86R20825 JAM-F

By:  Kuempel H.B. No. 1087

Substitute the following for H.B. No. 1087:

By:  Landgraf C.S.H.B. No. 1087

A BILL TO BE ENTITLED

AN ACT

relating to an exception to the titling requirement for certain vehicles; creating a criminal offense.

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

SECTION 1.  Subchapter E, Chapter 501, Transportation Code, is amended by adding Section 501.098 to read as follows:

Sec. 501.098.  EXCEPTION TO TITLE REQUIREMENT FOR CERTAIN VEHICLES. (a) Notwithstanding any other law, a metal recycler or used automotive parts recycler may purchase a motor vehicle without obtaining a title to the vehicle if:

(1)  the vehicle is at least 12 years old and is purchased solely for parts, dismantling, or scrap and:

(A)  the vehicle is not subject to a recorded security interest or lien; or

(B)  the vehicle is subject only to recorded security interests or liens:

(i) for which a release of each recorded security interest or lien on the vehicle is provided; or

(ii)  that were recorded on the certificate of title more than four years before the date of purchase under this section;

(2)  the recycler does not dismantle, crush, or shred the vehicle before the close of business on the second business day after the date of purchase; and

(3)  except as provided by Subsection (k), the recycler complies with Subsections (b) and (c).

(b)  A metal recycler or used automotive parts recycler who purchases a motor vehicle under this section shall obtain the following information:

(1)  the name, address, and National Motor Vehicle Title Information System identification number of the recycler;

(2)  the name, initials, or other identification of the individual recording the information required by this subsection;

(3)  the date of the transaction;

(4)  a description of the vehicle, including the make and model to the extent practicable;

(5)  the vehicle identification number of the vehicle;

(6)  the license plate number of any vehicle transporting the vehicle being sold;

(7)  the amount of consideration given for the vehicle;

(8)  a written statement signed by the seller or an agent acting on behalf of the seller:

(A)  certifying that the seller or agent has the lawful right to sell the vehicle;

(B)  certifying that the vehicle complies with any security interest or lien requirements under Subsection (a)(1); and

(C)  acknowledging that a person who falsifies information contained in the written statement is subject to criminal penalties and restitution for losses incurred as a result of the sale of the vehicle based on falsified information contained in the statement;

(9)  the name and address of the seller, and the seller's agent if applicable;

(10)  a photocopy or electronic scan of:

(A)  a valid driver's license of the seller or the seller's agent; or

(B)  any other photographic identification card of the seller or the seller's agent issued by any state or federal agency; and

(11)  proof demonstrating that the recycler has reported the vehicle to the department as provided by Subsection (c).

(c)  A metal recycler or used automotive parts recycler who purchases a motor vehicle under this section shall submit to the department, in the manner prescribed by the department, and the National Motor Vehicle Title Information System information necessary to satisfy any applicable requirement for reporting information to the National Motor Vehicle Title Information System in accordance with rules adopted under 28 C.F.R. Section 25.56 not later than 24 hours, not counting weekends or official state holidays, after the close of business on the day the vehicle was received. The department may report information received under this subsection to the National Motor Vehicle Title Information System on behalf of the recycler. A recycler is not required to report information to the National Motor Vehicle Title Information System if the department reports the information on behalf of the recycler under this subsection.

(d)  Not later than 48 hours after receiving information from a recycler under Subsection (c) about a motor vehicle, the department shall notify the recycler whether the vehicle has been reported stolen.

(e)  If the department notifies a recycler under Subsection (d) that a motor vehicle has been reported stolen, the recycler shall notify the appropriate local law enforcement agency of the current location of the vehicle and provide to the agency identifying information of the person who sold the vehicle.

(f)  On receipt of information under Subsection (c) regarding a motor vehicle purchased under this section, the department shall:

(1)  add a notation to the motor vehicle record of the vehicle indicating that the vehicle has been dismantled, scrapped, or destroyed; and

(2)  cancel the title of the vehicle.

(g)  A person who purchases a motor vehicle under this section that is later determined by the department or another governmental entity to have been reported stolen is not criminally or civilly liable unless the person had knowledge that the vehicle was a stolen vehicle or failed to comply with the requirements of Subsection (b) or (c).

(h)  A court shall order a person who sells a motor vehicle under this section to make restitution, including attorney's fees, to the owner or lienholder of the vehicle, or to a metal recycler or used automotive parts recycler, for any damage or loss caused by an offense committed by the seller related to the vehicle.

(i)  The records required to be maintained under this section must be open to inspection by a representative of the department or a law enforcement officer during reasonable business hours.

(j)  A contract with a United States Department of Justice approved third-party data consolidator, pursuant to 28 C.F.R. Part 25, may be used to satisfy:

(1)  the responsibilities of the department under this section; and

(2)  the reporting responsibilities of a recycler under Subsection (c).

(k)  A metal recycler may purchase from a used automotive parts recycler a vehicle under this section without complying with Subsections (b) and (c) if:

(1)  the vehicle has been flattened, crushed, baled, or logged such that the vehicle is less than 50 percent of its original volume;

(2)  the vehicle is purchased for purposes of scrap metal only; and

(3)  the seller or an agent acting on behalf of the seller of the vehicle certifies to the purchaser that all vehicles included in the sale were reported to the department or the National Motor Vehicle Title Information System.

(l)  This section preempts all requirements that are inconsistent with specific provisions of this section relating to the purchase and dismantling, crushing, or shredding of a motor vehicle without obtaining the title to the vehicle.

SECTION 2.  Section 501.109, Transportation Code, is amended by adding Subsections (c-1) and (i) and amending Subsections (d) and (e) to read as follows:

(c-1)  A person commits an offense if the person knowingly:

(1)  fails to obtain or falsifies information required under Section 501.098(c);

(2)  falsifies the information required under Section 501.098(b);

(3)  falsifies the statement required under Section 501.098(b)(8);

(4)  sells a vehicle under Section 501.098 that is the subject of a security interest or lien other than a security interest or lien described by Section 501.098(a)(1)(B); or

(5)  otherwise violates Section 501.098.

(d)  Except as provided by Subsection (e), an offense under Subsection (a), (b), [~~or~~] (c), or (c-1) is a Class C misdemeanor.

(e)  If it is shown on the trial of an offense under Subsection (a), (b), [~~or~~] (c), or (c-1) that the defendant has been previously convicted of:

(1)  one offense under Subsection (a), (b), [~~or~~] (c), or (c-1), the offense is a Class B misdemeanor; or

(2)  two or more offenses under Subsection (a), (b), [~~or~~] (c), or (c-1), the offense is a state jail felony.

(i)  Money generated from penalties collected for offenses under Subsection (c-1) may be used only for enforcement, investigation, prosecution, and training activities related to motor vehicle related offenses.

SECTION 3.  This Act takes effect September 1, 2019.