

BILL ANALYSIS

H.B. 5436
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Homeland Security, Public Safety & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Used automotive parts recyclers (UAPR) are licensed and regulated under the Texas Used Automotive Parts Recycling Act and are the only entities in Texas authorized to dismantle salvage and nonrepairable motor vehicles and sell the parts. Under current law, licensed and regulated UAPRs may only purchase titled vehicles regardless of the age or condition of the vehicle. However, the bill author has informed the committee that a robust illegal marketplace exists for non-titled vehicles operated by unlicensed and unregulated operators, that illegal operators disappear after purchasing non-titled vehicles, and that titles and vehicle identification numbers (VIN) remain active and valid and may be used to conceal the identity of a stolen vehicle using a process known as VIN cloning. The bill author has further informed the committee that these vehicles often end up at illegal chop shops or being used in the commission of crimes. H.B. 5436 seeks to address this issue by allowing licensed UAPRs to purchase certain untitled motor vehicles for parts or scrap.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 5436 amends the Transportation Code to authorize a used automotive parts recycler, notwithstanding any other law, to purchase a motor vehicle without obtaining a title to the vehicle if the following conditions are met:

- the vehicle is at least 13 years old and is purchased solely for parts, dismantling, or scrap;
- the vehicle has not been registered for at least seven years;
- the recycler complies with the bill's requirements; and
- the recycler satisfies either of the following conditions:
 - 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 the bill's provisions, if the vehicle is not subject to a recorded security interest or lien or is subject only to recorded security interests or liens for which a release of each recorded security interest or lien on the vehicle is provided or that were recorded on the certificate of title more than six years before the date of purchase under the bill; or

- the recycler does not dismantle, crush, or shred the vehicle before the date stated in the written statement required to be provided by the recycler to the county assessor-collector under the bill, if the recycler determined that the vehicle is subject to a recorded security interest or lien, other than such a security interest or lien.

H.B. 5436 requires a used automotive parts recycler who purchases a motor vehicle under the bill's provisions to compile the following information in the manner prescribed by TxDMV:

- the name, address, and National Motor Vehicle Title Information System (NMVTIS) identification number of the recycler;
- the name, initials, or other identification of the individual recording the information;
- the date of the transaction;
- a description of the vehicle, including the make and model to the extent practicable;
- the vehicle identification number of the vehicle;
- the license plate number of any vehicle transporting the vehicle being sold;
- the amount of consideration given for the vehicle;
- a written statement signed by the seller or an agent acting on behalf of the seller that does the following:
 - certifies that the seller or agent has the lawful right to sell the vehicle; and
 - acknowledges 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;
- the name and address of the seller, and the seller's agent if applicable;
- a photocopy or electronic scan of a valid driver's license of the seller or the seller's agent or any other photographic identification card of the seller or the seller's agent issued by any state or federal agency; and
- proof demonstrating that the recycler has reported the vehicle to TxDMV as provided by the bill's provisions.

H.B. 5436 requires a used automotive parts recycler who purchases a motor vehicle under the bill's provisions to submit to TxDMV, in the manner prescribed by TxDMV, and to NMVTIS information necessary to satisfy any applicable requirement for reporting information to NMVTIS in accordance with rules adopted under federal regulations relating to responsibilities of junk yards, salvage yards, and auto recyclers. The bill does the following with respect to that information:

- requires the information to be submitted not later than 24 hours, not counting weekends or official state holidays, after the close of business on the day the vehicle is received;
- authorizes TxDMV to report such received information to NMVTIS on the recycler's behalf;
- establishes that a used automotive parts recycler is not required to report information to NMVTIS if TxDMV reports the information on behalf of the recycler;
- requires TxDMV, not later than 48 hours after receiving such information from a used automotive parts recycler, to notify the recycler whether the vehicle has been reported stolen;
- requires a used automotive parts recycler, if TxDMV notifies the recycler that a motor vehicle has been reported stolen, to notify the appropriate local law enforcement agency of the vehicle's current location and provide to the agency identifying information of the person who sold the vehicle to the recycler; and
- requires TxDMV, on receipt of the information, to add a notation to the motor vehicle record of the vehicle indicating that the vehicle has been dismantled, scrapped, or destroyed, and to cancel the title of the vehicle.

H.B. 5436 requires a used automotive parts recycler, not later than 48 hours after the recycler purchases a motor vehicle under the bill's provisions and in the manner prescribed by TxDMV,

to verify whether the vehicle is subject to any recorded security interest or lien. The bill requires the recycler, if the recycler determines that the vehicle is subject to a recorded security interest or lien, other than a security interest or lien described by the bill, to provide notice to the county assessor-collector of the county in which the recycler is located of the recycler's purchase of the vehicle. The bill requires that notice to include the following information:

- the identifying information of the recycler and the individual recording the motor vehicle information and the information relating to the vehicle and transaction date required to be compiled by a recycler under the bill;
- the contact information of the lienholder identified by the used automotive parts recycler under the bill;
- the date on which the notice is provided to the county assessor-collector;
- a written statement signed by the recycler or the recycler's agent that the vehicle will not be dismantled or scrapped on or before the 21st day after that date; and
- a \$25 administrative fee.

H.B. 5436 requires a county assessor-collector, not later than the fifth day after the date a used automotive parts recycler provides the notice to the county assessor-collector, to notify the lienholder and the last registered owner of the vehicle, if the recycler did not purchase the vehicle from the last registered owner, of the recycler's purchase of the motor vehicle, which must include the contact information of the recycler and a copy of the written statement that were provided to the assessor-collector. The bill authorizes a lienholder or last registered owner of a vehicle, not later than the 14th day after the date a county assessor-collector provides that notice to the lienholder or owner, to retrieve the vehicle from the recycler at no cost.

H.B. 5436 establishes that a person who purchases a motor vehicle under the bill's provisions 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 bill's information reporting requirements. The bill requires a court to order a person who sells a motor vehicle under the bill's provisions to pay restitution, including attorney's fees, to the owner or lienholder of the vehicle or to a used automotive parts recycler in an amount equal to the amount of any damage or loss caused by an offense committed by the seller related to the vehicle.

H.B. 5436 requires records that are required to be maintained under the bill's provisions to be open to inspection by a representative of TxDMV or a law enforcement officer during reasonable business hours. The bill authorizes the use of a contract with a U.S. Department of Justice approved third-party data consolidator, pursuant to applicable federal regulations, to satisfy the responsibilities of TxDMV under the bill's provisions and the reporting responsibilities of a used automotive parts recycler under those provisions. The bill establishes that the bill's provisions preempt all requirements that are inconsistent with specific provisions of the bill relating to the purchase and dismantling, crushing, or shredding of a motor vehicle without obtaining the title to the vehicle.

H.B. 5436 creates a Class C misdemeanor offense for a person who knowingly does any of the following:

- fails to obtain or falsifies information required to be reported by a used automotive parts recycler to TxDMV or NMVTIS under the bill's provisions;
- falsifies the information required to be compiled by such a recycler who purchases a motor vehicle without obtaining title or required to be submitted to a county assessor-collector under the bill's provisions;
- falsifies the written statement required to be compiled by such a recycler or recycler's agent or to be submitted to a county assessor-collector under the bill's provisions;
- sells a vehicle under the bill's provisions that is the subject of a security interest or lien other than a security interest or lien described by those provisions; or
- otherwise violates the bill's provisions.

The bill includes such an offense among the offenses for which a previous conviction triggers certain penalty enhancements for offenses relating to nonrepairable and salvage motor vehicles, including an enhancement for the bill's offense. The bill limits the use of money generated from penalties collected for offenses under the bill's provisions to enforcement, investigation, prosecution, and training activities related to motor vehicle related offenses.

EFFECTIVE DATE

September 1, 2025.