

2317

2009-2010 Regular Sessions

I N S E N A T E

February 18, 2009

Introduced by Sen. PADAVAN -- read twice and ordered printed, and when printed to be committed 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:

1 Section 1. Section 2107 of the vehicle and traffic law is amended by
2 adding a new subdivision (d) to read as follows:
3 (D) THE COMMISSIONER SHALL FILE AND MAINTAIN A RECORD OF ALL COPIES OF
4 DOCUMENTS AND STATEMENTS AFFIRMING TRANSFER OF AN INTEREST IN A VEHICLE
5 MAILED OR DELIVERED TO HIM OR HER PURSUANT TO SUBDIVISION (A) OF SECTION
6 TWO THOUSAND ONE HUNDRED THIRTEEN OR SUBDIVISION (B) OF SECTION TWO
7 THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE, AND OF ALL STATEMENTS
8 AFFIRMING EXTINGUISHMENT OR TRANSFER OF AN INTEREST IN A VEHICLE MAILED
9 OR DELIVERED TO HIM OR HER PURSUANT TO SUBDIVISION (C) OF SECTION TWO
10 THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE. SUCH RECORD SHALL BE MAIN-
11 TAINED IN THE MANNER PROVIDED IN SUBDIVISION (B) OF THIS SECTION, AND
12 SUCH COPIES AND STATEMENTS SHALL BE RETAINED IN THE COMMISSIONER'S FILES
13 UNTIL THE COMMISSIONER ISSUES A NEW CERTIFICATE OF TITLE OR UNTIL THE
14 COMMISSIONER DETERMINES THAT THE VEHICLE ASSOCIATED WITH SUCH COPIES AND
15 STATEMENTS IS NO LONGER SUBJECT TO THE PROVISIONS OF THIS TITLE.
16 S 2. Subdivisions (a) and (c) of section 2113 of the vehicle and traf-
17 fic law, subdivision (a) as added by chapter 1134 of the laws of 1971
18 and subdivision (c) as amended by chapter 703 of the laws of 1989, are
19 amended to read as follows:
20 (a) If an owner transfers his OR HER interest in a vehicle, other than
21 by the creation of a security interest, he OR SHE shall, at the time of
22 the delivery of the vehicle[,]: (I) execute an assignment and warranty
23 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.

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

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

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

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

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

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

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

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

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

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

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

1 (4) FOR EACH SET OF COPIES OF DOCUMENTS OR STATEMENTS AFFIRMING TRANS-
2 FER OF A VEHICLE MAILED OR DELIVERED TO THE COMMISSIONER PURSUANT TO
3 SUBDIVISION (A) OF SECTION TWO THOUSAND ONE HUNDRED THIRTEEN OR SUBDIVI-
4 SION (B) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS ARTICLE,
5 AND FOR EACH STATEMENT AFFIRMING EXTINGUISHMENT OR TRANSFER OF AN INTER-
6 EST IN A VEHICLE MAILED OR DELIVERED TO THE COMMISSIONER PURSUANT TO
7 SUBDIVISION (C) OF SECTION TWO THOUSAND ONE HUNDRED FIFTEEN OF THIS
8 ARTICLE, TEN DOLLARS.

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

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

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