

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal and Civil Justice Appropriations Committee

BILL: CS/CS/SB 792

INTRODUCER: Criminal and Civil Justice Appropriations Committee; Criminal Justice Committee;
 Senator Baker and Senator Storms

SUBJECT: Derelict Motor Vehicles and Mobile Homes

DATE: April 7, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	Favorable
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
3.	<u>Sadberry</u>	<u>Sadberry</u>	<u>JA</u>	Fav/CS
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Generally, this bill clarifies the process owners, transporters, salvage motor vehicle dealers, and secondary metals recyclers must follow prior to destroying or dismantling derelict vehicles and mobile homes. The bill:

- expands the definition of certificate of title to recognize titles from other states;
- clarifies the definition of “derelict vehicle” by specifying that the 10 model years old is based on the model year of the vehicle being year one;
- redefines derelict motor vehicle certificate to clarify that once a certificate is issued, the vehicle can only be dismantled or converted to scrap metal;
- clarifies an application is required to obtain the certificate;
- allows for and defines “seller” in cases where the owner is not able to make application;
- references proper endorsement requirements for titles; and
- requires additional personal identification criteria for transactions involving derelict vehicles and mobile homes.

This bill substantially amends s. 319.30, F.S.

II. Present Situation:

Dismantling and Salvage of Vehicles or Mobile Homes

When a motor vehicle or mobile home is to be dismantled, destroyed, or altered so significantly as to no longer be the motor vehicle or mobile home described in the certificate of title, subsection (2) of s. 319.30, F.S., requires the owner(s) as listed on the title to surrender the title to the Florida Department of Highway Safety and Motor Vehicles (DHSMV) for cancellation. Violation of the requirement constitutes a second-degree misdemeanor.¹

All vehicles being sold, transported, or delivered to a salvage motor vehicle dealer² must be accompanied by:

- a properly endorsed certificate of title,³
- a valid salvage certificate of title issued by the DHSMV in the name of the seller or properly endorsed to the seller, or
- a valid certificate of destruction issued in the name of the seller or properly endorsed to the seller.

Certificate of Title

In Florida, most vehicles are required to be titled;⁴ the exceptions are mopeds, motorized bicycles, and trailers weighing less than 2,000 pounds. A certificate of title is the record that is evidence of ownership of a motor vehicle issued by DHSMV.⁵

Salvage Certificate of Title and Certificate of Destruction

When an uninsured vehicle or mobile home is wrecked or damaged and the cost to repair it is 80 percent or more of its value it is considered a total loss. When an insurance company has paid to replace a wrecked or stolen vehicle or mobile home, it is declared a total loss. Whether insured or not, a vehicle or mobile home considered a total loss is declared “salvage.” Within 72 hours, the owner or insurance company must forward the certificate of title to DHSMV for processing, applying for either a Certificate of Title or Certificate of Destruction.⁶ The owner or insurance company may not dispose of a vehicle or mobile home declared a total loss before obtaining a salvage certificate of title or certificate of destruction.⁷

When a towing company tows and stores a vehicle, the company may apply for a certificate of destruction under certain conditions.⁸ Under s. 713.78(2), F.S., when a wrecker operator tows and stores a vehicle or vessel, the wrecker operator must send notice to the registered owner, the insurance company insuring the vehicle, and all lienholders, as disclosed by state agency

¹ As punishable by s. 775.082 or s. 775.083, F.S., up to 60 days in jail and/or up to a \$500 fine.

² By reference, s. 319.30, F.S., defines a salvage motor vehicle dealer as “any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.”

³ A certificate of title is properly endorsed when the identified owner(s), i.e., the seller, has completed the form printed on the back of the certificate containing the name and address of the purchaser, odometer information, selling price, and the date sold in the “Transfer of Title by Seller” section. The seller must also sign and hand print their name.

⁴ Section 320.02, F.S., generally.

⁵ Sections 319.001(1) and 319.30(1)(c), F.S.

⁶ An insurance company must forward the certificate of title within 72 hours from the time it obtains it from the owner.

⁷ Section 319.30(3)(b), F.S.

⁸ Section 713.78(11), F.S.

records.⁹ Vehicles or vessels remaining unclaimed may be sold by public auction by the wrecker operator for towing and storage charges.¹⁰ If the vehicle to be sold is to be dismantled, destroyed, or altered significantly, a wrecker operator must apply to the county tax collector for a certificate of destruction.¹¹ The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements of s. 713.78, F.S., and, if the vehicle or vessel is not registered in Florida, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen. The application must also be accompanied by any such documentation as may be required by DHSMV.

A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, may be reassigned no more than twice before dismantling or destruction of the vehicle shall be required. The certificate of destruction must accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. Violation of these provisions, including providing a false or fictitious name, address, or statement on an application or affidavit, is a third degree felony punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

Derelict Motor Vehicle Certificates

Under s. 319.30, F.S., a derelict motor vehicle is any motor vehicle or mobile home, with or without all its parts, which is:

- valued under \$1,000;
- at least 10 years old; and
- is in such condition that its primary value is for dismantling for parts or conversion to scrap metal.

When a derelict motor vehicle is sold, transported, or delivered to a salvage motor vehicle dealer, the purchaser must record the date, and the name, address, and personal identification card number of the person selling the vehicle, accompanied by:¹²

- the properly endorsed certificate of title,
- a valid salvage certificate of title issued by the DHSMV in the name of the seller or properly endorsed to the seller, or
- a valid certificate of destruction issued in the name of the seller or properly endorsed to the seller.

If none of these documents are available, a derelict motor vehicle certificate must be completed by the owner, the owner's authorized transporter, and the licensed salvage motor vehicle dealer, at the time of sale, transport, and delivery to the dealer or recycler. The dealer or recycler must notify DHSMV within 24 hours of receiving the derelict vehicle or mobile home and the derelict vehicle or mobile home must be secured for three business days (excluding weekends and

⁹ Section 713.78(4)(a), F.S.

¹⁰ Section 713.78(6), F.S.

¹¹ Section 713.78(11), F.S.

¹² Section 319.30(2)(c), F.S.

holidays) prior to its destruction or dismantling. Under s. 319.30(2)(c), F.S., it is a third degree felony¹³ for anyone to willfully and deliberately:

- sell, transport, deliver, purchase, or receive a derelict motor vehicle without obtaining
 - a certificate of title,
 - a salvage certificate of title,
 - a certificate of destruction, or
 - a derelict motor vehicle certificate;
- enter false or fictitious information on a derelict motor vehicle certificate;
- not complete the derelict motor vehicle certificate or not notify DHSMV; or
- destroy or dismantle a derelict motor vehicle without waiting the required three full days.

When a derelict motor vehicle is sold, transported, or delivered to a secondary metals recycler,¹⁴ the purchaser must record the date, and the name, address, and personal identification card number of the person selling the vehicle, accompanied by:¹⁵

- the properly endorsed certificate of title,
- a valid certificate of destruction issued in the name of the seller or properly endorsed to the seller, or
- a valid derelict motor vehicle certificate.

If none of these documents are available, a derelict motor vehicle certificate must be completed by the owner, the owner's authorized transporter, and the licensed salvage motor vehicle dealer, at the time of sale, transport, and delivery to the dealer or recycler. The dealer or recycler must notify DHSMV within 24 hours of receiving the derelict vehicle or mobile home and the derelict vehicle or mobile home must be secured for three business days (excluding weekends and holidays) prior to its destruction or dismantling. Under s. 319.30(7)(b), F.S., it is a third degree felony¹⁶ for anyone willfully and deliberately:

- selling, transporting, delivering, purchasing, or receiving a derelict motor vehicle without obtaining
 - a certificate of title,
 - a salvage certificate of title,
 - a certificate of destruction, or
 - a derelict motor vehicle certificate;

¹³ As punishable by s. 775.082, s. 775.083, or s. 775.084, F.S., up to 5 years in prison and/or a \$5,000 fine.

¹⁴ By reference, s. 319.30, F.S., defines a secondary metals recycler as any person who:

“(a) Is engaged, from a fixed location or otherwise, in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or

(b) Has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof

¹⁵ Section 319.30(7)(a)4., F.S.

¹⁶ Supra note 13.

- entering false or fictitious information on a derelict motor vehicle certificate;
- not completing the derelict motor vehicle certificate or not notifying DHSMV; or
- destroying a derelict motor vehicle without waiting the required three full days.

Subsection (6) of s. 319.30, F.S., also requires salvage motor vehicle dealers to record the name, address, and personal identification card number of any person delivering motor vehicles, derelicts and major parts. Violation of the subsection is a first-degree misdemeanor.¹⁷

Both salvage motor vehicle dealers and secondary metals recyclers are required to return all certificates of title to DHSMV each month. All certificates of destruction, affidavits, and all other required information must be retained by the dealer or recycler for 3 years.

III. Effect of Proposed Changes:

Generally, this bill clarifies the process owners, transporters, salvage motor vehicle dealers, and secondary metals recyclers must follow prior to destroying or dismantling derelict vehicles and mobile homes.

Definitions

Paragraph (1) of s. 319.30, F.S., is amended to create or revise a number of definitions:

The definition of “Certificate of Title” as it applies to s. 319.30, F.S., is revised to include certificates of title authorized by motor vehicle departments in other states.

“Derelict Motor Vehicle” is redefined to clarify that the model year of the vehicle is year one in determining the vehicle’s age.

“Derelict Motor Vehicle Certificate” is redefined to clarify the certificate is issued by DHSMV to serve as evidence the vehicle will be dismantled or converted to scrap metal. The certificate is obtained after completing a derelict motor vehicle certificate application.

“Seller” is defined to include the owner of record or a person who has possession of a derelict vehicle and attests to the possession being made through lawful means.

Endorsement Provisions

Paragraph (2) of s. 319.30, F.S., is revised to clarify the endorsement of a certificate of title and a salvage certificate of title must be made in accordance with s. 319.22, F.S., which establishes procedures for the transfer of titles.

Derelict Motor Vehicle Certificate Application

Sections 319.30(2)(c)2, and 319.30(7)4, F.S., relating to salvage motor vehicle dealers and secondary metals recyclers, respectively, are revised to clarify that a derelict motor vehicle certificate *application* must be completed by the seller or owner of a derelict motor vehicle or mobile home if a valid certificate of title, salvage certificate of title, or certificate of destruction

¹⁷ As punishable by s. 775.082 or s. 775.083, F.S., up to 1 year in jail and/or a \$1,000 fine.

is not available. If the seller is not the owner of record, he or she must supply a fingerprint and photograph with the certificate application.

The revisions provide additional requirements for personal identification when the identification is something other than a Florida driver's license or Florida I.D. card. Failure to meet the requirements is also listed in the list of possible violations which could result in a third degree felony.

The revisions also include a valid salvage certificate of title in the list of documentation which may suffice for transfer of ownership to a secondary metals recycler.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill's criminal prohibition against improper disposal of derelict vehicles and improper liens may result in savings (or cost-avoidance) to certain vehicle and mobile home owners by reducing the number of vehicles being towed and dismantled, without the owner/operator consent.

C. Government Sector Impact:

The Department of Motor Vehicles and Highway Safety reports no fiscal impact to the agency is expected from this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal and Civil Justice Appropriations on April 6, 2010:

The changes to CS/SB 792 consist of the following:

- Adds Lienholder notification by the Florida Department of Highway Safety and Motor Vehicle (DHSMV) if a lien exists on the derelict vehicle with less than 3 years with the ability of the department to cancel the lien if the lienholder does not notify DHSMV within 10 days.
- Extends the buyer hold period until the procedure is complete.
- Allows a Derelict Certificate to be transferred to a second licensed salvage motor vehicle dealer.
- Clarifies major component parts and adds catalytic converter to the list.
- Removes the definition of Personal Identification Card as referenced in s. 538.18, F.S., and adds the list of identification cards to the area needed throughout the statute.
- Removes the words "willfully and deliberately" and replaces them with "knowingly".
- Adds the requirement for the buyer to acquire a legible copy of identification, right thumb print, and to pay with a check.
- Buyer bears the burden of loss if the vehicle is recovered by law enforcement as stolen or fraudulent.
- DHSMV will accept all derelict applications and have data accessible to law enforcement agencies electronically.

CS by Criminal Justice on March 18, 2010:

Deletes the newly created paragraph (f) in s. 319.30(8), F.S., which contains prohibitions and a third degree felony penalty relating to specified entities transporting, selling, or disposing of any derelict motor vehicle or mobile home.

- Requires that if the seller is not the owner of record, he or she must attach a fingerprint and photo on the derelict motor vehicle certificate application.
- Changes the knowledge requirement for violating this section from "willfully and deliberately" to "knowingly and intentionally."

B. Amendments:

None.