



HB 0011D

2003

A bill to be entitled

An act relating to motor vehicles; providing a popular name; amending s. 319.14, F.S.; defining "insurance recovery vehicle" and "salvage recovery vehicle"; providing prohibitions on the sale of such vehicles; providing penalties; amending s. 319.23, F.S.; requiring affidavit with application for title of used vehicles not previously issued certificate of title; providing penalties for violation or falsification; amending s. 319.30, F.S.; revising provisions for issuance to insurer of certificate of destruction and certificate of title upon total loss of vehicle; requiring the Department of Highway Safety and Motor Vehicles to create a program to promote and enhance the public awareness of risks to consumers associated with buying used motor vehicles previously titled in other states; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act shall be known by the popular name the "Auto Fraud Prevention Act of 2003."

Section 2. Section 319.14, Florida Statutes, is amended to read:

319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, insurance recovery vehicles, salvage recovery vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles.--

(1)(a) No person shall knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used



HB 0011D

2003

31 as a taxicab, police vehicle, or short-term-lease vehicle; any
32 insurance recovery vehicle or salvage recovery vehicle; ~~or any~~
33 a vehicle that has been repurchased by a manufacturer pursuant
34 to a settlement, determination, or decision under chapter 681,
35 until the department has stamped in a conspicuous place on the
36 certificate of title of the vehicle, or its duplicate, words
37 stating the nature of the previous use or ownership of the
38 vehicle or the title has been stamped "Manufacturer's Buy Back"
39 to reflect that the vehicle is a nonconforming vehicle. If the
40 certificate of title or duplicate was not so stamped upon
41 initial issuance thereof or if, subsequent to initial issuance
42 of the title, the use of the vehicle is changed to a use
43 requiring the notation provided for in this section, the owner
44 or lienholder of the vehicle shall surrender the certificate of
45 title or duplicate to the department prior to offering the
46 vehicle for sale, and the department shall stamp the certificate
47 or duplicate as required herein. When a vehicle has been
48 repurchased by a manufacturer pursuant to a settlement,
49 determination, or decision under chapter 681, the title shall be
50 stamped "Manufacturer's Buy Back" to reflect that the vehicle is
51 a nonconforming vehicle.

52 (b) No person shall knowingly offer for sale, sell, or
53 exchange a rebuilt vehicle until the department has stamped in a
54 conspicuous place on the certificate of title for the vehicle
55 words stating that the vehicle has been rebuilt or assembled
56 from parts, or is a kit car, glider kit, replica, or flood
57 vehicle unless proper application for a certificate of title for
58 a vehicle that is rebuilt or assembled from parts, or is a kit
59 car, glider kit, replica, or flood vehicle has been made to the
60 department in accordance with this chapter and the department



HB 0011D

2003

61 has conducted the physical examination of the vehicle to assure
62 the identity of the vehicle and all major component parts, as
63 defined in s. 319.30(1)(e), which have been repaired or
64 replaced. Thereafter, the department shall affix a decal to the
65 vehicle, in the manner prescribed by the department, showing the
66 vehicle to be rebuilt.

67 (c) As used in this section:

68 1. "Police vehicle" means a motor vehicle owned or leased
69 by the state or a county or municipality and used in law
70 enforcement.

71 2. "Insurance recovery vehicle" means a motor vehicle for
72 which the out-of-state documentation used to obtain Florida
73 title indicates that the owner is an insurance company or
74 contains a reassignment to or from an insurance company.

75 3. "Salvage recovery vehicle" means a motor vehicle for
76 which the out-of-state documentation used to obtain Florida
77 title indicates that the owner is a salvage company or contains
78 a reassignment to or from a salvage auction.

79 4.a.2.a. "Short-term-lease vehicle" means a motor vehicle
80 leased without a driver and under a written agreement to one or
81 more persons from time to time for a period of less than 12
82 months.

83 b. "Long-term-lease vehicle" means a motor vehicle leased
84 without a driver and under a written agreement to one person for
85 a period of 12 months or longer.

86 c. "Lease vehicle" includes both short-term-lease vehicles
87 and long-term-lease vehicles.

88 5.3. "Rebuilt vehicle" means a motor vehicle or mobile
89 home built from salvage or junk, as defined in s. 319.30(1).



HB 0011D

2003

90 ~~6.4.~~ "Assembled from parts" means a motor vehicle or
91 mobile home assembled from parts or combined from parts of motor
92 vehicles or mobile homes, new or used. "Assembled from parts"
93 does not mean a motor vehicle defined as a "rebuilt vehicle" in
94 subparagraph ~~5. 3.~~, which has been declared a total loss
95 pursuant to s. 319.30.

96 ~~7.5.~~ "Kit car" means a motor vehicle assembled with a kit
97 supplied by a manufacturer to rebuild a wrecked or outdated
98 motor vehicle with a new body kit.

99 ~~8.6.~~ "Glider kit" means a vehicle assembled with a kit
100 supplied by a manufacturer to rebuild a wrecked or outdated
101 truck or truck tractor.

102 ~~9.7.~~ "Replica" means a complete new motor vehicle
103 manufactured to look like an old vehicle.

104 ~~10.8.~~ "Flood vehicle" means a motor vehicle or mobile home
105 that has been declared to be a total loss pursuant to s.
106 319.30(3)(a) resulting from damage caused by water.

107 ~~11.9.~~ "Nonconforming vehicle" means a motor vehicle which
108 has been purchased by a manufacturer pursuant to a settlement,
109 determination, or decision under chapter 681.

110 ~~12.10.~~ "Settlement" means an agreement entered into
111 between a manufacturer and a consumer that occurs after a
112 dispute is submitted to a program, or an informal dispute
113 settlement procedure established by a manufacturer or is
114 approved for arbitration before the New Motor Vehicle
115 Arbitration Board as defined in s. 681.102.

116 (2) No person shall knowingly sell, exchange, or transfer
117 a vehicle referred to in subsection (1) without, prior to
118 consummating the sale, exchange, or transfer, disclosing in
119 writing to the purchaser, customer, or transferee the fact that



HB 0011D

2003

120 the vehicle has previously been titled, registered, or used as a
121 taxicab, police vehicle, insurance recovery vehicle, salvage
122 recovery vehicle, or short-term-lease vehicle or is a vehicle
123 that is rebuilt or assembled from parts, or is a kit car, glider
124 kit, replica, or flood vehicle, or is a nonconforming vehicle,
125 as the case may be.

126 (3) Any person who, with intent to offer for sale or
127 exchange any vehicle referred to in subsection (1), knowingly or
128 intentionally advertises, publishes, disseminates, circulates,
129 or places before the public in any communications medium,
130 whether directly or indirectly, any offer to sell or exchange
131 the vehicle shall clearly and precisely state in each such offer
132 that the vehicle has previously been titled, registered, or used
133 as a taxicab, police vehicle, insurance recovery vehicle,
134 salvage recovery vehicle, or short-term-lease vehicle or that
135 the vehicle or mobile home is a vehicle that is rebuilt or
136 assembled from parts, or is a kit car, glider kit, replica, or
137 flood vehicle, or a nonconforming vehicle, as the case may be.
138 Any person who violates this subsection commits a misdemeanor of
139 the second degree, punishable as provided in s. 775.082 or s.
140 775.083.

141 (4) When a certificate of title, including a foreign
142 certificate, is branded to reflect a condition or prior use of
143 the titled vehicle, the brand must be noted on the registration
144 certificate of the vehicle and such brand shall be carried
145 forward on all subsequent certificates of title and registration
146 certificates issued for the life of the vehicle.

147 (5) Any person who knowingly sells, exchanges, or offers
148 to sell or exchange a motor vehicle or mobile home contrary to
149 the provisions of this section or any officer, agent, or



HB 0011D

2003

150 employee of a person who knowingly authorizes, directs, aids in,
151 or consents to the sale, exchange, or offer to sell or exchange
152 a motor vehicle or mobile home contrary to the provisions of
153 this section commits a misdemeanor of the second degree,
154 punishable as provided in s. 775.082 or s. 775.083.

155 (6) Any person who removes a rebuilt decal from a rebuilt
156 vehicle with the intent to conceal the rebuilt status of the
157 vehicle commits a felony of the third degree, punishable as
158 provided in s. 775.082, s. 775.083, or s. 775.084.

159 (7) This section applies to a mobile home, travel trailer,
160 camping trailer, truck camper, or fifth-wheel recreation trailer
161 only when such mobile home or vehicle is a rebuilt vehicle or is
162 assembled from parts.

163 (8) No person shall be liable or accountable in any civil
164 action arising out of a violation of this section if the
165 designation of the previous use or condition of the motor
166 vehicle is not noted on the certificate of title and
167 registration certificate of the vehicle which was received by,
168 or delivered to, such person, unless such person has actively
169 concealed the prior use or condition of the vehicle from the
170 purchaser.

171 (9) Subsections (1), (2), and (3) do not apply to the
172 transfer of ownership of a motor vehicle after the motor vehicle
173 has ceased to be used as a lease vehicle and the ownership has
174 been transferred to an owner for private use or to the transfer
175 of ownership of a nonconforming vehicle with 36,000 or more
176 miles on its odometer, or 34 months whichever is later and the
177 ownership has been transferred to an owner for private use. Such
178 owner, as shown on the title certificate, may request the
179 department to issue a corrected certificate of title that does



HB 0011D

2003

not contain the statement of the previous use of the vehicle as a lease vehicle or condition as a nonconforming vehicle.

Section 3. Subsection (3) of section 319.23, Florida Statutes, is amended to read:

319.23 Application for, and issuance of, certificate of title.--

(3) If a certificate of title has not previously been issued for a motor vehicle or mobile home in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or sworn statement of ownership, or a duly certified copy thereof, or by a certificate of title, bill of sale, or other evidence of ownership required by the law of the state or county from which the motor vehicle or mobile home was brought into this state. The application shall also be accompanied by:

(a)1. A sworn affidavit from the seller and purchaser verifying that the vehicle identification number shown on the affidavit is identical to the vehicle identification number shown on the motor vehicle; or

2. An appropriate departmental form evidencing that a physical examination has been made of the motor vehicle by the owner and by a duly constituted law enforcement officer in any state, a licensed motor vehicle dealer, a license inspector as provided by s. 320.58, or a notary public commissioned by this state and that the vehicle identification number shown on such form is identical to the vehicle identification number shown on the motor vehicle. ~~and~~

(b) If the vehicle is a used car original, a sworn affidavit from the owner verifying that the odometer reading shown on the affidavit is identical to the odometer reading



HB 0011D

2003

shown on the motor vehicle in accordance with the requirements of 49 C.F.R. s. 580.5 at the time that application for title is made. For the purposes of this section, the term "used car original" means a used vehicle coming into and being titled in this state for the first time.

(c) If the vehicle is an ancient or antique vehicle, as defined in s. 320.086, the application shall be accompanied by a certificate of title; a bill of sale and a registration; or a bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vehicle description to include the vehicle identification or engine number, year make, color, selling price, and signatures of the seller and purchaser.

(d) If a certificate of title has not been issued for a used motor vehicle in this state, application for title must be accompanied by a sworn affidavit from the owner that the motor vehicle has never been declared a total loss and the motor vehicle was not purchased from a motor vehicle salvage yard or insurance company. Willful and deliberate violation of this paragraph or falsification of any document to avoid the requirements of this paragraph is punishable as provided in s. 319.33.

Verification of the vehicle identification number is not required for any new motor vehicle; any mobile home; any trailer or semitrailer with a net weight of less than 2,000 pounds; or any travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer.

Section 4. Paragraph (b) of subsection (3) of section 319.30, Florida Statutes, is amended to read:



HB 0011D

2003

240 319.30 Definitions; dismantling, destruction, change of
241 identity of motor vehicle or mobile home; salvage.--

242 (3)

243 (b) The owner, including persons who are self-insured, of
244 any motor vehicle or mobile home which is considered to be
245 salvage shall, within 72 hours after the motor vehicle or mobile
246 home becomes salvage, forward the title to the motor vehicle or
247 mobile home to the department for processing. However, an
248 insurance company which pays money as compensation for total
249 loss of a motor vehicle or mobile home shall obtain the
250 certificate of title for the motor vehicle or mobile home and,
251 within 72 hours after receiving such certificate of title, shall
252 forward such title to the department for processing. The owner
253 or insurance company, as the case may be, may not dispose of a
254 vehicle or mobile home that is a total loss before it has
255 obtained a salvage certificate of title or certificate of
256 destruction from the department. When applying for a salvage
257 certificate of title or certificate of destruction, the owner or
258 insurance company must provide the department with an estimate
259 of the costs of repairing the physical and mechanical damage
260 suffered by the vehicle for which a salvage certificate of title
261 or certificate of destruction is sought. If the estimated costs
262 of repairing the physical and mechanical damage to the vehicle
263 are equal to 80 percent or more of the current retail cost of
264 the vehicle, as established in any official used car or used
265 mobile home guide, the department shall declare the vehicle
266 unrebuildable and print a certificate of destruction, which
267 authorizes the dismantling or destruction of the motor vehicle
268 or mobile home described therein. This certificate of
269 destruction shall be reassignable a maximum of two times before



HB 0011D

2003

270 dismantling or destruction of the vehicle shall be required, and
271 shall accompany the motor vehicle or mobile home for which it is
272 issued, when such motor vehicle or mobile home is sold for such
273 purposes, in lieu of a certificate of title, and, thereafter,
274 the department shall refuse issuance of any certificate of title
275 for that vehicle. Nothing in this subsection shall be applicable
276 when a vehicle is worth less than \$4,000 ~~\$1,500~~ retail in
277 undamaged condition in any official used motor vehicle guide or
278 used mobile home guide. An insurer paying a total loss claim may
279 obtain a certificate of destruction for such a vehicle or, when
280 a stolen motor vehicle or mobile home is recovered in
281 substantially intact condition and is readily resalable without
282 extensive repairs to or replacement of the frame or engine, the
283 insurer shall obtain a certificate of title in its own name
284 before the vehicle may be sold or transferred. Any person who
285 willfully and deliberately violates this paragraph or falsifies
286 any document to avoid the requirements of this paragraph commits
287 a misdemeanor of the first degree, punishable as provided in s.
288 775.082 or s. 775.083.

289 Section 5. The Department of Highway Safety and Motor
290 Vehicles shall create a program to promote and enhance the
291 public awareness of risks to consumers associated with buying
292 used motor vehicles previously titled in other states, including
293 risks associated with purchases of motor vehicles via the
294 Internet. The program shall also promote and enhance public
295 awareness of laws that are designed to protect used motor
296 vehicle consumers and any changes to those laws.

297 Section 6. This act shall take effect upon becoming a law.