



SENATE BILL 326: Clarify HUT & Improve Vehicle Titling Process.

2017-2018 General Assembly

Committee:		Date:	June 1, 2017
Introduced by:	Sens. Tillman, Meredith	Prepared by:	Trina Griffin Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *Senate Bill 326¹ would clarify the application of the highway use tax to out-of-state vehicles titled in this State, and it would eliminate duplicative and unnecessary information on an application for a motor vehicle title.*

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE: Senate Bill 326 would make two changes to the motor vehicle laws.

Section 1: Application of Highway Use Tax to Out-of-State Vehicles Titled in NC

Section 1 of the bill 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Chapter 692 of the 1989 Session Laws repealed the sales tax on motor vehicles and replaced it with a titling tax to broaden the scope of the tax.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. This bill would modify 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

¹ As introduced, this bill was identical to H421, as introduced by Reps. Shepard, Torbett, Iler, which is currently in House Finance.

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transportation system. Examples of vehicles for which no highway use tax is due under the Division's new interpretation include 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.
- 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 bill, the transactions listed above would become subject to highway use tax. The following transfers of vehicles from out of state, however, would continue to be exempt:

- 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.

This section would become effective when it becomes law.

Section 2: Improve Vehicle Titling Process

Section 2 of the bill eliminates duplicative and unnecessary statements on an application for a motor vehicle title. The statements are about the vehicle owner's eligibility for liability insurance for the vehicle. The statements are unnecessary because, under G.S. 20-309, a vehicle cannot be titled unless the vehicle owner in fact has liability insurance for the vehicle and provides proof of it. If the owner has insurance, the insurance company has already determined that the owner is an eligible risk. If the owner does not have insurance, the owner cannot title or register the vehicle regardless of eligibility for insurance.

In practice, a separate form is used to obtain the information about eligibility for insurance. The statements about "eligible risk" were added to the titling requirements in 2007 as part of a larger effort to combat insurance rate evasion fraud. The protections against this fraud, however, lie with insurers. The insurers have a duty under G.S. 58-2-164 to verify an applicant's eligibility for insurance and to check periodically to ensure a policy holder remains eligible. Repealing this requirement will eliminate the need for this separate form and the retention of duplicative and unnecessary information.

Subsection (a) of this section deletes the provisions that impose the requirements to provide statements about whether the vehicle owner is an eligible risk for insurance purposes. Subsection (b) amends the statute that lists the requirements for titling and registering a vehicle to include a cross-reference to the basic requirement that the owner have liability insurance. Subsection (c) makes conforming changes to statutes that now refer to the provisions that are repealed by subsection (a).

This section would become effective July 1, 2017.

Cindy Avrette, counsel to Senate Finance, substantially contributed to this summary.