

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 293

Motor Vehicle Title Transfer

SPONSOR(S): Rogers

TIED BILLS:

IDEN./SIM. BILLS: SB 906

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee	20 Y, 0 N	Brown	Miller
2)	Economic Development & Community Affairs Policy Council		Brown	Tinker
3)	Transportation & Economic Development Appropriations Committee			
4)	Full Appropriations Council on Education & Economic Development			
5)				

SUMMARY ANALYSIS

HB 293 amends s. 319.22, F.S., relating to requirements governing the transfer of title for motor vehicles and mobile homes. The bill requires a transferred certificate of title or other DHSMV-approved form to be submitted within 30 days of a transfer between parties (excluding licensed motor vehicle dealers or insurers). Notification is currently authorized, but not required.

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to collect certain information and provide certain notices to buyers and sellers. The certificate of title or department-approved form must include the vehicle information number, the buyer's full name and personal or business information along with other information required by DHSMV.

The bill does not appear to have a significant fiscal impact, and has an effective date of July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation:

Section 319.22, F.S., establishes requirements governing the transfer of title for motor vehicles and mobile homes. A purchaser of a motor vehicle or mobile home cannot obtain marketable title until he or she is issued a certificate of title.<sup>1</sup> The law ceases to recognize the seller as owner or co-owner when the title is properly endorsed and delivered to the purchaser or DHSMV.<sup>2</sup> In the case of a private or casual sale (a sale between persons not licensed as dealers or insurers), the state will not transfer title unless the name of the seller is shown as the owner on the face of the title.<sup>3</sup> In addition, the state will not transfer title unless the sales price is entered in the appropriate place on the face of the certificate.<sup>4</sup>

When a motor vehicle is sold in a bona fide casual sale, the certificate of title is endorsed by the seller and the sales price is entered on the face of the certificate. The certificate or department-approved form is typically submitted *by the buyer* to the tax collector or DHSMV for transfer with an application for a new certificate of title and remittance of sales tax. A new certificate of title is then issued to the buyer. This process allows both for recording of ownership of the motor vehicle and provides an opportunity for sales tax to be assessed on the purchase.

A seller is entitled to submit a department-approved form notifying the DHSMV of a bona-fide sale. This notification serves to sever any liability for future liabilities related to the motor vehicle.<sup>5</sup>

It is a first degree misdemeanor for a buyer or a seller to knowingly attempt to transfer a title without the purchaser's name also appearing on the title.<sup>6</sup> This requirement was adopted in 2002.<sup>7</sup>

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<sup>1</sup> S. 319.22(1), F.S.

<sup>2</sup> S. 319.22(2)(a)1.-2., F.S.

<sup>3</sup> S. 319.22(3), F.S.

<sup>4</sup> S. 319.22(4), F.S.

<sup>5</sup> S. 319.22(2)(a), F.S.

<sup>6</sup> S. 319.22(5), F.S.

<sup>7</sup> See S. 9, 2002-235, Laws of Florida

## Potential Changes

HB 293 requires sellers to acknowledge a bona fide sale by submitting the department-approved form within 30 days of the transfer. The bill also amends s. 319.22, F.S., to ensure that DHSMV collects certain information and provides certain notices to buyers and sellers.

The certificate of title or department-approved form must include the vehicle information number, the buyer's full name and personal or business information (e.g., driver's license number, identification card number, or federal employer identification number), along with other information required by DHSMV.

### B. SECTION DIRECTORY:

**Section 1** Amends s. 319.22, F.S., providing additional requirements for notice of transfer to DHSMV; requiring an owner or co-owner who has made a sale or transfer of a motor vehicle to notify DHSMV; providing requirements for such notification; providing applicability; requiring the department to provide certain information to the motor vehicle owner or co-owner when issuing a certificate of title.

**Section 2** Provides an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

DHSMV has indicated that there will be no fiscal impact as a result of HB 293.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill permits the Department to make the additional information available to buyers and sellers “on the certificate of title or on a separate form that is included with the certificate.” This language presumably permits the Department to use its current rulemaking authority to add material to relevant documents.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 4, 2009, the Roads, Bridges, and Ports Policy Committee reported the bill favorably without amendment.