

- SUBJECT:** Preventing vehicle title service companies from filing gift affidavits
- COMMITTEE:** Ways and Means — favorable, without amendment
- VOTE:** 7 ayes — Hilderbran, Otto, Christian, Gonzalez, Lyne, Murphy, Villarreal
0 nays
4 absent — Elkins, Martinez Fischer, Ritter, Woolley
- SENATE VOTE:** On final passage, April 19 — 31-0
- WITNESSES:** No public hearing
- BACKGROUND:** Tax Code, sec. 152.025 imposes a \$10 tax on the recipient of a gift of a motor vehicle in lieu of the normal 6.25 percent tax applied to either the sales price or its standard presumptive value. To be eligible, recipients must have received the vehicle from their:
- spouse;
 - parent or stepparent;
 - grandparent or grandchild;
 - child or stepchild;
 - sibling; or
 - guardian.
- An affidavit that the title transfer was a gift between eligible parties must be filed with the local tax assessor-collector at the time of title transfer. Tax exempt organizations also are required to pay the \$10 tax they receive on motor vehicles they receive gifts.
- DIGEST:** SB 267 would prohibit a motor vehicle title service companies from filing an automobile gift transfer affidavit on behalf of the donor or the recipient of the vehicle. The bill would require that either the donor or recipient or a person authorized to act on behalf of an estate from which the gift was received appear in person to present the affidavit.

The person filing would be required to present unexpired photo identification. Acceptable identification would be a driver's license or personal identification card, a passport, Texas Department of Criminal Justice identification, U.S. military identification, or identification issues by the Department of Homeland Security or Citizenship and Immigration Services.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011, and would apply only to affidavits filed and tax liabilities accrued on or after the effective date.

**SUPPORTERS
SAY:**

SB 267 would help curb widespread tax fraud in the vehicle-title transfer business by preventing vehicle title service companies from filing affidavits that claimed the transfer was a gift exempt from the sales tax. Vehicle title service companies charge their customers to register their vehicles for them at the county tax assessor-collector's office. All too often these companies victimize their customers by charging them the full amount or more of the 6.25 percent sales tax due on a vehicle sale claiming they will pay the tax to the local tax assessor-collector when they transfer the title. The companies then forge an affidavit claiming the vehicle was a gift, pay the tax assessor-collector the \$10 fee, and pocket the difference. The victimized customers are overcharged and lack good title to their vehicles, and the state potentially loses hundreds of dollars of sales-tax revenue each time this fraud is committed.

The Montgomery County tax assessor-collector's fraud unit estimated the state lost about \$238,723 in sales-tax revenue as a result of the gift tax affidavits being used by two of the vehicle title service companies over a six-month period in 2010. The fraud unit was able to show that in most cases the signatures of the donor and recipient on the gift affidavit were forged by the vehicle title service companies. Fraudulent driver's licenses made by the title service companies were presented as supporting evidence of ownership.

The bill would require that either the donor or the recipient of the gift vehicle personally present the affidavit to the local tax assessor-collector. This step would help to deter fraud because the person filing also would have to present a valid picture identification.

While it might be a burden to require individuals to come to the county tax

assessor-collect personally to file their affidavits, it is necessary to prevent fraud. The trip to the office is also worth their time because the gift tax often provides a savings of hundreds of dollars over what a person would pay under the automobile sales tax.

Requiring both parties to a gift transfer to be present would be overly burdensome. One party might be out of state and it could be inconvenient or impossible for both parties to be present. An example might be military personnel stationed abroad.

**OPPONENTS
SAY:**

Under SB 267, people who rely on motor vehicle transfer services to register vehicles would not be able to do so. Examples include elderly persons who may not want to wait in line at the court house, rural residents who might not want to make a trip to the county seat, or people who do not speak English and may want to use a vehicle title transfer company rather than risk the language skills of the staff at the tax assessor-collector's office.

**OTHER
OPPONENTS
SAY:**

The bill would not do enough to prevent fraud. Both the donor and the recipient should be required to be present when the affidavit is given to the tax assessor-collector. This would eradicate fraud because both parties would be present to swear to the familiar relationship required to be eligible for the gift tax.