

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1035  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The current registration rules for vehicle title service companies are regulated under Chapter 520 (Miscellaneous Provisions), Transportation Code, and are only applicable to counties with a population of more than 500,000 or in which the commissioners court by order has adopted the subchapter. This creates a patchwork for how these laws are applied and allows companies that are doing illegitimate business to simply move counties when they get into trouble.

S.B. 1035 would create a statewide licensing requirement and adopt uniform regulations and enforcement policies with the Texas Department of Motor Vehicles for vehicle title service companies and their runners. Counties would still be allowed to create their own regulations for registration and fees for these companies and their runners, but those measures would be in addition to state licensing.

As proposed, S.B. 1035 amends current law relating to motor vehicle title services and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Motor Vehicles (TxDMV) in SECTION 7 (Section 520.0541, Transportation Code) and SECTION 14 (Section 520.0611, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 19 of this bill.

Rulemaking authority previously granted to the county tax assessor-collector is transferred to TxDMV in SECTION 11 (Section 520.059, Transportation Code) and SECTION 13 (Section 520.061, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 520.051(2), Transportation Code, effective January 1, 2012, to redefine "motor vehicle title service."

SECTION 2. Amends 520.052, Transportation Code, effective January 1, 2012, as follows:

Sec. 520.052. APPLICABILITY. Provides that this subchapter applies to any motor vehicle title service operating in this state. Deletes existing text providing that this subchapter applies to any motor vehicle title service operating in a county to a county that has a population of more than 500,000, or in which the commissioners court by order has adopted this subchapter.

SECTION 3. Amends Subchapter E, Chapter 520, Transportation Code, effective January 1, 2012, by adding Section 520.0521, as follows:

Sec. 520.0521. PURPOSE; LIBERAL CONSTRUCTION. (a) Provides that the purpose of this subchapter is to ensure a sound system of distributing and selling motor vehicles through:

(1) the licensing and regulation of titling services and title service runners; and

(2) the enforcement of this chapter to prevent fraud, unfair practices, and discrimination.

(b) Requires that this subchapter be liberally construed to give effect to the purpose of this subchapter.

SECTION 4. Amends Section 520.053, Transportation Code, effective January 1, 2012, to prohibit a person from acting as a motor vehicle title service or acting as a title service runner, rather than an agent for that business, unless that person holds a license issued under this subchapter.

SECTION 5. Amends Subchapter E, Chapter 520, effective January 1, 2012, Transportation Code, by adding Section 520.0531, as follows:

Sec. 520.0531. COUNTY PERMITS. (a) Authorizes a county tax assessor-collector to:

(1) require motor vehicle title services and title service runners to obtain permits to operate within that county's jurisdiction; and

(2) charge a fee for a permit issued under Subdivision (1).

(b) Provides that a county's permit fee charged under Subsection (a)(2):

(1) may not exceed the amount of a fee established under Section 520.0541; and

(2) must be used for the administration and enforcement of the county's motor vehicle title service and title service runner permitting program.

SECTION 6. Amends Section 520.054, Transportation Code, effective January 1, 2012, as follows:

Sec. 520.054. New heading: LICENSE APPLICATION REQUIREMENTS. (a) Requires an applicant for a motor vehicle title service license or a title service runner license to apply on a form prescribed by the Texas Department of Motor Vehicles (TxDMV), rather than the county tax assessor-collector.

(b) Requires that an application include:

(1) information required by TxDMV rule;

(2) an acknowledgment by the county tax assessor-collector on a form prescribed by TxDMV that the motor vehicle title service or title service runner intends to conduct business in that county;

(3) an affirmation that all acts of motor vehicle title service's employees, agents, contractors, or title service runners are acts of the motor vehicle title service for the purposes of this subchapter; and

(4) an affirmation of the truth of the information contained in the application signed and sworn to before an officer authorized to administer oaths.

Deletes existing text requiring that an application include the applicant's name, business address, and business telephone number; the name under which the applicant will do business; physical address of each office from

which the applicant will conduct business; a statement indicating whether the applicant has previously applied for a license under this subchapter, the result of the previous application, and whether the applicant has ever been the holder of a license under this subchapter that was revoked or suspended and information from the applicant as required by the county tax assessor-collector to establish the business reputation and character of the applicant, the applicant's federal tax identification number; the applicant's state sales tax number; and any other information required by rules adopted under this subchapter.

(c) Provides that the issuance of an acknowledgment under Subsection (b)(2) does not constitute approval by the county tax assessor-collector for a motor vehicle title service or title service runner to conduct business in that county if the county requires a permit under Section 520.0531.

SECTION 7. Amends Subchapter E, Chapter 520, Transportation Code, effective January 1, 2012, by adding Section 520.0541, as follows:

Sec. 520.0541. LICENSE FEES. (a) Requires TxDMV by rule to adopt fees for an original license and a renewal license for motor vehicle title services and for an original license and a renewal license for title service runners.

(b) Prohibits the fee for an original license for a motor vehicle title service or for a title service runner from exceeding \$500.

(c) Prohibits the fee for a renewal license for a motor vehicle title service or for a title service runner from exceeding \$200.

(d) Requires that a fee collected under this section be deposited to the credit of the state highway fund. Provides that Section 403.095 (Use of Dedicated Revenue), does not apply to money received by TxDMV and deposited to the credit of the state highway fund under this subchapter.

SECTION 8. Amends Subchapter E, Chapter 520, Transportation Code, effective January 1, 2012, by adding Section 520.0542, as follows:

Sec. 520.0542. SECURITY REQUIREMENT. Prohibits TxDMV from issuing or renewing a motor vehicle title service license unless the applicant provides to TxDMV satisfactory proof that the applicant has purchased a properly executed surety bond in the amount of \$50,000 with a good and sufficient surety approved by TxDMV.

SECTION 9. Amends Section 520.057, Transportation Code, effective January 1, 2012, as follows:

Sec. 520.057. RECORDS. (a) Requires a holder of a motor vehicle title service license to:

(1) maintain records as required by TxDMV rule, on a form prescribed and made available by TxDMV, rather than the county tax assessor-collector, for each transaction in which the license holder receives compensation; and

(2) provide a copy of the record to the county tax assessor-collector.

Deletes existing text requiring that the records include the date of the transaction; the name, age, address, sex, driver's license number, and a legible photocopy of the driver's license for each customer; and the license plate number, vehicle identification number, and a legible photocopy of proof of financial responsibility for the motor vehicle involved. Makes nonsubstantive changes.

(b) Requires that records required by this section be maintained for four years from the date of the transaction. Deletes existing text requiring that a motor vehicle title service keep two copies of all records required under this section for at least two years after the date of the transaction, legible photocopies of any documents submitted by a customer, and legible photocopies of any documents submitted to the county tax- assessor-collector.

SECTION 10. Amends Section 520.058, Transportation Code, effective January 1, 2012, to require a motor vehicle title service license holder or any of its employees to allow during business hours an inspection of records required under Section 520.057 by TxDMV, the county tax assessor-collector, or a peace officer, rather than by a peace officer on the premises of the motor vehicles title service at any reasonable time to verify, check, or audit, the records.

SECTION 11. Amends Sections 520.059(a) and (b), Transportation Code, effective January 1, 2012, as follows:

(a) Authorizes TxDMV, rather than the county tax assessor-collector, to deny, suspend, revoke, or reinstate a license issued under this subchapter.

(b) Requires TxDMV, rather than the county tax assessor-collector, to adopt rules that establish grounds for the denial, suspension, revocation, or reinstatement of a license and rules that establish procedures for disciplinary action. Provides that procedures issued under this subchapter are subject to Chapter 2001, Government Code.

SECTION 12. Amends Sections 520.060(a) and (b), Transportation Code, effective January 1, 2012, as follows:

(a) Authorizes a license issued under this subchapter for a title service runner expires on the first anniversary of the date of issuance and be renewed annually on or before the expiration date on payment of the required renewal fee.

(b) Provides that a license issued under this subchapter for a motor vehicle title service expires on the second anniversary of the date of issuance and is authorized to be renewed biennially on or before the expiration date on payment of the required renewal fee. Deletes existing text authorizing a person who is otherwise eligible to renew a license to renew an unexpired license by paying to the county tax assessor-collector before the expiration date of the license the required renewal fee. Deletes existing text prohibiting a person whose license has expired from engaging in activities that require a license until the license has been renewed under this section.

SECTION 13. Amends Section 520.061, Transportation Code, effective January 1, 2012, as follows:

Sec. 520.061. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person violates this subchapter or a rule adopted by the TxDMV, rather than county tax assessor-collector, under this subchapter.

(b) Provides that except as provided by Subsection (c), an offense under this section is a Class A misdemeanor. Makes a nonsubstantive change.

(c) Provides that an offense is a state jail felony if it is based on:

(1) a violation of Section 520.053; or

(2) the falsification of information required under Section 520.054 or 520.0542.

SECTION 14. Amends Subchapter E, Chapter 520, Transportation Code, effective January 1, 2012, by adding Section 520.0611, as follows:

Sec. 520.0611. CIVIL PENALTY. (a) Provides that a person who violates this subchapter is subject to a civil penalty of not more than \$10,000 for each violation.

(b) Provides that each day a violation occurs constitutes a separate violation.

(c) Requires TxDMV by rule to establish factors to be considered in determining the amount of the civil penalty.

SECTION 15. Amends Section 520.062(a), Transportation Code, effective January 1, 2012, to authorize the attorney general or a district attorney of the county in which the motor vehicle title service is located to bring an action to enjoin the operation of a motor vehicle title service if the motor vehicle title service license holder or a runner of the motor vehicle title service while in the scope of the runner's employment is found to have committed one or more violations of this subchapter, rather than while in the scope of the runner's employment is convicted of more than one offense under this subchapter. Makes a nonsubstantive change.

SECTION 16. Amends Section 520.063, Transportation Code, as follows:

Sec. 520.063. EXEMPTIONS. Exempts certain persons and their agents from the licensing and other requirements established by this subchapter, including a vehicle lessor holding a license issued by TxDMV, rather than the Motor Vehicle Board, under Chapter 2301 (Sale or Lease of Motor Vehicles), Occupations Code, or a trust or other entity that is specifically not required to obtain a lessor license under Section 2301.254(a) (relating to circumstances in which a person is not required to obtain a license to act as a vehicle lessor or a vehicle lease facilitator; and a vehicle lease facilitator holding a license issued by TxDMV, rather than the Motor Vehicle Board, under Chapter 2301, Occupations Code.

SECTION 17. Amends Subchapter E, Chapter 520, Transportation Code, effective January 1, 2012, by adding Section 520.064, as follows:

Sec. 520.054. DEPARTMENT EXEMPT FROM FILING FEE. Provides that notwithstanding the other provisions of this subchapter, TxDMV is not required to pay a filing fee when filing a complaint or other enforcement action.

SECTION 18. Repealers, effective January 1, 2012: Sections 520.051(3) (defining "title documents"), (4) (defining "title service license holder"), and (5), (defining "title service record"); 520.055 (Application Requirements: Corporation); 520.056 (Application Requirements: Partnership); 520.059(c) (relating to a revoked license) and (d) (relating to prohibiting a license issued under a fictitious name); and 520.060(c) (relating to license renewal fees for a license that has been expired for 90 days or less), (d) (relating to license renewal fees for a license that has been expired for longer than 90 days), (e) (relating to conditions for a license renewal after one year or longer), and (f) (relating to authorizing license renewal to a person who has moved and requiring a license renewal fee of two times the required renewal fee for the license), Transportation Code.

SECTION 19. Requires the Texas Department of Transportation [sic], not later than November 1, 2011, to adopt rules and forms to administer Subchapter E, Chapter 520, Transportation Code, as amended by this Act.

SECTION 20. Makes application of Section 520.061, Transportation Code, only to an offense committed on or after January 1, 2012, prospective.

SECTION. Effective date, except as otherwise provided by this Act: September 1, 2011.