

## PROPOSED AMENDMENTS TO

### SENATE BILL NO. 2247

Introduced by

Senators Thomas, Cory, Clemens

Representatives Grueneich, D. Ruby

1 A BILL for an Act to amend and reenact ~~subsection 1 of section 39-04-36~~subsection 1 of section  
2 39-05-05 and section 39-05-20 of the North Dakota Century Code, relating to obtaining a new  
3 vehicle certificate of title, an application for a certificate of title, and the removal of number  
4 plates on a vehicle.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 ~~SECTION 1. AMENDMENT. Subsection 1 of section 39-04-36 of the North Dakota Century~~  
7 ~~Code is amended and reenacted as follows:————~~

8 ~~———— 1. Whenever the ownership of a vehicle registered under the provisions of this~~  
9 ~~chapter, chapter 39-18, or chapter 39-29.2 is transferred or assigned, the registration~~  
10 ~~of the vehicle expires and the transferor shall remove the number plates, unless the~~  
11 ~~number plates have not had valid registration for ten years.~~

12 **SECTION 1. AMENDMENT.** Subsection 1 of section 39-05-05 of the North Dakota Century  
13 Code is amended and reenacted as follows:

14 1. An application for a certificate of title must be made upon a form provided by the  
15 department and must contain all of the following:

- 16 a. A full description of the vehicle, including the name of the manufacturer, either the  
17 engine, serial, or identification number, and any other distinguishing marks. The  
18 department ~~may~~shall assign a vehicle identification number for a vehicle not  
19 otherwise assigned a number or for a vehicle in which the identification number  
20 can not be located. The assigned number must be permanently affixed to the

1 vehicle and the department may require the vehicle be inspected before issuing a  
2 certificate of title for the vehicle.

3 b. A statement as to whether the vehicle is new or used.

4 c. A statement of the applicant's title and the name and address of each lienholder  
5 in the order of priority.

6 d. The name and address of the person to whom the certificate of title must be  
7 delivered.

8 e. If applicable, a statement as to whether the vehicle is a specially constructed,  
9 reconstructed, or foreign vehicle.

10 f. The owner's legal name, as evidenced by a valid state-issued driver's license,  
11 identity card, or any other documentary evidence that confirms to the satisfaction  
12 of the director the true identity of the owner, street address, city, and county, or  
13 township and county, of residence. When two or more owners are designated, at  
14 least one of the owners must comply with the identification requirement of this  
15 subdivision and all names used must be legal names. A dealer shall make  
16 specific inquiry as to this information before filling in the information on the  
17 application.

18 g. The department may require odometer disclosure information as required under  
19 the Truth in Mileage Act of 1986 [Pub. L. 99-579].

20 h. Any other information required by the department.

21 **SECTION 2. AMENDMENT.** Section 39-05-20 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **39-05-20. Transferee may obtain new certificate of title upon inability to obtain old**  
24 **certificate - Proof of ownership - Appeal.**

- 25 1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of  
26 title for a vehicle, and makes application for a new certificate and presents satisfactory  
27 proof of ownership, the department may cancel the old certificate and issue a new  
28 certificate to the transferee, provided that the department may not issue a certificate of  
29 title for a manufactured home with respect to which there has been recorded an  
30 affidavit of affixation under section 47-10-27. Except as otherwise provided by this

1 subsection, satisfactory proof of ownership must include compliance by the transferee  
2 with the procedures outlined in title 35.

3 a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the  
4 payment has not satisfied all liens of record on the vehicle, the transferee is not  
5 required to comply with the procedures outlined in title 35 to establish satisfactory  
6 proof of ownership and the department may cancel the old certificate of title and  
7 issue a new certificate to the insurer free and clear of all liens and claims of  
8 ownership.

9 b. If the transferee is a tax exempt organization under section 501(c)(3) of the  
10 Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been  
11 donated, the transferee shall provide an affidavit providing proof the vehicle was  
12 donated.

13 c. If the transferee is a licensed motor vehicle dealer that, at the request of an  
14 insurer, took possession of a vehicle that is the subject of an insurance claim but  
15 for which a total loss claim is not paid by the insurer and the vehicle has been in  
16 the possession of the dealer for more than thirty days, the necessary satisfactory  
17 proof of ownership includes only proof the dealer made at least two written  
18 attempts by certified mail with return receipt addressed to the owner of record  
19 and any known lienholder to have the vehicle removed from the dealer's facility,  
20 upon payment of applicable charges. If satisfactory proof of ownership is  
21 established, the department may cancel the old certificate of title and issue a new  
22 certificate to the licensed motor vehicle dealer free and clear of all liens and  
23 claims of ownership.

24 d. If the transferee is ~~an individual~~ a person and the vehicle is less than forty years  
25 old at the time of the application, satisfactory proof of ownership must include  
26 that the transferee has paid for the vehicle, and that the transferee made at least  
27 two written attempts by certified mail with return receipt addressed to the owner  
28 of record and any known lienholder to obtain the certificate of title. If satisfactory  
29 proof of ownership is established, the department shall cancel the old certificate  
30 of title and issue a new certificate to the ~~individual~~ person, subject to any existing  
31 lien.

1 e. If the transferee is ~~an individual~~a person and the vehicle is more than forty years  
2 old at the time of the application, satisfactory proof of ownership is established by  
3 a bill of sale or ~~statement~~affidavit of ownership. ~~An affidavit of ownership created~~  
4 by the department under this section must have the option for an applicant to  
5 provide a vehicle purchase price. If satisfactory proof of ownership is established,  
6 the department shall cancel the old certificate of title and issue a new certificate  
7 to the ~~individual~~person, subject to any existing lien. When valuing a vehicle  
8 transferred under this subdivision, the department shall use the sale price on the  
9 bill of sale if a bill of sale is presented. The department may only request an  
10 appraisal of the vehicle if a bill of sale is not presented to the department. A  
11 transfer under this subdivision is exempt from subsection 1 of section 39-04-36.

12 2. The department may establish procedures for determining satisfactory proof of  
13 ownership of a vehicle in those cases when the department is unable to determine the  
14 legal owner of record. The procedures may include determining the validity of any  
15 liens on a certificate of title. Any person aggrieved by a decision of the department as  
16 to ownership of a vehicle may appeal that decision to the district court under chapter  
17 28-32.

18 3. A person holding a certificate of title whose interests in the vehicle have been  
19 extinguished or transferred other than by voluntary transfer shall mail or deliver the  
20 certificate to the department upon request of the department. The delivery of the  
21 certificate pursuant to the request of the department does not affect the rights of the  
22 person surrendering the certificate. The action of the department in issuing a new  
23 certificate of title as provided herein is not conclusive upon the rights of the owner or  
24 lienholder listed in the old certificate.

25 ~~4. If the department can verify the ownership of a vehicle, any vehicle with a vehicle~~  
26 ~~identification number may be transferred under this section regardless of the condition~~  
27 ~~of the vehicle.~~