

By: Williams

S.B. No. 1035

A BILL TO BE ENTITLED

AN ACT

relating to motor vehicle title services; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Effective January 1, 2012, the heading to Subchapter E, Chapter 520, Transportation Code, is amended to read as follows:

SUBCHAPTER E. COUNTY PERMITTING OF MOTOR VEHICLE TITLE SERVICES

SECTION 2. Effective January 1, 2012, Subdivisions (2), (3), (4), and (6), Section 520.051, Transportation Code, are amended to read as follows:

(2) "Motor vehicle title service" means any person that for compensation directly or indirectly assists other persons in obtaining motor vehicle [~~title~~] documents by submitting, transmitting, or sending applications for motor vehicle [~~title~~] documents to the appropriate government agencies, including county tax assessor-collectors.

(3) "Motor vehicle [~~Title~~] documents" means motor vehicle title applications, motor vehicle registration renewal applications, motor vehicle mechanic's lien title applications, motor vehicle storage lien title applications, motor vehicle temporary registration permits, motor vehicle title application transfers occasioned by the death of the title holder, or notifications under Chapter 683 of this code or Chapter 70, Property Code.

1           (4) "Title service permit [~~license~~] holder" means a  
2 person who holds a motor vehicle title service permit [~~license~~] or a  
3 title service runner's permit [~~license~~].

4           (6) "Title service runner" means any person employed  
5 by a [~~licensed~~] motor vehicle title service to submit or present  
6 motor vehicle [~~title~~] documents to the county tax  
7 assessor-collector.

8           SECTION 3. Effective January 1, 2012, Subchapter E, Chapter  
9 520, Transportation Code, is amended by adding Section 520.0521 to  
10 read as follows:

11           Sec. 520.0521. PURPOSE; LIBERAL CONSTRUCTION. (a) The  
12 purpose of this subchapter is to protect the integrity of the  
13 submittal of transactional motor vehicle documents by  
14 nongovernmental entities through:

15                   (1) the permitting and regulation of titling services  
16 and title service runners; and

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

19           (b) This subchapter shall be liberally construed to give  
20 effect to the purpose of this subchapter.

21           SECTION 4. Effective January 1, 2012, Sections 520.052  
22 through 520.060, Transportation Code, are amended to read as  
23 follows:

24           Sec. 520.052. APPLICABILITY. This subchapter applies to  
25 any motor vehicle title service operating in a county[+]

26                   [~~(1)~~] that requires a permit under Section 520.053  
27 [~~has a population of more than 500,000, or~~

1           ~~[(2) in which the commissioners court by order has~~  
2 ~~adopted this subchapter].~~

3           Sec. 520.053. PERMIT [~~LICENSE~~] REQUIRED. A county may  
4 require a motor vehicle title service or a title service runner to  
5 obtain a permit from the county in which the titles are required to  
6 be filed [~~person may not act as a motor vehicle title service or act~~  
7 ~~as an agent for that business unless that person holds a license~~  
8 ~~issued under this subchapter].~~

9           Sec. 520.054. GENERAL PERMIT [~~LICENSE~~] APPLICATION  
10 REQUIREMENTS. (a) In a county that requires [~~An applicant for~~] a  
11 motor vehicle title service permit or a title service runner  
12 permit, an applicant [~~license~~] must apply on a form prescribed by  
13 the county tax assessor-collector. The application form must be  
14 signed by the applicant and accompanied by the application fee,  
15 which may not exceed the amount of a fee established under Section  
16 520.077.

17           (b) An application must include:

18                   (1) the applicant's name, business address, and  
19 business telephone number;

20                   (2) the name under which the applicant will do  
21 business;

22                   (3) the physical address of each office from which the  
23 applicant will conduct business;

24                   (4) a statement indicating whether the applicant has  
25 previously applied for a permit [~~license~~] under this subchapter,  
26 the result of the previous application, and whether the applicant  
27 has ever been the holder of a permit [~~license~~] under this subchapter

1 that was revoked or suspended;

2 (5) information from the applicant as required by the  
3 county tax assessor-collector to establish the business reputation  
4 and character of the applicant;

5 (6) the applicant's federal tax identification number;

6 (7) the applicant's state sales tax number; ~~and~~

7 (8) any other information required by rules adopted  
8 under this subchapter;

9 (9) an affirmation of the truth of the information  
10 contained in the application signed and sworn to before an officer  
11 authorized to administer oaths; and

12 (10) if for a motor vehicle title service permit, an  
13 affirmation that all acts of a motor vehicle title service's  
14 employees, agents, contractors, or title service runners are acts  
15 of the motor vehicle title service for the purposes of this  
16 subchapter.

17 (c) A permit fee charged under Subsection (a) must be  
18 deposited in the general fund for the county tax assessor-collector  
19 and sheriff to use for the administration and enforcement of the  
20 county's motor vehicle title service and title service runner  
21 permitting program.

22 Sec. 520.055. APPLICATION REQUIREMENTS: CORPORATION. In  
23 addition to the information required in Section 520.054, an  
24 applicant for a motor vehicle title service permit ~~license~~ that  
25 intends to engage in business as a corporation shall submit the  
26 following information:

27 (1) the state of incorporation;

1           (2) the name, address, date of birth, and social  
2 security number of each of the principal owners and directors of the  
3 corporation;

4           (3) information about each officer and director as  
5 required by the county tax assessor-collector to establish the  
6 business reputation and character of the applicant; and

7           (4) a statement indicating whether an employee,  
8 officer, or director has been refused a motor vehicle title service  
9 permit [~~license~~] or a title service runner's permit [~~license~~] or  
10 has been the holder of a permit [~~license~~] that was revoked or  
11 suspended.

12           Sec. 520.056. APPLICATION REQUIREMENTS: PARTNERSHIP. In  
13 addition to the information required in Section 520.054, a motor  
14 vehicle title service permit [~~license~~] applicant that intends to  
15 engage in business as a partnership shall submit an application  
16 that includes the following information:

17           (1) the name, address, date of birth, and social  
18 security number of each partner;

19           (2) information about each partner as required by the  
20 county tax assessor-collector to establish the business reputation  
21 and character of the applicant; and

22           (3) a statement indicating whether a partner or  
23 employee has been refused a motor vehicle title service permit  
24 [~~license~~] or a title service runner's permit [~~license~~] or has been  
25 the holder of a permit [~~license~~] that was revoked or suspended.

26           Sec. 520.057. RECORDS. [~~(a)~~] A holder of a motor vehicle  
27 title service permit [~~license~~] shall maintain records as required

1 by Section 520.080 [~~this section on a form prescribed and made~~  
2 ~~available by the county tax assessor-collector for each transaction~~  
3 ~~in which the license holder receives compensation. The records~~  
4 ~~shall include:~~

- 5           ~~[(1) the date of the transaction;~~  
6           ~~[(2) the name, age, address, sex, driver's license~~  
7 ~~number, and a legible photocopy of the driver's license for each~~  
8 ~~customer; and~~  
9           ~~[(3) the license plate number, vehicle identification~~  
10 ~~number, and a legible photocopy of proof of financial~~  
11 ~~responsibility for the motor vehicle involved.~~

- 12           ~~[(b) A motor vehicle title service shall keep:~~  
13           ~~[(1) two copies of all records required under this~~  
14 ~~section for at least two years after the date of the transaction;~~  
15           ~~[(2) legible photocopies of any documents submitted by~~  
16 ~~a customer; and~~  
17           ~~[(3) legible photocopies of any documents submitted to~~  
18 ~~the county tax assessor-collector].~~

19           Sec. 520.058. INSPECTION OF RECORDS. A motor vehicle title  
20 service permit [~~license~~] holder or any of its employees shall allow  
21 an inspection of records required under Section 520.057 by the  
22 county tax assessor-collector or a peace officer on the premises of  
23 the motor vehicle title service at any reasonable time to verify,  
24 check, or audit the records.

25           Sec. 520.059. DENIAL, SUSPENSION, OR REVOCATION OF PERMIT  
26 [~~LICENSE~~]. (a) The county tax assessor-collector may deny,  
27 suspend, revoke, or reinstate a permit [~~license~~] issued under this

1 subchapter.

2 (b) The county tax assessor-collector shall adopt rules  
3 that establish grounds for the denial, suspension, revocation, or  
4 reinstatement of a permit [~~license~~] and rules that establish  
5 procedures for disciplinary action. Procedures issued under this  
6 subchapter are subject to Chapter 2001, Government Code.

7 (c) A person whose permit [~~license~~] is revoked may not apply  
8 for a new permit [~~license~~] before the first anniversary of the date  
9 of the revocation.

10 (d) A permit [~~license~~] may not be issued under a fictitious  
11 name that is similar to or may be confused with the name of a  
12 governmental entity or that is deceptive or misleading to the  
13 public.

14 (e) The county tax assessor-collector must provide written  
15 notice of denial, suspension, or revocation of a permit.

16 (f) Notwithstanding any other provision of law, the county  
17 has all powers necessary, incidental, or convenient to:

18 (1) initiate and conduct proceedings, investigations,  
19 or hearings;

20 (2) administer oaths;

21 (3) receive evidence and pleadings;

22 (4) issue subpoenas to compel the attendance of any  
23 person;

24 (5) order the production of any tangible property,  
25 including papers, records, or other documents;

26 (6) make findings of fact on all factual issues  
27 arising out of a proceeding initiated under this subchapter;

1           (7) specify and govern appearance, practice, and  
2 procedures before the county;

3           (8) issue conclusions of law and decisions, including  
4 declaratory decisions or orders;

5           (9) enter into settlement agreements;

6           (10) impose a sanction for contempt;

7           (11) assess and collect fees and costs, including  
8 attorney's fees;

9           (12) issue cease and desist orders in the nature of  
10 temporary or permanent injunctions;

11           (13) impose a civil penalty;

12           (14) enter an order requiring a person to:

13                 (A) pay costs and expenses of a party in  
14 connection with an order;

15                 (B) perform an act other than the payment of  
16 money; or

17                 (C) refrain from performing an act; and

18           (15) enforce a county order.

19           Sec. 520.060. PERMIT [~~LICENSE~~] RENEWAL. (a) A permit  
20 [~~license~~] issued under this subchapter expires on the first  
21 anniversary of the date of issuance and may be renewed annually on  
22 or before the expiration date on payment of the required renewal  
23 fee.

24           (b) A person who is otherwise eligible to renew a permit  
25 [~~license~~] may renew an unexpired permit [~~license~~] by paying to the  
26 county tax assessor-collector before the expiration date of the  
27 permit [~~license~~] the required renewal fee. A person whose permit



1 ~~[license]~~ has expired may not engage in activities that require a  
2 permit ~~[license]~~ until the permit ~~[license]~~ has been renewed under  
3 this section.

4 (c) If a person's permit ~~[license]~~ has been expired for 90  
5 days or less, the person may renew the permit ~~[license]~~ by paying to  
6 the county tax assessor-collector 1-1/2 times the required renewal  
7 fee.

8 (d) If a person's permit ~~[license]~~ has been expired for  
9 longer than 90 days but less than one year, the person may renew the  
10 permit ~~[license]~~ by paying to the county tax assessor-collector two  
11 times the required renewal fee.

12 (e) If a person's permit ~~[license]~~ has been expired for one  
13 year or longer, the person may not renew the permit ~~[license]~~. The  
14 person may obtain a new permit ~~[license]~~ by complying with the  
15 requirements and procedures for obtaining an original permit  
16 ~~[license]~~.

17 (f) Notwithstanding Subsection (e), if a person had  
18 obtained a permit ~~[was licensed]~~ in this state, moved to another  
19 state, and has been doing business in the other state for the two  
20 years preceding application, the person may renew an expired permit  
21 ~~[license]~~. The person must pay to the county tax  
22 assessor-collector a fee that is equal to two times the required  
23 renewal fee for the permit ~~[license]~~.

24 (g) Before the 30th day preceding the date on which a  
25 person's permit ~~[license]~~ expires, the county tax  
26 assessor-collector shall notify the person of the impending  
27 expiration. The notice must be in writing and sent to the person's

1 last known address according to the records of the county tax  
2 assessor-collector.

3 SECTION 5. Effective January 1, 2012, Section 520.061,  
4 Transportation Code, is amended by amending Subsection (b) and  
5 adding Subsection (c) to read as follows:

6 (b) Except as provided by Subsection (c) or the Penal Code,  
7 an [An] offense under this section is a Class A misdemeanor.

8 (c) An offense under this section is a state jail felony if  
9 it is based on:

10 (1) a violation of Section 520.053; or

11 (2) the falsification of information required under  
12 Section 520.054, 520.055, or 520.056.

13 SECTION 6. Effective January 1, 2012, Subchapter E, Chapter  
14 520, Transportation Code, is amended by adding Section 520.0611 to  
15 read as follows:

16 Sec. 520.0611. CIVIL PENALTY. (a) A person who violates  
17 this subchapter is subject to a civil penalty of not more than  
18 \$10,000 for each violation.

19 (b) Each day a violation occurs constitutes a separate  
20 violation.

21 (c) The county by rule shall establish factors to be  
22 considered in determining the amount of the civil penalty assessed  
23 by the county.

24 (d) Notwithstanding any other law to the contrary, a civil  
25 penalty recovered under this subchapter shall be deposited to the  
26 credit of the county's general fund or other fund as designated by  
27 the county.

1 SECTION 7. Effective January 1, 2012, Subsection (a),  
2 Section 520.062, Transportation Code, is amended to read as  
3 follows:

4 (a) The county attorney or a [A] district attorney of the  
5 county in which the motor vehicle title service is operating  
6 [~~located~~] may bring an action to enjoin the operation of a motor  
7 vehicle title service or a title service runner if the motor vehicle  
8 title service permit [~~license~~] holder or a runner of the motor  
9 vehicle title service while in the scope of the runner's employment  
10 is found to have committed one or more violations of or convicted of  
11 more than one offense under this subchapter.

12 SECTION 8. Effective January 1, 2012, Section 520.063,  
13 Transportation Code, is amended to read as follows:

14 Sec. 520.063. EXEMPTIONS. The following persons and their  
15 agents are exempt from the permitting [~~licensing~~] and other  
16 requirements established by this subchapter:

17 (1) a franchised motor vehicle dealer or independent  
18 motor vehicle dealer who holds a general distinguishing number  
19 issued by the department under Chapter 503;

20 (2) a vehicle lessor holding a license issued by the  
21 department [~~Motor Vehicle Board~~] under Chapter 2301, Occupations  
22 Code, or a trust or other entity that is specifically not required  
23 to obtain a lessor license under Section 2301.254(a) of that code;  
24 and

25 (3) a vehicle lease facilitator holding a license  
26 issued by the department [~~Motor Vehicle Board~~] under Chapter 2301,  
27 Occupations Code.

1 SECTION 9. Effective January 1, 2012, Chapter 520,  
2 Transportation Code, is amended by adding Subchapter F to read as  
3 follows:

4 SUBCHAPTER F. STATE LICENSING OF MOTOR VEHICLE TITLE SERVICES

5 Sec. 520.071. DEFINITIONS. In this subchapter:

6 (1) "Board" means the Board of the Texas Department of  
7 Motor Vehicles.

8 (2) "Motor vehicle" has the meaning assigned by  
9 Section 501.002.

10 (3) "Motor vehicle documents" means motor vehicle  
11 title applications, motor vehicle registration renewal  
12 applications, motor vehicle mechanic's lien title applications,  
13 motor vehicle storage lien title applications, motor vehicle  
14 temporary registration permits, motor vehicle title application  
15 transfers occasioned by the death of the title holder, or  
16 notifications under Chapter 683 of this code or Chapter 70,  
17 Property Code.

18 (4) "Motor vehicle title service" means any person  
19 that for compensation directly or indirectly assists other persons  
20 in obtaining motor vehicle documents by submitting, transmitting,  
21 or sending applications for motor vehicle documents to the  
22 appropriate government agencies, including county tax  
23 assessor-collectors.

24 (5) "Title service license holder" means a person who  
25 holds a motor vehicle title service license or a title service  
26 runner's license.

27 (6) "Title service record" means the written record

1 for each transaction in which a motor vehicle title service  
2 receives compensation.

3 (7) "Title service runner" means any person employed  
4 by a motor vehicle title service to submit or present motor vehicle  
5 documents to the county tax assessor-collector.

6 Sec. 520.072. APPLICABILITY. This subchapter applies to  
7 any motor vehicle title service operating in this state.

8 Sec. 520.073. PURPOSE; LIBERAL CONSTRUCTION. (a) The  
9 purpose of this subchapter is to protect the integrity of the  
10 submittal of transactional motor vehicle documents by  
11 nongovernmental entities through:

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

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

16 (b) This subchapter shall be liberally construed to give  
17 effect to the purpose of this subchapter.

18 Sec. 520.074. LICENSE REQUIRED. A person may not act as a  
19 motor vehicle title service or act as a title service runner unless  
20 that person holds:

21 (1) a permit issued by the county, if required by the  
22 county where the titles are required to be filed; and

23 (2) a license issued by the department.

24 Sec. 520.075. STATE LICENSE APPLICATION REQUIREMENTS. An  
25 applicant for a motor vehicle title service license or a title  
26 service runner license must apply on a form prescribed by the  
27 department. The application form must be signed by the applicant

1 and accompanied by the application fee.

2 Sec. 520.076. ESTABLISHED AND PERMANENT PLACE OF BUSINESS.

3 (a) An applicant for a motor vehicle title service license must  
4 demonstrate that the location for which the applicant requests the  
5 license is an established and permanent place of business. A  
6 location is considered to be an established and permanent place of  
7 business if the applicant:

8 (1) owns the real property on which the business is  
9 situated or has a written lease for the property that has a term of  
10 not less than the term of the license;

11 (2) maintains on the location:

12 (A) a permanent furnished office that is equipped  
13 for titling services as specified in department rules; and

14 (B) a conspicuous sign with letters at least six  
15 inches high showing the name of the applicant's business.

16 (b) The applicant must demonstrate that:

17 (1) the applicant intends to remain regularly and  
18 actively engaged in the business specified in the application for a  
19 time equal to at least the term of the license at the location  
20 specified in the application; and

21 (2) the applicant or a bona fide employee of the  
22 applicant will be:

23 (A) at the location to transact title services;

24 and

25 (B) available to the public or the department at  
26 that location during reasonable and lawful business hours.

27 Sec. 520.077. LICENSE FEES. (a) The department by rule

1 shall adopt fees for an original license and a renewal license for  
2 motor vehicle title services and for an original license and a  
3 renewal license for title service runners.

4 (b) The fee for an original license for a motor vehicle  
5 title service or for a title service runner may not exceed \$500.

6 (c) The fee for a renewal license for a motor vehicle title  
7 service or for a title service runner may not exceed \$200 annually.

8 (d) The fee for an amendment to a license issued under this  
9 subchapter may not exceed \$25.

10 (e) The fee for a duplicate license issued under this  
11 subchapter may not exceed \$50.

12 (f) An additional fee may be charged for late renewal of not  
13 more than 1-1/2 times the renewal fee.

14 (g) A fee collected under this section shall be deposited to  
15 the credit of the state highway fund. Section 403.095, Government  
16 Code, does not apply to money received by the department and  
17 deposited to the credit of the state highway fund under this  
18 subchapter.

19 (h) The department may refund from funds appropriated to the  
20 department for that purpose a fee collected under this subchapter  
21 that is not due or that exceeds the amount due.

22 Sec. 520.078. SURETY BOND. (a) The department may not  
23 issue or renew a motor vehicle title service license unless the  
24 applicant provides to the department satisfactory proof that the  
25 applicant has purchased a properly executed surety bond in the  
26 amount of \$25,000 with a good and sufficient surety authorized by  
27 the Texas Department of Insurance in effect for at least the term of

1 the license.

2 (b) The surety bond must be:

3 (1) in a form approved by the department; and

4 (2) conditioned on the submission by the applicant of  
5 money and accurate motor vehicle documents on behalf of another  
6 person that are required to be submitted to government agencies,  
7 including county tax assessor-collectors, in order to obtain motor  
8 vehicle title or registration.

9 (c) A person may recover against a surety bond if the person  
10 obtains a judgment assessing damages and reasonable attorney's fees  
11 based on an act or omission of the bondholder:

12 (1) on which the bond is conditioned; and

13 (2) that occurred during the term for which the motor  
14 vehicle title service license was valid.

15 (d) The liability imposed on a surety is limited to the  
16 amount:

17 (1) required to be submitted to the appropriate  
18 government agencies, including county tax assessor-collectors;

19 (2) received by the applicant for performing as a  
20 motor vehicle title service;

21 (3) incurred in engaging the applicant to assist in  
22 obtaining motor vehicle documents; and

23 (4) of attorney's fees awarded in the judgment.

24 (e) The liability of a surety may not exceed the face value  
25 of the surety bond. A surety is not liable for successive claims in  
26 excess of the bond amount regardless of the number of claims made  
27 against the bond or the number of years the bond remains in force.



1       Sec. 520.079. LICENSE RENEWAL. (a) The board shall set  
2 the term of a license issued under this subchapter by rule.

3       (b) If a person's license has been expired for 90 days or  
4 less, the person may renew the license by paying a late fee in  
5 addition to the renewal fee as described in Section 520.077(f).

6       Sec. 520.080. RECORDS. (a) A holder of a motor vehicle  
7 title service license shall:

8           (1) maintain records as required by department rule,  
9 including any forms prescribed by the department for each  
10 transaction presented to the county tax office or appropriate  
11 government office under this subchapter; and

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

14       (b) The records maintained under this section must include:

15           (1) the date of the transaction;

16           (2) the name, age, address, sex, and driver's license  
17 number of, and a legible photocopy of the driver's license for, each  
18 customer;

19           (3) the license plate number and vehicle  
20 identification number of, and, if applicable, a legible photocopy  
21 of proof of financial responsibility for, the motor vehicle  
22 involved; and

23           (4) any other information required to be maintained by  
24 department rule.

25       (c) Records required by this section must be maintained for  
26 four years from the date of the transaction.

27       (d) A motor vehicle title service shall keep:

1           (1) a copy of all records required under this section  
2 for at least four years after the date of the transaction;

3           (2) a legible photocopy of any documents submitted by  
4 a customer; and

5           (3) a legible photocopy of any documents submitted to  
6 the county tax assessor-collector.

7           Sec. 520.081. INSPECTION OF RECORDS. A motor vehicle title  
8 service license holder or any of its employees shall allow during  
9 business hours at the license holder's business location an  
10 inspection of records required under Section 520.080 by the  
11 department, the county tax assessor-collector, or a peace officer.

12           Sec. 520.082. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

13 (a) The department may deny, suspend, revoke, or reinstate a  
14 license issued under this subchapter.

15           (b) The department:

16           (1) shall adopt rules that establish grounds for the  
17 denial, suspension, revocation, or reinstatement of a license and  
18 rules that establish procedures for disciplinary action; and

19           (2) may adopt rules that allow for the incorporation  
20 of findings made by a county that has denied, suspended, revoked, or  
21 reinstated a permit issued under Subchapter E.

22           (c) Procedures established under this subchapter are  
23 subject to Chapter 2001, Government Code.

24           (d) The department must provide written notice of denial,  
25 suspension, or revocation of a license.

26           (e) Notwithstanding any other provision of law, the board  
27 has all powers necessary, incidental, or convenient to:

- 1           (1) initiate and conduct proceedings, investigations,  
2 or hearings;
- 3           (2) administer oaths;
- 4           (3) receive evidence and pleadings;
- 5           (4) issue subpoenas to compel the attendance of any  
6 person;
- 7           (5) order the production of any tangible property,  
8 including papers, records, and other documents;
- 9           (6) make findings of fact on all factual issues  
10 arising out of a proceeding initiated under this subchapter;
- 11           (7) specify and govern appearance, practice, and  
12 procedures before the board;
- 13           (8) issue conclusions of law and decisions, including  
14 declaratory decisions or orders;
- 15           (9) enter into settlement agreements;
- 16           (10) impose a sanction for contempt;
- 17           (11) assess and collect fees and costs, including  
18 attorney's fees;
- 19           (12) issue cease and desist orders in the nature of  
20 temporary or permanent injunctions;
- 21           (13) impose a civil penalty;
- 22           (14) enter an order requiring a person to:
  - 23                   (A) pay costs and expenses of a party in  
24 connection with an order;
  - 25                   (B) perform an act other than the payment of  
26 money; or
  - 27                   (C) refrain from performing an act; and

1           (15) enforce a board order.

2           Sec. 520.083. CRIMINAL PENALTY. (a) A person commits an  
3 offense if the person violates this subchapter or a rule adopted by  
4 the department or county tax assessor-collector under this  
5 subchapter.

6           (b) Except as provided by Subsection (c) or the Penal Code,  
7 an offense under this section is a Class A misdemeanor.

8           (c) An offense under this section is a state jail felony if  
9 it is based on:

10           (1) a violation of Section 520.074; or

11           (2) the falsification of information required under  
12 Section 520.075 or 520.078.

13           Sec. 520.084. CIVIL PENALTY. (a) A person who violates  
14 this subchapter is subject to a civil penalty of not more than  
15 \$10,000 for each violation.

16           (b) Each day a violation occurs constitutes a separate  
17 violation.

18           (c) The department by rule shall establish factors to be  
19 considered in determining the amount of the civil penalty assessed  
20 by the department.

21           (d) Notwithstanding any other law to the contrary, a civil  
22 penalty recovered under this subchapter shall be deposited in the  
23 state treasury to the credit of the state highway fund.

24           Sec. 520.085. CEASE AND DESIST ORDER. (a) If it appears to  
25 the board that a person is violating this subchapter or a board rule  
26 or order, the board after notice may require the person engaged in  
27 the conduct to appear and show cause why a cease and desist order

1 should not be issued prohibiting the conduct described in the  
2 notice.

3 (b) An interlocutory cease and desist order may be granted  
4 with or without bond or other undertaking if:

5 (1) the order is necessary to the performance of the  
6 duties delegated to the board by this subchapter;

7 (2) the order is necessary or convenient to  
8 maintaining the status quo between two or more adverse parties  
9 before the board;

10 (3) a party before the board is entitled to relief  
11 demanding of the board and all or part of the relief requires the  
12 restraint of some act prejudicial to the party;

13 (4) a person is performing, about to perform, or  
14 procuring or allowing the performance of an act:

15 (A) relating to the subject of a contested case  
16 pending before the board, in violation of the rights of a party  
17 before the board; and

18 (B) that would tend to render the board's order  
19 in the case ineffectual; or

20 (5) substantial injury to the rights of a person  
21 subject to the board's jurisdiction is threatened regardless of any  
22 remedy available at law.

23 (c) A proceeding under this section is governed by:

24 (1) this subchapter and the board's rules; and

25 (2) Chapter 2001, Government Code, relating to a  
26 contested case, to the extent that chapter is not in conflict with  
27 Subdivision (1).

1       (d) An interlocutory cease and desist order remains in  
2 effect until vacated or incorporated in a final order of the board.  
3 An appeal of an interlocutory cease and desist order must be made to  
4 the board before seeking judicial review as provided by this  
5 subchapter.

6       (e) A permanent cease and desist order may be issued  
7 regardless of the requirements of Subsection (b) but only under the  
8 procedures for a final order by the board under this subchapter. An  
9 appeal of a permanent cease and desist order is made in the same  
10 manner as an appeal of a final order under this subchapter.

11       Sec. 520.086. INJUNCTION. (a) The attorney general or a  
12 district attorney of the county in which the motor vehicle title  
13 service is operating may bring an action to enjoin the operation of  
14 a motor vehicle title service or a title service runner if the motor  
15 vehicle title service license holder or a runner of the motor  
16 vehicle title service while in the scope of the runner's employment  
17 is found to have committed one or more violations of or convicted of  
18 more than one offense under this subchapter.

19       (b) If the court grants relief under Subsection (a), the  
20 court may:

21               (1) enjoin the person from maintaining or  
22 participating in the business of a motor vehicle title service for a  
23 period of time as determined by the court; or

24               (2) declare the place where the person's business is  
25 located to be closed for any use relating to the business of the  
26 motor vehicle title service for as long as the person is enjoined  
27 from participating in that business.

1       Sec. 520.087. COMPLAINT INVESTIGATION AND DISPOSITION.

2       (a) If the department has reason to believe, through receipt of a  
3 complaint or otherwise, that a violation of this subchapter or a  
4 rule, order, or decision of the department has occurred or is likely  
5 to occur, the department may conduct an investigation unless it  
6 determines that the complaint is frivolous or for the purpose of  
7 harassment.

8       (b) If the investigation establishes that a violation of  
9 this subchapter or a rule, order, or decision of the department has  
10 occurred or is likely to occur, the department shall initiate  
11 proceedings as it determines appropriate to enforce this subchapter  
12 or its rules, orders, and decisions.

13       Sec. 520.088. EXEMPTIONS. The following persons and their  
14 agents are exempt from the licensing and other requirements  
15 established by this subchapter:

16               (1) a franchised motor vehicle dealer or independent  
17 motor vehicle dealer who holds a general distinguishing number  
18 issued by the department under Chapter 503;

19               (2) a vehicle lessor holding a license issued by the  
20 department under Chapter 2301, Occupations Code, or a trust or  
21 other entity that is specifically not required to obtain a lessor  
22 license under Section 2301.254(a), Occupations Code; and

23               (3) a vehicle lease facilitator holding a license  
24 issued by the department under Chapter 2301, Occupations Code.

25       SECTION 10. Effective January 1, 2012, Subsection (c),  
26 Section 730.007, Transportation Code, is amended to read as  
27 follows:

1 (c) This section does not:

2 (1) prohibit the disclosure of a person's photographic  
3 image to:

4 (A) a law enforcement agency, the Texas  
5 Department of Motor Vehicles, a county tax assessor-collector, or a  
6 criminal justice agency for an official purpose; or

7 (B) an agency of this state investigating an  
8 alleged violation of a state or federal law relating to the  
9 obtaining, selling, or purchasing of a benefit authorized by  
10 Chapter 31 or 33, Human Resources Code; or

11 (2) prevent a court from compelling by subpoena the  
12 production of a person's photographic image.

13 SECTION 11. Not later than November 1, 2011, the Texas  
14 Department of Motor Vehicles shall adopt rules and forms to  
15 administer Subchapter F, Chapter 520, Transportation Code, as added  
16 by this Act.

17 SECTION 12. The change in law made by this Act to Section  
18 520.061, Transportation Code, as amended by this Act, applies only  
19 to an offense committed on or after January 1, 2012. An offense  
20 committed before that date is governed by the law in effect when the  
21 offense was committed, and the former law is continued in effect for  
22 that purpose. For purposes of this section, an offense was  
23 committed before January 1, 2012, if any element of the offense was  
24 committed before that date.

25 SECTION 13. Except as otherwise provided by this Act, this  
26 Act takes effect September 1, 2011.