

2019 HOUSE TRANSPORTATION COMMITTEE

HB 1407

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1407
2/7/2019
#32380

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Jeanette Cook
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Explanation or reason for introduction of bill/resolution:

A BILL relating to salvage certificates of title.

Minutes:

Attachment 1-4

Chairman Ruby opened the hearing on HB 1407.

Representative Grueneich spoke to introduce and support HB 1407. See attachments #1-2. (5:09) Attachment #2 amendment #19.0848.02001

Representative Weisz: Why don't we make this process available to the individual also? Why should the charity be different than an individual?

Representative Grueneich: If you are proposing an amendment, I would entertain that.

Chairman Ruby: I don't see anything that would require checking to see if the vehicle is stolen. The charities seem to be a whole different approach. Why is the charity brought into this?

Representative Grueneich: It is a broad spectrum. This got brought forward because it was something the charities need addressed. It seemed to be a place where it could be done. It is not an abandoned vehicle, so those have a different process. This is where a vehicle is being dropped off at a charity, and there is no way to get a title for it.

Chairman Ruby: Why would they accept a vehicle if there is no title?

Representative Grueneich: That may have an uncertain answer. In most cases those charities take everyone in good faith. This probably doesn't happen often, but when it does there is no process to deal with it. We are trying to clean up some things for the people that are affected by it.

Chairman Ruby: In the cases when it has been paid out by the insurance companies as a total loss, those would have to have a salvage title. Who would be getting stuck with those

vehicles? Why would a dealer take it, and when would they need to take possession, when most of the time it is between the insured and the insurer?

Representative Grueneich: In some cases an out-of-state person may have had an accident. That vehicle gets taken somewhere, and the person doesn't return to get the car. The claim gets processed, the insured gets paid, and moves on. They didn't do any of the necessary procedures to finish the process for the insurer.

Representative Jones: In order for a company to crush a car it must have a title. My concern with the bill is that it says if people have these vehicles, they must be issued a certificate of title. There is no discussion in the bill that says they must do a legal search. I am uncomfortable with the words, "they must be issued" when we don't have a process in place to provide protection for the people that are the owners.

Representative Grueneich: In regards to the charities I think an amendment like that would be fine. In regards to the first two sections of the bill, when you are talking about an accident, law enforcement has already been on site. They will make sure the vehicle hasn't been stolen.

Lacee Anderson, Insurance Auto Auctions, spoke to support HB 1407. See attachment #3.

Representative Jones: Do the other states include the part about the charities and donated cars?

Lacee Anderson: Yes, they do.

Chairman Ruby: In Section 3, on line 16, it refers to a vehicle that is not a total loss. The ownership will not necessarily change. Are people just walking away from the vehicle because they get the insurance claim?

Lacee Anderson: Yes, that would apply to a person who still wants to release the vehicle even though it is not a total loss.

Chairman Ruby: Would that technically be an abandoned vehicle?

Lacee Anderson: It would not because they are the correct owner and want to turn the vehicle over, but not abandoning it.

Chairman Ruby: It was mentioned that we should do a search in the event that the vehicle had other lienholders or was stolen. Is that included in the other state's legislation?

Lacee Anderson: The amendment that Representative Grueneich brought adds "owner or lienholder" to every section. As far as law enforcement, when you have gone through a claims process, it will not be required in that situation. With the charitable donation, in the process for donating a vehicle, the registered owner has to be notified. It would be running a check through the Department of Transportation to determine the rightful owner of the vehicle to make sure that it is an official donation.

There was no further support for HB 1407.
There was no opposition to HB 1407.

26:00

Lindi Michlitsch, Motor Vehicle Division Director for the North Dakota Department of Transportation, spoke in a neutral capacity on HB 1407 and provided written testimony. See Attachment #4.

Chairman Ruby: Is there a problem in your view that there are some situations in which entities are not able to get the title?

Lindi Michlitsch: We are not aware of these situations, maybe they are not bringing those titles to us.

Representative Nelson: If someone comes to you with all the paperwork, you can issue them a title now, correct?

Lindi Michlitsch: Yes.

Representative Jones: What is a non-branded title?

Lindi Michlitsch: It is when it doesn't have a brand, like salvaged, previously salvaged, or previously damaged.

Representative Jones: Where I am from, it is common to find vehicles without titles. Are you saying that there is a process to get those titles? Is it just an education or is it difficult to get those titles?

Lindi Michlitsch: In the process we make sure that the person in possession of the vehicle is the current owner. We need the proper documents to issue a new title.

Chairman Ruby: If someone from out-of-state has been paid by the insurance company, the car is left at a dealer, and the owner is no longer around, has the dealer been able to get the title for that vehicle?

Lindi Michlitsch: I haven't seen a lot of instances. We were able to work with a dealer that had a vehicle with no title. We were able to show the proper chain of ownership and provided the dealer the title. It was a Texas vehicle.

Chairman Ruby: Would your system be notified if a vehicle was a stolen vehicle, or if it had liens on it?

Lindi Michlitsch: Yes, it would show that.

The hearing for HB 1407 was closed.

BREAK

Chairman Ruby: We had some good discussion on this. It might be something that the Department of Transportation could already do, but some disagree.

Representative Weisz: I don't think the process is as easy as it is made out to be. I don't know why this bill would make it easier for dealers, charities, or insurers to get a lost title for a vehicle than an individual.

Representative Paur: I have a problem with Section 3.

Chairman Ruby: It was addressed. It added the liens.

Representative Jones moved the amendment. (attachment #2 - 19.0848.02001)
Representative Owens seconded the motion.
A voice vote was taken. The motion carried.

Discussion on damage disclosure. It was provided for in the bill.

Representative Weisz: This bill puts everything in the salvage vehicle title section.

Chairman Ruby: I think it might be a better fit in the abandoned vehicle section.

Representative Weisz: If you want to donate a vehicle, it should just be in the titling section.

Chairman Ruby: In the section that Lindy talked about, there is already a provision in there.

Representative Grueneich: This doesn't really complicate things. On p. 3 line 9-11 it addresses a vehicle that is not damaged, but the other parts of this address a vehicle that is damaged. We may just be covering an instance that doesn't happen very often, but may need to be in Code.

Representative Weisz: My point is that on page 3 there is a whole section, when it could just say, "If it is a donated vehicle, it has to have a title." Why does it have to specify the type of title? It is just a brand. We are just trying to set up a process of being able to transfer the title, when we can't get the owner to provide it for whatever reason. I don't know why we are doing this in the salvage title section. If we agree that we need to make it simpler, we should just do this in the title section and specify the process.

Representative Jones: I feel from Lindy's testimony this can already be done.

Representative Nelson: I'm not sure that we are making it easier. I think if something is a problem, we should put it in 39-05-20 where we are already doing it, rather than creating a whole big add-on to the salvage vehicle.

Chairman Ruby: Was that a motion?

Representative Nelson: I don't know if there is anything to change.

Representative Weisz: If we need to make the process easier, that is fine. I think we should put this in the Title Section and make it for everyone and spell out the process. Maybe we are not improving anything, if the two written attempts are already in Code.

Representative Grueneich: We talked about that there isn't a problem, and we are not changing what is already there, but we have heard from people in the industry that there are 400-500 of these cases a year. We can say it is not a big deal, and there is law in place, but if there is, we wouldn't be having this discussion. If there is improvement that can be made, I would like to be here for the industry. It needs to be addressed.

Representative Weisz: Inaudible...

Chairman Ruby: Is the two written notices in policy or in statute?

Lindi Michlitsch: In my testimony I just described how we interpret the bill. We do not require two written notices.

Representative Weisz: What do you require?

Lindi Michlitsch: We just need to have proof that we can follow the chain of ownership. Every situation is a little different. We need to make sure that an owner has transferred through.

Chairman Ruby: You are neutral on this, but would it cause any problem if some this language was put into the section dealing with titling?

Lindi Michlitsch: It would add a further layer to the process, because it would require two written attempts, that we currently don't require.

Representative Jones: In many cases the chain of title is not available. This would help people in my district.

Representative Weisz further amended HB 1407 to say: "The application to the Department of Transportation must be accompanied by evidence by the transferee that they have paid for the vehicle, have made at least two written attempts addressed to the owner of record, and to any known lienholder, to obtain the certificate of title." It would have to go in Section 39-05-20.

Representative Weisz: It is the exact language that is in **Representative Grueneich** bill. If the entity does these three things, the department will issue you a title.

Representative Jones: I think it should add, two certified written attempts with no response. Two written attempts may not mean anything.

Chairman Ruby: That will be added as part of the motion.

Representative Weisz read the motion with extra wording. Add to 39-05-20: **The application must be accompanied by evidence that the transferee has paid for the vehicle and has made at least two certified written attempts with return receipt requested addressed to the owner of record and any know lienholders to obtain the certificate of title.**

Vice Chairman Rick C. Becker seconded the motion.
A voice vote was taken. The motion carried.

Representative Grueneich moved a DO PASS on HB 1407 as amended.

Representative Weisz seconded the motion.

A roll call vote was taken: Aye 12 Nay 1 Absent 1

The motion carried.

Representative Weisz will carry HB 1407.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 3, line 7, after "record" insert "and any known lienholder"

Renumber accordingly

February 7, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 39-05-20 of the North Dakota Century Code, relating to the issuance of certificates of vehicle title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-20 of the North Dakota Century Code is amended and reenacted as follows:

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

1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of title for a vehicle, and makes application for a new certificate and presents satisfactory proof of ownership, the department may cancel the old certificate and issue a new certificate to the transferee, provided that the department may not issue a certificate of title for a manufactured home with respect to which there has been recorded an affidavit of affixation under section 47-10-27. Satisfactory proof of ownership must include compliance by the transferee with the procedures outlined in title 35, that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title.
2. The department may establish procedures for determining satisfactory proof of ownership of a vehicle in those cases when the department is unable to determine the legal owner of record. Any person aggrieved by a decision of the department as to ownership of a vehicle may appeal that decision to the district court under chapter 28-32.
- ~~2.3.~~ A person holding a certificate of title whose interests in the vehicle have been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate. The action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of the owner or lienholder listed in the old certificate."

Renumber accordingly

Date: 2-7-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1407

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 101 - 0848 - 02001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Jones Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY			REP LAURIEBETH HAGER		
VICE CHAIR BECKER			REP KARLA ROSE HANSON		
REP JIM GRUENEICH			REP MARVIN NELSON		
REP TERRY JONES					
REP TOM KADING					
REP EMILY O'BRIEN					
REP MARK OWENS					
REP BOB PAULSON					
REP GARY PAUR					
REP ROBIN WEISZ					
REP GREG WESTLIND					

Total (Yes) _____ No _____

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Attachment #1

Date: 2-7-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE

ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1407

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: verbal

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Weisz Seconded By Becker

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY			REP LAURIEBETH HAGER		
VICE CHAIR BECKER			REP KARLA ROSE HANSON		
REP JIM GRUENEICH			REP MARVIN NELSON		
REP TERRY JONES					
REP TOM KADING					
REP EMILY O'BRIEN	A				
REP MARK OWENS					
REP BOB PAULSON					
REP GARY PAUR					
REP ROBIN WEISZ					
REP GREG WESTLIND					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Add to: 39-05-20 The application must be accompanied by evidence that the transferee has paid for the vehicle and made at least two certified written attempts to the owner of record and any known lienholders to obtain the certificate of title.

Date: 2-7-19
Roll Call Vote #: 3

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1407

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 19.0848.02002

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Grueneich Seconded By Weisz

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY	X		REP LAURIEBETH HAGER		X
VICE CHAIR BECKER	X		REP KARLA ROSE HANSON	X	
REP JIM GRUENEICH	X		REP MARVIN NELSON	X	
REP TERRY JONES	X				
REP TOM KADING	X				
REP EMILY O'BRIEN	A				
REP MARK OWENS	X				
REP BOB PAULSON	X				
REP GARY PAUR	X				
REP ROBIN WEISZ	X				
REP GREG WESTLIND	X				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1407: Transportation Committee (Rep. D. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1407 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 39-05-20 of the North Dakota Century Code, relating to the issuance of certificates of vehicle title.

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2. The department may establish procedures for determining satisfactory proof of ownership of a vehicle in those cases when the department is unable to determine the legal owner of record. Any person aggrieved by a decision of the department as to ownership of a vehicle may appeal that decision to the district court under chapter 28-32.
- ~~2-3.~~ A person holding a certificate of title whose interests in the vehicle have been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate. The action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of the owner or lienholder listed in the old certificate."

Renumber accordingly

2019 SENATE TRANSPORTATION

HB 1407

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee Lewis and Clark Room, State Capitol

HB 1407
3/8/2019
33455

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to the issuance of certificates of vehicle title.

Minutes:

1 Attachment

Representative Jim Grueneich, District 12, Jamestown: Please see **Attachment #1** for testimony and proposed amendment 19.0848.03001.

Chairman Rust: Could you run through exactly what this bill does?

Representative Grueneich: If you would take a look at amendment **19.0848.03001** that might actually help. As the bill came out of committee what we did is, we were just cleaning up the process. To give you a little bit of background on it, what happens in different situations (I'm going to use a Goodwill for example). Maybe there's a death in the family, maybe it's a grandparent and there's a vehicle and nobody wants it. In therefore instance a vehicle could get donated to a charity, but what happens is it may be such a case that that vehicle hasn't been driven in a long time; there is no title. So they have the vehicle, but they don't have a title and they don't have a way to transfer it. That's one scenario. The reason I wanted to start there and point that out it is, on lines 15-17 of the bill, in the case of a donated vehicle, as you can see on line 15 when this bill came through the transportation committee on the House side we had the verbiage in there "paid." In most cases in the case of a Goodwill or a Salvation Army the vehicle is donated, so it automatically excluded them from being able to streamline the process to go through DOT to get a title. That's how that relates to it as part b of the amendment. Section a and section c are really just strengthening the language and where we run into those kind of things is like for instance; automobile insurers they process thousands of total loss claims in North Dakota each year. For the vast majority of these claims there's no problem. The settlement is paid to the vehicle owner and the lien holder, certificate of title is available to the insurer who then surrenders the title in exchange for a salvage certificate or a certificate of title in the insurers name. However, there are occasions when the vehicle has been totaled out the individual or owner has been paid, but what happens, the insured moves on. They have been paid, got the check from the insurance company, doesn't really think about it, doesn't follow through the process, they go and buy a new vehicle. Well, here that title sits. So maybe a salvage yard, maybe an auto body shop, maybe a car dealer, they have this

vehicle there that they're in possession of. Maybe they purchased it from the insurance company or maybe they are just the ones who ended up with it, but they have no way to get the title because the person has moved on from the vehicle. It's not that this happens a lot, they had said that there's maybe 500 cases a year. Which doesn't seem like a lot if you think of the state of North Dakota, however if you're the dealer or the auto body shop or the charity, 500 is a lot. So that's really the meat and potatoes of what we're trying to accomplish here.

Senator Dwyer: I see it was substantially amended in the House. Do these amendments take it back from some of what you did in the House?

Representative Grueneich: Actually, not necessarily. The bill as it was initially presented was very lengthy and very wordy, almost a little bit too much. So what ended up happening in the House was, this was actually thrown on as almost a hog house amendment, because we knew we wanted the bill to move forward. So we did the hog house amendment to keep it alive and keep it moving. Then the language you see in this amendment is actually clarification of the hog house amendment to strengthen the language for consumer protection.

Lacee Anderson, Insurance Auto Auctions: I'm here in favor of this bill with the amendments. The hog house worked for the majority of what we were hoping to do with this bill, but it needed some further clarification particularly for the charitable organizations. The hog house did not address that it only referred to having claims paid. So with the amendments the were brought we would strongly urge a do pass.

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1407
3/14/2019
33752

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to the issuance of certificates of vehicle title.

Minutes:

1 Attachment

Brief summary of bill and previous testimony and discussion of HB 1407.

Representative Jim Grueneich, District 12, Jamestown: Basically what this amendment does is clean up some language. Lindi from the Department of Transportation had contacted myself as well as Senator Rust to go through it and get some of the language in line with how the Century Code reads. Please see **Attachment #1** for proposed amendment. Went through amendment with committee.

Senator Dwyer: So you're adding a, b and c to (inaudible) that point?

Representative Grueneich: Correct.

Senator Dwyer: And the yellow is?

Representative Grueneich: Is new language. Everything that is not yellow is the amendment that was introduced when the bill was introduced.

Senator Bakke: We got this amendment, 19.0848.03001 when the bill was introduced and they are changing it.

Chairman Rust: Committee members, we never did adopt the amendment.

Representative Grueneich: Thank you, I wasn't aware that the original amendment hadn't been adopted.

Chairman Rust: No, we were waiting for it to take it up. So we did not adopt the amendment. All we had done was had a hearing on the bill.

Senator Dwyer: When you say introduce the amendment, on this side, not the other side; correct?

Representative Grueneich: On this side, yes. However, in light of what was just said. This becomes the proposed amendment we're introducing with the cooperation of DOT.

Senator Patten: Just a point of clarification, we don't need the old amendment language in place to validate this new amendment language, correct?

Representative Grueneich: Correct. The old language that was in the other amendment is still in this new version of the proposed amendment, you're just seeing the lines crossed through it. So in effect you'll see both the old and the new language all in one shot.

Chairman Rust: So looking at that amendment, let's just go through it.
"Page 1 after line 17, insert:

- a. If the transferee is an insurer that has paid a total loss;" what exactly does that do?

Representative Grueneich: How line a. addresses it is that in the event of; I'm just going to use an example. State Farm is my insurance company, I had a vehicle that was a total loss. State Farm wrote me a check, the bank was paid off and I had a little extra money left over. The bank sent me the title, I threw it in a drawer and went to the dealership downtown, go through the process and I just move on. I'm paid, I'm done, and that's all behind me and I've got my new vehicle. Well, what happens is that totaled out vehicle might be at claims collision, it might be at Wilhelm Chevrolet, it could be at George's. What happens is that title is laying in my desk drawer, I forgot about it or maybe I live out of state and I was traveling through for oil and I head home. Well what happens is, in the event that that title never gets to whoever is holding that vehicle. This would give them an avenue after a certain number of days and following the statute, this would give them an opportunity to title that vehicle and either choose to salvage it, fix it or dispose of it. That is what section a does. Title 35 refers to the abandoned vehicles and these vehicles are not abandoned because there is ownership established. There's different procedures under title 35 of the abandoned motor vehicles. Just for clarification, that's what that is referring to, title 35 is abandoned, these are not abandoned there is known ownership on these vehicles.

Chairman Rust: And there is no problem with "the payment has not satisfied all liens of record?"

Representative Grueneich: That is what we are establishing and this is the DOT's amendment so that we can get clean ownership and just as the example, in some instances; this isn't something that happens very often, if at all. But in the event that it does, an out of state vehicle, because of all of the out of state influx we have in North Dakota due to the oil industry. There are vehicles that are totaled out and wrecked and they end up at a location that either the bank or whoever the lien holder of record could be in California or a long ways away and what's left of the vehicle it's just not fiscally possible to come back and say, I want to come back from California to tow what's left of a \$1500 bank loan and tow it back to California in hopes to salvage it. It's just from a financial stand point, if there was a reasonable loan of value and whoever the lien holder was thought that maybe they could

recover something from it, I think in most practical purposes they would. But this gives them a way to say it's yours you can have it. Part b goes back to when a vehicle is donated. The affidavit is a signed document from the charity saying that the vehicle was donated. They can then take that to the DOT and the DOT will issue a title into their ownership so that they in turn can sell the donated vehicle.

Senator Dwyer: You're not required to comply with the procedures outlined in title 35. What if somebody else has a lien?

Representative Grueneich: Again, title 35 is abandoned motor vehicles. In Section 35 of the abandoned motor vehicle, they have a different process than this particular area, because we can validate ownership on this particular part of it. Lindi might be able to clarify it better.

Chairman Rust: Who helped you draft this amendment?

Lindi Michlitsch, Director, Motor Vehicle Division, North Dakota Department of Transportation: Our legal team at the DOT reviewed the proposed amendment and they added some language, the language in yellow. Just to be consistent with how the language is written in the earlier part of that section of law. It's just to be consistent.

Chairman Rust: You said our legal team at the DOT reviewed the amendment, that means somebody else must have drafted it? Or did they draft it?

Ms Michlitsch: They drafted it.

Senator Dwyer: Title 35 is all liens.

Ms Michlitsch: Correct.

Senator Dwyer: So there must be one chapter in there that's abandoned vehicles?

Ms Michlitsch: To answer the question, sometimes people refer to the lien chapter as abandoned because if your vehicle is abandoned at a storage facility or if it's abandoned for a mechanic's lien, the term is used by many people that it's an abandoned motor vehicle. Abandoned motor vehicle there's well, based on the previous bill that you heard earlier there are two abandoned motor vehicle, specifically about abandon motor vehicles in regards to; well that chapter's very big on abandoned motor vehicles, but that's in 39-26 currently but it's going to be moved to chapter 23. There are different processes that happen with abandoned motor vehicles. There are several sections within title 35 that has to do with liens.

Senator Dwyer: So is the only reference to vehicle in title 35 abandoned vehicles? Title 35 is all liens. This is kind of a technicality, I just wanted to make sure that we don't make the wrong reference.

Chairman Rust: What we have in front of us is a proposed amendment. What you will get is someone taking this to Legislative Council to have it drafted so it is an accurate thing that we want done.

Ms Michlitsch: In the first part of the section we're adding this language to in 39-05-20 we reference title 35 because we use that section to allow us to issue titles through the lien process. Which is the repairman's lien, mechanics lien, storage and repairman. We have a whole process outlined that we use that section, so we wanted to make sure that we are still able to follow that process and be able to issue titles through the process that we currently have.

Senator Bakke: In here are certificate and certificate of title interchangeable?

Chairman Rust: I think that will get taken care of when I take it to Legislative Council.

Ms Michlitsch: When our legal team looked at it we were just trying to make consistent language.

Senator Fors: Can you explain the top change where it says page 1 line 13?

Ms Michlitsch: My understanding is that's allowing us to issue titles the way we currently do, except that it's adding these three additional options. That's my interpretation, but that might be a question for Legislative Council.

Chairman Rust: Are you wondering about the "except as provided otherwise by this subsection"?

Senator Fors: It's not in line 13 right now, and I'm assuming that it's going to be. So if you Overstrike "Satisfactory" and insert immediately thereafter "Except as provided otherwise by this subsection,"

Chairman Rust: Again it's Legislative Council who need to do their magic here.

Senator Dwyer: I have an additional amendment that I'd like the committee to consider on this bill. It's kind of a long explanation. I don't know if you want to do now or if you want to do it at another time.

Chairman Rust: We can do it in two different amendments or in one amendment.

Senator Dwyer: Two separate.

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1407
3/15/2019
33800

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to the delivery and issuance of certificates of vehicle title; and to provide a penalty.

Minutes:

No Attachments

Committee had brief discussion of bill and previous testimony.

Senator Dwyer: I move amendment **19.0848.03003**

Senator Patten: I **Second** the motion.

Senator Dwyer: This was the amendment we received from Representative Grueneich and DOT and we spent a considerable amount of time on. It was the one that had the yellow markings on it and the language that they didn't want and so forth. It clarifies the process for what they intended to do in the bill.

Roll Call Vote Taken:

Passed 6-0-0

Senator Dwyer: I move amendment **19.0848.03002** which is amending section 17 of chapter 39-05. So it's in the same chapter of the code, and it would be a one-word change extending the requirement from when an endorsed certificate is transferred from fifteen to thirty days. This was at the request of the North Dakota Automobile Dealers Association.

Senator Bakke: I **Second** the motion.

Roll Call Vote Taken:

Passed 6-0-0

Senator Bakke: I move a **Do Pass as Amended**

Senator Patten: I **Second** the motion

Roll Call Vote Taken:

Passed 6-0-0

Carrier: Senator Clemens

March 15, 2019

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

Page 1, line 14, remove ", that the"

Page 1, remove lines 15 and 16

Page 1, line 17, remove "known lienholder to obtain the certificate of title"

Page 1, after line 17, insert:

- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee must provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership."

Renumber accordingly

March 15, 2019

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, after line 3, insert:

"SECTION 1. 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 or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within ~~fifteen~~thirty days.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Renumber accordingly

March 15, 2019

BAB
3/15/19
LJG

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

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5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

Page 1, line 14, remove ", that the"

Page 1, remove lines 15 and 16

Page 1, line 17, remove "known lienholder to obtain the certificate of title"

Page 1, after line 17, insert:

- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership."

Renumber accordingly

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1407**

Senate Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 19.0848.03003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Dwyer Seconded By Senator Patten

Senators	Yes	No	Senators	Yes	No
Senator Rust - Chairman	X		Senator Bakke	X	
Senator Clemens - Vice Chairman	X				
Senator Dwyer	X				
Senator Fors	X				
Senator Patten	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1407**

Senate Transportation Committee

☐ Subcommittee

Amendment LC# or Description: 19.0848.03002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Dwyer Seconded By Senator Bakke

Senators	Yes	No	Senators	Yes	No
Senator Rust - Chairman	X		Senator Bakke	X	
Senator Clemens - Vice Chairman	X				
Senator Dwyer	X				
Senator Fors	X				
Senator Patten	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1407**

Senate Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Bakke Seconded By Senator Patten

Senators	Yes	No	Senators	Yes	No
Senator Rust - Chairman	X		Senator Bakke	X	
Senator Clemens - Vice Chairman	X				
Senator Dwyer	X				
Senator Fors	X				
Senator Patten	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Clemens

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1407, as engrossed: Transportation Committee (Sen. Rust, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1407 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. 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.

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2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within ~~fifteen~~thirty days.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

Page 1, line 14, remove ", that the"

Page 1, remove lines 15 and 16

Page 1, line 17, remove "known lienholder to obtain the certificate of title"

Page 1, after line 17, insert:

- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership."

Renumber accordingly

2019 CONFERENCE COMMITTEE

HB 1407

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1407
4/10/2019
#34668

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to the delivery and issuance of certificates of vehicle title; and to provide a penalty.

Minutes:

Attachment #1

Representative Weisz called the meeting to order.

Representative Weisz: The House understands what the Senate did. We have a suggested amendment.

An amendment was provided by **Representative Grueneich**. See attachment #1.

Senator Rust: He explained the amendments made by the Senate. (19.0848.03004)
On page 2, we split those out. If the transferee is an insurer, then it was one way. If the transferee is a tax exempt organization ..., or is the transferee is a licensed motor vehicle dealer... We listed those separately. I believe the new amendment will talk about what happens if the transferee is an individual.

Representative Weisz: From our perspective the only thing that was in question was when it was split out, you took away the individual's expedited time period. That is what he amendment will add. We agree with the Senate's language.

Representative Grueneich moved that the Senate recede from the Senate amendments and amend as follows, based on amendment .03005.

Representative Hanson seconded the motion.

Senator Rust: My understanding is the only difference between this and the Senate version is that there is an addition of item D?

Representative Weisz: That is correct.

A roll call vote was taken: Yes 6 No 0 Absent 0
The motion passed.

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1407
4/18/2019
#34827

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to the delivery and issuance of certificates of vehicle title; and to provide a penalty.

Minutes:

Attachment #1

Chairman Weisz opened the conference committee on HB 1407. The bill is being brought back before the conference committee. A suggested amendment was provided to the committee. See attachment #1.

Representative Grueneich: I am concerned about this amendment being able to fix what we need it to fix. I would like to have **Lindi Michlitsch** explain what this amendment does.

Lindi Michlitsch, Motor Vehicle Division Director, North Dakota Department of Transportation stood to answer questions.

Chairman Weisz: Based on the language in the amendment, is there even a process to get rid of a lien, like from a defunct institution? If it says, any existing liens of record, does it give you the process to take the lien off the title unless the institution actually removes it?

Lindi Michlitsch: If a lender is no longer in business, we have worked with just getting a letter from a state agency that tracks which institutions can lend. We get a letter from that agency that states that they are no longer in business. Some of the other situations that an item is sold to another institution, we would get some sort of documentation. This language says, the existing lien of record, so we would still just ask for some sort of documentation, like a lien release. If we can't get one, then we would work with the transferee to get some documentation to show that there is no longer a lien.

Chairman Weisz: Doesn't the current language in the bill do that?

Lindi Michlitsch: The way that we interpret the bill, the language didn't really show the intent, not the way we originally read it. I later understood what the intent was of Section D, but we felt that it was better to add this intent (amendment) in the language.

Representative Grueneich: If all of those things are being done in current practice; I don't understand why we need this amendment.

Senator Rust: We added Section D at the end. What could happen with the Department of Transportation is that someone could come in and state that they have paid for the vehicle. They have verification that two letters have been sent to the owner and the lienholder. They want a title. They did not say if they had gotten a response from the lienholder or not. All you need is two attempts contacting the owner and lienholder. Then you have satisfied the requirements in Section D, and you get a clean title. What happens if the lienholder had responded? They wouldn't have to show that to get the title. This is really just a clarification. Is there any **harm** in having it in the bill? I don't see any harm.

Chairman Weisz: From that perspective I don't see any harm in the way it is, either. Under B we don't require that. I could give a vehicle to a tax exempt organization, and they could scrub the title. They don't even have to notify a lienholder. Maybe the language would have to be clarified with Department of Transportation, but if the point of sending the notice to the lienholder is so that there is a return receipt so the department knows that there is no lien, then it isn't required.

Senator Rust: It seems to me if we have a chance to fix something, why not do it now as opposed to having problems. It probably won't happen very often, but the first time it does happen, we would be accused of not having done our due diligence in passing this law. I am of the opinion that unless there is some reason why this amendment shouldn't go in, that it provides clarification, and the law will be a little better than it was.

Senator Clemens: If there is no lien, then everything is fine. I agree with Senator Rust; I believe that we should have this amendment in the bill. If there is a lien, then everyone is protected.

Senator Rust made a motion to reconsider the previous actions.

Senator Bakke seconded the motion.

A voice vote was taken. The motion carried.

Senator Rust moved that the Senate recede from the Senate amendments and amend as follows: (19.0848.03005 and attachment #1)

Senator Bakke seconded the motion.

A roll call vote was taken: Yes 3 Nay 3 Absent 0

The motion failed.

Chairman Weisz: I think we need better clarification. We will reschedule, and see if we can come up with something we can both agree to.

Senator Rust: I am okay with adjourning, and we are done.

Chairman Weisz: We reconsidered, so it would be back to the original Senate version. That would leave off the part about an individual being able to get a clean title. That was important for the House. It should be the same for everyone.

Senator Rust: I don't see us offering any amendments. Are you going to offer any new amendments?

Chairman Weisz: Yes, we would like to offer an amendment that would offer clarification and be acceptable to both sides.

Senator Rust: Okay.

Chairman Weisz: I will reschedule.

The meeting was adjourned.

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee Fort Totten Room, State Capitol

HB 1407
4/22/2019
#34910

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to the delivery and issuance of certificates of vehicle title; and to provide a penalty.

Minutes:

Attachments 1-2

Chairman Weisz brought HB 1407 back before the committee. Our last meeting, we left with some possible changes to fix things.

Representative Grueneich explained the new amendments. See attachments #1-2. On Page 3 Line 15 we added language along with language on line 20 for the Department of Transportation but also for the insurance and the Credit Unions to protect a title from being washed. It still gives the individual the same right as the rest of the bill. We just solidified some language, the rest of the bill stayed the same.

Senator Rust moved that the Senate recede from the Senate amendments and amend as follows: (19.0848.03006)

Representative Grueneich seconded the motion.

A roll call vote was taken: Yes 6 No 0 Absent 0

The motion carried.

The Senate carrier is Senator Clemens.

The House carrier is Representative Weisz.

The meeting was adjourned.

DP 4/10/19
1082

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

That the Senate recede from its amendments as printed on pages 1247 and 1248 of the House Journal and pages 965 and 966 of the Senate Journal and that Engrossed House Bill No. 1407 be amended as follows:

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. 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 or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within ~~fifteen~~ thirty days.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

DA 4/10,
2 of 2

Page 1, after line 17, insert:

- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership.
- d. If the transferee is an individual, satisfactory proof of ownership must include that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title."

Renumber accordingly

North Dakota Bankers Association
April 16, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 3, line 11, after "title." Insert "The department shall issue the new title subject to any existing liens of record."

Renumber accordingly

JP 4/22/19
1652

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

That the Senate recede from its amendments as printed on pages 1247 and 1248 of the House Journal and pages 965 and 966 of the Senate Journal and that Engrossed House Bill No. 1407 be amended as follows:

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

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3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

to 1/1/15
242

Page 1, line 14, remove "that the"

Page 1, remove lines 15 and 16

Page 1, line 17, remove "known lienholder to obtain the certificate of title"

Page 1, after line 17, insert:

- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership.
- d. If the transferee is an individual, satisfactory proof of ownership must include that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title. If satisfactory proof of ownership is established, the department shall cancel the old certificate of title and issue a new certificate to the individual, subject to any existing lien."

Page 1, line 20, after the period insert "The procedures may include determining the validity of any liens on a certificate of title."

Renumber accordingly

Date: 4-10-19

Roll Call Vote #: 1

**2019 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1407 as (re) engrossed

House Transportation Committee

- Action Taken ☐ HOUSE accede to Senate Amendments
☐ HOUSE accede to Senate Amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows
- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Grueneich Seconded by: Representative Hanson

Representatives	4/10			Yes	No		Senators	4/10			Yes	No
Chairman Weisz	x			x			Chairman Rust	x			x	
Rep. Grueneich	x			x			Senator Clemens	x			x	
Rep. Hanson	x			x			Senator Bakke	x			x	
Total Rep. Vote							Total Senate Vote					

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Weisz Senate Carrier Sen. Rust

LC Number 19.0848 . 03005 of amendment

LC Number 19.0848 . 05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4-18-19

Roll Call Vote #: 1

**2019 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1407 as (re) engrossed

House Transportation Committee

- Action Taken**
- ☐ HOUSE accede to Senate Amendments
 - ☐ HOUSE accede to Senate Amendments and further amend
 - ☐ SENATE recede from Senate amendments
 - ☐ SENATE recede from Senate amendments and amend as follows
 - ☒ **Reconsider**
 - ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Rust Seconded by: Senator Bakke

Representatives	4/18			Yes	No		Senators	4/18			Yes	No
Chairman Weisz	x						Chairman Rust	x				
Rep. Grueneich	x						Senator Clemens	x				
Rep. Hanson	x						Senator Bakke	x				
Total Rep. Vote							Total Senate Vote					

Voice Vote - Motion Carried

Vote Count Yes: _____ No: _____ Absent: _____

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4-18-19

Roll Call Vote #: 2

**2019 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1407 as (re) engrossed

House Transportation Committee

Action Taken ☐ HOUSE accede to Senate Amendments
☐ HOUSE accede to Senate Amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Rust Seconded by: Senator Bakke

Representatives	4/18			Yes	No		Senators	4/18			Yes	No
Chairman Weisz	x				x		Chairman Rust	x			x	
Rep. Grueneich	x				x		Senator Clemens	x			x	
Rep. Hanson	x				x		Senator Bakke	x			x	
Total Rep. Vote							Total Senate Vote					

Motion Failed

Vote Count Yes: 3 No: 3 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Amendment includes 19.0848.03005 and

Attachment #1: Page e, line 11, after "title." Insert "The department shall issue the new title subject to any existing liens of record."

Date: 4-22-19

Roll Call Vote #: 1

**2019 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1407 as (re) engrossed

House Transportation Committee

Action Taken ☐ HOUSE accede to Senate Amendments
☐ HOUSE accede to Senate Amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Rust Seconded by: Representative Grueneich

Representatives	4/22			Yes	No		Senators	4/22			Yes	No
Chairman Weisz	x			x			Chairman Rust	x			x	
Rep. Grueneich	x			x			Senator Clemens	x			x	
Rep. Hanson	x			x			Senator Bakke	x			x	
Total Rep. Vote							Total Senate Vote					

Motion Failed

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Representative Weisz Senate Carrier Senator Clemens

LC Number 19.0848 . 03006 of amendment

LC Number 19.0848 . 06000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 19.0848.03005
House Carrier: Weisz
Senate Carrier: Rust

REPORT OF CONFERENCE COMMITTEE

HB 1407, as engrossed: Your conference committee (Sens. Rust, Clemens, Bakke and Reps. Weisz, Grueneich, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1247-1248, adopt amendments as follows, and place HB 1407 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1247 and 1248 of the House Journal and pages 965 and 966 of the Senate Journal and that Engrossed House Bill No. 1407 be amended as follows:

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. 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 or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within ~~fifteen~~thirty days.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

Page 1, after line 17, insert:

Insert LC: 19.0848.03005
House Carrier: Weisz
Senate Carrier: Rust

- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership.
- d. If the transferee is an individual, satisfactory proof of ownership must include that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title."

Renumber accordingly

Engrossed HB 1407 was placed on the Seventh order of business on the calendar.

Insert LC: 19.0848.03006
House Carrier: Weisz
Senate Carrier: Clemens

REPORT OF CONFERENCE COMMITTEE

HB 1407, as engrossed: Your conference committee (Sens. Rust, Clemens, Bakke and Reps. Weisz, Grueneich, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1247-1248, adopt amendments as follows, and place HB 1407 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1247 and 1248 of the House Journal and pages 965 and 966 of the Senate Journal and that Engrossed House Bill No. 1407 be amended as follows:

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. 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 or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within ~~fifteen~~thirty days.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

Page 1, line 14, remove ", that the"

Insert LC: 19.0848.03006
House Carrier: Weisz
Senate Carrier: Clemens

Page 1, remove lines 15 and 16

Page 1, line 17, remove "known lienholder to obtain the certificate of title"

Page 1, after line 17, insert:

- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership.
- d. If the transferee is an individual, satisfactory proof of ownership must include that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title. If satisfactory proof of ownership is established, the department shall cancel the old certificate of title and issue a new certificate to the individual, subject to any existing lien."

Page 1, line 20, after the period insert "The procedures may include determining the validity of any liens on a certificate of title."

Renumber accordingly

Engrossed HB 1407 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

HB 1407

HB 1407
2-7-19
#1 p.1

Chairman Ruby and members of the Transportation Committee, for the record my name is Jim Grueneich/District 12 Jamestown. The bill I bring before the committee relates to total loss vehicle's and trying to receive a salvage certificate of title.

There is a proposed amendment, strengthening language for lienholders.

My testimony is broken down into the three categories as it is in the bill, and how it relates to them.

For Insurers

Automobile insurers process thousands of total loss claims in North Dakota each year. For the vast majority of these claims, after the total loss settlement is paid to the vehicle owner and any lienholder, the certificate of title for the vehicle is available to the insurer who then surrenders the certificate of title in exchange for a salvage certificate or a certificate of title in the insurer's name. However, there are occasions when, even though the insurer has paid the total loss settlement, the certificate of title for the vehicle is not made available to the insurer. This bill sets forth a process whereby, in these cases, the insurer may obtain a salvage certificate or certificate of title for the vehicle.

The process is:

- The insurer provides the department of transportation with proof of the payment of the claim.
- The insurer provides the department with proof that the insurer, at least twice, has requested the certificate of title from the vehicle owner and any lienholder.
- The insurer requests a salvage certificate or certificate of title for the vehicle from the department.
- The department's issuance of the ownership document extinguishes all existing liens on the vehicle.
- The insurer uses the ownership document to transfer ownership of the vehicle to a purchaser from the insurer.

HB 1407
2-7-19
#1 p. 2

For Salvage Processors

There are occasions when, although a claim is made against an automobile insurance policy and an insurer requests its salvage processor (a salvage pool or auto auction) to take possession of a motor vehicle on behalf of the insurer, the insurer does not ultimately become the owner of the vehicle. (For example, this can occur in denied-coverage cases.) In such a situation, the insurer typically instructs the salvage processor to contact the vehicle owner and any lienholder to request removal of the vehicle from the facility of the salvage processor. This bill sets forth a process whereby the salvage processor may obtain a salvage certificate or a certificate of title for the vehicle if the owner or lienholder do not remove the vehicle from the salvage processor's facility.

The process is:

- The salvage processor provides the department with proof that the salvage processor has, at least twice, sent notice to the vehicle owner and any lienholder that the vehicle is available for pickup and of applicable charges.
- If the vehicle has been abandoned for more than 30 days, the salvage processor may request a salvage certificate or certificate of title for the vehicle from the department.
- The department's issuance of a salvage certificate or certificate of title extinguishes all existing liens on the vehicle.
- The salvage processor uses the salvage certificate or certificate of title to transfer ownership of the vehicle to a purchaser from the salvage processor.

For Charities

There are occasions when a vehicle is donated to a charity but the properly assigned certificate of title is not provided. This bill sets forth a process whereby the charity may obtain a salvage certificate or a certificate of title for the vehicle.

The process is the charity provides the department with proof that the charity, at least twice, has requested the certificate of title from the vehicle owner.

HB1407
2-7-19
#1 p. 3

This bill sets forth a process whereby in these cases, the insurer may obtain a salvage certificate or certificate of title for the vehicle. This is different than the Abandoned Motor Vehicle process since these vehicles are not abandoned, but have gone thru a claims process, or in some cases donated. This legislation has been adopted in 32 other neighboring states including SD and MT, passage of this bill would help to clarify and streamline the process here while also adding further protections for consumers.

I would respectfully ask for a do-pass on HB1407

I would stand for questions.

19.0848.02001
Title.

HB 1407
2-7-19
Prepared by the Legislative Council staff for
Representative Grueneich
February 6, 2019 #2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 3, line 7, after "record" insert "and any known lienholder"

Renumber accordingly

HB 1407
2-7-19
#3 p.1

Insurance Auto Auctions (IA) is a salvage auction company whose primary business is handling the sale of total loss vehicles for the insurance industry. In order to sell vehicles, salvage auctions assist insurance companies with applying for and obtaining titles in the name of the insurance companies. The original certificate of title needs to be surrendered with the application for a salvage title. Occasionally, an insurance company is unable to obtain the title from the owner or lienholder after it has paid the claim. Although the vast majority of claims transactions are handled smoothly, the sheer volume of claims means that there are problem cars each year in North Dakota. For many of these vehicles, there will never be a title forthcoming.

Additionally, sometimes vehicles that have been donated to charitable organizations and are in our possession may not be sold and get abandoned by the charity because of various titling issues that cannot be resolved. Some of these issues include titles not being signed or signed incorrectly. In this situation, an additional document such as Power of Attorney or Affidavit of correction may be required to complete the transfer title.

The result of these situations is that vehicles sit in salvage facilities, often with no straight-forward or efficient way to dispose of them.

B1407
2-7-19
3 p. 2

Below are some examples of why insurance companies do not always obtain titles for the vehicles:

1. The insurance company has paid the claim to the insured, and, although the insured agreed to provide the title, this did not occur, and the insured can no longer be located (e.g., the insured has relocated without leaving a forwarding address). The vehicle sits in a salvage pool depreciating, taking up space, and costing insurance company storage charges.
2. Similarly, the insurance company has paid the claim to the insured, but the insured is uncooperative and (a) has the title but will not surrender it to the insurance company, (b) has lost the title and will not assist in the application for a duplicate title, or (c) has sent in the title to the insurance company without signing it (or has signed in the wrong place or otherwise spoiled the title) and then either disappears or decides not to cooperate further with the insurer.
3. The insured never titled the vehicle in his or her name because, for example, they wrecked it prior to the transfer taking place. After the total loss, the customer refuses or is unable to complete the titling process.
4. The insured is deceased and the family members are too upset to complete the transfer of, or have no knowledge of the location of, the title document.

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2-7-19
#3 p.3

5. The lienholder was purchased by another lending institution and the successor will not provide a “one and the same” document.
6. The lienholder is no longer in business and no contact information is available.
7. The financing against the car exceeds the settlement from the insurance company and the lender will not release the lien until the lender is paid in full.

Many of these problems arise even more often with respect to claimant's cars (as opposed to insureds' cars). Insurance companies find that they have far less success in working with third-party claimants (who file claims for damages against the insurer's customers) than they do with their own policyholders.

Regarding some of the above circumstances, it may seem odd that an insurance company would pay a claim without obtaining the title. In our experience, this occurs for a variety of reasons. First, sometimes a less experienced adjuster will mistakenly pay a claim prior to requesting the title. Secondly, sometimes an adjuster, experienced or not and focusing on customer service for their policyholder, relies on the insured to follow through on a promise to deliver the title, and the adjuster goes ahead and pays the claim. The title is then not forthcoming. Thirdly, due to laws such as the so-called “unfair claims practices” laws, the insurance companies are under

HB1407
2-7-19
#3 P.4

great pressure to settle quickly and fairly with their insureds and with claimants and these pressures add to the likelihood of paying a claim without getting the title to the subject vehicle.

Proposed solution:

Situation 1. In the last few years, 32 states (AR, AZ, CA, CO, DE, FL, ID, IA, IL, KS, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, NJ, NH, NC, OK, OH, PA, SD, TX, UT, VA, VT and WV) have enacted laws to allow an insurance company to apply for a title for a vehicle for which it paid the claim but was unable to obtain the title from the owner. We propose North Dakota law be amended to adopt a “diligent effort process” similar to the process in these states.

The process is:

- The insurer provides the department of transportation with proof of the payment of the claim.
- The insurer provides the department with proof that the insurer, at least twice, has requested the certificate of title in writing from the vehicle owner and any lienholder.
- The insurer requests a salvage certificate or certificate of title for the vehicle from the department.
- The department’s issuance of the ownership document extinguishes all existing liens on the vehicle.
- The insurer uses the ownership document to transfer ownership of the vehicle to a purchaser from the insurer.

H131407

2-7-19

#3 p.5

For Salvage Processors

There are occasions when, although a claim is made against an automobile insurance policy and an insurer requests its salvage processor (a salvage pool or auto auction) to take possession of a motor vehicle on behalf of the insurer, the insurer does not ultimately become the owner of the vehicle. (For example, this can occur in denied-coverage cases.) In such a situation, the insurer typically instructs the salvage processor to contact the vehicle owner and any lienholder to request removal of the vehicle from the facility of the salvage processor. This bill sets forth a process whereby the salvage processor may obtain a salvage certificate or a certificate of title for the vehicle if the owner or lienholder do not remove the vehicle from the salvage processor's facility.

The process is:

- The salvage processor provides the department with proof that the salvage processor has, at least twice, sent notice to the vehicle owner and any lienholder that the vehicle is available for pickup and of applicable charges.
- If the vehicle has been abandoned for more than 30 days, the salvage processor may request a salvage certificate or certificate of title for the vehicle from the department.
- The department's issuance of a salvage certificate or certificate of title extinguishes all existing liens on the vehicle.

14 B1407
2-7-19
#3 P.6

- The salvage processor uses the salvage certificate or certificate of title to transfer ownership of the vehicle to a purchaser from the salvage processor.

For Charities

There are occasions when a vehicle is donated to a charity but the properly assigned certificate of title is not provided. This bill sets forth a process whereby the charity may obtain a salvage certificate or a certificate of title for the vehicle.

The process is the charity provides the department with proof that the charity, at least twice, has requested the certificate of title from the registered vehicle owner or lienholder.

HB1407
2-7-19
#4
P.1

House Transportation Committee
February 7, 2019 – 09:45 a.m. – Fort Totten

North Dakota Department of Transportation
Lindi Michlitsch, Motor Vehicle Division Director
House Bill 1407

Good Morning! Mr. Chairman and members of the committee, I am Lindi Michlitsch, Motor Vehicle Division Director at the North Dakota Department of Transportation. Thank you for giving me the opportunity to present information to you today.

NDDOT is not taking a position on this bill. However, we would like to present some additional information on the current statute and the process if this bill were to pass.

NDDOT is unaware of any situations not covered by current statute that would require a change in law. Currently, there are sections within NDCC that give NDDOT the authority to issue titles outside of the normal means.

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

1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of title for a vehicle, and makes application for a new certificate and presents satisfactory proof of ownership, the department may cancel the old certificate and issue a new certificate to the transferee, provided that the department may not issue a certificate of title for a manufactured home with respect to which there has been recorded an affidavit of affixation under section 47-10-27. Satisfactory proof of ownership must include compliance by the transferee with the procedures outlined in title 35. The department may establish procedures for determining satisfactory proof of ownership of a vehicle in those cases when the department is unable to determine the legal owner of record. Any person aggrieved by a decision of the department as to ownership of a vehicle may appeal that decision to the district court under chapter 28-32.
2. A person holding a certificate of title whose interests in the vehicle have been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate. The action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of the owner or lienholder listed in the old certificate.

As we understand HB 1407, it states:

- Insurers, motor vehicle dealers, and 501(c)(3) organizations may be issued a title free and clear of current liens and ownership claims in the following circumstances:
 - An insurance company acquires a vehicle through a total loss settlement. This situation would arise when an insurer pays a total loss claim prior to obtaining the reassigned title from the vehicle owner and lienholder.
 - A licensed used car dealer obtains possession of a vehicle resulting from an insurance claim. This situation would arise when a vehicle has been abandoned at the dealer's facility for more than 30 days.

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4 p. 2

- Non-profit organization in possession of a donated vehicle. This situation would arise when a non-profit receives a donated vehicle, but the vehicle owner and/or lienholder does not give the non-profit organization the reassigned title.
- Each of these categories requires at least two written attempts addressed to the vehicle owner and lienholder on record.
- If the vehicle has not sustained damage, then the vehicle can be issued a non-branded title.
- The damage disclosure, if required, is allowed to be submitted and signed by the transferee and does not have to be signed by the transferor.

This bill creates a new manual process and, depending upon the volume, may have an impact on Motor Vehicle operations by increasing processing times as no title would be issued until reviewed and processed at the Bismarck Central Office.

Mr. Chairman, I would be happy to answer questions at this time.



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



HB 1407
3/8/19 #1
pg1

Representative Jim Grueneich

District 12
3051 83 1/2 Avenue SE
Jamestown, ND 58401-9600

R: 701-952-0579
C: 701-535-0286
jgrueneich@nd.gov

COMMITTEES:
Finance and Taxation
Transportation

March 8, 2019

Chairman Rust and members of the transportation committee

I bring HB 1407 before this committee along with an amendment to be consider.

This bill sets forth a process wherby in these cases, the insurer may obtain a salvage certificate or Or certificate of title for the vehicle. This bill is different than the Abandoned Motor Vehicle process since these vehicles are not abandoned, but have gone thru a claims process or in some cases donated. This legislation has been adopted in 32 other neighboring states including SD and MT passage of this bill would help to clarify and streamline the process here while also adding further protection for consumers

I would respectfully ask for your do-pass support on HB1407

I would stand for any questions.

19.0848.03001
Title.

Prepared by the Legislative Council staff for
Representative Grueneich
February 15, 2019

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as provided otherwise by this subsection, satisfactory"

Page 1, after line 17, insert:

- a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the certificate of title issued to the insurer is free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee is not required to provide proof the transferee paid for the vehicle to establish satisfactory proof of ownership.
- c. If the transferee is a licensed used motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. The certificate of title issued to the dealer is free and clear of all liens and claims of ownership."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

03/12/2019 – Prepared by NDDOT, Motor Vehicle Division

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as provided otherwise by this subsection, satisfactory"

Page 1, lines 14-17, remove ", that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title"

Page 1 after line 17, insert:

- a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the certificate of title issued to the insurer is department may cancel the old certificate and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
- b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee is not required to provide proof the transferee paid for the vehicle to establish satisfactory proof of ownership must provide an affidavit providing proof the vehicle was donated.
- c. If the transferee is a licensed ~~used~~ motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. The certificate of title issued to the dealer is free and clear of all liens and claims of ownership." Once satisfactory proof of ownership is provided, the department may cancel the old certificate and issue a new certificate to the licensed ~~used~~ motor vehicle dealer free and clear of all liens and claims of ownership.

Renumber accordingly

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

That the Senate recede from its amendments as printed on pages 1247 and 1248 of the House Journal and pages 965 and 966 of the Senate Journal and that Engrossed House Bill No. 1407 be amended as follows:

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. 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 or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within ~~fifteen~~ thirty days.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

Page 1, line 14, remove ", that the"

Page 1, remove lines 15 and 16

Page 1, line 17, remove "known lienholder to obtain the certificate of title"

Page 1, after line 17, insert:

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p. 2
- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
 - b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
 - c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership.
 - d. If the transferee is an individual, satisfactory proof of ownership must include that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title."

Renumber accordingly

#1
SB1407
4-18-19

North Dakota Bankers Association
April 16, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1407

Page 3, line 11, after "title." Insert "The department shall issue the new title subject to any existing liens of record."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1407

That the Senate recede from its amendments as printed on pages 1247 and 1248 of the House Journal and pages 965 and 966 of the Senate Journal and that Engrossed House Bill No. 1407 be amended as follows:

Page 1, line 1, replace "section" with "sections 39-05-17 and"

Page 1, line 2, after "the" insert "delivery and"

Page 1, line 2, after "title" insert "; and to provide a penalty"

Page 1, after line 3, insert:

"SECTION 1. 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 or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within ~~fifteen~~thirty days.
3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder 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, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor."

Page 1, line 13, overstrike "Satisfactory" and insert immediately thereafter "Except as otherwise provided by this subsection, satisfactory"

Page 1, after line 17, insert:

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- "a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the payment has not satisfied all liens of record on the vehicle, the transferee is not required to comply with the procedures outlined in title 35 to establish satisfactory proof of ownership and the department may cancel the old certificate of title and issue a new certificate to the insurer free and clear of all liens and claims of ownership.
 - b. If the transferee is a tax exempt organization under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been donated, the transferee shall provide an affidavit providing proof the vehicle was donated.
 - c. If the transferee is a licensed motor vehicle dealer that, at the request of an insurer, took possession of a vehicle that is the subject of an insurance claim but for which a total loss claim is not paid by the insurer and the vehicle has been in the possession of the dealer for more than thirty days, the necessary satisfactory proof of ownership includes only proof the dealer made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to have the vehicle removed from the dealer's facility, upon payment of applicable charges. If satisfactory proof of ownership is established, the department may cancel the old certificate of title and issue a new certificate to the licensed motor vehicle dealer free and clear of all liens and claims of ownership.
 - d. If the transferee is an individual, satisfactory proof of ownership must include that the transferee has paid for the vehicle, and that the transferee made at least two written attempts by certified mail with return receipt addressed to the owner of record and any known lienholder to obtain the certificate of title. If satisfactory proof of ownership is established, the department shall cancel the old certificate of title and issue a new certificate to the individual, subject to any existing lien."

Page 1, line 20, after the period insert "The procedures may include determining the validity of any liens on a certificate of title."

Renumber accordingly

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1407

HB1407
4-22-19
H 2
p.1

Introduced by

Representatives Grueneich, Blum, Bosch, Howe, Schobinger

Senator Meyer

1 A BILL for an Act to amend and reenact ~~section~~sections 39-05-17 and 39-05-20 of the North
2 Dakota Century Code, relating to the delivery and issuance of certificates of vehicle title; and to
3 provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 39-05-17 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-05-17. Transfer of title of vehicle - Endorsement required - Certificate of title**
8 **delivered - New certificate obtained - Penalty.**

- 9 1. The owner or transferor of a motor vehicle who transfers title to a vehicle shall endorse
10 an assignment and warranty of title upon the certificate of title for the vehicle. The
11 owner or transferor shall include on the assignment and warranty of title the name of
12 the transferee and the selling price of the vehicle if applicable.
- 13 2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of
14 title to the transferee within ~~fifteen~~thirty days.
- 15 3. If legal title passes to a lienholder rather than the transferee, the transferee shall
16 endorse a statement that the lienholder holds the lien and shall send the certificate of
17 title to the department with an application for a new certificate of title showing the
18 names of the new owner and lienholder. The certificate of title when issued must be
19 sent by the department to the lienholder or the department may use an electronic lien
20 notification procedure in lieu of sending a certificate of title to a lienholder.
- 21 4. Within thirty days, the transferee shall deliver the endorsed certificate of title to the
22 department with a transfer fee of five dollars, and shall make an application for a new
23 certificate of title. In addition to any other penalty, the registration to a motor vehicle
24 may be suspended or revoked if the transferee fails to present the endorsed certificate

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4-22-19
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P. 2

- 1 of title to the department for transfer and make application for a new certificate of title
2 within thirty days. The department shall deliver the new certificate of title to the
3 lienholder with priority. If there is no lienholder, delivery must be made to the owner.
4 5. A violation of this section by an owner, lienholder, or transferee is a class B
5 misdemeanor.

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

8 **39-05-20. Transferee may obtain new certificate of title upon inability to obtain old**
9 **certificate - Proof of ownership - Appeal.**

- 10 1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of
11 title for a vehicle, and makes application for a new certificate and presents satisfactory
12 proof of ownership, the department may cancel the old certificate and issue a new
13 certificate to the transferee, provided that the department may not issue a certificate of
14 title for a manufactured home with respect to which there has been recorded an
15 affidavit of affixation under section 47-10-27. Satisfactory Except as otherwise provided
16 by this subsection, satisfactory proof of ownership must include compliance by the
17 transferee with the procedures outlined in title 35, ~~that the transferee has paid for the~~
18 ~~vehicle, and that the transferee made at least two written attempts by certified mail~~
19 ~~with return receipt addressed to the owner of record and any known lienholder to~~
20 ~~obtain the certificate of title.~~

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

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

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1 c. If the transferee is a licensed motor vehicle dealer that, at the request of an
2 insurer, took possession of a vehicle that is the subject of an insurance claim but
3 for which a total loss claim is not paid by the insurer and the vehicle has been in
4 the possession of the dealer for more than thirty days, the necessary satisfactory
5 proof of ownership includes only proof the dealer made at least two written
6 attempts by certified mail with return receipt addressed to the owner of record
7 and any known lienholder to have the vehicle removed from the dealer's facility,
8 upon payment of applicable charges. If satisfactory proof of ownership is
9 established, the department may cancel the old certificate of title and issue a new
10 certificate to the licensed motor vehicle dealer free and clear of all liens and
11 claims of ownership.

12 d. If the transferee is an individual, satisfactory proof of ownership must include that
13 the transferee has paid for the vehicle, and that the transferee made at least two
14 written attempts by certified mail with return receipt addressed to the owner of
15 record and any known lienholder to obtain the certificate of title. If satisfactory
16 proof of ownership is established, the department shall cancel the old certificate
17 of title and issue a new certificate to the individual, subject to any existing lien.

18 2. The department may establish procedures for determining satisfactory proof of
19 ownership of a vehicle in those cases when the department is unable to determine the
20 legal owner of record. The procedures may include determining the validity of any
21 liens on a certificate of title. Any person aggrieved by a decision of the department as
22 to ownership of a vehicle may appeal that decision to the district court under chapter
23 28-32.

24 2-3. A person holding a certificate of title whose interests in the vehicle have been
25 extinguished or transferred other than by voluntary transfer shall mail or deliver the
26 certificate to the department upon request of the department. The delivery of the
27 certificate pursuant to the request of the department does not affect the rights of the
28 person surrendering the certificate. The action of the department in issuing a new
29 certificate of title as provided herein is not conclusive upon the rights of the owner or
30 lienholder listed in the old certificate.