

ACT 162

H.B. NO. 3045-80

A Bill for an Act Relating to Procedure When Title of Vehicle Transferred; Delivery of Certificate Mandatory.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-52, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 286-52 Procedure when title of vehicle transferred; delivery of certificate mandatory. (a) Upon a transfer of the title or interest of a legal owner in or to a vehicle registered under this part, the person whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of ownership issued for the vehicle, together with the address of the transferee in the appropriate space provided upon the certificate.

(b) Within twenty calendar days thereafter, the transferee shall forward both the certificate of ownership so indorsed and the certificate of registration to the director of finance who shall file the same. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$2, in addition to the fee provided in section 286-51, for a new certificate of ownership.

(c) Subsection (b) of this section, requiring a transferee to forward the certificate of ownership after indorsement and the certificate of registration to the director of finance, shall not apply to the transferee of a vehicle who was not intending to and does not drive the vehicle or permit the vehicle to be driven upon the public highways, but every such transferee shall, upon transferring the transferee's interest or title to another, give notice of the transfer to the director of finance and indorse the certificate of ownership to the new legal owner and the certificate of registration to the new owner; provided that if the director of finance has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking

in violation of traffic ordinances within the county, the director may require, as a condition precedent to the transfer, that the registered owner deposit or pay bail with respect to all such summons or citations.

(d) The director of finance, upon receipt of the certificate of ownership properly indorsed and the certificate of registration of the vehicle, shall register the vehicle, and shall issue to the owner and legal owner entitled thereto by reason of the transfer a new certificate of registration and the certificate of ownership, respectively, in the manner and form hereinabove provided for original registration.

(e) Until the director of finance has issued the new certificate of registration and certificate of ownership as in subsection (d) provided, delivery of such vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose, notwithstanding any provision of the Uniform Commercial Code; provided that a security interest in a motor vehicle shall be perfected as provided in the Uniform Commercial Code, sections 490:9-302(3)(b) and 490:9-302(4), and that the validity, attachment, priority, and enforcement of such security interest shall be governed by Article 9 of the Code.

(f) In the event of the transfer by operation of law of the title or interest of a legal owner in and to a vehicle registered under this part, as upon inheritance, devise, or bequest, order in bankruptcy, or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose title or interest is so transferred, the certificate of ownership shall be signed upon the spaces provided by the personal representative, receiver, trustee, sheriff, or other representative, or successor in interest of the person whose title or interest is so transferred in lieu of such person. Every personal representative, receiver, trustee, sheriff, or other representative hereinabove referred to shall file with the director of finance a notice of any transfer by sale, lease, or otherwise by such person, of any such vehicle, together with evidence satisfactory to the director of finance of all facts entitling such representative to make the transfer. Upon notice given to the director of finance that transfer by operation of law of the title or interest of a legal owner or a registered owner has been effected pursuant to any provision of law, the director of finance shall send to the legal owner or the registered owner or both a notice by registered mail of such action and requesting the delivery to the director of finance of the certificate of ownership or the certificate of registration, as the case may be, within ten days after date of mailing of the notice, and any person who refuses or neglects to deliver the same to the director of finance pursuant to the notice shall be guilty of a misdemeanor and shall be punished as provided in section 286-61.

(g) Nothing in the foregoing subsections shall prevent a legal owner from assigning the title or interest in or to a vehicle registered under this part to another legal owner at any time without the consent of and without affecting the interest of the holder of the certificate of registration thereof. Upon filing with the director of finance of a certificate of ownership endorsed by the legal owner and a transferee of legal ownership, the director of finance shall, whether the certificate of registration has expired or not, enter the name of the new legal owner upon the records of the director's office and shall forthwith issue a new certificate of ownership to the new

legal owner in the form for original registration. Upon so doing, the director of finance shall send to the registered owner a notice by mail of the action.

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

(i) Every dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, shall immediately give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every such notice shall contain the date of the transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in the official form.

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

(k) Whenever the registered owner of any motor vehicle or any licensed dealer has given notice to the director of finance of a transfer of the title or interest in the motor vehicle, as provided in subsection (i) or (j) of this section, and has delivered the certificate of ownership bearing the transferor's signature to the transferee as required by subsection (a) of this section, the transferor shall be relieved from any liability, civil or criminal, which the transferor might subsequently incur by reason only of being the registered owner of the vehicle.

(l) A licensed dealer who has forwarded a properly indorsed certificate of ownership and certificate of registration to the director of finance shall be relieved of any civil liability, provided a specific written authorization to forward the certificates has been obtained from the transferee.

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

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1980.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.