

By: Williams

S.B. No. 1035

A BILL TO BE ENTITLED

AN ACT

relating to motor vehicle title services; providing penalties.

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

SECTION 1. Effective January 1, 2012, Section 520.051(2), Transportation Code, is amended to read as follows:

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

SECTION 2. Effective January 1, 2012, Section 520.052, Transportation Code, is amended to read as follows:

Sec. 520.052. APPLICABILITY. This subchapter applies to any motor vehicle title service operating in this state [~~a county~~

~~[(1) that has a population of more than 500,000, or~~

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

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

Sec. 520.0521. PURPOSE; LIBERAL CONSTRUCTION. (a) The purpose of this subchapter is to ensure a sound system of distributing and selling motor vehicles through:

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

3 (2) the enforcement of this chapter to prevent fraud,
4 unfair practices, and discrimination.

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

7 SECTION 4. Effective January 1, 2012, Section 520.053,
8 Transportation Code, is amended to read as follows:

9 Sec. 520.053. LICENSE REQUIRED. A person may not act as a
10 motor vehicle title service or act as a title service runner [~~an~~
11 ~~agent for that business~~] unless that person holds a license issued
12 under this subchapter.

13 SECTION 5. Effective January 1, 2012, Subchapter E, Chapter
14 520, Transportation Code, is amended by adding Section 520.0531 to
15 read as follows:

16 Sec. 520.0531. COUNTY PERMITS. (a) A county tax
17 assessor-collector may:

18 (1) require motor vehicle title services and title
19 service runners to obtain permits to operate within that county's
20 jurisdiction; and

21 (2) charge a fee for a permit issued under Subdivision
22 (1).

23 (b) A county's permit fee charged under Subsection (a)(2):

24 (1) may not exceed the amount of a fee established
25 under Section 520.0541; and

26 (2) must be used for the administration and
27 enforcement of the county's motor vehicle title service and title

1 service runner permitting program.

2 SECTION 6. Effective January 1, 2012, Section 520.054,
3 Transportation Code, is amended to read as follows:

4 Sec. 520.054. [~~GENERAL~~] LICENSE APPLICATION REQUIREMENTS.

5 (a) An applicant for a motor vehicle title service license or a
6 title service runner license must apply on a form prescribed by the
7 department [~~county tax assessor-collector~~]. The application form
8 must be signed by the applicant and accompanied by the application
9 fee.

10 (b) An application must include:

11 (1) information required by department rule [~~the~~
12 ~~applicant's name, business address, and business telephone~~
13 ~~number~~];

14 (2) an acknowledgement by the county tax
15 assessor-collector on a form prescribed by the department that the
16 motor vehicle title service or title service runner intends to
17 conduct business in that county [~~the name under which the applicant~~
18 ~~will do business~~];

19 (3) an affirmation that all acts of a motor vehicle
20 title service's employees, agents, contractors, or title service
21 runners are acts of the motor vehicle title service for the purposes
22 of this subchapter [~~the physical address of each office from which~~
23 ~~the applicant will conduct business~~]; and

24 (4) an affirmation of the truth of the information
25 contained in the application signed and sworn to before an officer
26 authorized to administer oaths [~~a statement indicating whether the~~
27 ~~applicant has previously applied for a license under this~~

1 ~~subchapter, the result of the previous application, and whether the~~
2 ~~applicant has ever been the holder of a license under this~~
3 ~~subchapter that was revoked or suspended;~~

4 ~~[(5) information from the applicant as required by the~~
5 ~~county tax assessor-collector to establish the business reputation~~
6 ~~and character of the applicant;~~

7 ~~[(6) the applicant's federal tax identification~~
8 ~~number;~~

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

10 ~~[(8) any other information required by rules adopted~~
11 ~~under this subchapter].~~

12 (c) The issuance of an acknowledgement under Subsection
13 (b)(2) does not constitute approval by the county tax
14 assessor-collector for a motor vehicle title service or title
15 service runner to conduct business in that county if the county
16 requires a permit under Section 520.0531.

17 SECTION 7. Effective January 1, 2012, Subchapter E, Chapter
18 520, Transportation Code, is amended by adding Section 520.0541 to
19 read as follows:

20 Sec. 520.0541. LICENSE FEES. (a) The department by rule
21 shall adopt fees for an original license and a renewal license for
22 motor vehicle title services and for an original license and a
23 renewal license for title service runners.

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

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

1 (d) A fee collected under this section shall be deposited to
2 the credit of the state highway fund. Section 403.095, Government
3 Code, does not apply to money received by the department and
4 deposited to the credit of the state highway fund under this
5 subchapter.

6 SECTION 8. Effective January 1, 2012, Subchapter E, Chapter
7 520, Transportation Code, is amended by adding Section 520.0542 to
8 read as follows:

9 Sec. 520.0542. SECURITY REQUIREMENT. The department may
10 not issue or renew a motor vehicle title service license unless the
11 applicant provides to the department satisfactory proof that the
12 applicant has purchased a properly executed surety bond in the
13 amount of \$50,000 with a good and sufficient surety approved by the
14 department.

15 SECTION 9. Effective January 1, 2012, Section 520.057,
16 Transportation Code, is amended to read as follows:

17 Sec. 520.057. RECORDS. (a) A holder of a motor vehicle
18 title service license shall:

19 (1) maintain records as required by department rule
20 [~~this section~~] on a form prescribed and made available by the
21 department [~~county tax assessor-collector~~] for each transaction in
22 which the license holder receives compensation; and

23 (2) provide a copy of the record to the county tax
24 assessor-collector. [~~The records shall include:~~

25 [~~(1) the date of the transaction,~~

26 [~~(2) the name, age, address, sex, driver's license~~
27 number, and a legible photocopy of the driver's license for each

1 customer; and

2 ~~[(3) the license plate number, vehicle identification~~
3 ~~number, and a legible photocopy of proof of financial~~
4 ~~responsibility for the motor vehicle involved].~~

5 (b) Records required by this section must be maintained for
6 four years from the date of the transaction ~~[A motor vehicle title~~
7 ~~service shall keep:~~

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

10 ~~[(2) legible photocopies of any documents submitted by~~
11 ~~a customer; and~~

12 ~~[(3) legible photocopies of any documents submitted to~~
13 ~~the county tax assessor-collector].~~

14 SECTION 10. Effective January 1, 2012, Section 520.058,
15 Transportation Code, is amended to read as follows:

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

22 SECTION 11. Effective January 1, 2012, Sections 520.059(a)
23 and (b), Transportation Code, are amended to read as follows:

24 (a) The department ~~[county tax assessor-collector]~~ may
25 deny, suspend, revoke, or reinstate a license issued under this
26 subchapter.

27 (b) The department ~~[county tax assessor-collector]~~ shall

1 adopt rules that establish grounds for the denial, suspension,
2 revocation, or reinstatement of a license and rules that establish
3 procedures for disciplinary action. Procedures issued under this
4 subchapter are subject to Chapter 2001, Government Code.

5 SECTION 12. Effective January 1, 2012, Sections 520.060(a)
6 and (b), Transportation Code, are amended to read as follows:

7 (a) A license issued under this subchapter for a title
8 service runner expires on the first anniversary of the date of
9 issuance and may be renewed annually on or before the expiration
10 date on payment of the required renewal fee.

11 (b) A license issued under this subchapter for a motor
12 vehicle title service expires on the second anniversary of the date
13 of issuance and may be renewed biennially on or before the
14 expiration date on payment of the required renewal fee [~~A person who~~
15 ~~is otherwise eligible to renew a license may renew an unexpired~~
16 ~~license by paying to the county tax assessor-collector before the~~
17 ~~expiration date of the license the required renewal fee. A person~~
18 ~~whose license has expired may not engage in activities that require~~
19 ~~a license until the license has been renewed under this section].~~

20 SECTION 13. Effective January 1, 2012, Section 520.061,
21 Transportation Code, is amended to read as follows:

22 Sec. 520.061. CRIMINAL PENALTY. (a) A person commits an
23 offense if the person violates this subchapter or a rule adopted by
24 the department [~~county tax assessor-collector~~] under this
25 subchapter.

26 (b) Except as provided by Subsection (c), an [~~An~~] offense
27 under this section is a Class A misdemeanor.

1 (c) An offense is a state jail felony if it is based on:

2 (1) a violation of Section 520.053; or

3 (2) the falsification of information required under
4 Section 520.054 or 520.0542.

5 SECTION 14. Effective January 1, 2012, Subchapter E,
6 Chapter 520, Transportation Code, is amended by adding Section
7 520.0611 to read as follows:

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

11 (b) Each day a violation occurs constitutes a separate
12 violation.

13 (c) The department by rule shall establish factors to be
14 considered in determining the amount of the civil penalty.

15 SECTION 15. Effective January 1, 2012, Section 520.062(a),
16 Transportation Code, is amended to read as follows:

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

24 SECTION 16. Section 520.063, Transportation Code, is
25 amended to read as follows:

26 Sec. 520.063. EXEMPTIONS. The following persons and their
27 agents are exempt from the licensing and other requirements

1 established by this subchapter:

2 (1) a franchised motor vehicle dealer or independent
3 motor vehicle dealer who holds a general distinguishing number
4 issued by the department under Chapter 503;

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

10 (3) a vehicle lease facilitator holding a license
11 issued by the department [~~Motor Vehicle Board~~] under Chapter 2301,
12 Occupations Code.

13 SECTION 17. Effective January 1, 2012, Subchapter E,
14 Chapter 520, Transportation Code, is amended by adding Section
15 520.064 to read as follows:

16 Sec. 520.064. DEPARTMENT EXEMPT FROM FILING FEE.
17 Notwithstanding the other provisions of this subchapter, the
18 department is not required to pay a filing fee when filing a
19 complaint or other enforcement action.

20 SECTION 18. Effective January 1, 2012, Sections 520.051(3),
21 (4), and (5), 520.055, 520.056, 520.059(c) and (d), and 520.060(c),
22 (d), (e), (f), and (g), Transportation Code, are repealed.

23 SECTION 19. Not later than November 1, 2011, the Texas
24 Department of Transportation shall adopt rules and forms to
25 administer Subchapter E, Chapter 520, Transportation Code, as
26 amended by this Act.

27 SECTION 20. The change in law made by this Act to Section

1 520.061, Transportation Code, applies only to an offense committed
2 on or after January 1, 2012. An offense committed before that date
3 is governed by the law in effect when the offense was committed, and
4 the former law is continued in effect for that purpose. For
5 purposes of this subsection, an offense was committed before
6 January 1, 2012, if any element of the offense was committed before
7 that date.

8 SECTION 21. Except as otherwise provided by this Act, this
9 Act takes effect September 1, 2011.