

STORAGE NAME: h1829.tr.doc

DATE: April 3, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 1829 [PCB TR 01-01]
RELATING TO: Motor Vehicle Titles/Beverly Gagliardi Act
SPONSOR(S): Committee on Transportation and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 8 NAYS 4
 - (2) COUNCIL FOR SMARTER GOVERNMENT
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill creates the "Beverly Gagliardi Act" and would address issues related to protecting the interests of Florida citizens who are good faith purchasers of motor vehicles that have allegedly been stolen in a foreign jurisdiction and then sold or titled in Florida.

The bill provides that legal actions challenging the validity of a vehicle title issued to a good faith purchaser must be brought within one year. Further, applications for title certificates based on a title issued in another state or country would not be acted upon until 30 days after the application is filed.

The bill allows parties who wish to assert an ownership interest in a vehicle to file a notice of the interest with the Department of Highway Safety & Motor Vehicles. The filing of such notices would be subject to the same \$2 fee as currently authorized for the filing of a notice of lien. When the department receives a title application for a vehicle which has a pending claim of ownership on file, the claimant would be notified and allowed an opportunity to assert a legal claim before a Florida title is issued. If the claimant doesn't timely respond or file a legal action, the ownership claim will be considered waived and title would be issued.

The bill provides for a legal proceeding known as an interpleader action, where law enforcement can ask the courts to resolve vehicle title disputes between Florida good faith purchasers or title-holders and others who have claimed an ownership interest in a vehicle. This will prevent a motor vehicle from being seized from a Florida resident who has paid fair value for the vehicle or has been issued a Florida title, and prevent the vehicle from being returned to another state or foreign country without a judicial determination of ownership.

The bill also amends "fast title" provisions to prevent a Florida title from being issued on an expedited basis for a vehicle which was previously titled in another state or country. Normally fast titles are issued within 5 days of application.

The bill will have a fiscal impact, but the amount of this impact is expected to be minimal.

The bill would take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Lower Taxes: The bill authorizes a person to file a notice of a motor vehicle ownership interest claim with the Department of Highway Safety and Motor Vehicles. The voluntary filing of such a claim would be subject to the same \$2 fee as currently authorized for the filing of a notice of lien. This fee would cover the cost of recording and maintaining the ownership interest in the department's motor vehicle records for a period of 4 years.

B. PRESENT SITUATION:

A certificate of title is the proof of ownership to a motor vehicle in the State of Florida. Most vehicles are required by Florida law to be titled. The exceptions are mopeds, motorized bicycles and trailers weighing less than 2,000 pounds. When a person purchases a new motor vehicle, brings a motor vehicle into the state or at any time the ownership of the motor vehicle changes, the person must apply for a title in their name. Prior to issuance of a Florida title, the Vehicle Identification Number (VIN) of the vehicle must be verified and is compared with state and national databases listing stolen motor vehicles. These databases contain stolen vehicle information as reported by law enforcement agencies throughout the United States.

To prevent stolen vehicles from being improperly titled, Florida will only issue a title for a car previously titled in another state when the other state's title certificate is surrendered. If the person applying for a Florida title has lost the title issued by the other state, they can request that the other state's motor vehicle department issue a duplicate title for the car and then apply for a Florida title.

Recently, 51 vehicles that were allegedly stolen in Mexico were brought across the border into Texas with altered or fictitious Mexican documents. Based on the falsified Mexican documents Texas issued temporary titles to the vehicles. The vehicles were then transported to Florida where Florida titles were issued based on the Texas titles and then sold to consumers and dealers. Inquiries to stolen vehicle databases did not indicate that these vehicles were stolen. Subsequent to these transactions, Florida law enforcement worked with Texas law enforcement and an organization representing Mexican insurance companies and determined that the vehicles that had been allegedly stolen in Mexico were now owned by Florida dealers and consumers. Based on the belief that the vehicles had been fraudulently titled in Florida, the Florida Highway Patrol recovered 36 of the vehicles and returned 29 of them to the Mexican insurance companies who claimed legal ownership of the vehicles based on the payment of theft claims. Because the companies having possession of the vehicles are foreign entities, the Florida purchasers of these vehicles have experienced difficulties in seeking compensation for their purchase prices.

Although there is pending litigation regarding claims of good faith Florida purchasers of these vehicles, a number of strategies related to the issuance of Florida titles could be implemented to prevent this situation from occurring again in the future.

C. EFFECT OF PROPOSED CHANGES:

The bill creates the "Beverly Gagliardi Act" and would address issues related to protecting the interests of Florida citizens who are good faith purchasers of motor vehicles that have allegedly been stolen in a foreign jurisdiction and then sold or titled in Florida.

The bill provides that legal actions challenging the validity of a vehicle title issued to a good faith purchaser must be brought within one year. This will protect the ownership interests of persons issued a Florida certificate of title from claims that are not timely brought.

Further, applications for title certificates based on a title issued in another state or country would not be acted upon until 30 days after the application is filed. The bill also amends "fast title" provisions to prevent a Florida title from being issued on an expedited basis for a vehicle which was previously titled in another state or country. Normally fast titles are issued within 5 days of application. This delay in title issuance will allow the department to perform a more thorough review of the title application documents and will also allow a party asserting an ownership interest in a vehicle to file a notice of the interest as provided in the bill before a Florida title is issued.

The bill allows parties who wish to assert an ownership interest in a vehicle to file a notice of the interest with the Department of Highway Safety & Motor Vehicles. The filing of such notices would be valid for 4 years and would be subject to the same \$2 fee as currently authorized for the filing of a notice of lien. When the department receives a title application for a vehicle which has a pending claim of ownership on file, the following steps are followed:

- The claimant is provided notice by certified mail and title is not issued for 30 days. The claimant must file a sworn statement within the 30-day period stating that the ownership claim is valid, or the claim is waived.
- If the sworn statement is filed, the title for the vehicle is not issued for 90 days. If the claimant doesn't file a legal action to resolve the ownership dispute within the 90-day period, the claim is waived.
- If legal action is filed, the title is not issued until the conflict is settled by the court.

The bill provides for a legal proceeding known as an interpleader action, where law enforcement can ask the courts to resolve vehicle title disputes between Florida good faith purchasers or titleholders and others who have claimed an ownership interest in a vehicle. This procedure includes:

- Filing of the interpleader action by law enforcement instead of take possession of the vehicle when there is probable cause to believe that the vehicle is stolen and there is reason to believe that the person in possession is a good faith purchaser or has been duly issued a title.
- The petition would include information identifying the vehicle, the person in possession and the person claiming ownership. The petition would also include the basis for filing the interpleader action and would have a copy of the notice provided to the person in possession.
- The interpleader action would proceed as provided by law and court rule, except for an expedited process for resolving the action when the claimant does not answer the petition. If the claimant does answer the petition, court costs must be paid equal to the lesser of \$250 or 5 percent of the vehicle's value. No other filing fee or costs would be assessed.

- The court would resolve the ownership dispute unless all the parties in the action agree to a resolution.

Following this procedure will prevent a motor vehicle from being seized from a Florida resident who has paid fair value for the vehicle or has been duly issued a title, and prevent the vehicle from being returned to another state or foreign country without a judicial determination of ownership.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides a short title of the act as the "Beverly Gagliardi Act."

Section 2. Amends s. 319.22, F.S., to provide that legal actions challenging the validity of a vehicle title issued to a good faith purchaser must be brought within one year.

Section 3. Amends s. 319.23, F.S., to prevent a Florida title from being issued for a vehicle which was previously titled in another state or country until 30 days after the title application is submitted

Section 4. Amends s. 319.27, F.S., to allow parties who wish to assert an ownership interest in a vehicle to file a notice of the interest with the Department of Highway Safety & Motor Vehicles, and to provide for disposition of the asserted claim.

Section 5. Creates s. 319.274, F.S., to provide for a legal proceeding known as an interpleader action, where law enforcement can ask the courts to resolve vehicle title disputes between Florida good faith purchasers or title holders and others who have claimed an ownership interest in a vehicle.

Section 6. Amends s. 319.32, F.S., to provide that the voluntary filing of a notice of ownership interest would be subject to the same \$2 fee as currently authorized for filing a notice of lien.

Section 7. Amends s. 319.323, F.S., to prevent a Florida title from being issued on an expedited bases for a vehicle which was previously titled in another state or country.

Section 8. Provides that the bill takes effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes a person to file a notice of a motor vehicle ownership interest claim with the Department of Highway Safety and Motor Vehicles. The filing of such claims are voluntary and would be subject to the same \$2 fee as currently authorized for filing a notice of lien. The amount of revenue resulting from filing notices of ownership interests will depend on the number of parties taking advantage of this process to assert ownership of a motor vehicle. This fee would cover the cost of recording and maintaining the ownership interest in the department's motor vehicle records for a period of 4 years.

2. Expenditures:

The Department of Highway Safety and Motor Vehicles may experience some increase in administrative costs associated with the bill's motor vehicle title provisions. The amount of these costs is expected to be minimal and will be primarily covered by the filing fee.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill should assist private parties in resolving motor vehicle ownership disputes, and help to protect the financial interests of good faith purchasers and titleholder of motor vehicles.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of this bill because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

A version of this committee bill was work-shopped by the Committee on Transportation on March 14, 2001. The first draft of the bill was modified and the current version of PCB TR 01-01 contains revisions as follows:

- Named the act the "Beverly Gagliardi Act."
- Changed the period of time that an ownership interest would be retained by the department from 2 years to 4 years.

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- Included Florida titleholders in provisions related to interpleader actions.
- Required that a copy of the notice provided to the person in possession of the vehicle be attached to the petition initiating an interpleader action.
- Clarified that the \$2 fee for filing a notice of lien applies to the recording of an ownership interest.
- Made technical and conforming changes.

The bill was reported favorably and was filed as HB 1829 by the Committee on Transportation and Representative Russell.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Phillip B. Miller

Phillip B. Miller