

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 411
PROPOSED COMMITTEE SUBSTITUTE S411-PCS15194-SU-19

Short Title: Various Motor Vehicle Law Revisions.

(Public)

Sponsors:

Referred to:

March 29, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE REQUIRED USE OF THE ELECTRONIC LIEN SYSTEM
3 IMPLEMENTED BY THE DIVISION OF MOTOR VEHICLES AND TO REVISE THE
4 LAW GOVERNING WHEN A MOTOR VEHICLE DEALER THAT DOES NOT HAVE
5 A MOTOR VEHICLE'S STATEMENT OF ORIGIN OR CERTIFICATE OF TITLE MAY
6 TRANSFER TITLE TO THE MOTOR VEHICLE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 20-58.4A(i) reads as rewritten:

9 "(i) Mandatory Participation. – ~~Beginning July 1, 2016, all~~All individuals and
10 lienholders ~~who are normally engaged in the business or practice of financing motor vehicles,~~
11 ~~and~~ who conduct at least five transactions ~~annually,~~annually shall utilize the electronic lien
12 system implemented in subsection (a) of this section to record information concerning the
13 perfection and release of a security interest in a vehicle. No lien on a motor vehicle shall be
14 noted on the certificate of title or otherwise perfected by the Division unless the electronic lien
15 system is utilized by the lienholder in accordance with this section."

16 **SECTION 2.** G.S. 20-72(b) reads as rewritten:

17 "(b) In order to assign or transfer title or interest in any motor vehicle registered under
18 the provisions of this Article, the owner shall execute in the presence of a person authorized to
19 administer oaths an assignment and warranty of title on the reverse of the certificate of title in
20 form approved by the Division, including in such assignment the name and address of the
21 transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed
22 and the motor vehicle delivered to the transferee. The provisions of this section shall not apply
23 to any foreclosure or repossession under a chattel mortgage or conditional sales contract or any
24 judicial sale. The provisions of this subsection shall not apply to (i) any transfer to an insurer
25 pursuant to G.S. 20-109.1(b)(2) or (ii) any transfer to a used motor vehicle dealer pursuant to
26 G.S. 20-109.1(e1).

27 When a manufacturer's statement of origin or an existing certificate of title on a motor
28 vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may
29 also transfer title to another by certifying in writing in a sworn statement to the Division that all
30 prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite
31 having used reasonable diligence, ~~is~~was unable to obtain the vehicle's statement of origin or
32 certificate of ~~title~~title on or prior to the date the dealer sold or transferred the vehicle because
33 the statement of origin or certificate of title was (i) not delivered to the dealer or (ii) lost or
34 misplaced by the dealer. The Division is authorized to develop a form for this purpose. In the
35 absence of a form developed by the Division, a dealer may use any form that satisfies the
36 requirements of this subsection, provided that the dealer submits the completed form and



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1 certificate of title to the Division no later than 45 days following the sale or transfer of the
2 vehicle. The filing of a false sworn certification with the Division pursuant to this paragraph
3 shall constitute a Class H felony. It is a Class H felony to knowingly and intentionally file a false sworn
4 certification in accordance with this subsection. A dealer principal, owner, or manager of a
5 motor vehicle dealership shall be liable in accordance with G.S. 20-72.1.

6 Any person transferring title or interest in a motor vehicle shall deliver the certificate of
7 title duly assigned in accordance with the foregoing provision to the transferee at the time of
8 delivering the vehicle, except when a certificate of title is unavailable as provided in
9 G.S. 20-72.1, and except that where a security interest is obtained in the motor vehicle from the
10 transferee in payment of the purchase price or otherwise, the transferor shall deliver the
11 certificate of title to the lienholder and the lienholder shall forward the certificate of title
12 together with the transferee's application for new title and necessary fees to the Division within
13 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be
14 guilty of a Class 2 misdemeanor.

15 The title to a salvage vehicle shall be forwarded to the Division as provided in
16 G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred pursuant to
17 G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

18 **SECTION 3.** Part 4 of Article 3 of Chapter 20 of the General Statutes is amended
19 by adding a new section to read:

20 **"§ 20-72.1. Transfer by owner when a certificate of title is unavailable; consumer**
21 **remedies.**

22 (a) Notwithstanding any other provision in this Article, when an existing certificate of
23 title on a motor vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this
24 Chapter shall deliver the certificate of title together with the transferee's application for new
25 title and necessary taxes and fees to the Division within 20 days of receipt of the title, but no
26 later than 45 days following the sale or transfer of the vehicle. The dealer may offer the vehicle
27 for sale provided that any potential purchaser is given written notice prior to sale that the dealer
28 is not in possession of the certificate of title. For purposes of this paragraph, a vehicle's existing
29 certificate of title shall be considered unavailable under either of the following circumstances:

30 (1) The dealer is entitled to possession of the title, but it has not been actually
31 delivered to the dealer on or prior to the date the dealer sold or transferred
32 the vehicle.

33 (2) The title was lost or misplaced by the dealer on or prior to the date the dealer
34 sold or transferred the vehicle and the dealer has made application to the
35 Division for a duplicate title prior to the sale or transfer of the vehicle.

36 (b) In any case where a dealer fails to deliver the certificate of title to the Division
37 within 45 days, the vehicle purchaser shall have the option to rescind the purchase transaction
38 and collect the full purchase price of the vehicle and liquidated damages from the dealer.
39 Liquidated damages shall be one thousand dollars (\$1,000) or five percent (5%) of the vehicle
40 purchase price, whichever is greater. Nothing in this section shall be construed to limit any
41 other civil remedies or consumer protections available to the vehicle purchaser."

42 **SECTION 4.** Section 1 of this act becomes effective July 1, 2017. The remainder
43 of this act is effective when it becomes law.