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SENATE BILL NO. 686

Offered February 20, 2012

A BILL to amend and reenact §§ 46.2-603, 46.2-623, 46.2-629, 46.2-1542, and 46.2-1561 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-603.1, relating to electronic titling.

Patrons—McWaters, Garrett, McDougle, Reeves, Stanley and Vogel

Introduced at the request of Governor

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-603, 46.2-623, 46.2-629, 46.2-1542, and 46.2-1561 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-603.1 as follows:

§ 46.2-603. Issuance of certificate of title and registration card.

A. The Department, on receiving an application for a certificate of title for a motor vehicle, trailer, or semitrailer, shall issue to the owner a certificate of title and a registration card as separate documents.

B. Subject to all applicable federal laws, the Department may, at the written request of the owner or lienholder listed on the application for certificate of title, supplemental lien, or transfer of lien, refrain from issuing a certificate of title in paper form and, instead, shall create only the electronic record of such title to be retained by the Department in its existing electronic title record system with a notation that no certificate of title has been printed on paper. The owner of a vehicle will be deemed to have obtained and the Department will be deemed to have issued, a certificate of title when such title record has been created electronically as provided in this subsection. An owner or lienholder listed on a title record so created may at any time request and the Department shall provide a paper certificate of title for the vehicle. ~~All~~ Except as provided in § 46.2-603.1, all transfers of vehicle ownership shall require a paper certificate of title in accordance with, and subject to, all applicable federal laws.

§ 46.2-603.1. Electronic titling program.

The Department may establish an electronic titling program for any "new motor vehicle" as that term is defined in § 46.2-1500. Participants in the electronic titling program shall submit electronic applications for original motor vehicle titles in a form and format prescribed by the Department. Participants must provide all documentation or information required by the Department to process the electronic title application, including an electronic manufacturer's certificate of origin and any information required by the Department in accordance with § 46.2-623. The records of a nationally recognized motor vehicle title database shall be searched prior to transfer of vehicle ownership. Participants shall collect from the purchaser of the new motor vehicle any fee charged for the search of the nationally recognized motor vehicle title database. Upon receipt of a completed electronic application, the Department shall refrain from issuing a certificate of title in paper form and, instead, shall create only the electronic record of such title to be retained by the Department in its existing electronic title record system with a notation that no certificate of title has been printed on paper. The owner of a motor vehicle will be deemed to have obtained and the Department will be deemed to have issued a certificate of title when such title record has been created electronically as provided in this section. An owner listed on a title record so created may at any time request and the Department shall provide a paper certificate of title for the vehicle.

§ 46.2-623. Statements in application.

A. Every application for a certificate of title shall contain (i) a statement of the applicant's title and of all liens or encumbrances on the vehicle and the names and addresses of all persons having any interest in the vehicle and the nature of every interest in the vehicle; (ii) the Social Security number, if any, of the owner and, if the application is in the name of an employer for a business vehicle, the employer's identification number assigned by the United States Internal Revenue Service; and (iii) a brief description of the vehicle to be titled or registered, including the name of the maker, the vehicle identification or serial number and, when titling or registering a new vehicle, the date of sale by the manufacturer or dealer to the person first operating the vehicle.

B. ~~Not later than July 15, 1998, the~~ The lessor of a qualifying vehicle, as defined in § 58.1-3523, shall send a report to the Department for each such qualifying vehicle ~~it was leasing as of July 1, 1998, and has leased between January 1, 1998, and June 30, 1998,~~ containing (i) the name and address of the lessee as it appears in the lease contract; (ii) the social security number of the lessee; and (iii) the

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59 registration number of the vehicle as described under Article 1 (§ 46.2-600 et seq.) of Chapter 6 of Title
60 46.2.

61 C. ~~Beginning with August 1998, such~~ *Such* lessor shall send a monthly report to the Department, by
62 the fifteenth day of the month or such later day as may be prescribed in the guidelines promulgated
63 under § 58.1-3532, listing any changes, additions or deletions to the information provided under
64 subsection B as of the last day of the preceding month.

65 D. The application for title or registration shall contain such additional information as may be
66 required by the Department.

67 E. The Department may require that an applicant present proof reasonably acceptable to the
68 Department of the accuracy of information provided on the application, *including proof of identity*, and
69 may refuse to issue a certificate of title until such proof has been provided.

70 § 46.2-629. Odometer reading to be reported on certificate of title, application, or power of attorney.

71 A. Every owner or transferor of any motor vehicle, including a dealer, shall, at the time of transfer
72 of ownership of any motor vehicle by him, record on the certificate of title, if one is currently issued on
73 the vehicle in the Commonwealth, and on any application for certificate of title the reading on the
74 odometer or similar device plus any known additional distance traveled not shown by the odometer or
75 similar device of the motor vehicle at the time of transfer. If, however, a transferor gives his power of
76 attorney to a dealer or other person for the purpose of assigning the transferor's interest in a motor
77 vehicle, the transferor shall conspicuously record on the power of attorney the reading on the odometer
78 or similar device at the time of the assignment. *The owner or transferor of a motor vehicle may*
79 *electronically provide, in a form and format prescribed by the Commissioner, the reading on the*
80 *odometer or similar device at the time of transfer if a paper certificate of title was not issued by the*
81 *Department in accordance with § 46.2-603.1 and electronic provision of odometer readings is permitted*
82 *under the Federal Odometer Act (49 U.S.C. § 32701 et seq.) or any federal regulations promulgated*
83 *thereunder.*

84 B. The Department shall not issue to any transferee any new certificate of title to a motor vehicle
85 unless subsection A ~~of this section~~ has been complied with.

86 C. It shall be unlawful for any person knowingly to record an incorrect odometer or similar device
87 reading plus any known additional distance not shown by the odometer or similar device on any
88 certificate of title or application for a title, or on any power of attorney as described in subsection A ~~of~~
89 ~~this section.~~

90 D. Notwithstanding other provisions of this section, an owner or transferor, including a dealer, of any
91 of the following types of motor vehicles need not disclose the vehicle's odometer reading:

92 1. Vehicles having gross vehicle weight ratings of more than 16,000 pounds; and

93 2. Vehicles that were manufactured for a model year at least 10 years earlier than the calendar year
94 in which the sale or transfer occurs and were previously exempt from recording an odometer reading on
95 the certificate of title in another state, provided that the Department shall brand the titles of all such
96 vehicles to indicate this exemption.

97 E. Violation of this section shall constitute a Class 1 misdemeanor.

98 F. The provisions of subsections A and B ~~of this section~~ shall not apply to transfers under
99 § 46.2-633.

100 G. This section shall not apply to transfers or application for certificates of title of all-terrain vehicles
101 or off-road motorcycles as defined in § 46.2-100.

102 § 46.2-1542. Temporary registration.

103 A. Notwithstanding §§ 46.2-617 and 46.2-628, whenever a dealer licensed by the Board sells or
104 conditionally sells and delivers to a purchaser a motor vehicle, the dealer may issue temporary license
105 plates and a certificate of temporary registration. The temporary license plates and the certificates for
106 temporary registration shall be obtained from the Commissioner or may be printed according to terms
107 set by the Commissioner and may be issued if (i) the dealer has the title or the certificate of origin for
108 the vehicle or (ii) is unable at the time of the sale to deliver to the purchaser the certificate of title or
109 certificate of origin for the vehicle because the certificate of title or certificate of origin is lost or is
110 being detained by another in possession or for any other reason beyond the dealer's control. The
111 temporary registration certificate shall bear its date of issuance, the name and address of the purchaser,
112 the identification number of the vehicle, the registration number to be used temporarily on the vehicle,
113 the name of the state in which the vehicle is to be registered, the name and address of the person from
114 whom the dealer acquired the vehicle, and whatever other information may be required by the
115 Commissioner. A copy of the temporary registration certificate and a bona fide buyer's order shall be
116 delivered to the purchaser and shall be in the possession of the purchaser at all times when operating the
117 vehicle. One copy of the certificate shall be retained by the dealer, which copy may be retained in
118 electronic format under terms set by the Commissioner, and shall be subject to inspection at any time by
119 the Department's agents. The original of the certificate shall be forwarded by the dealer to the
120 Department directly on issuance to the purchaser if the vehicle is to be titled outside the

121 Commonwealth, along with the physical or electronic application for title. The issuance of a temporary
 122 certificate of registration to a purchaser pursuant to this section shall have the effect of vesting sufficient
 123 interest in the vehicle in the purchaser for the period that the certificate remains effective for purposes
 124 of allowing the purchaser (a) to obtain and provide insurance coverage for the vehicle, including but not
 125 limited to insurance indemnifying the purchaser against liability or providing for recovery for damage to
 126 or loss of the vehicle and (b) to operate the vehicle as if the purchaser had full rights of ownership, all
 127 subject to cancellation by applicable law or agreement between the dealer and the purchaser prior to the
 128 time the dealer submits an application for title along with all required fees. If the dealer or purchaser
 129 exercises the statutory or contractual rights to cancel a purchaser's contract to buy a vehicle before
 130 application for title to the vehicle has been submitted to the Department in the name of the purchaser,
 131 the dealer shall have the right to possession of the vehicle without claim of possession by the purchaser
 132 within 24 hours of written or oral notice to the purchaser and without regard to the provision of Title
 133 8.9A, provided the dealer's right to possession is enforced otherwise in accordance with law and without
 134 breach of the peace. In the event the dealer regains possession of the vehicle, in the same condition,
 135 normal wear and tear excepted, as delivered to the purchaser, the purchaser shall have the right to
 136 possession of any trade-in and return of any down payment, and if the dealer fails to return the trade-in
 137 and/or down payment the dealer may be held liable under § 59.1-200 of the Virginia Consumer
 138 Protection Act (§ 59.1-196), in addition to any other rights and remedies available by statute or contract.

139 B. A temporary certificate of registration issued by a dealer to a purchaser pursuant to this section
 140 shall expire when the certificate of title to the vehicle is issued by the Department in the name of the
 141 purchaser *or vehicle ownership is transferred in accordance with § 46.2-603.1* and the permanent license
 142 plates have been affixed to the vehicle, but in no event shall any temporary certificate of registration
 143 issued under this section be effective for more than ~~thirty~~ 30 days from the date of its issuance. In the
 144 event that the dealer fails to produce the old certificate of title or certificate of origin to the vehicle,
 145 *fails to transfer vehicle ownership in accordance with § 46.2-603.1*, or fails to apply for a replacement
 146 certificate of title pursuant to § 46.2-632, thereby preventing delivery to the Department or purchaser
 147 before the expiration of the temporary certificate of registration, the purchaser's temporary rights may
 148 terminate and the purchaser shall have the right to return the vehicle to the dealer and obtain a full
 149 refund of all payments made toward the purchase of the vehicle, provided the purchaser provides notice
 150 to the dealer of a decision to return the vehicle before issuance of a title for the vehicle by the
 151 Department, less any damage to the vehicle incurred while ownership was vested in the purchaser, and
 152 less a reasonable amount for use not to exceed one-half the amount allowed per mile by the Internal
 153 Revenue Service, as provided by regulation, revenue procedure, or revenue ruling promulgated pursuant
 154 to § 162 of the Internal Revenue Code, for use of a personal vehicle for business purposes.

155 C. Notwithstanding subsection B ~~of this section~~, if the dealer fails to deliver the certificate of title or
 156 certificate of origin to the purchaser *or fails to transfer vehicle ownership in accordance with*
 157 *§ 46.2-603.1* within ~~thirty~~ 30 days, a second temporary certificate of registration may be issued.
 158 However, the dealer shall, not later than the expiration of the first temporary certificate, deliver to the
 159 Department an application for title, copy of the bill of sale, all required fees and a written statement of
 160 facts describing the dealer's efforts to secure the certificate of title or certificate of origin to the vehicle.
 161 On receipt of the title application with attachments as described herein, the Department shall record the
 162 purchaser's rights hereunder to the vehicle and may authorize the dealer to issue a second ~~thirty-day~~
 163 *30-day* temporary certificate of registration. If the dealer does not produce the certificate of title or
 164 certificate of origin to the vehicle before the expiration of the second temporary certificate, the
 165 purchaser's rights to the vehicle under this section may terminate and he shall have the right to return
 166 the vehicle as provided in subsection B ~~of this section~~.

167 D. If the dealer is unable to produce the certificate of title or certificate of origin to the vehicle *or*
 168 *transfer vehicle ownership in accordance with § 46.2-603.1* within the ~~sixty-day~~ *60-day* period from the
 169 date of issuance of the first temporary certificate, the Department may extend temporary registration for
 170 an additional period of up to ~~ninety~~ 90 days, provided the dealer makes application in the format
 171 required by the Department. If the dealer does not produce the certificate of title or certificate of origin
 172 to the vehicle *or transfer vehicle ownership in accordance with § 46.2-603.1* before the expiration of the
 173 additional ~~ninety-day~~ *90-day* period, the purchaser's rights hereunder to the vehicle may terminate and he
 174 shall have the right to return the vehicle as provided in subsection B ~~of this section~~.

175 E. The Commissioner, on determining that the provisions of this section or the directions of the
 176 Department are not being complied with by a dealer, may suspend, after a hearing, the right of the
 177 dealer to issue temporary certificates of registration.

178 § 46.2-1561. To whom temporary plates shall not be issued; dealer to forward application for current
 179 titling and registration; misstatements and false information.

180 No dealer shall issue, assign, transfer, or deliver temporary license plates to other than the bona fide
 181 purchaser or owner of a vehicle, whether or not the vehicle is to be registered in Virginia. If the vehicle

182 is to be registered in Virginia, the dealer shall submit to the Department a written application for the
183 current titling and registration of the purchased vehicle, accompanied by the prescribed fees. Any dealer
184 who issues temporary license plates to a purchaser who fails or declines to request that his application
185 be forwarded promptly to the Department forthwith shall notify the Department of the issuance in the
186 manner provided in this article. No dealer shall lend temporary license plates to any person for use on
187 any vehicle. If the dealer does not have in his possession the certificate of title or certificate of origin he
188 may issue temporary license plates even though the purchaser has current license plates to be
189 transferred. The dealer shall present the title or certificate of origin to the customer *or transfer vehicle*
190 *ownership in accordance with § 46.2-603.1* within 30 days of purchase and after this transaction is
191 completed the customer shall transfer his current license plates to the vehicle. If the title or certificate of
192 origin cannot be produced for a vehicle *or the dealer fails to transfer vehicle ownership in accordance*
193 *with § 46.2-603.1* within 30 days, a second set of temporary license plates may be issued provided that a
194 temporary certificate of ownership is issued as provided in § 46.2-1542. It shall be unlawful for any
195 person to issue any temporary license plates containing any misstatement of fact, or for any person
196 issuing or using temporary license plates knowingly to insert any false information on their face.