

JAN 25 2006

S.B. NO. 3107

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE TRANSFER OF OWNERSHIP.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the transferee of
2 the title of ownership to a motor vehicle often does not
3 register the motor vehicle in the transferee's name, even after
4 the legal owner has signed the certificate of ownership.
5 Current law requires the transferee, not the legal owner, to
6 file the signed certificate.

7 The legislature further finds that counties are incurring
8 added expense in towing an abandoned vehicle that has not been
9 re-registered to the transferee. The transferee of these
10 vehicles probably did not make the necessary effort or pay the
11 expense of a proper transfer.

12 The purpose of this Act is to effectuate an orderly
13 transfer of title and registration of a transferred motor
14 vehicle.

15 SECTION 2. Section 286-52, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§286-52 Procedure when title of vehicle transferred;**
18 **[delivery of certificate mandatory]; affidavit; liability of**



1 transferor. (a) [~~Upon a~~] To transfer [~~of~~] the title or
2 interest of a legal owner in or to a vehicle registered under
3 this part, the person whose title or interest is to be
4 transferred and the transferee shall [~~write~~]:

5 (1) Write their signatures with pen and ink upon the
6 certificate of ownership issued for the vehicle,
7 together with the address of the transferee in the
8 appropriate space provided upon the certificate[~~-~~];

9 and

10 (2) Execute an affidavit of sale and transfer of title on
11 a form to be furnished by the director of finance.

12 The affidavit shall include the information deemed
13 necessary by the director of finance to effectuate a
14 transfer of ownership and new registration of the
15 vehicle.

16 The person whose title or interest is to be transferred shall
17 file the certificate and affidavit with the director of finance
18 no later than seven business days following the transfer of the
19 vehicle itself to the transferee. Immediately upon receipt of
20 the certificate and affidavit, the director of finance shall
21 notify the transferee by mail that the transferee has seven
22 business days to obtain a new title and registration in the name



1 of the transferee, or failing to so obtain the new title and
 2 registration within seven business days, the transfer shall be
 3 deemed void. If the person whose title or interest is to be
 4 transferred files the affidavit in accordance with this
 5 subsection, that person shall be absolved of any and all
 6 liability arising from that vehicle.

7 In the case of a new or used car dealer, a endorsed
 8 certificate of ownership issued for the vehicle filed by the
 9 dealer within seven business days with the director of finance,
 10 containing the dealer and the transferee's signature, together
 11 with the address of the transferee, shall suffice in lieu of an
 12 affidavit.

13 (b) [~~Within thirty calendar days thereafter, the~~
 14 ~~transferee shall forward the certificate of ownership so~~
 15 ~~endorsed to the director of finance who shall file the same,~~
 16 ~~provided that if the] If there is a recorded lien holder that
 17 does not have an office in the State, the applicable period
 18 shall be [sixty] fourteen business days[-] for filing the
 19 affidavit under subsection (a). Whenever a transferee fails to
 20 comply with these provisions, the director of finance shall
 21 charge a fee of \$50, in addition to the fee provided in section
 22 286-51, for a new certificate of ownership.~~

1 (c) [~~Subsection (b), requiring a transferee to forward the~~
2 ~~certificate of ownership after endorsement to the director of~~
3 ~~finance,~~] Subsections (a) and (b) shall not apply to the
4 transferee of a vehicle who was not intending to and does not
5 drive the vehicle or permit the vehicle to be driven upon the
6 public highways, but every such transferee, upon transferring
7 the transferee's interest or title to another[~~7~~] in accordance
8 with subsections (a) and (b), shall give notice of the transfer
9 to the director of finance and endorse the certificate of
10 ownership to the new legal owner and the certificate of
11 registration to the new owner; provided that if the director of
12 finance has ascertained as of the date of the application that
13 the registered owner has not deposited or paid bail with respect
14 to any summons or citation issued to the registered owner for
15 stopping, standing, or parking in violation of traffic
16 ordinances within the county, the director may require, as a
17 condition precedent to the transfer, that the registered owner
18 deposit or pay bail with respect to all such summons or
19 citations.

20 (d) The director of finance, upon [~~receipt of the~~
21 ~~certificate of ownership properly endorsed,~~] registration by the
22 transferee of the vehicle in the name of the transferee, in



1 accordance with subsection (a), shall register the vehicle, and
2 shall issue to the owner and legal owner entitled thereto by
3 reason of the transfer a new certificate of registration and the
4 certificate of ownership, respectively, in the manner and form
5 hereinabove provided for original registration.

6 (e) Until the director of finance has issued the new
7 certificate of registration and certificate of ownership as
8 provided in subsection (d) [~~provided~~], delivery of [~~such~~] the
9 vehicle shall be deemed not to have been made and title thereto
10 shall be deemed not to have passed, and the intended transfer
11 shall be deemed to be incomplete and not to be valid or
12 effective for any purpose, notwithstanding any provision of the
13 Uniform Commercial Code; provided that a security interest in a
14 motor vehicle shall be perfected as provided in the Uniform
15 Commercial Code, section 490:9-311 and that the validity,
16 attachment, priority, and enforcement of such security interest
17 shall be governed by Article 9 of the Code.

18 (f) In the event of the transfer by operation of law of
19 the title or interest of a legal owner in and to a vehicle
20 registered under this part, as upon inheritance, devise, or
21 bequest, order in bankruptcy, or insolvency, execution sale,
22 repossession upon default in performance of the terms of a lease



1 or executory sales contract, or otherwise than by the voluntary
2 act of the person whose title or interest is so transferred, the
3 certificate of ownership shall be signed upon the spaces
4 provided by the personal representative, receiver, trustee,
5 sheriff, or other representative, or successor in interest of
6 the person whose title or interest is so transferred in lieu of
7 such person. Every personal representative, receiver, trustee,
8 sheriff, or other representative hereinabove referred to shall
9 file with the director of finance a notice of any transfer by
10 sale, lease, or otherwise by such person, of any such vehicle,
11 together with evidence satisfactory to the director of finance
12 of all facts entitling such representative to make the transfer.
13 Upon notice given to the director of finance that transfer by
14 operation of law of the title or interest of a legal owner or a
15 registered owner has been effected pursuant to any provision of
16 law, the director of finance shall send to the legal owner or
17 the registered owner or both a notice by registered mail of such
18 action and requesting the delivery to the director of finance of
19 the certificate of ownership or the certificate of registration,
20 as the case may be, within ten days after date of mailing of the
21 notice, and any person who refuses or neglects to deliver the
22 same to the director of finance pursuant to the notice shall be



1 guilty of a misdemeanor and shall be punished as provided in
2 section 286-61.

3 (g) Nothing in [~~the foregoing subsections~~] this section
4 shall prevent a legal owner from assigning the title or interest
5 in or to a vehicle registered under this part to another legal
6 owner at any time without the consent of and without affecting
7 the interest of the holder of the certificate of registration
8 thereof. Upon filing with the director of finance of a
9 certificate of ownership endorsed by the legal owner and a
10 transferee of legal ownership, the director of finance shall,
11 whether the certificate of registration has expired or not,
12 enter the name of the new legal owner upon the records of the
13 director's office and shall forthwith issue a new certificate of
14 ownership to the new legal owner in the form for original
15 registration. Upon so doing, the director of finance shall send
16 to the registered owner a notice by mail of the action.

17 (h) Any person who refuses or neglects to deliver a
18 certificate of ownership to a transferee entitled thereto under
19 this part, shall be punished as provided in section 286-61.

20 (i) Every dealer, upon transferring a motor vehicle,
21 whether by sale, lease, or otherwise, shall immediately give
22 notice of the transfer to the director of finance upon the



1 official form provided by the director of finance. Every such
2 notice shall contain the date of the transfer, the names and
3 addresses of the transferor and transferee, and such description
4 of the vehicle as may be called for in the official form.

5 ~~[(j) Every person, other than a dealer, upon transferring~~
6 ~~a motor vehicle, whether by sale, lease, or otherwise, shall~~
7 ~~within ten days give notice of the transfer to the director of~~
8 ~~finance upon the official form provided by the director of~~
9 ~~finance. Every notice shall contain the date of transfer, the~~
10 ~~names and addresses of the transferor and transferee, and such~~
11 ~~description of the vehicle as may be called for in the official~~
12 ~~form. Any person who violates this subsection shall be fined~~
13 ~~not more than \$100.]~~

14 ~~[(k)]~~ (j) Whenever the registered owner of any motor
15 vehicle or any licensed dealer has given notice to the director
16 of finance of a transfer of the title or interest in the motor
17 vehicle, as provided in ~~[subsection (i) or (j),]~~ this section,
18 and has delivered the affidavit and certificate of ownership
19 bearing the transferor's signature to the transferee as required
20 by subsection (a), the transferor shall be relieved from any
21 liability, civil or criminal, from the date the transferor
22 delivers the motor vehicle into the transferee's possession,



1 which the transferor might otherwise subsequently incur by
2 reason solely of being the registered owner of the vehicle.

3 ~~[(1)]~~ (k) A licensed dealer who has forwarded a properly
4 endorsed certificate of ownership to the director of finance
5 shall be relieved of any civil liability, from the date the
6 transferor delivers the motor vehicle into the transferee's
7 possession, which the transferor might otherwise subsequently
8 incur by reason solely of being the registered owner of the
9 vehicle; provided that a specific written authorization to
10 forward the certificate has been obtained from the transferee.

11 ~~[(m)]~~ (l) Any person who falsely or fraudulently gives
12 notice to the director of finance of a transfer of title or
13 interest in a motor vehicle shall be subject to the penalty
14 provided in section 286-61."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2006.

18

INTRODUCED BY: AS.T.L.

19

SB. NO. 3107

Report Title:

Motor Vehicles; Transfer of Ownership

Description:

Requires the transferor of a motor vehicle and the transferee to execute a signed affidavit of transfer to the title and registration.

