

- SUBJECT:** Electronic reporting of the transfer of a used motor vehicle
- COMMITTEE:** Transportation — favorable, without amendment
- VOTE:** 6 ayes — Krusee, Deshotel, Harless, Hill, Macias, Murphy
0 nays
3 absent — Phillips, Harper-Brown, Haggerty
- WITNESSES:** For — Tom Gaylor, Texas Municipal Police Association; (*Registered, but did not testify*: Charley Wilkison, Combined Law Enforcement Associations of Texas)

Against — None

On — (*Registered, but did not testify*: Rebecca Davio, Texas Department of Transportation)
- BACKGROUND:** Transportation Code, secs. 520.022 makes it a misdemeanor, punishable by a fine not to exceed \$200, if the seller of a used car does not provide the purchaser with a license receipt and evidence of title upon delivery of the vehicle.

Transportation Code, secs. 520.031 and 520.032 require the purchaser of a used car to pay a \$2.50 transfer fee to file the license receipt and evidence of title documents with the county assessor-collector within 20 business days of taking possession of the vehicle or pay a late fee of \$10. The county assessor-collector keeps half of these fees as a service commission, and the rest goes to the Texas Department of Transportation (TxDOT).
- DIGEST:** HB 481 would allow the seller of a used vehicle to report the sale to TxDOT through the agency's website, within 30 days, in lieu of filing a written and signed transfer notice.

The bill also would increase the penalty for the buyer of a used car that did not transfer the title within the 20-business-day grace period. It would raise the \$10 penalty to \$25 up to the 31st business day and \$100 up to the 61st working day, with an additional \$25 penalty accruing for each

subsequent 30-day period. The county assessor-collector would be allowed to retain half of the additional penalties collected.

HB 481 would earmark \$10 of each late fee and penalty collected by TxDOT to fund a statewide public awareness campaign about transferring the title of a used vehicle.

The bill would take effect January 1, 2008.

**SUPPORTERS
SAY:**

Sellers need to be better protected when engaging in a person-to-person, or private, car sales transaction. When a person sells a car in a private sales transaction, it is the buyer's responsibility to transfer the title and pay motor vehicle sales tax. If the buyer does not do so and then engages in unlawful behavior, such as accruing parking tickets or perpetrating a hit-and-run accident, the original owner may face an administrative hassle or be contacted by law enforcement. While liability is removed from the original owner upon sale, that person must prove that the car was sold and the title relinquished.

Instituting a progressive penalty structure would encourage buyers to transfer title in a timely fashion. Currently, there is little incentive for a buyer to transfer title within the 20-day grace period because the \$10 penalty for non-compliance is very low and does not increase over time. The penalties proposed are designed to be an incentive for responsible buyer behavior and would not create a severe financial hardship because \$350 is the maximum fine one could accrue over a year.

Auto dealerships should not be exempted from progressive fines. Auto dealers make up a large portion of the late title transfers each year, and exempting them would negate the purpose of the bill. In addition, Buy-now/ Pay-now car dealerships are known to hold onto a title indefinitely while a buyer is making payment because it requires less paperwork for the dealer to seize the vehicle if the buyer defaults. The increased penalty fee would provide an incentive for auto dealers to transfer title immediately, rather than unlawfully hold onto a buyer's title.

HB 481 would address customer service issues related to private car sales transactions. Sellers would experience greater ease of access in relinquishing title over the Internet, rather than having to file a written transfer notice and wait for it to be received by mail. Buyers would benefit, too, because HB 481 would create a public awareness campaign to

help buyers know what was required of them at the time they bought a used car.

TxDOT estimates that the new penalty fees would result in a revenue gain to the State Highway Fund of about \$7.5 million in fiscal 2008, increasing to \$11.7 million by fiscal 2012. The LBB further estimates that \$1.8 million of that amount would be available to support the costs of a statewide public awareness campaign.

On-line security concerns easily could be mitigated during the web design process. It is standard for many government and business transactions to be conducted on-line. Relinquishing title would not require a seller to provide protected information over the Internet. Establishing the system as a real-time database would require additional programming support but could be implemented with a one-time cost of \$600,000 in fiscal 2008.

OPPONENTS
SAY:

Higher penalties for not filing notice of transfer would be a financial hardship for buyers. Many buyers put off transferring title because of the cost associated with the motor vehicle sales tax, which is 6.25 percent of the vehicle's standard presumptive value. Adding an additional fine could further discourage buyers from transferring title, rather than serving as an incentive to transfer on time.

Increasing penalties owed by auto dealers would result in higher prices for used car consumers. Auto dealers often do not receive title until the 20-day grace period has expired because of delays waiting for lien holders to release the lien on a vehicle. Additionally, used car dealers do not typically transfer vehicles into their own names, but rather wait to transfer title into the names of the consumers who purchase the cars off the lot. Despite the fact that car dealers file all paperwork to transfer the title during a transaction, any increased penalties ultimately would be passed along to the consumer.

HB 481 would ignore special circumstances affecting antique car buyers. Antique vehicles may be purchased out of state and it can take months to acquire title. Additionally, antique car transactions are not considered complete until authenticity is verified, and transferring title within 20 business days could be presumptive and needlessly require motor vehicle sales tax payments and re-transferring title back to the original owner.

HB 481 also would be an undue hardship on military personnel, who in many cases acquire cars out of state. We should be welcoming troops to Texas, not penalizing them while they are still navigating reassignment.

Establishing an on-line system for filing a title transfer could present a security risk to the seller. The Internet is not sufficiently secure to permit on-line submission of motor vehicle ownership transfers.

OTHER
OPPONENTS
SAY:

The duty to transfer title in a private transaction should be with the seller, not the buyer. In a private car sales transaction, it is the seller who is open to liability if title work is not completed, and the seller has more of an incentive to file on time. Car dealerships acting as sellers already are required to file title paperwork, and there should not be a separate standard for private transactions.

The graduated fine proposed would be a financial hardship. Instead, the penalty should be limited to \$25 per month, with no \$100 fine after the 31st day.

This bill should require the establishment of a real-time database so that when a seller relinquished a title on-line, records were updated instantly and were available to law enforcement. This is especially important when used cars are bought from an auto dealership because many dealers offer temporary tags or paper license plates. Further, the current 20-day grace period to transfer title would be too permissive. It should be reduced to a 10-day grace period or less.

A statewide awareness campaign is unnecessary. The funds generated from title transfer fines could be put to better use as general revenue rather than being inflexibly dedicated to a single purchase.