AN ACT
relating to the use of powers of attorney in certain motor vehicle
transfers; providing a penalty.

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

SECTION 1. Subchapter D, Chapter 501, Transportation Code,
is amended by adding Section 501.076 to read as follows:

Sec. 501.076. LIMITED POWER OF ATTORNEY. (a) An owner who
has a contractual option to transfer ownership of a vehicle in full
or partial satisfaction of the balance owed on the vehicle, as
provided in Section 348.123(b)(5), Finance Code, may execute a
written limited power of attorney that authorizes an agent to
complete and sign for the owner, and provide to the transferee, the
form to transfer the title under Section 501.071 and the odometer
disclosure under Section 501.072, and the other documents necessary
to transfer title.

(b) The owner may execute the limited power of attorney at
the time the owner enters the contract giving the owner the option
to transfer the vehicle or at any time after that date. The limited
power of attorney may only be used if an owner elects to transfer
the vehicle in full or partial satisfaction of the contract and may
not be used by the holder of the contract as part of the holder's
exercise of a remedy for a default by the owner under the contract.

(c) The person named as the agent in the limited power of
attorney must meet the following requirements:
(1) the person may be a person who has been appointed by the commissioner's court as a deputy to perform vehicle registration functions under Section 502.112, a license vehicle auction company holding a wholesale general distinguishing number under Section 503.022, a person who has a permit similar to one of the foregoing that is issued by the state in which the owner is located, or another person authorized by law to execute title documents in the state in which the owner executes the documents; and

(2) the person may not be the transferee or an employee of the transferee. The person may not act as the agent of both the transferor and transferee in the transaction. For the purposes of this section, a person is not the agent of both the transferor and transferee in a transaction unless the person has the authority to sign the documents pertaining to the transfer of title on behalf of both the transferor and the transferee.

(d) If a limited power of attorney is used under Subsection (a), the holder of the contract shall accompany the power of attorney with a written statement that the vehicle was returned at the election of the owner in full or partial satisfaction of the owner's obligations under the contract and not as the result of the exercise by the holder of the contract of its remedies for default.

(e) A signed and dated written odometer disclosure containing the information described in this subsection may be included on or with the power of attorney if the power of attorney is executed within 120 days before the date of the transfer and is accompanied by the conspicuous written notification described in
this subsection. If an odometer disclosure is not obtained in that manner, the transeree or agent or the person to whom the vehicle is delivered at the time of the transfer shall request an odometer disclosure as provided in this subsection. Not more than 120 days before the transfer of the vehicle by the owner, the transeree or agent under the power of attorney or person receiving delivery of the vehicle shall in writing request the owner to provide a signed and dated written statement stating the odometer reading (not to include tenths of a mile) as of the date of the statement, and further stating words to the effect that either: (i) to the best of the owner's knowledge, the odometer reading reflects the actual mileage of the vehicle; (ii) the actual mileage has gone over the odometer's mechanical limits and the odometer reading reflects the amount of mileage in excess of the mechanical limits of the odometer, if the owner knows that to be the case; or (iii) the odometer reading is not the actual mileage, if the owner knows that to be the case. The statement may consist of a form in which the agent or transeree or person receiving the vehicle includes the identification of the vehicle and owner and which allows the owner to fill in the odometer reading and mark an applicable box to indicate which of condition (i), (ii), or (iii) is applicable and to date and sign the statement. With the request for the owner's statement, the transeree or agent or person receiving the vehicle shall provide a written notification to the owner to the effect that the owner has a duty under law to state the odometer reading, state which of conditions (i), (ii), or (iii) is applicable, and sign, date, and return the statement and that failing to do so or
providing false information may result in fines or imprisonment. Unless the written notification is delivered to the owner at substantially the same time that the owner is delivering the signed and dated owner's statement, the written notification must also state a date by which the owner must provide this information and an address to which it may be delivered. This written notification to the owner must be in bold letters, underlined, or otherwise conspicuous and may be in a separate document or included as part of a form to be used for the owner's statement or in another document relating to the potential transfer. The transferee or agent or the person receiving delivery of the vehicle may mail the request and notification to the last known address of the owner or may otherwise send or deliver it to the owner. If there are multiple owners of the same vehicle, the request and notification may be sent to one or more of them and it shall be sufficient for one owner to sign the statement. The owner has a duty to return the signed and dated statement as directed in the notification. In completing the odometer disclosure on the owner's behalf, the agent shall identify the same condition (i), (ii), or (iii) provided in the owner's statement, unless the agent knows that the condition identified in the owner's statement is not correct. The agent will not indicate in the odometer disclosure it completes on the owner's behalf that the odometer reading is not the actual mileage unless either the owner has so indicated in the owner's statement or the agent knows that the owner's statement is not correct. The agent shall transmit the owner's statement it receives to the transferee after the title transfer is completed. The owner's statement received by the
transferee under this subsection need not be filed with the filing
office for the other title documents, but the transferee shall
retain the owner's statement for a time period and in a similar
manner to the retention methods used by a lessor to retain
statements under 49 C.F.R. Section 580.8(b), as it may from time to
time be amended. The transferee may rely upon the agent's odometer
disclosure and the owner's statement unless it knows that they are
not correct. A failure by an owner to comply with an obligation
under this subsection subjects the owner to the penalties and
enforcement provisions of Subchapter H but does not affect the
validity of the transfer of title.

(f) This section does not in any way impair or impede any
transfers made through use of a power of attorney prior to the
effective date of this section, and such transfers shall continue
to be valid if they comply with the provisions of this section or
would otherwise comply with the law in effect prior to the effective
date of this section. This section does not apply to powers of
attorney authorized under federal law or regulation that authorize
a transferee to act as the agent of the transferor under certain
circumstances or to powers of attorney otherwise authorized by the
law of this state. This section does not affect the use of powers of
attorney to sign, complete, and deliver the form to transfer title
and other documents necessary to transfer title, including the
odometer disclosure, in title transfers other than those described
in Subsection (a).

(g) The power of attorney created in this section shall be
limited for the purposes and duration specified in this section.
SECTION 2. This Act takes effect September 1, 2003.

David Dewhurst  
President of the Senate

Jim Coghill  
Speaker of the House

I hereby certify that S.B. No. 1507 passed the Senate on May 1, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 20, 2003, by a viva-voce vote.

Betsy Saul  
Secretary of the Senate

I hereby certify that S.B. No. 1507 passed the House, with amendment, on May 10, 2003, by a non-record vote.

Robert Hanvey  
Chief Clerk of the House

Approved:

20 Jun '03  
Date

Rick Perry  
Governor

Filed in the office of the Secretary of State

Jun 20 2003  
Secretary of State