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(Public)

Sponsors:

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A PROCEDURE FOR CREATION OF A TEMPORARY LIEN ON A MOTOR VEHICLE WHEN A MANUFACTURER'S STATEMENT OF ORIGIN OR AN EXISTING CERTIFICATE OF TITLE ON A MOTOR VEHICLE IS UNAVAILABLE AND TO MAKE OTHER CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-52.1 reads as rewritten:

**"§ 20-52.1. Manufacturer's certificate of transfer of new motor vehicle.**

(a) Any manufacturer transferring a new motor vehicle to another shall, at the time of the transfer, supply the transferee with a manufacturer's certificate of origin assigned to the transferee.

(b) Any dealer transferring a new vehicle to another dealer shall, at the time of transfer, give such transferee the proper manufacturer's certificate assigned to the transferee.

(c) Upon sale of a new vehicle by a dealer to a consumer-purchaser, the dealer shall execute in the presence of a person authorized to administer oaths an assignment of the manufacturer's certificate of origin for the vehicle, including in such assignment the

1 name and address of the transferee and no title to a new motor vehicle acquired by a  
2 dealer under the provisions of subsections (a) and (b) of this section shall pass or vest  
3 until such assignment is executed and the motor vehicle delivered to the transferee.

4 Any dealer transferring title to, or an interest in, a new vehicle shall deliver the  
5 manufacturer's certificate of origin duly assigned in accordance with the foregoing  
6 provision to the transferee at the time of delivering the vehicle, except that where a  
7 security interest is obtained in the motor vehicle from the transferee in payment of the  
8 purchase price or otherwise, the transferor shall deliver the manufacturer's certificate of  
9 origin to the lienholder and the lienholder shall forthwith forward the manufacturer's  
10 certificate of origin together with the transferee's application for certificate of title and  
11 necessary fees to the Division. Any person who delivers or accepts a manufacturer's  
12 certificate of origin assigned in blank shall be guilty of a Class 2 ~~misdemeanor.~~  
13 misdemeanor, unless done in accordance with subsection (d) of this section.

14 (d) When a manufacturer's statement of origin or an existing certificate of title on a  
15 motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this  
16 Chapter may also transfer title to another by certifying in writing in a sworn statement to  
17 the Division that all prior perfected liens on the vehicle have been paid and that the motor  
18 vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's  
19 statement of origin or certificate of title. The Division is authorized to develop a form for  
20 this purpose. The filing of a false sworn certification with the Division pursuant to this  
21 subsection shall constitute a Class H felony."

22 Section 2. G.S. 20-58 reads as rewritten:

23 "**§ 20-58. Perfection by indication of security interest on certificate of title.**

24 (a) Except as provided in G.S. 20-58.8, a security interest in a vehicle of a type for  
25 which a certificate of title is required shall be perfected only as hereinafter provided.

26 (1) If the vehicle is not registered in this State, the application for notation  
27 of a security interest shall be the application for certificate of title  
28 provided for in G.S. 20-52.

29 (2) If the vehicle is registered in this State, the application for  
30 notation of a security interest shall be in the form prescribed by the  
31 Division, signed by the debtor, and contain the date of application of  
32 each security interest, and name and address of the secured party from  
33 whom information concerning the security interest may be obtained.  
34 The application must be accompanied by the existing certificate of  
35 title unless in the possession of a prior secured party. If there is an  
36 existing certificate of title issued by this or any other jurisdiction in  
37 the possession of a prior secured party, the application for notation of  
38 the security interest shall in addition contain the name and address of  
39 such prior secured party. An application for notation of a security  
40 interest may be signed by the secured party instead of the debtor when  
41 the application is accompanied by documentary evidence of the  
42 applicant's security interest in that motor vehicle signed by the debtor  
43 and by affidavit of the applicant stating the reason the debtor did not

1 sign the application. In the event the certificate cannot be obtained for  
2 recordation of the security interest, when title remains in the name of  
3 the debtor, the Division shall cancel the certificate and issue a new  
4 certificate of title listing all the respective security interests.

5 (3) If the application for notation of security interest is made in  
6 order to continue the perfection of a security interest perfected in  
7 another jurisdiction, it may be signed by the secured party instead of  
8 the debtor. Such application shall be accompanied by documentary  
9 evidence of a perfected security interest. No such application shall be  
10 valid unless an application for a certificate of title has been made in  
11 North Carolina. The security interest perfected herein shall be subject  
12 to the provisions set forth in G.S. 20-58.5.

13 (b) When a manufacturer's statement of origin or an existing certificate of title on a  
14 motor vehicle is unavailable, a first lienholder who holds a valid license as a motor  
15 vehicle dealer issued by the Commissioner under Article 12 of this Chapter or his  
16 designee may file a notarized copy of an instrument creating and evidencing a security  
17 interest in the motor vehicle with the Division of Motor Vehicles. A filing pursuant to  
18 this subsection shall constitute constructive notice to all persons of the security interest in  
19 the motor vehicle described in the filing. The constructive notice shall be effective from  
20 the date of the filing if the filing is made within 20 days after the date of the security  
21 agreement. The constructive notice shall date from the date of the filing with the Division  
22 if it is made more than 20 days after the date of the security agreement. The notation of a  
23 security interest created under this subsection shall automatically expire 60 days after the  
24 date of the creation of the security interest, or upon perfection of the security interest as  
25 provided in subsection (a) of this section. A security interest notation made under this  
26 subsection and then later perfected under subsection (a) of this section shall be presumed  
27 to have been perfected on the date of the earlier filing. The Division may charge a fee not  
28 to exceed ten dollars (\$10.00) for each notation of security interest filed pursuant to this  
29 subsection. A false filing with the Division pursuant to this subsection shall constitute a  
30 Class H felony."

31 Section 3. G.S. 20-63(h) reads as rewritten:

32 "(h) Commission Contracts for Issuance of Plates and Certificates. – All  
33 registration plates, registration certificates and certificates of title issued by the Division,  
34 outside of those issued from the Raleigh offices of the said Division and those issued and  
35 handled through the United States mail, shall be issued insofar as practicable and possible  
36 through commission contracts entered into by the Division for the issuance of such plates  
37 and certificates in localities throughout North Carolina with persons, firms, corporations  
38 or governmental subdivisions of the State of North Carolina and the Division shall make  
39 a reasonable effort in every locality, except as hereinbefore noted, to enter into a  
40 commission contract for the issuance of such plates and certificates and a record of these  
41 efforts shall be maintained in the Division. In the event the Division is unsuccessful in  
42 making commission contracts as hereinbefore set out it shall then issue said plates and  
43 certificates through the regular employees of the Division. Whenever registration plates,

1 registration certificates and certificates of title are issued by the Division through  
2 commission contract arrangements, the Division shall provide proper supervision of such  
3 distribution. Commission contracts entered under this subsection shall provide for the  
4 payment of compensation for all transactions as set forth below. Nothing contained in this  
5 subsection will allow or permit the operation of fewer outlets in any county in this State  
6 than are now being operated.

7 A transaction is any of the following activities:

- 8 (1) Issuance of a registration plate, a registration card, a registration  
9 renewal sticker, or a certificate of title.
- 10 (2) Issuance of a handicapped placard or handicapped identification card.
- 11 (3) Acceptance of an application for a personalized registration plate.
- 12 (4) Acceptance of a surrendered registration plate, registration card, or  
13 registration renewal sticker, or acceptance of an affidavit stating why a  
14 person cannot surrender a registration plate, registration card, or  
15 registration renewal sticker.
- 16 (5) Cancellation of a title because the vehicle has been junked.
- 17 (6) Acceptance of an application for, or issuance of, a refund for a fee or a  
18 tax, other than the highway use tax.
- 19 (7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in  
20 financial responsibility or receipt of the restoration fee imposed by that  
21 statute.
- 22 (8) Acceptance of a notice of failure to maintain financial responsibility for  
23 a motor vehicle.
- 24 (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- 25 (8b) Sale of one or more inspection stickers in a single transaction to a  
26 licensed inspection station.
- 27 (9) Collection of the highway use tax.
- 28 (10) Acceptance of a temporary lien filing.

29 Performance at the same time of any combination of the items that are listed within  
30 each subdivision or are listed within subdivisions (1) through (8b) of this section is a  
31 single transaction for which a dollar and thirty-five cent (\$1.35) compensation shall be  
32 paid. Performance of the item listed in subdivision (9) of this subsection in combination  
33 with any other items listed in this subsection is a separate transaction for which a one  
34 dollar and twenty cent (\$1.20) compensation shall be paid."

35 Section 4. G.S. 20-72(b) reads as rewritten:

36 "(b) In order to assign or transfer title or interest in any motor vehicle registered  
37 under the provisions of this Article, the owner shall execute in the presence of a person  
38 authorized to administer oaths an assignment and warranty of title on the reverse of the  
39 certificate of title in form approved by the Division, including in such assignment the  
40 name and address of the transferee; and no title to any motor vehicle shall pass or vest  
41 until such assignment is executed and the motor vehicle delivered to the transferee. The  
42 provisions of this section shall not apply to any foreclosure or repossession under a  
43 chattel mortgage or conditional sales contract or any judicial sale.

1        When a manufacturer's statement of origin or an existing certificate of title on a motor  
2 vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter  
3 may also transfer title to another by certifying in writing in a sworn statement to the  
4 Division that all prior perfected liens on the vehicle have been paid and that the motor  
5 vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's  
6 statement of origin or certificate of title. The Division is authorized to develop a form for  
7 this purpose. The filing of a false sworn certification with the Division pursuant to this  
8 paragraph shall constitute a Class H felony.

9        Any person transferring title or interest in a motor vehicle shall deliver the certificate  
10 of title duly assigned in accordance with the foregoing provision to the transferee at the  
11 time of delivering the vehicle, except that where a security interest is obtained in the  
12 motor vehicle from the transferee in payment of the purchase price or otherwise, the  
13 transferor shall deliver the certificate of title to the lienholder and the lienholder shall  
14 forward the certificate of title together with the transferee's application for new title and  
15 necessary fees to the Division within 20 days. Any person who delivers or accepts a  
16 certificate of title assigned in blank shall be guilty of a Class 2 misdemeanor.

17        The title to a salvage vehicle shall be forwarded to the Division as provided in G.S.  
18 20-109.1."

19        Section 5. G.S. 20-79.1(h) reads as rewritten:

20        "(h) Temporary registration plates or markers shall expire and become void upon  
21 the receipt of the annual registration plates from the Division, or upon the rescission of a  
22 contract to purchase a motor vehicle, or upon the expiration of 30 days from the date of  
23 issuance, depending upon whichever event shall first occur. No refund or credit or fees  
24 paid by dealers to the Division for temporary registration plates or markers shall be  
25 allowed, except in the event that the Division discontinues the issuance of temporary  
26 registration plates or markers or unless the dealer discontinues business. In this event the  
27 unissued registration plates or markers with the unissued registration certificates shall be  
28 returned to the Division and the dealer may petition for a refund. Upon the expiration of  
29 the 30 days from the date of issuance, a second 30-day temporary registration plate or  
30 marker may be issued by the dealer upon showing the vehicle has been sold, a temporary  
31 lien has been filed as provided in G.S. 20-58, and that the dealer, having used reasonable  
32 diligence, is unable to obtain the vehicle's statement of origin or certificate of title so that  
33 the lien may be perfected."

34        Section 6. This act becomes effective May 1, 2001, and applies to offenses  
35 occurring on or after that date.