

HOUSE BILL No. 2124

AN ACT concerning certificates of title on vehicles; relating to security interest on vehicles registered by a federally recognized Indian tribe; amending K.S.A. 2004 Supp. 8-135 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2004 Supp. 8-135 is hereby amended to read as follows: 8-135. (a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of \$1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of \$1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 2004 Supp. 59-3511, and amendments thereto, the new owner thereof, within 30 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the thirty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the thirty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of \$2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 30 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 2004 Supp. 8-135d, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2004 Supp. 8-135d, and amendments thereto.

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been

consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert the mileage on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title for a repossessed vehicle shall pay a fee of \$3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for regis-

tration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be \$10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) *Except for a vehicle registered by a federally recognized Indian tribe as provided in paragraph (16)*, upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. The dealer or secured party, within 20 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of \$2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle described on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the Kansas lienholder. Each county treasurer shall charge the Kansas lienholder a \$1.50 service fee for processing and mailing a copy of the title application to the Kansas lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of \$10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security agreement on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of \$10 to the division. Upon receipt thereof, the division shall issue a new certificate of title showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full,

such lienholder within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand the lienholder shall be liable to the holder of the title for \$100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 30 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if (i) the seller mails to the purchaser by restricted mail the assigned certificate of title within 30 days, or (ii) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division, or (iii) if the transferor is a dealer and has assigned a title pursuant to paragraph (9) of this subsection (c).

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c)(1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to paragraph (7) of subsection (c) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of \$10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's

agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116a, and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be \$6.50. A dealer may purchase reassignment forms in multiples of five upon making proper application and the payment of required fees.

(15) A first stage manufacturer, as defined in K.S.A. 8-2401, and amendments thereto, who manufactures a motor vehicle in this state, and who sells such motor vehicles to dealers located in a foreign country, may execute a manufacturers statement of origin to the division of vehicles for the purpose of obtaining an export certificate of title. The motor vehicle issued an export certificate of title shall not be required to be registered in this state. An export certificate of title shall not be used to register such vehicle in the United States.

(16) *A security interest in a vehicle registered by a federally recognized Indian tribe shall be deemed valid under Kansas law if validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.*

Sec. 2. K.S.A. 2004 Supp. 8-135 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.