

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1566
RATIFIED BILL

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

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

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

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

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

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

- (1) If the vehicle is not registered in this State, the application for notation of a security interest shall be the application for certificate of title provided for in G.S. 20-52.
- (2) If the vehicle is registered in this State, the application for notation of a security interest shall be in the form prescribed by the Division, signed by the debtor, and contain the date of application of each security interest, and name and address of the secured party from whom information concerning the security interest may be obtained. The application must be accompanied by the existing certificate of title unless in the possession of a prior secured party. If there is an existing certificate of title issued by this or any other jurisdiction in the possession of a prior secured party, the application for notation of the security interest shall in addition contain the name and address of such prior secured party. An application for notation of a security interest may be signed by the secured party instead of the debtor when the application is accompanied by documentary evidence of the applicant's security interest in that motor vehicle signed by the debtor and by affidavit of the applicant stating the reason the debtor did not sign the application. In the event the certificate cannot be obtained for recordation of the security interest, when title remains in the name of the debtor, the Division shall cancel the certificate and issue a new certificate of title listing all the respective security interests.
- (3) If the application for notation of security interest is made in order to continue the perfection of a security interest perfected in another jurisdiction, it may be signed by the secured party instead of the debtor. Such application shall be accompanied by documentary evidence of a perfected security interest. No such application shall be valid unless an application for a certificate of title has been made in North Carolina. The security interest perfected herein shall be subject to the provisions set forth in G.S. 20-58.5.

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

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

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the said Division and those issued and handled through the United States mail, shall be issued insofar as practicable

and possible through commission contracts entered into by the Division for the issuance of such plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina and the Division shall make a reasonable effort in every locality, except as hereinbefore noted, to enter into a commission contract for the issuance of such plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts as hereinbefore set out it shall then issue said plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of such distribution. Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

A transaction is any of the following activities:

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

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

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

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

When a manufacturer's statement of origin or an existing certificate of title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may also transfer title to another by certifying in writing in a sworn statement to the Division that all prior perfected liens on the vehicle have been paid and that the

motor vehicle dealer, despite having used reasonable diligence, is unable to obtain the vehicle's statement of origin or certificate of title. The Division is authorized to develop a form for this purpose. The filing of a false sworn certification with the Division pursuant to this paragraph shall constitute a Class H felony.

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

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

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

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

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

In the General Assembly read three times and ratified this the 12th day of July, 2000.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 2000