

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1513/P1dn
ISR:kmg:jf

May 10, 1999

Senator Moen:

This draft restricts the option of transferring a vehicle on death using the certificate of title to vehicles owned by only one owner and vehicles that do not qualify as marital property. In addition, a transfer is valid only if one person is designated by the owner to receive the vehicle.

Restricting the option of transfer on death to vehicles that do not qualify as marital property may prevent a spouse from having to share ownership of the vehicle with a beneficiary or from having to institute an action in court to obtain ownership of the vehicle or recover damages. You should be aware that even with this limitation, a spouse may have to proceed with legal action in some cases. DOT cannot determine whether at the time of application or at the time of transfer to a beneficiary a vehicle qualifies as marital property. Should DOT mistakenly transfer the vehicle to a designated beneficiary, a spouse may choose to institute legal action to regain title to the vehicle.

One alternative would be to restrict the transfer on death provision to unmarried people. This would prevent the problems caused by a vehicle that qualifies as marital property but would also prevent the transfer of nonmarital property by married persons. Also, problems might arise if a person, who is unmarried at the time of designation, later marries but does not change the designated beneficiary.

This draft does not provide for fees to be paid to DOT for processing a beneficiary designation. Do you want to include any fees in this draft?

Please review this draft carefully to make sure that it reflects your intent. If you have any questions or comments, please feel free to contact me.

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