



# SENATE BILL 411: Various Motor Vehicle Law Revisions.

2017-2018 General Assembly

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| <b>Committee:</b>     |                 | <b>Date:</b>        | June 13, 2018   |
| <b>Introduced by:</b> | Sen. B. Jackson | <b>Prepared by:</b> | Howard Marsilio |
| <b>Analysis of:</b>   | Fourth Edition  |                     | Staff Attorney  |

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**OVERVIEW:** *Senate Bill 411 would make the following changes to motor vehicle titling laws:*

- *Requires all individuals and lienholders who conduct at least five transactions a year to use the electronic lien system.*
- *Clarifies the process allowing dealers to transfer motor vehicles without the vehicle's statement of origin or certificate of title, and allows the purchaser to collect liquidated damages if the dealer fails to deliver the title to the Division within 60 days after the sale of the vehicle.*
- *Requires the Division, in consultation with the Automobile Dealers Association, to study motor vehicle transfers and potential improvements to processes.*
- *Delays the date dealers are required to start using LD plates for loaner vehicles from January 1, 2019, to January 1, 2021.*
- *Requires dealers issuing temporary registration plates to purchasers to deliver sales documents and fees to the Division within 20 days, rather than 10 working days.*
- *Requires new motor vehicles to be inspected prior to delivery to the purchaser, rather than prior to sale.*
- *Clarifies the applicability of certain taxes and fees on motor vehicle sales, making clear that the applicable rate is the one in effect on the date of sale.*

**CURRENT LAW AND BILL ANALYSIS:** Senate Bill 411 would make the following changes to motor vehicle laws related to motor vehicle dealers and the titling of motor vehicles:

**Section 1.** In 2013, the General Assembly passed legislation requiring the Division of Motor Vehicles to implement a Statewide electronic lien system to process the notification and release of security interests and certificate of title data. Under G.S. 20-58.4A(i), all individuals and lienholders normally engaged in the business of financing motor vehicles and who conduct at least five transactions a year were required to use the system by July 1, 2015. The mandatory participation date was subsequently delayed to July 1, 2016, but it is still limited to those who are normally engaged in the business of financing motor vehicles and conduct at least five transactions a year.

Section 1 would make mandatory participation in the electronic lien system applicable to all individuals and lienholders who conduct at least five transactions a year, regardless of whether they are normally engaged in the practice of financing motor vehicles.

**Section 2.** Under current law, a person generally must have a certificate of title for a motor vehicle in order to transfer it. G.S. 20-52.1(d) and 20-72(b) allow a motor vehicle dealer to transfer a title to another when a certificate of title or statement of origin is not available by providing a sworn statement to the

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Legislative Analysis  
Division  
919-733-2578

# Senate Bill 411

Page 2

Division that all prior perfected liens have been paid and that the dealer is unable to obtain the certificate of title or statement of origin. It is a Class H felony to file a false sworn certification.

Section 2 would clarify existing law, allowing a dealer to transfer title on a vehicle without the statement of origin or certificate of title if the dealer includes in a sworn statement that the certificate of title or statement of origin was not delivered to the dealer, or it has been lost or misplaced. The bill would also make clear that a dealer is only liable for filing a false statement if it is done knowingly and intentionally.

This section would also provide that if the dealer transfers the title when the existing certificate of title is unavailable, the title must be delivered to the Division no later than 60 days after the sale of the vehicle. Failure to do so would give a purchaser of the vehicle the option to collect liquidated damages in the amount of 5% of the vehicle price, up to \$1000, from the dealer.

This section would also require the Division, in consultation with the Automobile Dealers Association, to study the impacts of statutory changes in this section, consumer protection in the motor vehicle transfer process, potential changes to the electronic lien system, and any other issues the Division deems appropriate. The Division would be required to report its findings to the Joint Legislative Transportation Oversight Committee by December 1, 2020.

**Section 3.** Legislation was enacted in 2015 to authorize a new "LD" license plate, or loaner/dealer plate, to be issued to motor vehicle dealers for use on vehicles owned by the dealer that are loaned to customers having their vehicles serviced by the dealer. Use of the LD plates was to be mandatory on January 1, 2019. Prior to that date, the legislation authorized use of "u-drive-it" license plates or demonstration permits for vehicles with dealer plates on loaner vehicles.

This section would delay the date for mandatory use of LD plates to January 1, 2021, and would allow dealers to continue to use "u-drive-it" plates or demonstration permits as an alternative in the interim.

**Section 4.** This section would require a motor vehicle dealer who issues a temporary registration plate to a purchaser to deliver the sales documents and fees to the Division within 20 days (10 working days under current law). G.S. 20-58.2 provides that a security interest is perfected as of the date of the execution of the agreement if the application for notation of a security interest is delivered to the Division within 20 days after the date of the security agreement. This section conforms the deadline dates for dealers with the date in G.S. 20-58.2.

**Section 5.** This section would amend the statute that requires a new motor vehicle to be inspected before it is sold at retail. The language would be amended to require inspection before the vehicle is delivered to the purchaser, rather than when it is sold. This would address situations where a sale may take place before the vehicle actually arrives at the dealership and can be inspected.

**Sections 6 through 8.** These sections would clarify the applicability of certain taxes and fees on motor vehicle sales. G.S. 105-562 and G.S. 105-570 give Regional Transit Authorities and counties the authority to levy registration taxes and tax increases on motor vehicles. G.S. 20-4.02 gives the Division authority to adjust certain fees applicable to motor vehicles for inflation. These sections make clear that the tax and fee rates applicable to a motor vehicle when it is sold are the rates in effect on the date of sale, not the date of submission of paperwork by the dealer to the Division.

**EFFECTIVE DATE:** The provisions in section 2 of the act pertaining to transfer of vehicles would become effective January 1, 2019. Sections 6 through 8 of the act pertaining to effective dates of taxes would be effective when they become law and apply to any tax or tax increase with an effective date on or after that date. The remainder of the act would be effective when it becomes law.