

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** H.B. 1566, 5th Edition (CS #2)

**SHORT TITLE:** Temporary Motor Vehicle Lien Filing

**SPONSOR(S):** Rep. Cole

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available (X )</b>		
	<b><u>FY 2000-01</u></b>	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>
<b>REVENUES</b>					
<b>Highway Fund</b>	130,000	780,000	780,000	780,000	780,000
<b>EXPENDITURES</b>					
<b>Highway Fund</b>	272,743	129,290	129,290	129,290	129,290
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> The Department of Transportation, Motor Vehicles Division. The Department of Correction. The Administrative Office of the Courts.					
<b>EFFECTIVE DATE:</b> May 1, 2001.					

**BILL SUMMARY:** Under current law a manufacturer's statement of origin or a certificate of title is needed when transferring ownership in a vehicle. The bill provides alternative methods of transfer when the manufacturer's statement of origin or an existing certificate of title is not available in a timely fashion. Under the bill, when these documents are not available, a licensed motor vehicle dealer can transfer title by certifying in writing to DMV that 1) all prior perfect liens on the vehicle have been paid and 2) despite "reasonable diligence" these documents are unavailable. Similarly, a dealer who is the first lienholder may file a notarized copy of an instrument creating and evidencing a security interest in the vehicle with the DMV. Filing of a false sworn certification in these instances is a Class H felony. The notation of security interest is time limited. The DMV can charge a fee of up to \$10.00 for each notation of security interest filed. Finally the bill authorizes a dealer to issue a second thirty day temporary plate if the vehicle has been sold, a temporary lien has been filed, and the dealer is unable to obtain the vehicle's statement of origin or certificate of title, making the dealer unable to perfect the lien.

**ASSUMPTIONS AND METHODOLOGY:** Under federal law titles and statements of origin must be transferred within 20 days to remain valid and enforceable. According to industry experts, automobile dealers and others transferring a vehicle are often unable to transfer

the appropriate paperwork within that time period. The temporary lien system in the bill is an attempt to address this issue.

Tennessee has a temporary lien program similar to that developed in the bill. The Tennessee Secretary of State's office that administers the program estimates that they process between 200 and 250 temporary lien applications a day, or approximately 52,000 to 65,000 per year. According to the U.S. Department of Transportation, North Carolina has approximately 50% more registered vehicles than Tennessee. Using this percentage as a proxy suggests that North Carolina could expect to see approximately 300-375 temporary lien applications each day. The lower estimate of 300 per day or 78,000 per year is used for a revenue estimate.

Assuming the \$10.00 fee is charged for each application, the bill will generate approximately \$780,000 annually.

The Division of Motor Vehicles believes they will need one additional staff person (Grade 57) to implement the provisions of the bill. They also suggest that a high-speed scanner, personal computer, software and associated hardware are needed. The MIS Division also estimates that three (3) additional FTEs will be needed in 2000-01 to rewrite their STARS database, plus \$14,880 to cover ITS charges. DMV's total estimated costs are as follows:

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
DMV Personnel	3998	23990	23990	23990	23990
Scanner & other software and equipment	60315				
MIS Personnel	176000				
ITS Charges	14880				
TOTAL	255193	23990	23990	23990	23990

In addition, DMV reports that they would contract with the local tag agents to process the applications. The Department believes they will pay the tag agents \$1.35 per temporary lien or \$105,300 per year.

The overall anticipated revenues and expenditures are as follows:

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
Revenues					
Application Fees @ \$10.00 each	130000	780000	780000	780000	780000
Expenditures					
DMV and MIS Start-up Combined	255193	23990	23990	23990	23990
Tag Agent Fees	17550	105300	105300	105300	105300
Total Expenditures	272743	129290	129290	129290	129290
NET REVENUES	-142743	650710	650710	650710	650710

While Tennessee's permanent personnel costs are significantly higher (their program uses twelve full time equivalents) Fiscal Research Appropriations staff believes North Carolina's use of tag agents makes the lower personnel cost estimates from DMV reasonable.

### **Criminal Penalty**

HB 1566 specifies a Class H felony for a motor vehicle dealer filing a false sworn certification with the Division of Motor Vehicles for certain specified transactions.

### **Dept of Correction/Judicial Branch**

Because this would be a new offense, there are no historical data from which to estimate an impact. However, there are several reasons to believe convictions for this new offense would be infrequent and the Fiscal Research Division believes any impact can be absorbed. There is no data to suggest dealers would not comply with the law. Under current law, obtaining property by false pretenses is already a Class H felony for values less than \$100,000. In many cases (if the false statement causes something of value to be obtained), filing of false sworn certification could be prosecuted under this broader statute. To the extent that is true, the penalty specified in HB 1566 would have no impact on the Judicial Branch or the Department of Correction. While it is possible that the specification of a new penalty could increase the likelihood of prosecution and that there will be some cases that fall outside the state outlawing obtaining property by false pretenses, there is no data to suggest the effect would be significant. The Judicial Branch notes that it would be a similar offense to altering/forging certificates of title, registration cards, or applications, under GS 20-71(a). During 1999, 17 defendants were charged with this Class I felony offense, and 7 defendants were convicted of it. They believe any new trials would be infrequent and the impact of this individual bill could be absorbed.

For any new Class H felony, if there were 25 convictions, the Sentencing Commission estimates that there would be a need for 7 new prison beds in the first year and an additional 7 in the second year. Because Sentencing Commission projections indicate no available prison beds in future years, any new inmate would increase the costs of the Department of Correction. The annual operating cost for a medium security inmate is \$23,842.

### **FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:** Linda Struyk Millsaps, Bob Weiss and Elisa Wolper

**APPROVED BY:** James D. Johnson

**DATE:** July 10, 2000



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