

**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 Transportation Committee

BILL: SB 792

INTRODUCER: Senators Baker and Storms

SUBJECT: Derelict Motor Vehicles and Mobile Homes

DATE: February 18, 2010      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	<b>Favorable</b>
2.			CJ	
3.			JA	
4.				
5.				
6.				

**I. Summary:**

Generally, this bill clarifies the required 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 10 year provision to determine whether a motor vehicle is derelict begins with the model year of the vehicle;
- 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;
- requires additional personal identification criteria for transactions involving derelict vehicles and mobile homes; and
- withholds authorization of entities engaged in the business of recovering, towing or storing vehicles to
  - claim a lien for services on a motor vehicle or mobile home under s. 713.58, F.S;
  - claim that a motor vehicle or mobile home has remained on any premises after tenancy has terminated under s. 715.104, F.S; or
  - use a derelict motor vehicle certificate to dispose of vehicles and mobile homes without obtaining the title or certificate of destruction.

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.<sup>1</sup>

All vehicles being sold, transported, or delivered to a salvage motor vehicle dealer<sup>2</sup> must be accompanied by:

- a properly endorsed certificate of title,<sup>3</sup>
- 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;<sup>4</sup> 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.<sup>5</sup>

### **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.<sup>6</sup> 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.<sup>7</sup>

When a towing company tows and stores a vehicle, the company may apply for a certificate of destruction under certain conditions.<sup>8</sup> 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

<sup>1</sup> As punishable by s. 775.082 or s. 775.083, F.S.

<sup>2</sup> 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.”

<sup>3</sup> 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.

<sup>4</sup> Section 320.02, F.S., generally.

<sup>5</sup> Sections 319.001(1) and 319.30(1)(c), F.S.

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

<sup>7</sup> Section 319.30(3)(b), F.S.

<sup>8</sup> Section 713.78(11), F.S.

records.<sup>9</sup> Vehicles or vessels remaining unclaimed may be sold by public auction by the wrecker operator for towing and storage charges.<sup>10</sup> 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.<sup>11</sup> 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:<sup>12</sup>

- the a 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

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<sup>9</sup> Section 713.78(4)(a), F.S.

<sup>10</sup> Section 713.78(6), F.S.

<sup>11</sup> Section 713.78(11), F.S.

<sup>12</sup> 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 felony<sup>13</sup> 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,<sup>14</sup> the purchaser must record the date, and the name, address, and personal identification card number of the person selling the vehicle, accompanied by:<sup>15</sup>

- the a 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 felony<sup>16</sup> for any one 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;

<sup>13</sup> As punishable by s. 775.082, s. 775.083, or s. 775.084, F.S.

<sup>14</sup> 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

<sup>15</sup> Section 319.30(7)(a)4., F.S.

<sup>16</sup> As punishable by s. 775.082, s. 775.083, or s. 775.084, F.S.

- 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.<sup>17</sup>

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 required 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 the model year of the vehicle is year one of 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

<sup>17</sup> As punishable by s. 775.082 or s. 775.083, F.S.

mobile home if a valid certificate of title, salvage certificate of title, or certificate of destruction is not available.

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.

*Transporting, Selling, or Destroying Vehicles when Tenancy has Terminated*

Paragraph (f) is added to s. 319.30(8), F.S., withholding authorization of entities engaged in the business of recovering, towing or storing vehicles to:

- claim a lien for services on a motor vehicle or mobile home under s. 713.58, F.S.;<sup>18</sup>
- claim a motor vehicle or mobile home has remained on any premises after tenancy has terminated under s. 715.104, F.S.;<sup>19</sup> or
- use a derelict motor vehicle certificate to dispose of vehicles and mobile homes without obtaining the title or certificate of destruction.

Violation of the paragraph is a third degree felony.<sup>20</sup>

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

<sup>18</sup> Section 713.58, F.S., generally allows for liens on personal property by persons who have provided labor or services on the property.

<sup>19</sup> Section 715.104, F.S., provides a notification process for landlords in possession of former tenants' personal property, after the tenant's occupancy has terminated.

<sup>20</sup> As punishable by s. 775.082, s. 775.083, or s. 775.084, F.S.

**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.

**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.)

None.

**B. Amendments:**

None.