S T A T E O F N E W Y O R K

3722

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to notification to the commissioner of motor vehicles of transfers of title to vehicles, and in relation to allowing bona fide transferors to rebut the presumption of vehicle abandonment

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 2107 of the vehicle and traffic law is amended by adding a new subdivision (d) to read as follows:

(D) THE COMMISSIONER SHALL FILE AND MAINTAIN A RECORD OF ALL COPIES OF DOCUMENTS AND STATEMENTS AFFIRMING TRANSFER OF AN INTEREST IN A VEHICLE MAILED OR DELIVERED TO HIM OR HER PURSUANT TO SUBDIVISION (A) OF SECTION TWO THOUSAND ONE HUNDRED THIRTEEN OR SUBDIVISION (B) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE, AND OF ALL STATEMENTS AFFIRMING EXTINGUISHMENT OR TRANSFER OF AN INTEREST IN A VEHICLE MAILED OR DELIVERED TO HIM OR HER PURSUANT TO SUBDIVISION (C) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE. SUCH RECORD SHALL BE MAINTAINED IN THE MANNER PROVIDED IN SUBDIVISION (B) OF THIS SECTION, AND SUCH COPIES AND STATEMENTS SHALL BE RETAINED IN THE COMMISSIONER'S FILES UNTIL THE COMMISSIONER ISSUES A NEW CERTIFICATE OF TITLE OR UNTIL THE COMMISSIONER DETERMINES THAT THE VEHICLE ASSOCIATED WITH SUCH COPIES AND STATEMENTS IS NO LONGER SUBJECT TO THE PROVISIONS OF THIS TITLE.

S 2. Subdivisions (a) and (c) of section 2113 of the vehicle and traffic law, subdivision (a) as added by chapter 1134 of the laws of 1971 and subdivision (c) as amended by chapter 703 of the laws of 1989, are amended to read as follows:

(a) If an owner transfers his OR HER interest in a vehicle, other than by the creation of a security interest, he OR SHE shall, at the time of the delivery of the vehicle[,]: (I) execute an assignment and warranty of title to the transferee in the space provided therefor on the certif-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD06935-01-9

icate or as the commissioner prescribes[, and]; (II) CAUSE THE CERTIFICATE AND ASSIGNMENT TO BE EXECUTED BY THE TRANSFEREE INDICATING, IN THE SPACES PROVIDED THEREFOR ON THE CERTIFICATE OR AS THE COMMISSIONER PRESCRIBES, THE TRANSFEREE'S CURRENT ADDRESS AND WHETHER THE TRANSFEREE INTENDS TO USE THE VEHICLE FOR TRANSPORTATION OR FOR PARTS; (III) cause the certificate and assignment to be mailed or delivered to the transferee; AND (IV) MAIL OR DELIVER TO THE COMMISSIONER A COPY OF SUCH ASSIGNMENT AND WARRANTY OF TITLE, OR A STATEMENT IN A FORM PRESCRIBED BY THE COMMISSIONER AFFIRMING SUCH TRANSFER, WITHIN THIRTY DAYS AFTER THE TRANSFER OF THE VEHICLE TO THE TRANSFEREE. The assignment and warranty of title required by this section shall include a statement signed by the transferor stating either[, (i)] any facts or information known to him OR HER that could reasonably affect the validity of the title of the vehicle[;] or[, (ii)] that no such facts or information are known to him OR HER.

(c) Except as provided in section two thousand one hundred fourteen, a transfer by an owner is not perfected so as to be valid against third parties generally until the provisions of this section, OTHER THAN PROVISIONS OF PARAGRAPHS (II) AND (IV) OF SUBDIVISION (A) OF THIS SECTION, and section two thousand one hundred sixteen have been complied with; however, an owner who has delivered possession of the vehicle to a bona fide transferee and has complied with the provisions of this section and section two thousand one hundred sixteen is not deemed an owner within the provisions of section three hundred eighty-eight of this chapter, and, notwithstanding any other provision of law, shall not be presumed to have caused such vehicle to be abandoned for purposes of subdivision seven of section twelve hundred twenty-four of this chapter [if the owner has retained a copy of the assignment and warranty of title]. Failure to [retain such copy] COMPLY WITH SUBDIVISION (A) OF THIS SECTION shall not preclude such owner from rebutting any presumption contained in [such subdivisions] SUBDIVISION SEVEN OF SECTION TWELVE HUNDRED TWENTY-FOUR OF THIS CHAPTER.

S 3. Subdivision (a) of section 2114 of the vehicle and traffic law, as amended by chapter 521 of the laws of 1972, is amended to read as follows:

(a) If a dealer buys a vehicle and holds it for resale and procures the certificate of title from the owner within ten days after delivery to him OR HER of the vehicle, he OR SHE need not send the certificate to the commissioner but, upon transferring the vehicle to another person other than by the creation of a security interest, shall promptly execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of any lienholder holding a security interest created or reserved at the time of the resale, in the spaces provided therefor on the certificate or as the commissioner prescribes, and mail or deliver the certificate to the commissioner with the transferee's application for a new certificate. The assignment and warranty of title by a dealer required by this section shall include a statement, signed by the dealer stating either (i) any facts or information known to him OR HER that could reasonably affect the validity of the title of the vehicle, or (ii) that no such facts or information are known to him OR HER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE DEALER HAS MAILED SUCH CERTIFICATE, ASSIGNMENT AND WARRANTY OF TITLE TO THE COMMISSIONER IN COMPLIANCE WITH THIS SUBDIVISION, THE DEALER SHALL NOT BE PRESUMED TO HAVE CAUSED SUCH VEHICLE TO BE ABANDONED FOR THE PURPOSES OF SUBDIVISION SEVEN OF SECTION TWELVE HUNDRED TWENTY-FOUR OF THIS CHAPTER. FAILURE TO COMPLY WITH THIS SUBDIVISION SHALL NOT PRECLUDE

SUCH DEALER FROM REBUTTING ANY PRESUMPTION CONTAINED IN SUBDIVISION SEVEN OF SECTION TWELVE HUNDRED TWENTY-FOUR OF THIS CHAPTER.

S 4. Subdivisions (b) and (c) of section 2115 of the vehicle and traffic law, subdivision (b) as amended by chapter 196 of the laws of 1974 and subdivision (c) as added by chapter 1134 of the laws of 1971, are amended to read as follows:

(b) If the interest of the owner is terminated or the vehicle is sold under a security agreement by a lienholder, the transferee shall promptly mail or deliver to the commissioner the last certificate of title if available to him OR HER, his OR HER application for a new certificate in the form the commissioner prescribes, and an affidavit made by or on behalf of the lienholder that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement. If the lienholder succeeds to the interest of the owner and holds the vehicle for resale, he OR SHE need not secure a new certificate of title but, upon transfer to another person, shall promptly mail or deliver to the transferee the certificate, if available, affidavit and other documents required to be sent to the commissioner by the transferee. SUCH LIENHOLDER SHALL ALSO PROMPTLY MAIL OR DELIVER TO THE COMMISSIONER EITHER COPIES OF SUCH CERTIFICATE, AFFIDAVIT AND OTHER DOCUMENTS, OR A STATEMENT, IN A FORM PRESCRIBED BY THE COMMISSIONER, AFFIRMING SUCH A TRANSFER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN THE COMMISSIONER HAS RECEIVED SUCH COPIES OR SUCH STATEMENT PRIOR TO THE DATE OF DISCOVERY OF THE ALLEGED ABANDONMENT OF SUCH VEHICLE, SUCH LIENHOLDER AND SUCH OWNER TO WHOSE INTEREST SUCH LIENHOLDER HAS SUCCEEDED SHALL NOT BE PRESUMED TO HAVE CAUSED SUCH VEHICLE TO BE ABANDONED FOR PURPOSES OF SUBDIVISION SEVEN OF SECTION TWELVE HUNDRED TWENTY-FOUR OF THIS CHAPTER. FAILURE TO MAIL OR DELIVER SUCH COPIES OR SUCH STATEMENT SHALL NOT PRECLUDE SUCH LIENHOLDER OR OWNER FROM REBUTTING ANY PRESUMPTION CONTAINED IN SUCH SUBDIVISION.

(c) A person holding a certificate of title whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the commissioner upon request of the commissioner. The delivery of the certificate pursuant to the request of the commissioner does not affect the rights of the person surrendering the certificate, and the action of the commissioner in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or lienholder named in the old certificate. A PERSON HOLDING A CERTIFICATE OF TITLE WHOSE INTEREST IN THE VEHICLE HAS BEEN EXTINGUISHED OR TRANSFERRED OTHER THAN BY VOLUNTARY TRANSFER MAY MAIL OR DELIVER TO THE COMMISSIONER A STATEMENT, IN A FORM PRESCRIBED BY THE COMMISSIONER, AFFIRMING SUCH EXTINGUISHMENT OR TRANSFER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE COMMISSIONER HAS RECEIVED SUCH A STATEMENT PRIOR TO THE DATE OF DISCOVERY OF THE ALLEGED ABANDONMENT OF SUCH VEHICLE, SUCH PERSON SHALL NOT BE PRESUMED TO HAVE CAUSED SUCH VEHICLE TO BE ABANDONED FOR PURPOSES OF SUBDIVISION SEVEN OF SECTION TWELVE HUNDRED TWENTY-FOUR OF THIS CHAPTER. FAILURE TO MAIL OR DELIVER SUCH A STATEMENT TO THE COMMISSIONER SHALL NOT PRECLUDE SUCH PERSON FROM REBUTTING ANY PRESUMPTION CONTAINED IN SUCH SUBDIVISION.

S 5. Paragraph 3 of subdivision (a) of section 2125 of the vehicle and traffic law, as amended by section 1-b of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(3) for a duplicate certificate of title, twenty dollars[.];

S 6. Subdivision (a) of section 2125 of the vehicle and traffic law is amended by adding a new paragraph 4 to read as follows:

(4) FOR EACH SET OF COPIES OF DOCUMENTS OR STATEMENTS AFFIRMING TRANSFER OF A VEHICLE MAILED OR DELIVERED TO THE COMMISSIONER PURSUANT TO SUBDIVISION (A) OF SECTION TWO THOUSAND ONE HUNDRED THIRTEEN OR SUBDIVISION (B) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE, AND FOR EACH STATEMENT AFFIRMING EXTINGUISHMENT OR TRANSFER OF AN INTEREST IN A VEHICLE MAILED OR DELIVERED TO THE COMMISSIONER PURSUANT TO SUBDIVISION (C) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE, TEN DOLLARS.

S 7. Paragraph 4 of subdivision (a) of section 2130 of the vehicle and traffic law, as amended by chapter 703 of the laws of 1989, is amended to read as follows:

(4) Uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title, or in any copy of an assignment and warranty of title retained and produced for the purpose of negating any presumption contained in subdivision seven of section twelve hundred twenty-four of this chapter, OR IN ANY OTHER DOCUMENT OR COPY THEREOF MAILED OR DELIVERED TO THE COMMISSIONER PURSUANT TO SUBDIVISION (A) OF SECTION TWO THOUSAND ONE HUNDRED THIRTEEN OR SUBDIVISION (B) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE, OR IN A STATEMENT AFFIRMING EXTINGUISHMENT OR TRANSFER OF AN INTEREST IN A VEHICLE MAILED OR DELIVERED TO THE COMMISSIONER PURSUANT TO SUBDIVISION (C) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE, is guilty of a felony; or

S 8. This act shall take effect on the one hundred eightieth day after it shall have become a law, except that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.