

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1044
(Legislative Council)
(Transportation Committee)

AN ACT to amend and reenact sections 39-05-05, 39-05-16.1, 39-05-17, and 39-05-33 of the North Dakota Century Code, relating to the filing of liens on a motor vehicle; to repeal section 39-05-17.1 of the North Dakota Century Code, relating to the delivery of a certificate of title; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-05 of the North Dakota Century Code is amended and reenacted as follows:

39-05-05. Application for certificate of title - Contents - Fee to accompany.

1. An application for a certificate of title must be made upon ~~an appropriate a~~ a form furnished or approved provided by the department and must contain all of the following:
 - a. A full description of the vehicle, including the name of the manufacturer, either the engine, serial, or identification number, and any other distinguishing marks. The department may assign a vehicle identification number for a vehicle not otherwise assigned a number. The assigned number must be permanently affixed to the vehicle and the department may require the vehicle be inspected before issuing a certificate of title for the vehicle.
 - b. A statement as to whether the vehicle is new or used.
 - c. A statement of the applicant's title and ~~of any liens or encumbrances upon the vehicle~~ the name and address of each lienholder in the order of priority.
 - d. The name and address of the person to whom the certificate of title must be delivered.
 - e. ~~The names and addresses of any lienholders in the order of their priority and the dates of their security agreements.~~
 - f. ~~If applicable, a statement as to whether the vehicle for which certificate of title is sought is a specially constructed, reconstructed, or foreign vehicle, such facts must be stated in the application.~~
 - g. f. The ~~buyer's~~ owner's street address, city, and county, or township and county, of residence ~~and the.~~ A dealer shall make specific inquiry relative thereto as to this information before filling in such the information on the application.
 - h. g. The department may require odometer disclosure information as required under the Truth in Mileage Act of 1986 [Pub. L. 99-579].
 - i. h. ~~Such~~ Any other information ~~as required by the department may require.~~
2. The owner of every vehicle ~~which that~~ which that has been registered outside ~~of~~ this state shall surrender to the department the certificate of title and registration card or other evidence ~~which that~~ which that may satisfy the department the applicant is the lawful owner or possessor of the vehicle.

3. If the vehicle for which certificate of title is sought is a new vehicle, ~~no~~ a certificate of title may not be issued unless a certificate of origin executed by the manufacturer of ~~such~~ the vehicle is attached to the application for registration or is attached to the application for the certificate of title for the vehicle. If the new vehicle for which certificate of title is sought is of foreign manufacture, the certificate of origin must be furnished by the importer of the vehicle. The manufacturer or importer of all new vehicles shall designate the total shipping weight of the vehicle on the certificate of origin.
4. When a new vehicle is purchased from a dealer, the application for the certificate of title must include a statement of the transfer by the dealer ~~and of any lien retained by the dealer or other lienholder. If the title to the vehicle is reserved by the dealer or other lienholder, the certificate must be made out to the dealer or lienholder and delivered to that person as the owner or lienholder of the vehicle.~~
5. ~~Every~~ Each application must be accompanied by a fee of five dollars, which is in addition to any fee charged for the registration of ~~such~~ the vehicle.

SECTION 2. AMENDMENT. Section 39-05-16.1 of the North Dakota Century Code is amended and reenacted as follows:

39-05-16.1. Release of a security interest.

1. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the lienholder, the lienholder ~~shall~~, within ten days after demand; and in any event within thirty days of the satisfaction, shall execute a release of the lienholder's security interest as in a manner prescribed by the department ~~prescribes~~. The lienholder shall:
 - a. Mail or deliver the certificate of title and release to the next lienholder named on the certificate of title, who ~~shall~~, within thirty days of receipt, shall mail or deliver the certificate of title, release, and a fee of five dollars to the department. The department shall issue and mail or deliver a new certificate of title to the first lienholder named on the new certificate of title.
 - b. If there are no other lienholders named on the certificate of title, mail or deliver the certificate of title and release to the owner or ~~any other person who delivers to the lienholder an authorization from the owner to receive the certificate of title and release. The~~ the owner's designee. Within thirty days of receipt, the person receiving the certificate of title and release shall, within thirty days of receipt, mail or deliver the certificate of title, release, and a fee of five dollars to the department. The department may prescribe further application procedures and, upon determining that there has been a proper compliance with these procedures, shall issue a new certificate of title and mail or deliver it to the owner or ~~any person the owner authorizes to receive it~~ the owner's designee.
2. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of a prior lienholder, the lienholder whose security interest is satisfied shall execute, within ten days after demand and; in any event within thirty days of the satisfaction, ~~execute~~ a release in the form the department prescribes and deliver the release to the owner or ~~any person who delivers to the lienholder an authorization from the owner to receive it. The~~ the owner's designee. Upon receipt of a release delivered by the owner to the lienholder in possession of the certificate of title, that lienholder in possession of the certificate of title shall either deliver the certificate of title to the owner or the person authorized by the owner for delivery to the department; or, upon receipt of the release, mail or deliver it with the release and the certificate of title to the department which shall, upon. Upon the payment of a five dollar fee, the department shall issue a new certificate.

3. Notwithstanding this section, a lienholder who uses an electronic lien notification system shall follow the procedure adopted for that system by the department.

SECTION 3. AMENDMENT. Section 39-05-17 of the North Dakota Century Code is amended and reenacted as follows:

39-05-17. Transfer of title of vehicle - Endorsement required - Certificate of title delivered - New certificate obtained - Penalty.

1. The owner of a motor vehicle who ~~sells or~~ transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle, ~~with a statement whether there are liens or encumbrances thereon, which statement must be verified by the owner.~~ The owner shall include on the assignment and warranty of title the name of the ~~purchaser~~ transferee and the selling price of the vehicle.
2. ~~The~~ If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the purchaser if title passes to the purchaser transferee within fifteen days.
3. If the legal title ~~does not pass~~ passes to the purchaser under the terms of the contract for sale of the vehicle a lienholder rather than the transferee, the lienholder transferee shall endorse thereon a statement that the lienholder holds the lien, ~~the date thereof, and the name of the purchaser,~~ and shall send the certificate of title to the department with an application of the purchaser for a new certificate of title showing the name names of the new owner; and lienholder, ~~and the date of the lien of the lienholder, which.~~ The certificate of title when issued must be returned sent by the department to the lienholder, ~~who shall retain the same in the lienholder's possession until the terms of the contract are complied with by the purchaser, and thereupon, after showing the lien has been paid and satisfied the lienholder shall deliver the certificate of title properly assigned to the purchaser.~~ The purchaser or the department may use an electronic lien notification procedure in lieu of sending a certificate of title to a lienholder.
4. Within thirty days after receipt, the transferee shall ~~present~~ deliver the endorsed and assigned certificate of title to the department, ~~within thirty days after the receipt thereof, accompanied by with~~ a transfer fee of five dollars, and shall make an application for and obtain a new certificate of title for the vehicle. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked ~~whenever~~ if the purchaser or transferee fails to present the endorsed and assigned certificate of title to the department for transfer and make application for a new certificate of title within the prescribed thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery is ~~is~~ must be made to the purchaser owner.
5. A violation of ~~the provisions of~~ this section by an owner, lienholder, or transferee is a class B misdemeanor.

SECTION 4. AMENDMENT. Section 39-05-33 of the North Dakota Century Code is amended and reenacted as follows:

39-05-33. General penalty. Any person violating any ~~of the provisions~~ provision of this chapter for which another penalty is not provided specifically is guilty of a class B misdemeanor. This section does not apply to the department.

SECTION 5. REPEAL. Section 39-05-17.1 of the North Dakota Century Code is repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1044.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State