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SENATE BILL 412
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Short Title: Abandoned Vehicles/Charities.

(Public)

Sponsors:

Referred to:

March 29, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A PROCESS FOR USED MOTOR VEHICLE DEALERS TO
DISPOSE OF ABANDONED VEHICLES RECEIVED FROM CHARITABLE
ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section
to read:

"§ 20-109.3. Disposition of vehicles abandoned by charitable organizations.

(a) If a charitable organization operating under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) requests a licensed used motor vehicle dealer, whose primary business is the sale of salvage vehicles on behalf of insurers or charitable organizations, to take possession of a donated vehicle that is currently titled in this State, and the vehicle title is not provided to the used motor vehicle dealer at the time of donation or within 10 days of the donation, then the following provisions apply:

(1) The used motor vehicle dealer receiving the vehicle on behalf of the charitable organization shall send notice to the last registered owner and any reasonably ascertainable lienholders of the vehicle informing the owner or lienholder that the vehicle has been donated to the named charitable organization. The notice shall set forth the current location of the vehicle, the name of the charitable organization to which the vehicle was donated, and the name of the vehicle donor. The notice shall inform the owner or lienholder that, if the owner or lienholder objects to the donation of the vehicle, the owner or lienholder has 30 days from the date of the notice to provide proof of ownership and reclaim the vehicle from the used motor vehicle dealer at no charge. Notice under this subdivision must be sent by certified mail or by another commercially available delivery service providing proof of delivery to the address on record with the Division.

(2) If the owner or any lienholder of the vehicle receives notice but fails to object to the donation and pick up the vehicle within 30 days, any claim to the vehicle by the owner or lienholder is considered abandoned, the certificate of title to the vehicle is deemed to be transferred to the charitable organization by the owner, and the lien is deemed to be extinguished. The charitable organization, or the used motor vehicle dealer acting on its behalf through a power of attorney, may then execute an application for duplicate title with transfer upon



1 payment of any applicable fees. The application for duplicate title with
 2 transfer shall be accompanied by a copy of the written donation statement, a
 3 copy of the notice required by subdivision (1) of this subsection, and proof of
 4 delivery of the notice sent to the owner and any lienholder. If the application
 5 is being executed by the used motor vehicle dealer on behalf of the charitable
 6 organization, a copy of the power of attorney shall also be submitted with the
 7 application.

8 (3) Upon receipt of an application for duplicate title with transfer, any additional
 9 documentation required under subdivision (2) of this subsection and payment
 10 of required fees, the Division shall issue a title to the donated vehicle in the
 11 name of the charitable organization and mail the title, free and clear of any
 12 liens, to the used motor vehicle dealer possessing the vehicle.

13 (4) If the notice required under subdivision (1) of this subsection is not received
 14 or is returned as undeliverable, the used motor vehicle dealer may file a special
 15 proceeding to obtain an order allowing the vehicle to be sold. In such a
 16 proceeding, the used motor vehicle dealer may include more than one vehicle.

17 (5) If the donated vehicle is not currently titled in this State, does not appear in
 18 the Division's records, or the owner and any lienholders are not otherwise
 19 reasonably ascertainable for any reason, the used motor vehicle dealer may
 20 institute a civil action in the county where the vehicle is being held for
 21 authorization to sell that vehicle as salvage on behalf of the charitable
 22 organization. In such a proceeding, the used motor vehicle dealer may include
 23 more than one vehicle. If the court enters an order authorizing the sale of the
 24 vehicle, upon proper application and payment of the appropriate taxes and
 25 fees, the Division shall issue a salvage branded title to the person who
 26 purchases the vehicle at a subsequent sale.

27 (b) No person shall have a cause of action against the Division or Division contractors
 28 arising from the issuance of a title pursuant to this section, and the Division and Division
 29 contractors shall not be held liable for any damages arising from the transfer or subsequent
 30 operation of any vehicle titled or sold pursuant to this section."

31 **SECTION 2.** G.S. 20-75 reads as rewritten:

32 "**§ 20-75. When transferee is ~~dealer~~ a charitable organization, dealer, or insurance**
 33 **company.**

34 When the A transferee of a vehicle registered under this Article is: is not required to register
 35 the vehicle or forward the certificate of title to the Division as provided in G.S. 20-73 when the
 36 transferee is any of the following:

37 (1) A dealer who is licensed under Article 12 of this Chapter and who holds the
 38 vehicle for resale; or resale.

39 (2) An insurance company taking the vehicle for sale or disposal for salvage
 40 purposes where the title is taken or requested as a part of a bona fide claim
 41 settlement transaction and only for the purpose of resale; resale.

42 (3) A charitable organization operating under section 501(c)(3) of the Internal
 43 Revenue Code (26 U.S.C. § 501(c)(3)) and the vehicle was donated to the
 44 charitable organization solely for purposes of resale by the charitable
 45 organization.

46 ~~the transferee shall not be required to register the vehicle nor forward the certificate of title to the~~
 47 ~~Division as provided in G.S. 20-73.~~

48 To assign or transfer title or interest in the vehicle, the ~~dealer~~ charitable organization, dealer,
 49 or insurance company shall execute, in the presence of a person authorized to administer oaths,
 50 a reassignment and warranty of title on the reverse of the certificate of title in the form approved
 51 by the Division, which shall include the name and address of the transferee. The title to the

1 vehicle shall not pass or vest until the reassignment is executed and the motor vehicle delivered
2 to the transferee.

3 The dealer transferring title or interest in a motor vehicle shall deliver the certificate of title
4 duly assigned in accordance with the foregoing provision to the transferee at the time of
5 delivering the vehicle, except:

- 6 (1) Where a security interest in the motor vehicle is obtained from the transferee
7 in payment of the purchase price or otherwise, the dealer shall deliver the
8 certificate of title to the lienholder and the lienholder shall forward the
9 certificate of title together with the transferee's application for new certificate
10 of title and necessary fees to the Division within 20 days; or
11 (2) Where the transferee has the option of cancelling the transfer of the vehicle
12 within 10 days of delivery of the vehicle, the dealer shall deliver the certificate
13 of title to the transferee at the end of that period. Delivery need not be made
14 if the contract for sale has been rescinded in writing by all parties to the
15 contract.

16 Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of a
17 Class 2 misdemeanor.

18 The title to a salvage vehicle shall be forwarded to the Division as provided in G.S. 20-109.1,
19 except with respect to the title of any salvage vehicle transferred pursuant to G.S. 20-109.1(b)(2)
20 or G.S. 20-109.1(e1)."

21 **SECTION 3.** G.S. 20-286(11)b. reads as rewritten:

22 "b. The term "motor vehicle dealer" or "dealer" does not include any of
23 the following:

- 24 1. Receivers, trustees, administrators, executors, guardians, or
25 other persons appointed by or acting under the judgment or
26 order of any court.
- 27 2. Public officers while performing their official duties.
- 28 3. Persons disposing of motor vehicles acquired for their own use
29 or the use of a family member, and actually so used, when the
30 vehicles have been acquired and used in good faith and not for
31 the purpose of avoiding the provisions of this Article.
- 32 4. Persons who sell motor vehicles as an incident to their
33 principal business but who are not engaged primarily in the
34 selling of motor vehicles. This category includes financial
35 institutions who sell repossessed motor vehicles and insurance
36 companies who sell motor vehicles to which they have taken
37 title as an incident of payments made under policies of
38 insurance, and auctioneers who sell motor vehicles for the
39 owners or the heirs of the owners of those vehicles as part of
40 an auction of other personal or real property or for the purpose
41 of settling an estate or closing a business or who sell motor
42 vehicles on behalf of a governmental entity, and who do not
43 maintain a used car lot or building with one or more employed
44 motor vehicle sales representatives.
- 45 5. Persons manufacturing, distributing or selling trailers and
46 semitrailers weighing not more than 2,500 pounds unloaded
47 weight.
- 48 6. A licensed real estate broker or salesman who sells a mobile
49 home for the owner as an incident to the sale of land upon
50 which the mobile home is located.

- 1 7. An employee of an organization arranging for the purchase or
- 2 lease by the organization of vehicles for use in the
- 3 organization's business.
- 4 8. Any publication, broadcast, or other communications media
- 5 when engaged in the business of advertising, but not otherwise
- 6 arranging for the sale of motor vehicles owned by others.
- 7 9. Any person dealing solely in the sale or lease of vehicles
- 8 designed exclusively for off-road use.
- 9 10. Any real property owner who leases any interest in property
- 10 for use by a dealer.
- 11 11. Any person acquiring any interest in a motor vehicle for a
- 12 family member.
- 13 12. Any auctioneer licensed pursuant to Chapter 85B of the
- 14 General Statutes employed to be an auctioneer of motor
- 15 vehicles for a licensed motor vehicle dealer, while conducting
- 16 an auction for that dealer.
- 17 13. Any charitable organization operating under section 501(c)(3)
- 18 of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) where
- 19 the vehicle was donated to the charitable organization solely
- 20 for purposes of resale by the charitable organization."

SECTION 4. G.S. 20-294(2) reads as rewritten:

"(2) Willfully and intentionally failing to comply with this Article, Article 15 of this Chapter, or G.S. 20-52.1, 20-75, 20-79.1, 20-79.2, 20-108, 20-109, 20-109.3, or a rule adopted by the Division under this Article."

SECTION 5. G.S. 105-187.6(a) reads as rewritten:

"§ 105-187.6. Exemptions from highway use tax.

(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To (i) the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle or (ii) a used motor vehicle dealer under G.S. 20-109.1 because the vehicle is a salvage vehicle that was abandoned.
- (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.
- (3) To the same owner to reflect a change or correction in the owner's name.
- (3a) To one or more of the same co-owners to reflect the removal of one or more other co-owners, when there is no consideration for the transfer.
- (4) By will or intestacy.
- (5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.
- (6) By a distribution of marital or divisible property incident to a marital separation or divorce.
- (7) Repealed by Session Laws 2009-445, s. 16, effective August 7, 2009.
- (8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:
 - a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.
 - b. By a local board of education.
- (9) To a volunteer fire department or volunteer rescue squad that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11, when the motor vehicle is one of the following:

- 1 a. A fire truck, a pump truck, a tanker truck, or a ladder truck used to
2 suppress fire.
3 b. A four-wheel drive vehicle intended to be mounted with a water tank
4 and hose and used for forest fire fighting.
5 c. An emergency services vehicle.
6 (10) To a State agency from a unit of local government, volunteer fire department,
7 or volunteer rescue squad to enable the State agency to transfer the vehicle to
8 another unit of local government, volunteer fire department, or volunteer
9 rescue squad.
10 (11) To a revocable trust from an owner who is the sole beneficiary of the trust.
11 (12) To a charitable organization operating under section 501(c)(3) of the Internal
12 Revenue Code (26 U.S.C. § 501(c)(3)) where the vehicle was donated to the
13 charitable organization solely for purposes of resale by the charitable
14 organization."

15 **SECTION 6.** This act is effective when it becomes law.