

By: Williams
(Harless)

S.B. No. 1035

Substitute the following for S.B. No. 1035:

By: Phillips

C.S.S.B. No. 1035

A BILL TO BE ENTITLED

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 Sec. 520.081. INSPECTION OF RECORDS. A motor vehicle title
11 service license holder or any of its employees shall allow during
12 business hours at the license holder's business location an
13 inspection of records required under Section 520.080 by the
14 department, the county tax assessor-collector, or a peace officer.

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

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

18 (b) The department:

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

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

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

27 (d) The department must provide written notice of denial,

1 suspension, or revocation of a license.

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

4 (1) initiate and conduct proceedings, investigations,
5 or hearings;

6 (2) administer oaths;

7 (3) receive evidence and pleadings;

8 (4) issue subpoenas to compel the attendance of any
9 person;

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

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

14 (7) specify and govern appearance, practice, and
15 procedures before the board;

16 (8) issue conclusions of law and decisions, including
17 declaratory decisions or orders;

18 (9) enter into settlement agreements;

19 (10) impose a sanction for contempt;

20 (11) assess and collect fees and costs, including
21 attorney's fees;

22 (12) issue cease and desist orders in the nature of
23 temporary or permanent injunctions;

24 (13) impose a civil penalty;

25 (14) enter an order requiring a person to:

26 (A) pay costs and expenses of a party in
27 connection with an order;

1 (B) perform an act other than the payment of
2 money; or

3 (C) refrain from performing an act; and

4 (15) enforce a board order.

5 Sec. 520.083. CRIMINAL PENALTY. (a) A person commits an
6 offense if the person violates this subchapter or a rule adopted by
7 the department or county tax assessor-collector under this
8 subchapter.

9 (b) Except as provided by Subsection (c) or the Penal Code,
10 an offense under this section is a Class A misdemeanor.

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

13 (1) a violation of Section 520.074; or

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

16 Sec. 520.084. CIVIL PENALTY. (a) A person who violates
17 this subchapter is subject to a civil penalty of not more than
18 \$10,000 for each violation.

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

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

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

27 Sec. 520.085. CEASE AND DESIST ORDER. (a) If it appears to

1 the board that a person is violating this subchapter or a board rule
2 or order, the board after notice may require the person engaged in
3 the conduct to appear and show cause why a cease and desist order
4 should not be issued prohibiting the conduct described in the
5 notice.

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

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

10 (2) the order is necessary or convenient to
11 maintaining the status quo between two or more adverse parties
12 before the board;

13 (3) a party before the board is entitled to relief
14 demanding of the board and all or part of the relief requires the
15 restraint of some act prejudicial to the party;

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

18 (A) relating to the subject of a contested case
19 pending before the board, in violation of the rights of a party
20 before the board; and

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

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

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

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

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

4 (d) An interlocutory cease and desist order remains in
5 effect until vacated or incorporated in a final order of the board.
6 An appeal of an interlocutory cease and desist order must be made to
7 the board before seeking judicial review as provided by this
8 subchapter.

9 (e) A permanent cease and desist order may be issued
10 regardless of the requirements of Subsection (b) but only under the
11 procedures for a final order by the board under this subchapter. An
12 appeal of a permanent cease and desist order is made in the same
13 manner as an appeal of a final order under this subchapter.

14 Sec. 520.086. INJUNCTION. (a) The attorney general or a
15 district attorney of the county in which the motor vehicle title
16 service is operating may bring an action to enjoin the operation of
17 a motor vehicle title service or a title service runner if the motor
18 vehicle title service license holder or a runner of the motor
19 vehicle title service while in the scope of the runner's employment
20 is found to have committed one or more violations of or convicted of
21 more than one offense under this subchapter.

22 (b) If the court grants relief under Subsection (a), the
23 court may:

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

27 (2) declare the place where the person's business is

1 located to be closed for any use relating to the business of the
2 motor vehicle title service for as long as the person is enjoined
3 from participating in that business.

4 Sec. 520.087. COMPLAINT INVESTIGATION AND DISPOSITION.

5 (a) If the department has reason to believe, through receipt of a
6 complaint or otherwise, that a violation of this subchapter or a
7 rule, order, or decision of the department has occurred or is likely
8 to occur, the department may conduct an investigation unless it
9 determines that the complaint is frivolous or for the purpose of
10 harassment.

11 (b) If the investigation establishes that a violation of
12 this subchapter or a rule, order, or decision of the department has
13 occurred or is likely to occur, the department shall initiate
14 proceedings as it determines appropriate to enforce this subchapter
15 or its rules, orders, and decisions.

16 Sec. 520.088. EXEMPTIONS. The following persons and their
17 agents are exempt from the licensing and other requirements
18 established by this subchapter:

19 (1) a franchised motor vehicle dealer or independent
20 motor vehicle dealer who holds a general distinguishing number
21 issued by the department under Chapter 503;

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

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

1 (4) a state or federally chartered bank or credit
2 union; and

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

5 SECTION 10. Effective January 1, 2012, Subsection (c),
6 Section 730.007, Transportation Code, is amended to read as
7 follows:

8 (c) This section does not:

9 (1) prohibit the disclosure of a person's photographic
10 image to:

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

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

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

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

24 SECTION 12. The change in law made by this Act to Section
25 520.061, Transportation Code, as amended by this Act, applies only
26 to an offense committed on or after January 1, 2012. An offense
27 committed before that date is governed by the law in effect

1 immediately before the effective date of this Act, and the former
2 law is continued in effect for that purpose. For purposes of this
3 section, an offense was committed before January 1, 2012, if any
4 element of the offense was committed before that date.

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