 | quality, the owner shall forward to the department, within 72
 281 | hours after the agreement, a request to brand the certificate of
 282 | title with the words "Total Loss Vehicle." Such a brand shall
 283 | become a part of the vehicle's title history.

284 | (b) The owner, including persons who are self-insured, of
 285 | any motor vehicle or mobile home which is considered to be
 286 | salvage shall, within 72 hours after the motor vehicle or mobile
 287 | home becomes salvage, forward the title to the motor vehicle or
 288 | mobile home to the department for processing. However, an
 289 | insurance company which pays money as compensation for total
 290 | loss of a motor vehicle or mobile home shall obtain the
 291 | certificate of title for the motor vehicle or mobile home and,
 292 | within 72 hours after receiving such certificate of title, shall
 293 | forward such title to the department for processing. The owner
 294 | or insurance company, as the case may be, may not dispose of a
 295 | vehicle or mobile home that is a total loss before it has
 296 | obtained a salvage certificate of title or certificate of
 297 | destruction from the department. When applying for a salvage
 298 | certificate of title or certificate of destruction, the owner or
 299 | insurance company must provide the department with an estimate
 300 | of the costs of repairing the physical and mechanical damage
 301 | suffered by the vehicle for which a salvage certificate of title
 302 | or certificate of destruction is sought. If the estimated costs

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303 of repairing the physical and mechanical damage to the vehicle
 304 are equal to 80 percent or more of the current retail cost of
 305 the vehicle and the vehicle is worth at least \$1,500 in
 306 undamaged condition, as established in any official used car or
 307 used mobile home guide, the department shall declare the vehicle
 308 unbuildable and print a certificate of destruction, which
 309 authorizes the dismantling or destruction of the motor vehicle
 310 or mobile home described therein. This certificate of
 311 destruction shall be reassignable a maximum of two times before
 312 dismantling or destruction of the vehicle shall be required, and
 313 shall accompany the motor vehicle or mobile home for which it is
 314 issued, when such motor vehicle or mobile home is sold for such
 315 purposes, in lieu of a certificate of title, and, thereafter,
 316 the department shall refuse issuance of any certificate of title
 317 for that vehicle. An insurer paying a total loss claim may
 318 obtain a certificate of destruction for such a vehicle; ~~Nothing~~
 319 ~~in this subsection shall be applicable when a vehicle is worth~~
 320 ~~less than \$1,500 retail in undamaged condition in any official~~
 321 ~~used motor vehicle guide or used mobile home guide or,~~ when a
 322 stolen motor vehicle or mobile home is recovered in
 323 substantially intact condition and is readily resalable without
 324 extensive repairs to or replacement of the frame or engine, the
 325 insurer shall obtain a certificate of title in its own name
 326 before the vehicle may be sold or transferred. Any person who
 327 willfully and deliberately violates this paragraph or falsifies
 328 any document to avoid the requirements of this paragraph commits
 329 a misdemeanor of the first degree, punishable as provided in s.
 330 775.082 or s. 775.083.

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331 Section 5. The Department of Highway Safety and Motor
332 Vehicles shall create a program to promote and enhance public
333 awareness of risks to consumers associated with buying used
334 motor vehicles previously titled in other states, including
335 risks associated with purchases of motor vehicles via the
336 Internet. The program shall also promote and enhance public
337 awareness of laws that are designed to protect used motor
338 vehicle consumers and any changes to those laws.

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