

BILL ANALYSIS

Senate Research Center
88R3515 JAM-F

S.B. 528
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Transportation
4/1/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current Texas law, a vehicle may be sold to a metal recycler, or a used automotive parts recycler for parts or scrap, only if the seller has a title, regardless of the age or condition of the vehicle. In reality, the owners of many older vehicles, which may be valuable only for parts or scrap, may have either lost the title or have never obtained a properly reassigned title.

Legitimate metal recyclers or used automotive parts recyclers turn away non-titled vehicles every day. Many non-original owners of older vehicles owners will not spend the time and money to obtain a duplicate title. Others, if they are not the most recently titled owner, will obtain a title in their name (even more difficult and costly), and will then sell the car for its scrap value.

What happens in many instances is that untitled vehicles end up being sold to unlicensed or unscrupulous facilities, and the vehicles "disappear." They may leave the state, or be scrapped beyond recognition, with no reporting to the state, or to the required federal database, the National Motor Vehicle Title Information System (NMVTIS).

The result is that there are literally hundreds of thousands of vehicles that no longer exist, but their titles remain active within TxDMV's database, and the Vehicle Identification Number (VIN) remains valid and may be used to conceal the identity of a stolen vehicle ("VIN Cloning").

SOLUTION – Many states have recognized this problem and have codified procedures that allow untitled vehicles to be sold only to certain, limited, licensed entities, and then only for scrap or parts – so that their titles are deactivated and the VINs cancelled.

S.B. 528 would apply only to the sale of salvage, older vehicles, and then only with extensive recordkeeping and reporting requirements placed on licensed purchasers.

S.B. 528 would create state law regarding procedures to be followed by metal recyclers, auto salvage dealers, auto parts recyclers, and salvage vehicle sellers. It would apply when an automobile is presented for sale for salvage or for parts at a recycling entity and the seller is not in possession of a title for the vehicle.

S.B. 528 protects the public by working to assure that salvage vehicles are only recycled by lawfully operating businesses. Vehicles recycled legally under these provisions would no longer have active titles and their VIN numbers will be cancelled and could no longer be used fraudulently.

S.B. 528 as filed, was S.B. 935 in the 87th regular session, when it passed the Senate 31-0 and was sent to Calendars. The original bill, S.B. 2240 from the 86th Legislature, also passed the Senate 31-0 and was sent to Calendars.

As proposed, S.B. 528 amends current law relating to an exception to the titling requirement for certain motor vehicles and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 501, Transportation Code, by adding Section 501.098, as follows:

Sec. 501.098. EXCEPTION TO TITLE REQUIREMENT FOR CERTAIN VEHICLES.

(a) Authorizes a metal recycler or used automotive parts recycler, notwithstanding any other law, to 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 six 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 third business day after the date the recycler submitted to the Texas Department of Motor Vehicles (TxDMV) the information required under Subsection (c); and

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

(b) Requires a metal recycler or used automotive parts recycler who purchases a motor vehicle under this section to 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 TxDMV as provided by Subsection (c).

(c) Requires a metal recycler or automotive parts recycler who purchases a motor vehicle under this section to submit to TxDMV, in the manner prescribed by the TxDMV 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. Authorizes TxDMV to report information received under this subsection to the National Motor Vehicle Title Information System on behalf of the recycler. Provides that a recycler is not required to report information to the National Motor Vehicle Title Information System if TxDMV reports the information on behalf of the recycler under this subsection.

(d) Requires TxDMV to notify the recycler whether the vehicle has been reported stolen not later than 48 hours after receiving information from a recycler under Subsection (c) about a motor vehicle.

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

(f) Requires TxDMV, on receipt of information under Subsection (c) regarding a motor vehicle purchased under this section, to:

(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) Provides that a person who purchases a motor vehicle under this section that is later determined by TxDMV 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) Requires a court to 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) Requires that the records required to be maintained under this section be open to inspection by a representative of TxDMV or a law enforcement officer during reasonable business hours.

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

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

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

(k) Authorizes a metal recycler to 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 TxDMV or the National Motor Vehicle Title Information System.

(l) Provides that 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. Amends Section 501.109, Transportation Code, by adding Subsections (c-1) and (i) and amending Subsections (d) and (e), as follows:

(c-1) Provides that 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) Creates an exception under Subsection (c-1).

(e) Creates an exception under Subsection (c-1). Makes conforming changes.

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

SECTION 3. Effective date: September 1, 2023.