



2017-2018 General Assembly

SENATE BILL 411: Various Motor Vehicle Law Revisions, Electronic Lien Sys. Req. & Motor Veh. Dealer Law Revisions

Committee:		Date:	July 27, 2018
Introduced by:		Prepared by:	Howard Marsilio Staff Attorney
Analysis of:	S.L. 2018-42		

OVERVIEW: *Secs. 1 through 5 of S.L. 2018-42 make the following changes to motor vehicle dealer and titling laws:*

- *Requires all individuals and lienholders who conduct at least five motor vehicle transactions a year to use the electronic lien system.*
- *Makes various changes to laws related to the process of motor vehicle dealers transferring certain motor vehicles when a vehicle's statement of origin or certificate of title are unavailable.*
- *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.*

The provisions of these sections pertaining to motor vehicle dealers and transfers of vehicles become effective January 1, 2019. The remainder of these sections became effective June 22, 2018.

CURRENT LAW AND BILL ANALYSIS: Sections 1 through 5 of S.L. 2018-42 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 was still limited to those normally engaged in the business of financing motor vehicles who conduct at least five transactions a year.

Section 1 makes participation in the electronic lien system mandatory and 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 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.

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Section 2 clarifies existing law, and makes various conforming changes, 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. It also makes clear that a dealer is only liable for filing a false statement if it is done knowingly and intentionally.

This section also provides 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 also requires 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 must 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 delays the date for mandatory use of LD plates to January 1, 2021, and allows dealers to continue to use "u-drive-it" plates or demonstration permits as an alternative in the interim.

Section 4. This section requires 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 amends the statute that requires a new motor vehicle to be inspected before it is sold at retail. The language amends the statute to require inspection before the vehicle is delivered to the purchaser, rather than when it is sold. This addresses situations where a sale may take place before the vehicle actually arrives at the dealership and can be inspected.

EFFECTIVE DATE: The provisions of these sections pertaining to motor vehicle dealers and transfers of vehicles become effective January 1, 2019. The remainder of these sections became effective June 22, 2018.