

1 AN ACT

2 relating to motor vehicle title services; providing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Effective January 1, 2012, the heading to  
5 Subchapter E, Chapter 520, Transportation Code, is amended to read  
6 as follows:

7 SUBCHAPTER E. COUNTY PERMITTING OF MOTOR VEHICLE TITLE SERVICES

8 SECTION 2. Effective January 1, 2012, Subdivisions (2),  
9 (3), (4), and (6), Section 520.051, Transportation Code, are  
10 amended to read as follows:

11 (2) "Motor vehicle title service" means any person  
12 that for compensation directly or indirectly assists other persons  
13 in obtaining motor vehicle [~~title~~] documents by submitting,  
14 transmitting, or sending applications for motor vehicle [~~title~~]  
15 documents to the appropriate government agencies, including county  
16 tax assessor-collectors.

17 (3) "Motor vehicle [~~Title~~] documents" means motor  
18 vehicle title applications, motor vehicle registration renewal  
19 applications, motor vehicle mechanic's lien title applications,  
20 motor vehicle storage lien title applications, motor vehicle  
21 temporary registration permits, motor vehicle title application  
22 transfers occasioned by the death of the title holder, or  
23 notifications under Chapter 683 of this code or Chapter 70,  
24 Property Code.

1           (4) "Title service permit [~~license~~] holder" means a  
2 person who holds a motor vehicle title service permit [~~license~~] or a  
3 title service runner's permit [~~license~~].

4           (6) "Title service runner" means any person employed  
5 by a [~~licensed~~] motor vehicle title service to submit or present  
6 motor vehicle [~~title~~] documents to the county tax  
7 assessor-collector.

8           SECTION 3. Effective January 1, 2012, Subchapter E, Chapter  
9 520, Transportation Code, is amended by adding Section 520.0521 to  
10 read as follows:

11           Sec. 520.0521. PURPOSE; LIBERAL CONSTRUCTION. (a) The  
12 purpose of this subchapter is to protect the integrity of the  
13 submittal of transactional motor vehicle documents by  
14 nongovernmental entities through:

15                   (1) the permitting and regulation of titling services  
16 and title service runners; and

17                   (2) the enforcement of this chapter to prevent crime,  
18 fraud, unfair practices, and discrimination.

19           (b) This subchapter shall be liberally construed to give  
20 effect to the purpose of this subchapter.

21           SECTION 4. Effective January 1, 2012, Sections 520.052  
22 through 520.060, Transportation Code, are amended to read as  
23 follows:

24           Sec. 520.052. APPLICABILITY. This subchapter applies to  
25 any motor vehicle title service operating in a county[+]

26                   [~~(1)~~] that requires a permit under Section 520.053  
27 [~~has a population of more than 500,000, or~~

1           ~~[(2) in which the commissioners court by order has~~  
2 ~~adopted this subchapter].~~

3           Sec. 520.053. PERMIT [~~LICENSE~~] REQUIRED. A county may  
4 require a motor vehicle title service or a title service runner to  
5 obtain a permit from the county in which the titles are required to  
6 be filed [~~person may not act as a motor vehicle title service or act~~  
7 ~~as an agent for that business unless that person holds a license~~  
8 ~~issued under this subchapter].~~

9           Sec. 520.054. GENERAL PERMIT [~~LICENSE~~] APPLICATION  
10 REQUIREMENTS. (a) In a county that requires [~~An applicant for~~] a  
11 motor vehicle title service permit or a title service runner  
12 permit, an applicant [~~license~~] must apply on a form prescribed by  
13 the county tax assessor-collector. The application form must be  
14 signed by the applicant and accompanied by the application fee,  
15 which may not exceed the maximum fee allowed under Section 520.077.

16           (b) An application must include:

17                 (1) the applicant's name, business address, and  
18 business telephone number;

19                 (2) the name under which the applicant will do  
20 business;

21                 (3) the physical address of each office from which the  
22 applicant will conduct business;

23                 (4) a statement indicating whether the applicant has  
24 previously applied for a permit [~~license~~] under this subchapter,  
25 the result of the previous application, and whether the applicant  
26 has ever been the holder of a permit [~~license~~] under this subchapter  
27 that was revoked or suspended;

1 (5) information from the applicant as required by the  
2 county tax assessor-collector to establish the business reputation  
3 and character of the applicant;

4 (6) the applicant's federal tax identification number;

5 (7) the applicant's state sales tax number; ~~and~~

6 (8) any other information required by rules adopted  
7 under this subchapter;

8 (9) an affirmation of the truth of the information  
9 contained in the application signed and sworn to before an officer  
10 authorized to administer oaths; and

11 (10) if for a motor vehicle title service permit, an  
12 affirmation that all acts of a motor vehicle title service's  
13 employees, agents, contractors, or title service runners are acts  
14 of the motor vehicle title service for the purposes of this  
15 subchapter.

16 (c) A permit fee charged under Subsection (a) must be  
17 deposited in the general fund for the county tax assessor-collector  
18 and sheriff to use for the administration and enforcement of the  
19 county's motor vehicle title service and title service runner  
20 permitting program.

21 Sec. 520.055. APPLICATION REQUIREMENTS: CORPORATION. In  
22 addition to the information required in Section 520.054, an  
23 applicant for a motor vehicle title service permit ~~license~~ that  
24 intends to engage in business as a corporation shall submit the  
25 following information:

26 (1) the state of incorporation;

27 (2) the name, address, date of birth, and social

1 security number of each of the principal owners and directors of the  
2 corporation;

3 (3) information about each officer and director as  
4 required by the county tax assessor-collector to establish the  
5 business reputation and character of the applicant; and

6 (4) a statement indicating whether an employee,  
7 officer, or director has been refused a motor vehicle title service  
8 permit [~~license~~] or a title service runner's permit [~~license~~] or  
9 has been the holder of a permit [~~license~~] that was revoked or  
10 suspended.

11 Sec. 520.056. APPLICATION REQUIREMENTS: PARTNERSHIP. In  
12 addition to the information required in Section 520.054, a motor  
13 vehicle title service permit [~~license~~] applicant that intends to  
14 engage in business as a partnership shall submit an application  
15 that includes the following information:

16 (1) the name, address, date of birth, and social  
17 security number of each partner;

18 (2) information about each partner as required by the  
19 county tax assessor-collector to establish the business reputation  
20 and character of the applicant; and

21 (3) a statement indicating whether a partner or  
22 employee has been refused a motor vehicle title service permit  
23 [~~license~~] or a title service runner's permit [~~license~~] or has been  
24 the holder of a permit [~~license~~] that was revoked or suspended.

25 Sec. 520.057. RECORDS. [~~(a)~~] A holder of a motor vehicle  
26 title service permit [~~license~~] shall maintain records as required  
27 by Section 520.080 [~~this section on a form prescribed and made~~

1 ~~available by the county tax assessor-collector for each transaction~~  
2 ~~in which the license holder receives compensation. The records~~  
3 ~~shall include:~~

4 ~~(1) the date of the transaction;~~

5 ~~(2) the name, age, address, sex, driver's license~~  
6 ~~number, and a legible photocopy of the driver's license for each~~  
7 ~~customer; and~~

8 ~~(3) the license plate number, vehicle identification~~  
9 ~~number, and a legible photocopy of proof of financial~~  
10 ~~responsibility for the motor vehicle involved.~~

11 ~~(b) A motor vehicle title service shall keep:~~

12 ~~(1) two copies of all records required under this~~  
13 ~~section for at least two years after the date of the transaction;~~

14 ~~(2) legible photocopies of any documents submitted by~~  
15 ~~a customer; and~~

16 ~~(3) legible photocopies of any documents submitted to~~  
17 ~~the county tax assessor-collector].~~

18       Sec. 520.058. INSPECTION OF RECORDS. A motor vehicle title  
19 service permit [~~license~~] holder or any of its employees shall allow  
20 an inspection of records required under Section 520.057 by the  
21 county tax assessor-collector or a peace officer on the premises of  
22 the motor vehicle title service at any reasonable time to verify,  
23 check, or audit the records.

24       Sec. 520.059. DENIAL, SUSPENSION, OR REVOCATION OF PERMIT  
25 [~~LICENSE~~]. (a) The county tax assessor-collector may deny,  
26 suspend, revoke, or reinstate a permit [~~license~~] issued under this  
27 subchapter.

1 (b) The county tax assessor-collector shall adopt rules  
2 that establish grounds for the denial, suspension, revocation, or  
3 reinstatement of a permit [~~license~~] and rules that establish  
4 procedures for disciplinary action. Procedures issued under this  
5 subchapter are subject to Chapter 2001, Government Code.

6 (c) A person whose permit [~~license~~] is revoked may not apply  
7 for a new permit [~~license~~] before the first anniversary of the date  
8 of the revocation.

9 (d) A permit [~~license~~] may not be issued under a fictitious  
10 name that is similar to or may be confused with the name of a  
11 governmental entity or that is deceptive or misleading to the  
12 public.

13 (e) The county tax assessor-collector must provide written  
14 notice of denial, suspension, or revocation of a permit.

15 (f) Notwithstanding any other provision of law, the county  
16 has all powers necessary, incidental, or convenient to:

17 (1) initiate and conduct proceedings, investigations,  
18 or hearings;

19 (2) administer oaths;

20 (3) receive evidence and pleadings;

21 (4) issue subpoenas to compel the attendance of any  
22 person;

23 (5) order the production of any tangible property,  
24 including papers, records, or other documents;

25 (6) make findings of fact on all factual issues  
26 arising out of a proceeding initiated under this subchapter;

27 (7) specify and govern appearance, practice, and

- 1 procedures before the county;
- 2           (8) issue conclusions of law and decisions, including
- 3 declaratory decisions or orders;
- 4           (9) enter into settlement agreements;
- 5           (10) impose a sanction for contempt;
- 6           (11) assess and collect fees and costs, including
- 7 attorney's fees;
- 8           (12) issue cease and desist orders in the nature of
- 9 temporary or permanent injunctions;
- 10           (13) impose a civil penalty;
- 11           (14) enter an order requiring a person to:
- 12                   (A) pay costs and expenses of a party in
- 13 connection with an order;
- 14                   (B) perform an act other than the payment of
- 15 money; or
- 16                   (C) refrain from performing an act; and
- 17           (15) enforce a county order.

18           Sec. 520.060. PERMIT [~~LICENSE~~] RENEWAL. (a) A permit

19 [~~license~~] issued under this subchapter expires on the first

20 anniversary of the date of issuance and may be renewed annually on

21 or before the expiration date on payment of the required renewal

22 fee.

23           (b) A person who is otherwise eligible to renew a permit

24 [~~license~~] may renew an unexpired permit [~~license~~] by paying to the

25 county tax assessor-collector before the expiration date of the

26 permit [~~license~~] the required renewal fee. A person whose permit

27 [~~license~~] has expired may not engage in activities that require a



1 permit [~~license~~] until the permit [~~license~~] has been renewed under  
2 this section.

3 (c) If a person's permit [~~license~~] has been expired for 90  
4 days or less, the person may renew the permit [~~license~~] by paying to  
5 the county tax assessor-collector 1-1/2 times the required renewal  
6 fee.

7 (d) If a person's permit [~~license~~] has been expired for  
8 longer than 90 days but less than one year, the person may renew the  
9 permit [~~license~~] by paying to the county tax assessor-collector two  
10 times the required renewal fee.

11 (e) If a person's permit [~~license~~] has been expired for one  
12 year or longer, the person may not renew the permit [~~license~~]. The  
13 person may obtain a new permit [~~license~~] by complying with the  
14 requirements and procedures for obtaining an original permit  
15 [~~license~~].

16 (f) Notwithstanding Subsection (e), if a person had  
17 obtained a permit [~~was licensed~~] in this state, moved to another  
18 state, and has been doing business in the other state for the two  
19 years preceding application, the person may renew an expired permit  
20 [~~license~~]. The person must pay to the county tax  
21 assessor-collector a fee that is equal to two times the required  
22 renewal fee for the permit [~~license~~].

23 (g) Before the 30th day preceding the date on which a  
24 person's permit [~~license~~] expires, the county tax  
25 assessor-collector shall notify the person of the impending  
26 expiration. The notice must be in writing and sent to the person's  
27 last known address according to the records of the county tax

1 assessor-collector.

2 SECTION 5. Effective January 1, 2012, Section 520.061,  
3 Transportation Code, is amended by amending Subsection (b) and  
4 adding Subsection (c) to read as follows:

5 (b) Except as provided by Subsection (c) or the Penal Code,  
6 an [An] offense under this section is a Class A misdemeanor.

7 (c) An offense under this section is a state jail felony if  
8 it is based on:

9 (1) a violation of Section 520.053; or

10 (2) the falsification of information required under  
11 Section 520.054, 520.055, or 520.056.

12 SECTION 6. Effective January 1, 2012, Subchapter E, Chapter  
13 520, Transportation Code, is amended by adding Section 520.0611 to  
14 read as follows:

15 Sec. 520.0611. CIVIL PENALTY. (a) A person who violates  
16 this subchapter is subject to a civil penalty of not more than  
17 \$10,000 for each violation.

18 (b) Each day a violation occurs constitutes a separate  
19 violation.

20 (c) The county by rule shall establish factors to be  
21 considered in determining the amount of the civil penalty assessed  
22 by the county.

23 (d) Notwithstanding any other law to the contrary, a civil  
24 penalty recovered under this subchapter shall be deposited to the  
25 credit of the county's general fund or other fund as designated by  
26 the county.

27 SECTION 7. Effective January 1, 2012, Subsection (a),

1 Section 520.062, Transportation Code, is amended to read as  
2 follows:

3 (a) The county attorney or a [A] district attorney of the  
4 county in which the motor vehicle title service is operating  
5 [~~located~~] may bring an action to enjoin the operation of a motor  
6 vehicle title service or a title service runner if the motor vehicle  
7 title service permit [~~license~~] holder or a runner of the motor  
8 vehicle title service while in the scope of the runner's employment  
9 is found to have committed one or more violations of or convicted of  
10 more than one offense under this subchapter.

11 SECTION 8. Effective January 1, 2012, Section 520.063,  
12 Transportation Code, is amended to read as follows:

13 Sec. 520.063. EXEMPTIONS. The following persons and their  
14 agents are exempt from the permitting [~~licensing~~] and other  
15 requirements established by this subchapter:

16 (1) a franchised motor vehicle dealer or independent  
17 motor vehicle dealer who holds a general distinguishing number  
18 issued by the department under Chapter 503;

19 (2) a vehicle lessor holding a license issued by the  
20 department [~~Motor Vehicle Board~~] under Chapter 2301, Occupations  
21 Code, or a trust or other entity that is specifically not required  
22 to obtain a lessor license under Section 2301.254(a) of that code;  
23 [~~and~~]

24 (3) a vehicle lease facilitator holding a license  
25 issued by the department [~~Motor Vehicle Board~~] under Chapter 2301,  
26 Occupations Code;

27 (4) a state or federally chartered bank or credit

1 union; and

2 (5) an auctioneer licensed under Chapter 1802,  
3 Occupations Code.

4 SECTION 9. Effective January 1, 2012, Chapter 520,  
5 Transportation Code, is amended by adding Subchapter F to read as  
6 follows:

7 SUBCHAPTER F. STATE LICENSING OF MOTOR VEHICLE TITLE SERVICES

8 Sec. 520.071. DEFINITIONS. In this subchapter:

9 (1) "Board" means the board of the Texas Department of  
10 Motor Vehicles.

11 (2) "Motor vehicle" has the meaning assigned by  
12 Section 501.002.

13 (3) "Motor vehicle documents" means motor vehicle  
14 title applications, motor vehicle registration renewal  
15 applications, motor vehicle mechanic's lien title applications,  
16 motor vehicle storage lien title applications, motor vehicle  
17 temporary registration permits, motor vehicle title application  
18 transfers occasioned by the death of the title holder, or  
19 notifications under Chapter 683 of this code or Chapter 70,  
20 Property Code.

21 (4) "Motor vehicle title service" means any person  
22 that for compensation directly or indirectly assists other persons  
23 in obtaining motor vehicle documents by submitting, transmitting,  
24 or sending applications for motor vehicle documents to the  
25 appropriate government agencies, including county tax  
26 assessor-collectors.

27 (5) "Title service license holder" means a person who

1 holds a motor vehicle title service license or a title service  
2 runner's license.

3 (6) "Title service record" means the written record  
4 for each transaction in which a motor vehicle title service  
5 receives compensation.

6 (7) "Title service runner" means any person employed  
7 by a motor vehicle title service to submit or present motor vehicle  
8 documents to the county tax assessor-collector.

9 Sec. 520.072. APPLICABILITY. This subchapter applies to  
10 any motor vehicle title service operating in this state.

11 Sec. 520.073. PURPOSE; LIBERAL CONSTRUCTION. (a) The  
12 purpose of this subchapter is to protect the integrity of the  
13 submittal of transactional motor vehicle documents by  
14 nongovernmental entities through:

15 (1) the licensing and regulation of titling services  
16 and title service runners; and

17 (2) the enforcement of this chapter to prevent crime,  
18 fraud, unfair practices, and discrimination.

19 (b) This subchapter shall be liberally construed to give  
20 effect to the purpose of this subchapter.

21 Sec. 520.074. LICENSE REQUIRED. A person may not act as a  
22 motor vehicle title service or act as a title service runner unless  
23 that person holds:

24 (1) a permit issued by the county, if required by the  
25 county where the titles are required to be filed; and

26 (2) a license issued by the department.

27 Sec. 520.075. STATE LICENSE APPLICATION REQUIREMENTS. An

1 applicant for a motor vehicle title service license or a title  
2 service runner license must apply on a form prescribed by the  
3 department. The application form must be signed by the applicant  
4 and accompanied by the application fee.

5 Sec. 520.076. ESTABLISHED AND PERMANENT PLACE OF BUSINESS.

6 (a) An applicant for a motor vehicle title service license must  
7 demonstrate that the location for which the applicant requests the  
8 license is an established and permanent place of business. A  
9 location is considered to be an established and permanent place of  
10 business if the applicant:

11 (1) owns the real property on which the business is  
12 situated or has a written lease for the property that has a term of  
13 not less than the term of the license; and

14 (2) maintains on the location:

15 (A) a permanent furnished office that is equipped  
16 for titling services as specified in department rules; and

17 (B) a conspicuous sign with letters at least six  
18 inches high showing the name of the applicant's business.

19 (b) The applicant must demonstrate that:

20 (1) the applicant intends to remain regularly and  
21 actively engaged in the business specified in the application for a  
22 time equal to at least the term of the license at the location  
23 specified in the application; and

24 (2) the applicant or a bona fide employee of the  
25 applicant will be:

26 (A) at the location to transact title services;  
27 and

1           (B) available to the public or the department at  
2 that location during reasonable and lawful business hours.

3           Sec. 520.077. LICENSE FEES. (a) The department by rule  
4 shall adopt fees for an original license and a renewal license for  
5 motor vehicle title services and for an original license and a  
6 renewal license for title service runners.

7           (b) The fee for an original license for a motor vehicle  
8 title service or for a title service runner may not exceed \$500.

9           (c) The fee for a renewal license for a motor vehicle title  
10 service or for a title service runner may not exceed \$200 annually.

11           (d) The fee for an amendment to a license issued under this  
12 subchapter may not exceed \$25.

13           (e) The fee for a duplicate license issued under this  
14 subchapter may not exceed \$50.

15           (f) An additional fee may be charged for late renewal of not  
16 more than 1-1/2 times the renewal fee.

17           (g) A fee collected under this section shall be deposited to  
18 the credit of the state highway fund. Section 403.095, Government  
19 Code, does not apply to money received by the department and  
20 deposited to the credit of the state highway fund under this  
21 subchapter.

22           (h) The department may refund from funds appropriated to the  
23 department for that purpose a fee collected under this subchapter  
24 that is not due or that exceeds the amount due.

25           Sec. 520.078. SURETY BOND. (a) The department may not  
26 issue or renew a motor vehicle title service license unless the  
27 applicant provides to the department satisfactory proof that the

1 applicant has purchased a properly executed surety bond in the  
2 amount of \$25,000 with a good and sufficient surety authorized by  
3 the Texas Department of Insurance in effect for at least the term of  
4 the license.

5 (b) The surety bond must be:

6 (1) in a form approved by the department; and

7 (2) conditioned on the submission by the applicant of  
8 money and accurate motor vehicle documents on behalf of another  
9 person that are required to be submitted to government agencies,  
10 including county tax assessor-collectors, in order to obtain motor  
11 vehicle title or registration.

12 (c) A person may recover against a surety bond if the person  
13 obtains a judgment assessing damages and reasonable attorney's fees  
14 based on an act or omission of the bondholder:

15 (1) on which the bond is conditioned; and

16 (2) that occurred during the term for which the motor  
17 vehicle title service license was valid.

18 (d) The liability imposed on a surety is limited to the  
19 amount:

20 (1) required to be submitted to the appropriate  
21 government agencies, including county tax assessor-collectors;

22 (2) received by the applicant for performing as a  
23 motor vehicle title service;

24 (3) incurred in engaging the applicant to assist in  
25 obtaining motor vehicle documents; and

26 (4) of attorney's fees awarded in the judgment.

27 (e) The liability of a surety may not exceed the face value



1 of the surety bond. A surety is not liable for successive claims in  
2 excess of the bond amount regardless of the number of claims made  
3 against the bond or the number of years the bond remains in force.

4 Sec. 520.079. LICENSE RENEWAL. (a) The board shall set  
5 the term of a license issued under this subchapter by rule.

6 (b) If a person's license has been expired for 90 days or  
7 less, the person may renew the license by paying a late fee in  
8 addition to the renewal fee as described in Section 520.077(f).

9 Sec. 520.080. RECORDS. (a) A holder of a motor vehicle  
10 title service license shall:

11 (1) maintain records as required by department rule,  
12 including any forms prescribed by the department for each  
13 transaction presented to the county tax office or appropriate  
14 government office under this subchapter; and

15 (2) provide a copy of the record to the county tax  
16 assessor-collector.

17 (b) The records maintained under this section must include:

18 (1) the date of the transaction;

19 (2) the name, age, address, sex, and driver's license  
20 number of, and a legible photocopy of the driver's license for, each  
21 customer;

22 (3) the license plate number and vehicle  
23 identification number of, and, if applicable, a legible photocopy  
24 of proof of financial responsibility for, the motor vehicle  
25 involved; and

26 (4) any other information required to be maintained by  
27 department rule.

1       (c) Records required by this section must be maintained for  
2 four years from the date of the transaction.

3       (d) A motor vehicle title service shall keep:

4           (1) a copy of all records required under this section  
5 for at least four years after the date of the transaction;

6           (2) a legible photocopy of any documents submitted by  
7 a customer; and

8           (3) a legible photocopy of any documents submitted to  
9 the county tax assessor-collector.

10       (e) If the records maintained under Subsection (b) by a  
11 holder of a motor vehicle title service license include a legible  
12 photocopy of a driver's license issued by a foreign government, the  
13 license holder must also maintain a valid identification document  
14 for the customer.

15       (f) In this section, "valid identification document" means  
16 a document that contains an identifiable photograph with  
17 information concerning a particular individual that is of a type of  
18 document intended or commonly accepted for the purpose of  
19 identification of an individual and is issued by:

20           (1) an agency or institution of the federal  
21 government; or

22           (2) an agency, institution, or political subdivision  
23 of this state or another state.

24       Sec. 520.081. INSPECTION OF RECORDS. A motor vehicle title  
25 service license holder or any of its employees shall allow during  
26 business hours at the license holder's business location an  
27 inspection of records required under Section 520.080 by the

1 department, the county tax assessor-collector, or a peace officer.

2 Sec. 520.082. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

3 (a) The department may deny, suspend, revoke, or reinstate a  
4 license issued under this subchapter.

5 (b) The department:

6 (1) shall adopt rules that establish grounds for the  
7 denial, suspension, revocation, or reinstatement of a license and  
8 rules that establish procedures for disciplinary action; and

9 (2) may adopt rules that allow for the incorporation  
10 of findings made by a county that has denied, suspended, revoked, or  
11 reinstated a permit issued under Subchapter E.

12 (c) Procedures established under this subchapter are  
13 subject to Chapter 2001, Government Code.

14 (d) The department must provide written notice of denial,  
15 suspension, or revocation of a license.

16 (e) Notwithstanding any other provision of law, the board  
17 has all powers necessary, incidental, or convenient to:

18 (1) initiate and conduct proceedings, investigations,  
19 or hearings;

20 (2) administer oaths;

21 (3) receive evidence and pleadings;

22 (4) issue subpoenas to compel the attendance of any  
23 person;

24 (5) order the production of any tangible property,  
25 including papers, records, and other documents;

26 (6) make findings of fact on all factual issues  
27 arising out of a proceeding initiated under this subchapter;

- 1           (7) specify and govern appearance, practice, and  
2 procedures before the board;
- 3           (8) issue conclusions of law and decisions, including  
4 declaratory decisions or orders;
- 5           (9) enter into settlement agreements;
- 6           (10) impose a sanction for contempt;
- 7           (11) assess and collect fees and costs, including  
8 attorney's fees;
- 9           (12) issue cease and desist orders in the nature of  
10 temporary or permanent injunctions;
- 11           (13) impose a civil penalty;
- 12           (14) enter an order requiring a person to:
- 13                   (A) pay costs and expenses of a party in  
14 connection with an order;
- 15                   (B) perform an act other than the payment of  
16 money; or
- 17                   (C) refrain from performing an act; and
- 18           (15) enforce a board order.
- 19           Sec. 520.083. CRIMINAL PENALTY. (a) A person commits an  
20 offense if the person violates this subchapter or a rule adopted by  
21 the department or county tax assessor-collector under this  
22 subchapter.
- 23           (b) Except as provided by Subsection (c) or the Penal Code,  
24 an offense under this section is a Class A misdemeanor.
- 25           (c) An offense under this section is a state jail felony if  
26 it is based on:
- 27                   (1) a violation of Section 520.074; or

1           (2) the falsification of information required under  
2 Section 520.075 or 520.078.

3           Sec. 520.084. CIVIL PENALTY. (a) A person who violates  
4 this subchapter is subject to a civil penalty of not more than  
5 \$10,000 for each violation.

6           (b) Each day a violation occurs constitutes a separate  
7 violation.

8           (c) The department by rule shall establish factors to be  
9 considered in determining the amount of the civil penalty assessed  
10 by the department.

11           (d) Notwithstanding any other law to the contrary, a civil  
12 penalty recovered under this subchapter shall be deposited in the  
13 state treasury to the credit of the state highway fund.

14           Sec. 520.085. CEASE AND DESIST ORDER. (a) If it appears to  
15 the board that a person is violating this subchapter or a board rule  
16 or order, the board after notice may require the person engaged in  
17 the conduct to appear and show cause why a cease and desist order  
18 should not be issued prohibiting the conduct described in the  
19 notice.

20           (b) An interlocutory cease and desist order may be granted  
21 with or without bond or other undertaking if:

22           (1) the order is necessary to the performance of the  
23 duties delegated to the board by this subchapter;

24           (2) the order is necessary or convenient to  
25 maintaining the status quo between two or more adverse parties  
26 before the board;

27           (3) a party before the board is entitled to relief

1 demanded of the board and all or part of the relief requires the  
2 restraint of some act prejudicial to the party;

3 (4) a person is performing, about to perform, or  
4 procuring or allowing the performance of an act:

5 (A) relating to the subject of a contested case  
6 pending before the board, in violation of the rights of a party  
7 before the board; and

8 (B) that would tend to render the board's order  
9 in the case ineffectual; or

10 (5) substantial injury to the rights of a person  
11 subject to the board's jurisdiction is threatened regardless of any  
12 remedy available at law.

13 (c) A proceeding under this section is governed by:

14 (1) this subchapter and the board's rules; and

15 (2) Chapter 2001, Government Code, relating to a  
16 contested case, to the extent that chapter is not in conflict with  
17 Subdivision (1).

18 (d) An interlocutory cease and desist order remains in  
19 effect until vacated or incorporated in a final order of the board.  
20 An appeal of an interlocutory cease and desist order must be made to  
21 the board before seeking judicial review as provided by this  
22 subchapter.

23 (e) A permanent cease and desist order may be issued  
24 regardless of the requirements of Subsection (b) but only under the  
25 procedures for a final order by the board under this subchapter. An  
26 appeal of a permanent cease and desist order is made in the same  
27 manner as an appeal of a final order under this subchapter.

1       Sec. 520.086. INJUNCTION. (a) The attorney general or a  
2 district attorney of the county in which the motor vehicle title  
3 service is operating may bring an action to enjoin the operation of  
4 a motor vehicle title service or a title service runner if the motor  
5 vehicle title service license holder or a runner of the motor  
6 vehicle title service while in the scope of the runner's employment  
7 is found to have committed one or more violations of or convicted of  
8 more than one offense under this subchapter.

9       (b) If the court grants relief under Subsection (a), the  
10 court may:

11           (1) enjoin the person from maintaining or  
12 participating in the business of a motor vehicle title service for a  
13 period of time as determined by the court; or

14           (2) declare the place where the person's business is  
15 located to be closed for any use relating to the business of the  
16 motor vehicle title service for as long as the person is enjoined  
17 from participating in that business.

18       Sec. 520.087. COMPLAINT INVESTIGATION AND DISPOSITION.

19 (a) If the department has reason to believe, through receipt of a  
20 complaint or otherwise, that a violation of this subchapter or a  
21 rule, order, or decision of the department has occurred or is likely  
22 to occur, the department may conduct an investigation unless it  
23 determines that the complaint is frivolous or for the purpose of  
24 harassment.

25       (b) If the investigation establishes that a violation of  
26 this subchapter or a rule, order, or decision of the department has  
27 occurred or is likely to occur, the department shall initiate

1 proceedings as it determines appropriate to enforce this subchapter  
2 or its rules, orders, and decisions.

3 Sec. 520.088. EXEMPTIONS. The following persons and their  
4 agents are exempt from the licensing and other requirements  
5 established by this subchapter:

6 (1) a franchised motor vehicle dealer or independent  
7 motor vehicle dealer who holds a general distinguishing number  
8 issued by the department under Chapter 503;

9 (2) a vehicle lessor holding a license issued by the  
10 department under Chapter 2301, Occupations Code, or a trust or  
11 other entity that is specifically not required to obtain a lessor  
12 license under Section 2301.254(a), Occupations Code;

13 (3) a vehicle lease facilitator holding a license  
14 issued by the department under Chapter 2301, Occupations Code;

15 (4) a state or federally chartered bank or credit  
16 union; and

17 (5) an auctioneer licensed under Chapter 1802,  
18 Occupations Code.

19 SECTION 10. Effective January 1, 2012, Subsection (c),  
20 Section 730.007, Transportation Code, is amended to read as  
21 follows:

22 (c) This section does not:

23 (1) prohibit the disclosure of a person's photographic  
24 image to:

25 (A) a law enforcement agency, the Texas  
26 Department of Motor Vehicles, a county tax assessor-collector, or a  
27 criminal justice agency for an official purpose; or



1                   (B) an agency of this state investigating an  
2 alleged violation of a state or federal law relating to the  
3 obtaining, selling, or purchasing of a benefit authorized by  
4 Chapter 31 or 33, Human Resources Code; or

5                   (2) prevent a court from compelling by subpoena the  
6 production of a person's photographic image.

7           SECTION 11. Not later than November 1, 2011, the Texas  
8 Department of Motor Vehicles shall adopt rules and forms to  
9 administer Subchapter F, Chapter 520, Transportation Code, as added  
10 by this Act.

11           SECTION 12. The change in law made by this Act to Section  
12 520.061, Transportation Code, as amended by this Act, applies only  
13 to an offense committed on or after January 1, 2012. An offense  
14 committed before that date is governed by the law in effect  
15 immediately before the effective date of this Act, and the former  
16 law is continued in effect for that purpose. For purposes of this  
17 section, an offense was committed before January 1, 2012, if any  
18 element of the offense was committed before that date.

19           SECTION 13. Except as otherwise provided by this Act, this  
20 Act takes effect September 1, 2011.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1035 passed the Senate on April 27, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2011, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1035 passed the House, with amendments, on May 23, 2011, by the following vote: Yeas 134, Nays 11, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor