

Substitute for HOUSE BILL No. 2358

By Committee on Transportation

2-26

9 AN ACT concerning certificates of title; relating to notice of security
10 interest; amending K.S.A. 2007 Supp. 8-135 and repealing the existing
11 section.
12

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

14 Section 1. K.S.A. 2007 Supp. 8-135 is hereby amended to read as
15 follows: 8-135. (a) Upon the transfer of ownership of any vehicle regis-
16 tered under this act, the registration of the vehicle and the right to use
17 any license plate thereon shall expire and thereafter there shall be no
18 transfer of any registration, and the license plate shall be removed by the
19 owner thereof. Except as provided in K.S.A. 8-172, and amendments
20 thereto, and 8-1,147, and amendments thereto, it shall be unlawful for
21 any person, other than the person to whom the license plate was originally
22 issued, to have possession thereof. When the ownership of a registered
23 vehicle is transferred, the original owner of the license plate may register
24 another vehicle under the same number, upon application and payment
25 of a fee of \$1.50, if such other vehicle does not require a higher license
26 fee. If a higher license fee is required, then the transfer may be made
27 upon the payment of the transfer fee of \$1.50 and the difference between
28 the fee originally paid and that due for the new vehicle.

29 (b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and
30 amendments thereto, upon the transfer or sale of any vehicle by any
31 person or dealer, or upon any transfer in accordance with K.S.A. 59-3511,
32 and amendments thereto, the new owner thereof, within 30 days, inclu-
33 sive of weekends and holidays, from date of such transfer shall make
34 application to the division for registration or reregistration of the vehicle,
35 but no person shall operate the vehicle on any highway in this state during
36 the thirty-day period without having applied for and obtained temporary
37 registration from the county treasurer or from a dealer. After the expi-
38 ration of the thirty-day period, it shall be unlawful for the owner or any
39 other person to operate such vehicle upon the highways of this state
40 unless the vehicle has been registered as provided in this act. For failure
41 to make application for registration as provided in this section, a penalty
42 of \$2 shall be added to other fees. When a person has a current motor-
43 cycle or passenger vehicle registration and license plate, including any

1 registration decal affixed thereto, for a vehicle and has sold or otherwise
2 disposed of the vehicle and has acquired another motorcycle or passenger
3 vehicle and intends to transfer the registration and the license plate to
4 the motorcycle or passenger vehicle acquired, but has not yet had the
5 registration transferred in the office of the county treasurer, such person
6 may operate the motorcycle or passenger vehicle acquired for a period
7 of not to exceed 30 days by displaying the license plate on the rear of the
8 vehicle acquired. If the acquired vehicle is a new vehicle such person also
9 must carry the assigned certificate of title or manufacturer's statement of
10 origin when operating the acquired vehicle, except that a dealer may
11 operate such vehicle by displaying such dealer's dealer license plate.

12 (c) Certificate of title: No vehicle required to be registered shall be
13 registered or any license plate or registration decal issued therefor, unless
14 the applicant for registration shall present satisfactory evidence of own-
15 ership and apply for an original certificate of title for such vehicle. The
16 following paragraphs of this subsection shall apply to the issuance of a
17 certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt
18 salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto,
19 except to the extent such paragraphs are made inapplicable by or are
20 inconsistent with K.S.A. 8-198, and amendments thereto, and to any elec-
21 tronic certificate of title, except to the extent such paragraphs are made
22 inapplicable by or are inconsistent with K.S.A. 2007 Supp. 8-135d, and
23 amendments thereto, or with rules and regulations adopted pursuant to
24 K.S.A. 2007 Supp. 8-135d, and amendments thereto.

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

28 (1) An application for certificate of title shall be made by the owner
29 or the owner's agent upon a form furnished by the division and shall state
30 all liens or encumbrances thereon, and such other information as the
31 division may require. Notwithstanding any other provision of this section,
32 no certificate of title shall be issued for a vehicle having any unreleased
33 lien or encumbrance thereon, unless the transfer of such vehicle has been
34 consented to in writing by the holder of the lien or encumbrance. Such
35 consent shall be in a form approved by the division. In the case of mem-
36 bers of the armed forces of the United States while the United States is
37 engaged at war with any foreign nation and for a period of six months
38 next following the cessation of hostilities, such application may be signed
39 by the owner's spouse, parents, brother or sister. The county treasurer
40 shall use reasonable diligence in ascertaining whether the facts stated in
41 such application are true, and if satisfied that the applicant is the lawful
42 owner of such vehicle, or otherwise entitled to have the same registered
43 in such applicant's name, shall so notify the division, who shall issue an

1 appropriate certificate of title. The certificate of title shall be in a form
2 approved by the division, and shall contain a statement of any liens or
3 encumbrances which the application shows, and such other information
4 as the division determines.

5 (2) The certificate of title shall contain upon the reverse side a form
6 for assignment of title to be executed by the owner. This assignment shall
7 contain a statement of all liens or encumbrances on the vehicle at the
8 time of assignment. The certificate of title shall also contain on the reverse
9 side blank spaces so that an abstract of mileage as to each owner will be
10 available. The seller at the time of each sale shall insert and certify the
11 mileage and the purchase price on the form filed for application or reas-
12 signment of title, and the division shall insert such mileage on the certifi-
13 cate of title when issued to purchaser or assignee. The signature of the
14 purchaser or assignee is required on the form filed for application or
15 reassignment of title, acknowledging the odometer and purchase price
16 certification made by the seller, except that vehicles which are 10 model
17 years or older and trucks with a gross vehicle weight of more than 16,000
18 pounds shall be exempt from the mileage acknowledgment requirement
19 of the purchaser or assignee. Such title shall indicate whether the vehicle
20 for which it is issued has been titled previously as a nonhighway vehicle
21 or salvage vehicle. In addition, the reverse side shall contain two forms
22 for reassignment by a dealer, stating the liens or encumbrances thereon.
23 The first form of reassignment shall be used only when a dealer sells the
24 vehicle to another dealer. The second form of reassignment shall be used
25 by a dealer when selling the vehicle to another dealer or the ultimate
26 owner of the vehicle. The reassignment by a dealer shall be used only
27 where the dealer resells the vehicle, and during the time that the vehicle
28 remains in the dealer's possession for resale, the certificate of title shall
29 be dormant. When the ownership of any vehicle passes by operation of
30 law, or repossession upon default of a lease, security agreement, or ex-
31 ecutory sales contract, the person owning such vehicle, upon furnishing
32 satisfactory proof to the county treasurer of such ownership, may procure
33 a certificate of title to the vehicle. When a vehicle is registered in another
34 state and is repossessed in another state, the owner of such vehicle shall
35 not be entitled to obtain a valid Kansas title or registration, except that
36 when a vehicle is registered in another state, but is financed originally by
37 a financial institution chartered in the state of Kansas or when a financial
38 institution chartered in Kansas purchases a pool of motor vehicle loans
39 from the resolution trust corporation or a federal regulatory agency, and
40 the vehicle is repossessed in another state, such Kansas financial institu-
41 tion shall be entitled to obtain a valid Kansas title or registration. In
42 addition to any other fee required for the issuance of a certificate of title,
43 any applicant obtaining a certificate of title for a repossessed vehicle shall

1 pay a fee of \$3.

2 (3) Dealers shall execute, upon delivery to the purchaser of every new
3 vehicle, a manufacturer's statement of origin stating the liens and encum-
4 brances thereon. Such statement of origin shall be delivered to the pur-
5 chaser at the time of delivery of the vehicle or at a time agreed upon by
6 the parties, not to exceed 30 days, inclusive of weekends and holidays.
7 The agreement of the parties shall be executed on a form approved by
8 the division. In the event delivery of title cannot be made personally, the
9 seller may deliver the manufacturer's statement of origin by restricted
10 mail to the address of purchaser shown on the purchase agreement. The
11 manufacturer's statement of origin may include an attachment containing
12 assignment of such statement of origin on forms approved by the division.
13 Upon the presentation to the division of a manufacturer's statement of
14 origin, by a manufacturer or dealer for a new vehicle, sold in this state, a
15 certificate of title shall be issued if there is also an application for regis-
16 tration, except that no application for registration shall be required for a
17 travel trailer used for living quarters and not operated on the highways.

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

22 (5) Except for a vehicle registered by a federally recognized Indian
23 tribe, as provided in paragraph (16), upon sale and delivery to the pur-
24 chaser of every vehicle subject to a purchase money security interest as
25 provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and
26 amendments thereto, the dealer or secured party may complete a notice
27 of security interest and when so completed, the purchaser shall execute
28 the notice, in a form prescribed by the division, describing the vehicle
29 and showing the name and address of the secured party and of the debtor
30 and other information the division requires. On and after July 1, 2007,
31 only one lien shall be taken or accepted for vehicles with a gross vehicle
32 weight rating of 26,000 pounds or less. As used in this section "gross
33 vehicle weight rating" shall have the meaning ascribed thereto in K.S.A.
34 66-1,108, and amendments thereto. The dealer or secured party, within
35 30 days of the sale and delivery, may mail or deliver the notice of security
36 interest, together with a fee of \$2.50, to the division. The notice of security
37 interest shall be retained by the division until it receives an application
38 for a certificate of title to the vehicle and a certificate of title is issued.
39 The certificate of title shall indicate any security interest in the vehicle.
40 Upon issuance of the certificate of title, the division shall mail or deliver
41 confirmation of the receipt of the notice of security interest, the date the
42 certificate of title is issued and the security interest indicated, to the
43 secured party at the address shown on the notice of security interest. The

1 proper completion and timely mailing or delivery of a notice of security
2 interest by a dealer or secured party shall perfect a security interest in
3 the vehicle, as referenced in K.S.A. 2007 Supp. 84-9-311, and amend-
4 ments thereto, on the date of such mailing or delivery. The county treas-
5 urers shall mail a copy of the title application to the ~~Kansas~~ lienholder.
6 ~~Each county treasurer shall charge the Kansas lienholder~~ *For any vehicle*
7 *subject to a lien, the county treasurer shall collect from the applicant a*
8 *\$1.50 service fee for processing and mailing a copy of the title application*
9 *to the ~~Kansas~~ lienholder.*

10 (6) It shall be unlawful for any person to operate in this state a vehicle
11 required to be registered under this act, or to transfer the title to any
12 such vehicle to any person or dealer, unless a certificate of title has been
13 issued as herein provided. In the event of a sale or transfer of ownership
14 of a vehicle for which a certificate of title has been issued, which certifi-
15 cate of title is in the possession of the transferor at the time of delivery
16 of the vehicle, the holder of such certificate of title shall endorse on the
17 same an assignment thereof, with warranty of title in a form prescribed
18 by the division and printed thereon and the transferor shall deliver the
19 same to the buyer at the time of delivery to the buyer of the vehicle or
20 at a time agreed upon by the parties, not to exceed 30 days, inclusive of
21 weekends and holidays, after the time of delivery. The agreement of the
22 parties shall be executed on a form provided by the division. The require-
23 ments of this paragraph concerning delivery of an assigned title are sat-
24 isfied if the transferor mails to the transferee by restricted mail the as-
25 signed certificate of title within the 30 days, and if the transferor is a
26 dealer, as defined by K.S.A. 8-2401, and amendments thereto, such trans-
27 feror shall be deemed to have possession of the certificate of title if the
28 transferor has made application therefor to the division. The buyer shall
29 then present such assigned certificate of title to the division at the time
30 of making application for registration of such vehicle. A new certificate
31 of title shall be issued to the buyer, upon payment of the fee of \$10. If
32 such vehicle is sold to a resident of another state or country, the dealer
33 or person making the sale shall notify the division of the sale and the
34 division shall make notation thereof in the records of the division. When
35 a person acquires a security interest that such person seeks to perfect on
36 a vehicle subsequent to the issuance of the original title on such vehicle,
37 such person shall require the holder of the certificate of title to surrender
38 the same and sign an application for a mortgage title in form prescribed
39 by the division. Upon such surrender such person shall immediately de-
40 liver the certificate of title, application, and a fee of \$10 to the division.
41 Delivery of the surrendered title, application and tender of the required
42 fee shall perfect a security interest in the vehicle as referenced in K.S.A.
43 2007 Supp. 84-9-311, and amendments thereto. On and after July 1, 2007,

1 only one lien may be taken or accepted for security for an obligation to
2 be secured by a lien to be shown on a certificate of title for vehicles with
3 a gross vehicle weight rating, as defined in K.S.A. 66-1,108, and amend-
4 ments thereto, of 26,000 pounds or less. A refinancing shall not be subject
5 to the limitations of this act. A refinancing is deemed to occur when the
6 original obligation is satisfied and replaced by a new obligation. Lien
7 obligations created before July 1, 2007, which are of a continuing nature
8 shall not be subject to the limitations of this act until the obligation is
9 satisfied. A lien in violation of this provision is void. Upon receipt of the
10 surrendered title, application and fee, the division shall issue a new cer-
11 tificate of title showing the liens or encumbrances so created, but only
12 one lien or encumbrance may be shown upon a title for vehicles with a
13 gross vehicle rating of 26,000 pounds or less, and not more than two liens
14 or encumbrances may be shown upon a title for vehicles in excess of
15 26,000 pounds gross vehicle weight rating. When a prior lienholder's
16 name is removed from the title, there must be satisfactory evidence pre-
17 sented to the division that the lien or encumbrance has been paid. When
18 the indebtedness to a lienholder, whose name is shown upon a title, is
19 paid in full, such lienholder shall comply with the provisions of K.S.A.
20 2007 Supp. 8-1,157, and amendments thereto.

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

38 (8) In cases of sales under the order of a court of a vehicle required
39 to be registered under this act, the officer conducting such sale shall issue
40 to the purchaser a certificate naming the purchaser and reciting the facts
41 of the sale, which certificate shall be prima facie evidence of the own-
42 ership of such purchaser for the purpose of obtaining a certificate of title
43 to such motor vehicle and for registering the same. Any such purchaser

1 shall be allowed 30 days, inclusive of weekends and holidays, from the
2 date of sale to make application to the division for a certificate of title
3 and for the registering of such motor vehicle.

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

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

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

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

34 (13) Application for a certificate of title on a boat trailer with a gross
35 weight over 2,000 pounds shall be made by the owner or the owner's
36 agent upon a form to be furnished by the division and shall contain such
37 information as the division shall determine necessary. The division may
38 waive any information requested on the form if it is not available. The
39 application together with a bill of sale for the boat trailer shall be accepted
40 as prima facie evidence that the applicant is the owner of the boat trailer,
41 provided that a Kansas title for such trailer has not previously been issued.
42 If the application and bill of sale are used to obtain a certificate of title
43 for a boat trailer under this paragraph, the certificate of title shall not be

1 issued until an inspection in accordance with subsection (a) of K.S.A. 8-
2 116a, and amendments thereto, has been completed.

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

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

21 (16) A security interest in a vehicle registered by a federally recog-
22 nized Indian tribe shall be deemed valid under Kansas law if validly per-
23 fected under the applicable tribal law and the lien is noted on the face
24 of the tribal certificate of title.

25 Sec. 2. K.S.A. 2007 Supp. 8-135 is hereby repealed.

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