

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1517 Damaged or Salvage Motor Vehicles, Mobile Homes, and Vessels

**SPONSOR(S):** Transportation & Modals Subcommittee, Tramont

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1350

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	18 Y, 0 N, As CS	Walker	Hinshelwood
2) Judiciary Committee	20 Y, 0 N	Mathews	Kramer
3) Infrastructure Strategies Committee	22 Y, 0 N	Hinshelwood	Harrington

### SUMMARY ANALYSIS

Under Florida law, when the Department of Highway Safety and Motor Vehicles (DHSMV) conducts a rebuilt inspection for a salvage vehicle to receive a certificate of title, DHSMV must physically examine all major component parts, as that term is defined in statute in relation to various types of vehicles, that have been repaired or replaced. The bill adds definitions for major component parts of electric, hybrid, or plug-in hybrid motor vehicles and trucks.

Additionally, the bill creates a process for DHSMV to issue a salvage certificate of title or certificate of destruction directly to the owner of a motor vehicle or mobile home rather than the insurance company or its agent, in the event that a total loss motor vehicle or mobile home is retained by the owner. The issuance of the certificate of title or certificate of destruction directly to the owner in the case of an owner-retained total loss motor vehicle or mobile home changes the current practice in which such certificate of title or certificate of destruction is issued to the insurance company, which then assigns such title over to the owner, who then must pay \$70 in order to transfer the certificate of title or certificate of destruction in the owner's name. The issuance of the certificate of title or certificate of destruction directly to the owner will streamline the titling process for owner-retained total loss motor vehicles and mobile homes.

Further, the bill revises the process wherein 30 days after a claim for compensation for a total loss of a motor vehicle or mobile home the insurance company may receive a salvage certificate of title or certificate of destruction from DHSMV if the insurance company is unable to obtain a certificate of title from the owner or lienholder.

Lastly, Florida law currently provides a process by which an insurance company may notify certain entities that are in possession of damaged or dismantled motor vehicles to release such vehicles to their owners. Upon receiving notification to release a motor vehicle, the entity must notify the owner that the vehicle is available for pickup. If the vehicle is not claimed within 30 days, the entity may apply for a certificate of destruction or a certificate of title. The bill expands the current process for damaged or dismantled motor vehicles which are in the possession of an independent entity to include vessels such that there is a process for these entities to make attempts to contact a vessel owner and, ultimately, obtain a certificate of title for an unclaimed vessel.

The bill will have an indeterminate fiscal impact on state government and the private sector.

The bill has an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Major Component Parts for Electric, Hybrid, or Plug-in Hybrid Motor Vehicles and Trucks**

##### Current Situation

Under Florida law, when the Department of Highway Safety and Motor Vehicles (DHSMV) conducts a rebuilt inspection for a salvage vehicle in order to issue a certificate of title, DHSMV must physically examine all “major component parts” that have been repaired or replaced.<sup>1</sup> Currently, major component parts are defined for motor vehicles,<sup>2</sup> trucks,<sup>3</sup> motorcycles,<sup>4</sup> and mobile homes.<sup>5</sup> Florida law has not been updated to reflect the use of electric, hybrid, and plug-in hybrid motor vehicles and their major component parts for salvage vehicles. During inspection, DHSMV is only directed to inspect major component parts as such parts are defined in law.

##### Effect of the Bill

The bill defines major component parts for electric, hybrid, or plug-in hybrid motor vehicles as any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, airbag, electric traction motor, electronic transmission, charge port, DC power converter, onboard charger, power electronics, controller, thermal system, or traction battery pack.

Additionally, the bill defines major component parts for electric, hybrid, or plug-in trucks as any fender; hood; bumper; cowl assembly; rear quarter panel; trunk lid; door; decklid; floor pan; engine; frame; transmission; catalytic converter; airbag; truck bed, including dump, wrecker, crane, mixer, cargo box; bed that mounts to a truck frame; electric traction motor; electronic transmission; charge port; DC power converter; onboard charger; power electronics controller; thermal system; or traction battery pack.

#### **Salvage Certificates of Title or Certificates of Destruction for Damaged Motor Vehicles and Mobile Homes**

##### Current Situation

Under current Florida law, a motor vehicle or mobile home is considered “salvage” or a “total loss”, synonymous terms, when:

- An insurance company pays the vehicle owner to replace the wrecked or damaged vehicle with one of like kind and quality;
- An insurance company pays the owner upon the theft of the motor vehicle or mobile home; or
- An uninsured motor vehicle or mobile home is wrecked or damaged and the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the owner of replacing the wrecked or damaged motor vehicle or mobile home with one of like kind and quality.<sup>6</sup>

The owner, within 72 hours after his or her motor vehicle or mobile home becomes salvage, must forward the title of the motor vehicle or mobile home to DHSMV for processing.<sup>7</sup> However, if an

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<sup>1</sup> S. 319.14(1)(b), F.S.

<sup>2</sup> S. 319.30(1)(j)1., F.S., states that for motor vehicles, “major components parts” means any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag.

<sup>3</sup> S. 319.30(1)(j)2., F.S., states that for trucks, “major components parts” means, in addition to motor vehicle parts, any truck bed, including dump, wrecker, crane, mixer, cargo box, or any bed which mounts to a truck frame. ,

<sup>4</sup> S. 319.30(1)(j)3., F.S., states that for motorcycles, “major components parts” means the body assembly, frame, fenders, gas tanks, engine, cylinder block, heads, engine case, crank case, transmission, drive train, front fork assembly, and wheels.

<sup>5</sup> S. 319.30(1)(j)4., F.S., states that for mobile homes, “major components parts” means the frame.

<sup>6</sup> S. 319.30(3)(a), F.S.

<sup>7</sup> S. 319.30(3)(b), F.S.

insurance company pays money as compensation for the total loss of a motor vehicle or mobile home, then such insurance company must obtain the certificate of title for the motor vehicle or mobile home; make the required notification to the National Motor Vehicle Title Information System;<sup>8</sup> and, within 72 hours after receiving the certificate of title, forward the title to DHSMV for processing.<sup>9</sup>

The owner or insurance company, as applicable, may not dispose of a vehicle or mobile home that is a total loss before it obtains a salvage certificate of title or certificate of destruction from DHSMV.<sup>10</sup>

Thirty days after payment of a claim for compensation, the insurance company may receive a salvage certificate of title or certificate of destruction from DHSMV if the insurance company is unable to obtain a properly assigned certificate of title from the owner or lienholder of the motor vehicle or mobile home, if the motor vehicle or mobile home does not carry an electronic lien on the title, and the insurance company:

- Has obtained the release of all liens on the motor vehicle or mobile home;
- Has attested on a form provided by DHSMV that payment of the total loss claim has been distributed; and
- Has attested on a form provided by DHSMV and signed by the insurance company or its authorized agent stating the attempts that have been made to obtain the title from the owner or lienholder and further stating that all attempts are to no avail.<sup>11</sup> The form must include a request that the salvage certificate of title or certificate of destruction be issued in the insurance company's name due to payment of a total loss claim to the owner or lienholder. Additionally, the attempts to contact the owner may be by written request delivered in person or by first-class mail with a certificate of mailing to the owner's or lienholder's last known address.<sup>12</sup>

## Effect of the Bill

### *Owner-Retained Total Loss Motor Vehicles and Mobile Homes*

The bill creates a process for DHSMV to issue a salvage certificate of title or certificate of destruction directly to the owner of a motor vehicle or mobile home rather than to the insurance company or its agent, in the event that a total loss motor vehicle or mobile home is retained by the owner. Specifically, the bill provides that if the owner retains possession of a motor vehicle or mobile home in connection with a total loss claim settlement for such motor vehicle or mobile home, then either the owner or the insurance company must forward the certificate of title to DHSMV by the following deadlines:

- *Owner must send to DHSMV:* Within 72 hours after the motor vehicle or mobile home becomes salvage. *Insurance company must send to DHSMV:* Within 72 hours after receiving the certificate of title.

Once DHSMV receives the certificate of title for processing, DHSMV must then issue a salvage certificate of title or certificate of destruction directly to the owner, rather than the insurance company or its agent. The issuance of the certificate of title or certificate of destruction directly to the owner in the case of an owner-retained total loss changes the current practice in which such certificate of title or certificate of destruction is issued to the insurance company, which then assigns such title over to the owner, who then must pay \$70<sup>13</sup> in order to transfer the certificate of title or certificate of destruction in the owner's name. The issuance of the certificate of title or certificate of destruction directly to the owner will streamline the titling process for owner-retained total loss motor vehicles and mobile homes.

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<sup>8</sup> S. 319.30(1)(o), F.S. defines National Motor Vehicle Title Information System as the national mandated vehicle history database maintained by the United States Department of Justice to link the states' motor vehicle title records, including DHSMV's title records, and ensure that states, law enforcement agencies, and consumers have access to vehicle titling, branding, and other information that enables them to verify the accuracy and legality of a motor vehicle title before purchase or title transfer of the vehicle occurs.

<sup>9</sup> S.319.30(3)(b), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> S. 319.32(1), F.S.

## *Issuance of Certificate of Title or Certificate of Destruction to Insurer for Total Loss Motor Vehicle or Mobile Home if Certificate of Title Cannot be Obtained*

The bill revises the process wherein 30 days after a claim for compensation for a total loss of a motor vehicle or mobile home the insurance company may receive a salvage certificate of title or certificate of destruction from DHSMV if the insurance company is unable to obtain a certificate of title from the owner or lienholder. Specifically, the bill:

- Clarifies that this process can be achieved by obtaining a properly assigned *paper* certificate of the title from the owner or lienholder or a *properly completed assignment of an electronic certificate title*;
- Allows the insurance company to proceed under this process even if they have not obtained release of all liens, so long as the insurance company has paid the amount due to the lienholder and has obtained proof that the lienholder accepts payment as satisfying the amount due to the lienholder;
- Clarifies that attempts to contact the owner may be made to the owner's *last known address*; and
- Providing that DHSMV is not liable and may not be held liable to an owner, a lienholder, or any other person as a result of the issuance of a salvage certificate of title or a certificate of destruction pursuant to this process.

### **Damaged or Dismantled Motor Vehicles in Possession of an Independent Entity**

#### Current Situation

An insurance company may notify an independent entity<sup>14</sup> that obtains possession of a damaged or dismantled motor vehicle to release the vehicle to the owner. The insurance company must provide the independent entity a release statement on a form prescribed by DHSMV authorizing the independent entity to release the vehicle to the owner or lienholder. The form must, at a minimum, contain the following:

- The policy and claim number.
- The name and address of the insured.
- The vehicle identification number.
- The signature of an authorized representative of the insurance company.<sup>15</sup>

Upon receiving the release statement, the independent entity must notify the owner that his or her vehicle is available for pickup. If the vehicle is not claimed within 30 days, the independent entity may apply for a certificate of destruction or a certificate of title.<sup>16</sup> The independent entity must make the required notification to the National Motor Vehicle Title Information System before releasing any damaged or dismantled motor vehicle to the owner or before applying for a certificate of destruction or salvage certificate of title.<sup>17</sup>

The independent entity must maintain all records related to the 30-day notice sent to the owner and related to searches of and notification to the National Motor Vehicle Title Information System for a minimum of three years.<sup>18</sup>

Upon applying for a certificate of destruction or salvage certificate of title, the independent entity must provide:

- A copy of the release statement from the insurance company;
- Proof of providing the required 30-day notice to the owner, proof of notification to the National Motor Vehicle Title Information System;

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<sup>14</sup> "Independent entity" means a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the sale or resale of damaged or dismantled motor vehicles. The term does not include a wrecker operator, a towing company, or a repair facility. S. 319.30(1)(g), F.S.

<sup>15</sup> S. 319.30(9)(a), F.S.

<sup>16</sup> S. 319.30(9)(b), F.S.

<sup>17</sup> S. 319.30(9)(e), F.S.

<sup>18</sup> S. 319.30(9)(d), F.S.

- Proof of all lien satisfactions or proof of a release of all liens on the motor vehicle; and
- Payment of all applicable fees.<sup>19</sup>

If the independent entity is unable to obtain a lien satisfaction or a release of all liens on the motor vehicle, the independent entity must provide an affidavit stating that:

- Notice was sent to all lienholders that the motor vehicle is available for pickup,
- 30 days have passed since the notice was delivered or attempted to be delivered,
- Attempts have been made to obtain a release from all lienholders, and
- All such attempts have been to no avail.<sup>20</sup>

The notice to lienholders and attempts to obtain a release from lienholders may be by written request delivered in person or by certified mail or another commercially available delivery service that provides proof of delivery to the lienholder at the lienholder's address as provided on the certificate of title and to the address designated with the Department of State pursuant to s. 655.0201(2), F.S., if such address is different.<sup>21</sup>

The independent entity may not charge an owner of the vehicle storage fees or apply for a title under s. 713.585, F.S., or s. 713.78, F.S.<sup>22</sup>

### Effect of the Bill

The bill expands the current process for damaged or dismantled motor vehicles in possession of an independent entity to include vessels such that there is a process for such entities to make attempts to contact a vessel owner and, ultimately, obtain a certificate of title for an unclaimed vessel. For this purpose, the bill defines "vessel" to mean every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02, F.S.<sup>23</sup>

The bill treats vessels the same as motor vehicles which are in the possession of an independent entity with the following exceptions:

- On the form prescribed by DHSMV, the hull identification number for the vessel is reported instead of the vehicle identification number;
- The application for a certificate of title for a vessel must indicate if such vessel is "hull-damaged"<sup>24</sup>; and
- The independent entity is not required to notify the National Motor Vehicle Title Information System before releasing the vessel to the owner or before applying for a certificate of title.

### **Effective Date**

The bill provides an effective date of July 1, 2024.

### **B. SECTION DIRECTORY:**

**Section 1** Amends s. 319.30, F.S., relating to definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.

**Section 2** Provides an effective date of July 1, 2024.

<sup>19</sup> S. 319.30(9)(f), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> S. 319.30(9)(g), F.S.

<sup>23</sup> "Documented vessel" means a vessel for which a valid certificate of documentation is outstanding pursuant to 46 C.F.R. part 67. S. 327.02(12), F.S.

<sup>24</sup> S. 328.0015(1), F.S. defines hull damages as compromised with respect to the integrity of a vessel's hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a vessel in a manner that creates a significant risk to the integrity of the vessel's hull.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Indeterminate. See "Fiscal Comments" section below.

#### 2. Expenditures:

Indeterminate. See "Fiscal Comments" section below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

Indeterminate. See "Fiscal Comments" section below.

### D. FISCAL COMMENTS:

The bill will have an indeterminate negative fiscal impact on DHSMV, as it requires DHSMV to inspect major components of electric, hybrid, or plug-in hybrid motor vehicles and trucks.

In addition, the direct issuance of a certificate of title or certificate of destruction directly to an owner in the case of an owner-retained total loss motor vehicle or mobile home will streamline the titling process.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

Rulemaking may be necessary in order to conform to changes made by the bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2024, the Transportation & Modals Subcommittee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The amendment:

- Amends the triggering event for the start of the 72-hour deadline for the owner or insurer of a motor vehicle or mobile home to forward the title to DHSMV for processing in the event that the owner decides to retain possession of such motor vehicle or mobile home after the insurance company has paid the owner in connection with a total loss settlement.
- Clarifies the types of vehicle and vessel titles that may be applied for by an independent entity that has possession of a damaged or dismantled motor vehicle or vessel that remains unclaimed.

The analysis is drafted to the committee substitute as approved by the Transportation & Modals Subcommittee.