

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2247

Introduced by

Senators Thomas, Cory, Clemens

Representatives Grueneich, D. Ruby

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

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

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

- 7 1. An application for a certificate of title must be made upon a form provided by the
8 department and must contain all of the following:
- 9 a. A full description of the vehicle, including the name of the manufacturer, model
10 year if the model year is known, either the engine, serial, or identification number,
11 and any other distinguishing marks. The department ~~may~~shall assign a vehicle
12 identification number for a vehicle not otherwise assigned a number or for a
13 vehicle in which the identification number can not be located. The assigned
14 number must be permanently affixed to the vehicle and the department may
15 ~~require the vehicle be inspected~~the applicant to provide a photo of the vehicle
16 identification number before issuing a certificate of title for the vehicle.
- 17 b. A statement as to whether the vehicle is new or used.
- 18 c. A statement of the applicant's title and the name and address of each lienholder
19 in the order of priority.

- 1 d. The name and address of the person to whom the certificate of title must be
- 2 delivered.
- 3 e. If applicable, a statement as to whether the vehicle is a specially constructed,
- 4 reconstructed, or foreign vehicle.
- 5 f. The owner's legal name, as evidenced by a valid state-issued driver's license,
- 6 identity card, or any other documentary evidence that confirms to the satisfaction
- 7 of the director the true identity of the owner, street address, city, and county, or
- 8 township and county, of residence. When two or more owners are designated, at
- 9 least one of the owners must comply with the identification requirement of this
- 10 subdivision and all names used must be legal names. A dealer shall make
- 11 specific inquiry as to this information before filling in the information on the
- 12 application.
- 13 g. The department may require odometer disclosure information as required under
- 14 the Truth in Mileage Act of 1986 [Pub. L. 99-579].
- 15 h. Any other information required by the department.

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

18 **39-05-20. Transferee may obtain new certificate of title upon inability to obtain old**
19 **certificate - Proof of ownership - Appeal.**

- 20 1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of
- 21 title for a vehicle, and makes application for a new certificate and presents satisfactory
- 22 proof of ownership, the department may cancel the old certificate and issue a new
- 23 certificate to the transferee, provided ~~that~~ the department may not issue a certificate of
- 24 title for a manufactured home with respect to which there has been recorded an
- 25 affidavit of affixation under section 47-10-27. Except as otherwise provided by this
- 26 subsection, satisfactory proof of ownership must include compliance by the transferee
- 27 with the procedures outlined in title 35.
- 28 a. If the transferee is an insurer that has paid a total loss claim on a vehicle but the
- 29 payment has not satisfied all liens of record on the vehicle, the transferee is not
- 30 required to comply with the procedures outlined in title 35 to establish satisfactory
- 31 proof of ownership and the department may cancel the old certificate of title and

- 1 issue a new certificate to the insurer free and clear of all liens and claims of
2 ownership.
- 3 b. If the transferee is a tax exempt organization under section 501(c)(3) of the
4 Internal Revenue Code [26 U.S.C. 501(c)(3)] to which a vehicle has been
5 donated, the transferee shall provide an affidavit providing proof the vehicle was
6 donated.
- 7 c. If the transferee is a licensed motor vehicle dealer that, at the request of an
8 insurer, took possession of a vehicle that is the subject of an insurance claim but
9 for which a total loss claim is not paid by the insurer and the vehicle has been in
10 the possession of the dealer for more than thirty days, the necessary satisfactory
11 proof of ownership includes only proof the dealer made at least two written
12 attempts by certified mail with return receipt addressed to the owner of record
13 and any known lienholder to have the vehicle removed from the dealer's facility,
14 upon payment of applicable charges. If satisfactory proof of ownership is
15 established, the department may cancel the old certificate of title and issue a new
16 certificate to the licensed motor vehicle dealer free and clear of all liens and
17 claims of ownership.
- 18 d. If the transferee is ~~an individual~~ a person and the vehicle is less than forty years
19 old at the time of the application, satisfactory proof of ownership must include
20 that the transferee has paid for the vehicle, and that the transferee made at least
21 two written attempts by certified mail with return receipt addressed to the owner
22 of record and any known lienholder to obtain the certificate of title. If satisfactory
23 proof of ownership is established, the department shall cancel the old certificate
24 of title and issue a new certificate to the ~~individual~~ person, subject to any existing
25 lien.
- 26 e. If the transferee is a person and the vehicle is more than forty years old at the
27 time of the application, satisfactory proof of ownership is established by a bill of
28 sale or affidavit of ownership. An affidavit of ownership created by the department
29 under this section must have the option for an applicant to provide a vehicle
30 purchase price. If satisfactory proof of ownership is established, the department
31 shall cancel the old certificate of title and issue a new certificate to the person.

1 subject to any existing lien. When valuing a vehicle transferred under this
2 subdivision, the department shall use the sale price on the bill of sale if a bill of
3 sale is presented. The department may only request an appraisal of the vehicle if
4 a bill of sale is not presented to the department. A transfer under this subdivision
5 is exempt from subsection 1 of section 39-04-36.

6 2. The department may establish procedures for determining satisfactory proof of
7 ownership of a vehicle in those cases when the department is unable to determine the
8 legal owner of record. The procedures may include determining the validity of any
9 liens on a certificate of title. Any person aggrieved by a decision of the department as
10 to ownership of a vehicle may appeal that decision to the district court under chapter
11 28-32.

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

19 4. If the department can verify the ownership of a vehicle and the vehicle has a vehicle
20 identification number, the vehicle may be transferred under this section regardless of
21 the condition of the vehicle.