

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

D

SENATE BILL 412
House Committee Substitute Favorable 6/5/18
PROPOSED HOUSE COMMITTEE SUBSTITUTE S412-PCS45575-BG-35

Short Title: Abandoned Vehicles/Charities.

(Public)

Sponsors:

Referred to:

March 29, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A PROCESS FOR USED MOTOR VEHICLE DEALERS TO
3 DISPOSE OF ABANDONED VEHICLES RECEIVED FROM CHARITABLE
4 ORGANIZATIONS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section
7 to read:

8 **"§ 20-109.3. Disposition of vehicles abandoned by charitable organizations.**

9 (a) If a charitable organization operating under section 501(c)(3) of the Internal Revenue
10 Code (26 U.S.C. § 501(c)(3)) requests a licensed used motor vehicle dealer, whose primary
11 business is the sale of salvage vehicles on behalf of insurers or charitable organizations, to take
12 possession of a donated vehicle that is currently titled in this State, and the vehicle title is not
13 provided to the used motor vehicle dealer at the time of donation or within 10 days of the
14 donation, then the following provisions apply:

15 (1) The used motor vehicle dealer receiving the vehicle on behalf of the charitable
16 organization shall send notice to the last registered owner and any reasonably
17 ascertainable lienholders of the vehicle informing the owner or lienholder that
18 the vehicle has been donated to the named charitable organization. The notice
19 shall set forth the current location of the vehicle, the name of the charitable
20 organization to which the vehicle was donated, and the name of the vehicle
21 donor. The notice shall inform the owner or lienholder that, if the owner or
22 lienholder objects to the donation of the vehicle, the owner or lienholder has
23 30 days from the date of the notice to provide proof of ownership and reclaim
24 the vehicle from the used motor vehicle dealer at no charge. Notice under this
25 subdivision must be sent by certified mail or by another commercially
26 available delivery service providing proof of delivery to the address on record
27 with the Division.

28 (2) If the owner or any lienholder of the vehicle receives notice but fails to object
29 to the donation and pick up the vehicle within 30 days, any claim to the vehicle
30 by the owner or lienholder is considered abandoned, the certificate of title to
31 the vehicle is deemed to be transferred to the charitable organization by the
32 owner, and the lien is deemed to be extinguished. The charitable organization,
33 or the used motor vehicle dealer acting on its behalf through a power of
34 attorney, may then execute an application for duplicate title with transfer upon
35 payment of any applicable fees. The application for duplicate title with



* S 4 1 2 - P C S 4 5 5 7 5 - B G - 3 5 *

1 transfer shall be accompanied by a copy of the written donation statement, a
 2 copy of the notice required by subdivision (1) of this subsection, and proof of
 3 delivery of the notice sent to the owner and any lienholder. If the application
 4 is being executed by the used motor vehicle dealer on behalf of the charitable
 5 organization, a copy of the power of attorney shall also be submitted with the
 6 application.

7 (3) Upon receipt of an application for duplicate title with transfer, any additional
 8 documentation required under subdivision (2) of this subsection and payment
 9 of required fees, the Division shall issue a title to the donated vehicle in the
 10 name of the charitable organization and mail the title, free and clear of any
 11 liens, to the used motor vehicle dealer possessing the vehicle.

12 (4) If the notice required under subdivision (1) of this subsection is not received
 13 or is returned as undeliverable, the used motor vehicle dealer may file a special
 14 proceeding to obtain an order allowing the vehicle to be sold. In such a
 15 proceeding, the used motor vehicle dealer may include more than one vehicle.

16 (5) If the donated vehicle is not currently titled in this State, does not appear in
 17 the Division's records, or the owner and any lienholders are not otherwise
 18 reasonably ascertainable for any reason, the used motor vehicle dealer may
 19 institute a civil action in the county where the vehicle is being held for
 20 authorization to sell that vehicle as salvage on behalf of the charitable
 21 organization. In such a proceeding, the used motor vehicle dealer may include
 22 more than one vehicle. If the court enters an order authorizing the sale of the
 23 vehicle, upon proper application and payment of the appropriate taxes and
 24 fees, the Division shall issue a salvage branded title to the person who
 25 purchases the vehicle at a subsequent sale.

26 (b) Any person that provides false information to the Division in conjunction with the
 27 sale of a charity vehicle or otherwise violates this section with the intent to defraud any person
 28 shall be guilty of a Class 2 misdemeanor.

29 (c) No person shall have a cause of action against the Division or Division contractors
 30 arising from the issuance of a title pursuant to this section, and the Division shall not be held
 31 liable for any damages arising from the transfer or subsequent operation of any vehicle titled or
 32 sold pursuant to this section."

33 **SECTION 2.** G.S. 20-75 reads as rewritten:

34 "**§ 20-75. When transferee is ~~dealer~~ a charitable organization, dealer, or insurance**
 35 **company.**

36 ~~When the A~~ transferee of a vehicle registered under this Article is: is not required to register
 37 the vehicle or forward the certificate of title to the Division as provided in G.S. 20-73 when the
 38 transferee is any of the following:

39 (1) A dealer who is licensed under Article 12 of this Chapter and who holds the
 40 vehicle for ~~resale~~; or ~~resale~~.

41 (2) An insurance company taking the vehicle for sale or disposal for salvage
 42 purposes where the title is taken or requested as a part of a bona fide claim
 43 settlement transaction and only for the purpose of ~~resale~~; resale.

44 (3) A charitable organization operating under section 501(c)(3) of the Internal
 45 Revenue Code (26 U.S.C. § 501(c)(3)) and the vehicle was donated to the
 46 charitable organization solely for purposes of resale by the charitable
 47 organization.

48 ~~the transferee shall not be required to register the vehicle nor forward the certificate of title to the~~
 49 ~~Division as provided in G.S. 20-73.~~

50 To assign or transfer title or interest in the vehicle, the ~~dealer~~ charitable organization, dealer,
 51 or insurance company shall execute, in the presence of a person authorized to administer oaths,

1 a reassignment and warranty of title on the reverse of the certificate of title in the form approved
2 by the Division, which shall include the name and address of the transferee. The title to the
3 vehicle shall not pass or vest until the reassignment is executed and the motor vehicle delivered
4 to the transferee.

5 The dealer transferring title or interest in a motor vehicle shall deliver the certificate of title
6 duly assigned in accordance with the foregoing provision to the transferee at the time of
7 delivering the vehicle, except:

8 (1) Where a security interest in the motor vehicle is obtained from the transferee
9 in payment of the purchase price or otherwise, the dealer shall deliver the
10 certificate of title to the lienholder and the lienholder shall forward the
11 certificate of title together with the transferee's application for new certificate
12 of title and necessary fees to the Division within 20 days; or

13 (2) Where the transferee has the option of cancelling the transfer of the vehicle
14 within 10 days of delivery of the vehicle, the dealer shall deliver the certificate
15 of title to the transferee at the end of that period. Delivery need not be made
16 if the contract for sale has been rescinded in writing by all parties to the
17 contract.

18 Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a
19 Class 2 misdemeanor.

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

23 **SECTION 3.** G.S. 20-286(11)b. reads as rewritten:

24 "b. The term "motor vehicle dealer" or "dealer" does not include any of
25 the following:

- 26 1. Receivers, trustees, administrators, executors, guardians, or
27 other persons appointed by or acting under the judgment or
28 order of any court.
- 29 2. Public officers while performing their official duties.
- 30 3. Persons disposing of motor vehicles acquired for their own use
31 or the use of a family member, and actually so used, when the
32 vehicles have been acquired and used in good faith and not for
33 the purpose of avoiding the provisions of this Article.
- 34 4. Persons who sell motor vehicles as an incident to their
35 principal business but who are not engaged primarily in the
36 selling of motor vehicles. This category includes financial
37 institutions who sell repossessed motor vehicles and insurance
38 companies who sell motor vehicles to which they have taken
39 title as an incident of payments made under policies of
40 insurance, and auctioneers who sell motor vehicles for the
41 owners or the heirs of the owners of those vehicles as part of
42 an auction of other personal or real property or for the purpose
43 of settling an estate or closing a business or who sell motor
44 vehicles on behalf of a governmental entity, and who do not
45 maintain a used car lot or building with one or more employed
46 motor vehicle sales representatives.
- 47 5. Persons manufacturing, distributing or selling trailers and
48 semitrailers weighing not more than 2,500 pounds unloaded
49 weight.

6. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located.
7. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.
8. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motor vehicles owned by others.
9. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.
10. Any real property owner who leases any interest in property for use by a dealer.
11. Any person acquiring any interest in a motor vehicle for a family member.
12. Any auctioneer licensed pursuant to Chapter 85B of the General Statutes employed to be an auctioneer of motor vehicles for a licensed motor vehicle dealer, while conducting an auction for that dealer.
13. Any charitable organization operating under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) where the vehicle was donated to the charitable organization solely for purposes of resale by the charitable organization.

SECTION 4. G.S. 20-294(2) reads as rewritten:

"(2) Willfully and intentionally failing to comply with this Article, Article 15 of this Chapter, or G.S. 20-52.1, 20-75, 20-79.1, 20-79.2, 20-108, 20-109, 20-109.3, or a rule adopted by the Division under this Article."

SECTION 5. G.S. 105-187.6(a) reads as rewritten:

"§ 105-187.6. Exemptions from highway use tax.

(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To (i) the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle or (ii) a used motor vehicle dealer under G.S. 20-109.1 because the vehicle is a salvage vehicle that was abandoned.
- (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.
- (3) To the same owner to reflect a change or correction in the owner's name.
- (3a) To one or more of the same co-owners to reflect the removal of one or more other co-owners, when there is no consideration for the transfer.
- (4) By will or intestacy.
- (5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.
- (6) By a distribution of marital or divisible property incident to a marital separation or divorce.
- (7) Repealed by Session Laws 2009-445, s. 16, effective August 7, 2009.
- (8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:
 - a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.
 - b. By a local board of education.

- 1 (9) To a volunteer fire department or volunteer rescue squad that is not part of a
2 unit of local government, has no more than two paid employees, and is exempt
3 from State income tax under G.S. 105-130.11, when the motor vehicle is one
4 of the following:
5 a. A fire truck, a pump truck, a tanker truck, or a ladder truck used to
6 suppress fire.
7 b. A four-wheel drive vehicle intended to be mounted with a water tank
8 and hose and used for forest fire fighting.
9 c. An emergency services vehicle.
- 10 (10) To a State agency from a unit of local government, volunteer fire department,
11 or volunteer rescue squad to enable the State agency to transfer the vehicle to
12 another unit of local government, volunteer fire department, or volunteer
13 rescue squad.
- 14 (11) To a revocable trust from an owner who is the sole beneficiary of the trust.
- 15 (12) To a charitable organization operating under section 501(c)(3) of the Internal
16 Revenue Code (26 U.S.C. § 501(c)(3)) where the vehicle was donated to the
17 charitable organization solely for purposes of resale by the charitable
18 organization."

19 **SECTION 6.** This act is effective when it becomes law.