

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1076

INTRODUCER: Senator King and others

SUBJECT: Motor Vehicles and Mobile Homes/Destruction

DATE: February 26, 2008 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Eichin | Meyer | TR | Favorable |
| 2. | | | CM | |
| 3. | | | CJ | |
| 4. | | | TA | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

Senate Bill 1076 provides definitions, enhanced penalties, and additional requirements related to the dismantling or destruction of motor vehicles and mobile homes by salvage motor vehicle dealers and secondary metals recyclers.

This bill substantially amends ss. 319.14 and 319.30, F.S.

II. Present Situation:

A certificate of title is the proof of ownership of a motor vehicle issued by the Florida Department of Highway Safety and Motor Vehicles (DHSMV) or another state's motor vehicle department. In Florida, most vehicles are required to be titled. The exceptions are mopeds, motorized bicycles, and trailers weighing less than 2,000 pounds. When an insurance company has paid a "Total Loss" on a motor vehicle or mobile home, the company often makes application for a Salvage Certificate of Title or Certificate of Destruction in the name of the insurance company. Likewise, when a towing company tows and stores a vehicle, the company may apply for a certificate of destruction under certain conditions.

Subsection (2) of s. 319.30, F.S., requires that when a motor vehicle or mobile home is to be dismantled, destroyed, or altered so significantly as to no longer be the motor vehicle or mobile home described in the certificate of title, the owner(s) as listed on the title must surrender the title to DHSMV for cancellation. Violation of the requirement constitutes a second degree misdemeanor.

Salvage Motor Vehicle Dealers

By reference, subsection (2) of s. 319.30, F.S., defines a salvage motor vehicle dealer as any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.

All vehicles being sold, transported, or delivered to a salvage motor vehicle dealer must be accompanied by:

- a properly endorsed certificate of title¹,
- salvage certificate of title², or
- a vehicle certificate of destruction³ issued by the DHSMV.

Alternatively, if the title has been surrendered to the DHSMV, a notarized affidavit from the vehicle owner attesting to the surrender of the title must be in accompaniment of the vehicle. Falsification of the required affidavit constitutes a third degree felony. A number of auto theft investigators and DHSMV staff have indicated large numbers of affidavits appear to be applied fraudulently.

Subsection (6) of s. 319.30, F.S., requires salvage motor vehicle dealers to record the name, address, and personal identification card number of any person delivering motor vehicles, derelicts and major parts. Violation of the subsection is a first degree misdemeanor.

Secondary Metals Recyclers

Section 319.30, F.S., defines a secondary metals recycler as any person who:

- (a) Is engaged, from a fixed location or otherwise, in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or

¹ A certificate of title is properly endorsed when the identified owner(s), i.e., the seller, has completed the form printed on the back of the certificate containing the name and address of the purchaser, odometer information, selling price, and the date sold in the "Transfer of Title by Seller" section. The seller must also sign and hand print their name.

² Although "salvage" is defined to mean a motor vehicle or mobile home which is a total loss, "salvage certificate of title" is not currently defined.

³ Section 713.78, F.S. (11)a. states: "Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle or vessel described in the certificate of title, shall apply to the county tax collector for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and shall be accompanied by such documentation as may be required by the department."

(b) Has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof.

Similar to the requirements of salvage motor vehicle dealer, when a motor vehicle, derelict, or major part is purchased by a secondary metals recycler, the recycler must record the name, address, and personal identification card number of any person delivering the vehicle, derelict or part, and must obtain from the seller:

- a valid certificate of title in the name of the seller or properly endorsed to the seller; or
- a valid certificate of destruction in the name of the seller or properly endorsed to the seller; or
- if neither of the above is available, an affidavit signed by the seller stating that the certificate of title was returned to DHSMV.

A violation of these requirements is a third degree felony.

Both salvage auto dealers and secondary metals recyclers are required to return all certificates of title to DHSMV each month. All certificates of destruction, affidavits, and all other required information must be retained by the dealer or recycler for three years.

III. Effect of Proposed Changes:

The bill amends subsection (1) of s. 319.30, F.S., to define “certificate of title,” “salvage certificate of title,” and “derelict motor vehicle.” The bill includes recreational vehicles and mobile homes in paragraph (2)(b), thereby requiring the same certification requirements as motor vehicles when those items are sold, transported, or delivered to a salvage motor vehicle dealer. The penalty for violation of the certification requirements is clarified.

The bill creates and defines “derelict motor vehicle certificate” to be used by owners, transporters, and dealers when a certificate of title, salvage certificate of title, or a certificate of destruction is not available.

A derelict motor vehicle certificate is to be completed by the owner of the vehicle, the owner’s authorized transporter, and the licensed salvage motor vehicle dealer. Upon receiving a derelict vehicle, the salvage motor vehicle dealer is required to notify DHSMV, or deliver the derelict motor vehicle certificate to an agent of DHSMV, within 24 hours of receiving the vehicle. The salvage auto dealer must also secure the vehicle for three full business days, excluding weekends and holidays, before destroying or dismantling it.

The violation caused by falsification of the affidavit previously required, is revised to incorporate the requirement for a derelict motor vehicle certificate. Under the revisions, a person commits a third degree felony if that person:

- sells, transports, delivers, purchases, or receives a derelict motor vehicle without obtaining a certificate of title, salvage certificate of title, certificate of destruction, or derelict motor vehicle certificate;
- enters false or fictitious information on a derelict motor vehicle certificate;
- does not complete the derelict motor vehicle certificate as required or does not make the required notification; or
- destroys or dismantles a derelict motor vehicle without waiting the required three full business days.

The requirements of s. 319.30(6), F.S., related to recording the personal information of persons delivering salvage motor vehicles and materials to a salvage motor vehicle dealer are revised to apply to persons selling salvage motor vehicles and materials. A violation of this subsection is increased to a third degree felony.

The requirements of s. 319.30(7), F.S., related to recording the personal information of persons delivering salvage motor vehicles and materials to a secondary metals recycler are revised to apply to recreational vehicles and derelict motor vehicles as well as salvage motor vehicles and materials. The documents required to accompany the vehicle is expanded to include a valid derelict motor vehicle certificate completed by a licensed salvage motor vehicle dealer which has been properly reassigned to the secondary metals recycler.

If a derelict vehicle is delivered to a secondary metals recycler and not accompanied by a valid certificate of title, salvage certificate of title, certificate of destruction, or derelict motor vehicle certificate, then a derelict motor vehicle certificate must be completed by the vehicle or mobile home owner, the transporter, and secondary metals recycler at the time of the sale. The recycler is required to notify DHSMV, or deliver the derelict motor vehicle certificate to an agent of DHSMV, within 24 hours of receiving the vehicle. The recycler must also secure the vehicle for three full business days, excluding weekends and holidays, before destroying or dismantling it. The revisions further state that a person commits a third degree felony if that person:

- sells, transports, delivers, purchases, or receives a motor vehicle, recreational motor vehicle, mobile home, or derelict motor vehicle without obtaining a certificate of title, salvage certificate of title, certificate of destruction, or derelict motor vehicle certificate;
- enters false or fictitious information on a derelict motor vehicle certificate;
- does not complete the derelict motor vehicle certificate as required or does not make the required notification; or
- destroys or dismantles a derelict motor vehicle without waiting the required three full business days.

The list of documents which salvage auto dealers and secondary metals recyclers are required to return to DHSMV each month, is expanded to include salvage certificates of title. Such certificates may be transmitted electronically. DHSMV may adopt rules and establish fees as necessary for electronic submission. Copies of all certificates of title, salvage certificates of title, certificates of destruction, derelict motor vehicle certificates and all other required information are to be retained for three years.

The DHSMV, its agent, or any law enforcement officer may issue a hold notice to a salvage auto dealer or secondary metals recycler whenever there is reason to believe a stolen or fraudulently titled motor vehicle, mobile home, recreational vehicle, salvage motor vehicle, or derelict motor vehicle is in the possession of the dealer or recycler. The hold may not exceed five business days, excluding weekends and holidays, and the dealer or recycler may not dismantle or destroy the item until the hold is released or the five days has passed.

DHSMV is authorized to charge a \$3 fee for each derelict vehicle certificate. A service charge may be collected under s. 320.04, F.S. DHSMV is further authorized to adopt rules to administer and enforce s. 319.30, F.S.

Section 319.14, F.S. is amended to correct a cross-reference.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

DHSMV will charge a \$3 fee for each derelict motor vehicle certificate received from salvage auto dealers and secondary metals recyclers.

B. Private Sector Impact:

Salvage auto dealers and secondary metals recyclers will pay \$3 for each derelict motor vehicle certificate delivered to DHSMV.

C. Government Sector Impact:

DHSMV estimates nominal fiscal and operational impact. Contracted reprogramming of motor vehicle software systems is estimated to cost \$35,000.

County tax collectors could receive a service fee of \$2.50 for each derelict motor vehicle certificate received from salvage auto dealers and secondary metals recyclers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
