



2017-2018 General Assembly

SENATE BILL 326:

Clarify HUT & Improve Vehicle Titling Process,

Sec. 1:

Clarify HUT

Committee:

Introduced by:

Analysis of: Sec. 1 of S.L. 2017-69

Date: August 1, 2017

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Staff Attorney

OVERVIEW: Section 1 of S.L. 2017-69 clarifies that the highway use tax applies to out-of-state vehicles when they are first titled in this State, effective June 28, 2017.

CURRENT LAW, BILL ANALYSIS, AND BACKGROUND: Section 1 of the act clarifies that the highway use tax applies to out-of-state vehicles when they are first titled in this State, with the exception of certain vehicles listed below, subject to a cap of \$250.

Chapter 692 of the 1989 Session Laws repealed the sales tax on motor vehicles and replaced it with a titling tax to broaden the scope of the tax. The revenue generated from the tax is credited to the Highway Trust Fund. The broader tax includes a tax on NC titles issued for vehicles that were already titled in another state. To lessen the impact on these out-of-state transfers, the legislation included a cap on the amount of tax due. The legislation also included credits for tax paid in other states in certain circumstances.

The full exemptions from the tax in G.S. 105-187.6(a) and the partial exemptions in G.S. 105-187.6(b) apply "when a certificate of title is issued as the result of the transfer of a motor vehicle" for one of the listed reasons. None of these reasons describes a transfer of an out-of-state vehicle, and the Division of Motor Vehicles had, until the fall of 2016, interpreted the law this way. Meaning, if a transfer met one of the listed exemptions but was otherwise an out-of-state vehicle being titled in this State, DMV's interpretation was that highway use tax was due. However, in 2016, DMV changed the way in which it interpreted the law such that the exemption applied regardless of whether the vehicle was coming from out of state. Section 1 of S.L. 2017-69 modifies the law in a manner consistent with the longstanding interpretation of DMV prior to 2016.

Without tax on these title transfers, many of the vehicles would never contribute to the Highway Trust Fund. The core reason for the titling of an out-of-state vehicle in this State is the mandate set in G.S. 20-50(a), which requires an owner of a vehicle that is to be operated in this State to title and register it in this State. The fact that an out-of-state vehicle is a gift, for example, does not negate the requirement that a NC certificate of title be obtained. The imposition of the highway use tax upon the issuance of a certificate of title is to ensure that vehicles titled in this State provide revenue to support the State's transportation system.

Examples of vehicles for which no highway use tax would have been due under the Division's new interpretation in 2016 included the following:

- A vehicle titled in another state that is given by a family member to a resident of this State.
- A vehicle titled in another state that is given by will or intestacy to a resident of this State.

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- A vehicle titled in another state that is transferred to a resident of this State as a result of a marital separation or divorce.
- A vehicle titled in another state by an individual who moves to this State and titles the vehicle in a corrected or changed name, such as a maiden name or married name.
- A vehicle titled in joint names in another state by a couple who moves to this State and titles the vehicle in only one of their names.

Under the act, the transactions listed above are subject to highway use tax to the same extent they were subject to the tax prior to the Division's 2016 change of interpretation. The following transfers of vehicles¹ from out of state, however, would continue to be exempt from highway use tax:

- To insurers or motor vehicle dealers because the vehicle is a salvage vehicle.
- To manufacturer or a motor vehicle retailer for the purpose of resale.
- To a volunteer fire department or volunteer rescue squad.
- To a State agency from a unit of local government, volunteer fire department, or volunteer rescue squad to enable the State agency to transfer the vehicle to another unit of local government, volunteer fire department, or volunteer rescue squad.

EFFECTIVE DATE: This section became effective June 28, 2017.

¹ G.S. 105-187.6(a)(1), (2), (9), and (10).