

1999 DRAFTING REQUEST

Bill

Received: **12/29/98**

Received By: **isagerro**

Wanted: **As time permits**

Identical to LRB:

For: **Rodney Moen (608) 266-8546**

By/Representing: **Bruce Humphrey**

This file may be shown to any legislator: **NO**

Drafter: **isagerro**

May Contact:

Alt. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **PEN**

Pre Topic:

No specific pre topic given

Topic:

Allow certificate of title to designate gift of vehicle upon owner's death

Instructions:

DOT is notified, title is controlling over all other documents

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	isagerro 04/26/99 kahlepj 04/29/99	gilfokm 05/7/99	jfrantze 05/10/99	_____	lrb_docadmin 05/10/99		State
/1	isagerro 05/19/99	gilfokm 05/28/99	haugeca 06/1/99	_____	lrb_docadmin 06/1/99	lrb_docadminState 06/3/99	

FE Sent For:

06-22-99
→

<END>

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		<i>1-5-99 kmf</i>	<i>ch 5-31</i>	<i>ch mcb</i>			

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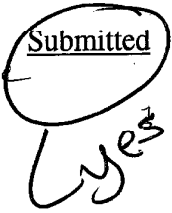
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FE Sent For:

<END>



Rod Moen

State Senator

Date: 12-28

To: _____

From: _____

Telephone: 608/266-8546

Fax: 608/267-2871

Paul,

Here's a copy of the letter
who wants bill that would
permit transfer of MV title
to named beneficiary upon
death of owner.

J. Benito

Rod Moen

Sherman Street
Fair, WI 54701
, 1998

MAR 12 1998

Senator Rod Moen
P.O. Box 7882
Senate Room 331S
Madison, WI 53707

Dear Senator Moen:

Representative Rob Kreibich telephoned me this morning to further discuss drafting and introducing legislation to provide for titling of vehicles so that ownership could be transferred on death (TOD).

To summarize, Representative Kreibich concurs with your thinking, to wit:

"I would be pleased to introduce this bill next session. If Representative Kreibich does the same, that is no problem. Identical bills are often introduced in each house. That can sometimes speed up the process." [Your letter dated March 5, 1998]

I believe that Representative Kreibich acknowledges that a bill introduced by you would have a better chance of being acted on in the Senate Judiciary Committee, where, Representative Kreibich said, bills are currently stacked up like cord wood.

He believed passage of such legislation would primarily be of interest to the elderly. I agree that the elderly would probably be the persons who would utilize TOD titling most often; however, I perceive that it would be the children, or grandchildren, of the elderly that would be the beneficiaries of such titling thus making the younger generation the ones primarily interested in such legislation as it would enable them to get ownership of the vehicle without costly and time consuming probate. Certainly a strong argument to stress to the younger generation willing to listen to what may be advantageous to them.

I appreciate your willingness to introduce a TOD bill next session; and perceive that it would receive wide spread support from the electorate if the bill was given coverage by news media setting forth the advantages of such legislation.

Sincerely yours,



Edsel Grams

copy: Rob Kreibich

15TH DOCUMENT of Level 1 printed in FULL format.

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*** THIS SECTION IS CURRENT THROUGH THE 1996 SUPPLEMENT (1995 SESSION) ***
*** INCLUDING URGENCY LEGISLATION THROUGH CHAPTER 196, 7/22/96 ***

VEHICLE CODE

DIVISION 3. Registration of Vehicles and Certificates of Title
CHAPTER 1. Original and Renewal of Registration; Issuance of Certificates of Title

ARTICLE 2. Original Registration;

Cal Veh Code @ 4150.7 (1996)

@ 4150.7. Requirements for holding ownership of vehicle in beneficiary form

(a) Ownership of title to a vehicle subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the vehicle to a designated beneficiary on the death of the owner if both of the following requirements are satisfied:

- (1) Only one owner is designated.
- (2) Only one TOD beneficiary is designated.

(b) A certificate of ownership issued in beneficiary form shall include, after the name of the owner, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary.

(c) During the lifetime of the owner, the signature or consent of the beneficiary is not required for any transaction relating to the vehicle for which a certificate of ownership in beneficiary form has been issued.

(d) The fee for registering ownership of a vehicle in a beneficiary form is ten dollars (\$ 10).

HISTORY:

Added Stats 1991 ch 1055 @ 58 (SB 271), operative January 1, 1993.

NOTES:

NOTE-

Stats 1991 ch 1055 provides:

SEC. 64.7 Sections 18080.2, 18102.2, and 18102.3 of the Health and Safety Code as added by this act shall become operative on January 1, 1994. Sections 4150.7, 5910.5, 5910.7, 9852.7, 9916.5, and 9916.7 of the Vehicle Code as added by this act, and the amendment made by this act to Section 9653 of the Probate Code, shall become operative on January 1, 1993.

LAW REVISION COMMISSION COMMENTS:

1991--Section 4150.7 is new. Subdivisions (a), (b), and (c) are drawn from Missouri law. See Mo. Ann. Stat. @ 301.681 (Vernon Supp. 1991). See also Health & Safety Code @@ 18080.2, Veh. Code @@ 5910.5, 9852.7, 9916.5. [As amended in the Legislature.]

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VEHICLE CODE
DIVISION 3. Registration of Vehicles and Certificates of Title
CHAPTER 2. Transfers of Title or Interest
ARTICLE 3. Notice and Application

Cal Veh Code @ 5910.5 (1996)

@ 5910.5. Transfer of vehicle owned in beneficiary form; Revocation or change of beneficiary

(a) On death of the owner of a vehicle owned in beneficiary form, the vehicle belongs to the surviving beneficiary, if any. If there is no surviving beneficiary, the vehicle belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of the owner by either of the following methods:

(1) By sale of the vehicle with proper assignment and delivery of the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vehicle at death of the owner is subject to any contract of sale, assignment, or security interest to which the owner was subject during his or her lifetime.

(e) The surviving beneficiary may secure a transfer of ownership for the vehicle upon presenting to the department all of the following:

(1) The appropriate certificate of ownership.

(2) A certificate under penalty of perjury stating the date and place of the owner's death and that the declarant is entitled to the vehicle as the designated beneficiary.

(3) If required by the department, a certificate of the death of the owner.

(f) After the death of the owner, the surviving beneficiary may transfer his or her interest in the vehicle to another person without securing transfer of ownership into his or her own name by appropriately signing the certificate of ownership for the vehicle and delivering the document to the transferee for

Cal Veh Code @ 5910.5 (1996)

ing to the department with appropriate fees. The transferee may secure a transfer of ownership upon presenting to the department (1) the certificate of ownership signed by the beneficiary, (2) the certificate described in paragraph (j) of subdivision (e) executed by the beneficiary under penalty of perjury; and (3) if required by the department, a certificate of death of the owner.

(g) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vehicle shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(h) A transfer at death pursuant to this section is subject to Section 9653 of the Probate Code.

(i) If there is no surviving beneficiary, the person or persons described in Section 5910 may secure transfer of the vehicle as provided in that section.

(j) The department may prescribe forms for use pursuant to this section.

HISTORY:

Added Stats 1991 ch 1055 @ 59 (SB 271), operative January 1, 1993.

NOTES:

LAW REVISION COMMISSION COMMENTS:

1991--Section 5910.5 is new. Subdivisions (a) through (d) are drawn from Missouri law. See Mo. Ann. Stat. @ 301.681 (Vernon Supp. 1991). Subdivision (e) is drawn from Health & Safety Code Section 18102(b) and Vehicle Code Sections 5910(b) and 9916(b). Subdivision (g) is drawn from Probate Code Section 5304. Subdivision (h) is comparable to Health and Safety Code Section 18102.2(h), Probate Code Section 5705 (gift in view of impending death), and Vehicle Code Section 9916.5(h). Subdivision (j) is drawn from Vehicle Code Section 5910(c). See also Health & Safety Code @@ 18080.2, 18102.2; Veh. Code @@ 4150.7, 9852.7, 9916.5. [As amended in the Legislature.]

COLLATERAL REFERENCES:

Rutter Cal Prac Guide, Probate @@ 2:29.14 et seq.

Vital Record - death certificate - 69.01(26)

- Disclosure of vital records - 5.109.20
- info can be disclosed to agency for doctor (b)(d)

- Copies of vital records - 69.21(1)(a)2.
~~69.21(1)(a)2.~~

5. 69.20(1) - only release record to person w/
"direct, tangible interest" or by
CF order

1/7/99 - Conversation w/ Bruce Humphrey

- w/ exemption of marital property possible?

- avoid problems of spouse owning car jointly w/ TOD benef

- DOT notification TOD beneficiary upon designation

- OK for burden to be on beneficiary to get title

ROB KREIBICH
STATE REPRESENTATIVE
NINETY THIRD ASSEMBLY DISTRICT

W / ~~ISR~~ ISR

MADISON OFFICE
(608) 266-0660



DISTRICT OFFICE
(715) 839-1064

CHAIR: ASSEMBLY COMMITTEE ON COLLEGES AND UNIVERSITIES

Dear Pam,

Here is a letter from the individual bringing this matter to our attention: statutes from California. I hope there will be of some benefit. If you have any other questions, please do not hesitate to call.

my phone # is 266-0660.

Thanks,
Andy

Rep. Kreibich's office.

2901 Sherman Street
Eau Claire, WI 54701
January 8, 1998

Senator Rod Moen
P.O. Box 7882
Senate Room 331S
Madison, WI 53707

Dear Senator Moen:

In December when you were at the L.E. Phillips Senior Center in Eau Claire to announce bi-partisan sponsorship of legislation to facilitate electrical power transmission in Wisconsin, we introduced ourselves. And I took the opportunity to mention that Assemblyman Rob Kreibich had told me that he was "looking into having legislation drafted for Wisconsin" that would make it simple to pass title to an automobile upon death of the owner. As I asked you to give bi-partisan support for such legislation, you said that you would call Mr. Kreibich that afternoon and discuss the matter with him.

This letter is my follow up with you to reiterate the reasons why such legislation is desirable especially since your initial reaction was that joint ownership could accomplish the end result. But joint ownership of a automobile can be undesirable, especially if the joint ownership is not with ones spouse, because of insurance reasons, loan reasons, and flexibility in selling the automobile. And unless title to an automobile is held in joint ownership, costly and time consuming probate has to be undertaken to pass title to an automobile owned fee simple by one person upon that person's death.

Legislation that would permit registration of an automobile transferrable on death of the owner to a named person would simplify the process. Mr. Kreibich provided me with a copy of the State of California's law permitting registration of vehicles transferrable on death (California is a community property state, having many similarities to Wisconsin's Marital Property Laws). I am enclosing a copy for your review. To me, a layman, the law appears to be simple and straight-forward. And I doubt if Wisconsin's vehicle titles would require any format change as such legislation could simply require that the owner's name be followed by the terminology "TOD to (specified person)" should the owner desire to register his/her automobile in that manner.

I certainly invite you will give serious consideration and effort to have the necessary legislation enacted so that title to an automobile can be designated as transferrable at death to a named beneficiary. And your help in getting such legislation enacted will be appreciated.

My best of wishes to you for a practical legislative session and a healthy, happy New Year

Sincerely yours,

Edsel Grams

Enclosure

copy: Rob Kreibich

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(e) The surviving beneficiary may secure a transfer of ownership for the vehicle upon presenting to the department all of the following:

(1) The appropriate certificate of ownership.

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(g) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vehicle shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(h) A transfer at death pursuant to this section is subject to Section 9653 of the Probate Code.

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(5)

if 1st decedent marital property

if deferred marital property -

spouse can elect 50%
of total deferred marital
prop estate

(so beneficiary might have to make a
contribution toward
spouse's elective share)

(6) 766.70 (6)

→ action to recover ~~prop~~
~~complete judgment~~

1/2 of the gift

"transfer during marriage that becomes a
completed gift upon death"

(Loy 242)

other ways to transfer vehicle:

outside of probate

is there a remedy in marital prop that would apply if probate designates a non-spouse?

① can they own vehicle jointly?

(so that it will "pass" outside of probate)
- constituent says joint ownership is too cumbersome

② could use informal admin under ch. 865 (no court - judge involvement)

③ could use summary procedure under ch 867
if under \$30,000 or \$10,000 (if heir)

④ family rights under ch. 861
surviving spouse retains 1/2 interest -
land = common w/ spouse
(force a sale or payment from beneficiary?)

9653. (a) On application of a creditor of the decedent or the estate, the personal representative shall commence and prosecute an action for the recovery of real or personal property of the decedent for the benefit of creditors if the personal representative has insufficient assets to pay creditors and the decedent during lifetime did any of the following with respect to the property: (1) Made a conveyance of the property, or any right or interest in the property, that is fraudulent as to creditors under the Uniform Fraudulent Transfer Act (Chapter 1 (commencing with Section 3439) of Title 2 of Part 2 of Division 4 of the Civil Code). (2) Made a gift of the property in view of impending death. (3) Made a direction to transfer a vehicle, undocumented vessel, manufactured home, mobile home, commercial coach, truck camper, or floating home to a designated beneficiary on the decedent's death pursuant to Section 18102.2 of the Health and Safety Code, or Section 5910.5 or 9916.5 of the Vehicle Code, and the property has been transferred as directed. (b) A creditor making application under this section shall pay such part of the costs and expenses of the suit and attorney's fees, or give an undertaking to the personal representative for that purpose, as the personal representative and the creditor agree, or, absent an agreement, as the court or judge orders. (c) The property recovered under this section shall be sold for the payment of debts in the same manner as if the decedent had died seized or possessed of the property. The proceeds of the sale shall be applied first to payment of the costs and expenses of suit, including attorney's fees, and then to payment of the debts of the decedent in the same manner as other property in possession of the personal representative. After all the debts of the decedent have been paid, the remainder of the proceeds shall be paid to the person from whom the property was recovered. The property may be sold in its entirety or in such portion as necessary to pay the debts.

PAM KAHLER

Co. claim of
creditor of
decedent's
estate



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1513/P1

ISR&PJK:kmg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

SOON

* WPO: Title request sheet

Gen. Cont.

- 1 AN ACT ^{Gen. Cont.}; relating to: transferring a motor vehicle upon death of the owner to
- 2 a beneficiary designated in the certificate of title.

Analysis by the Legislative Reference Bureau

Under current law, the transfer of most motor vehicles upon the death of the owner must proceed through probate before the department of transportation (DOT) may transfer the vehicle.

This bill allows the owner of a vehicle to designate on the certificate of title a beneficiary to receive the vehicle upon the owner's death. This transfer occurs outside of probate.

Under this bill, upon application for a certificate of title, the owner may designate a beneficiary to receive the vehicle upon his or her death. DOT must record the name of the beneficiary on the certificate of title. A valid designation occurs only if the owner designates no more than one beneficiary in the certificate of title, the vehicle does not qualify as marital property and the owner is the sole owner of the vehicle.

An owner may revoke a designation only by applying for a new certificate of title and either changing the name of the beneficiary or choosing not to designate a beneficiary or by transferring the vehicle prior to death. Upon receiving an application for a certificate of title, DOT must notify the beneficiary and, if the owner revokes a designation, DOT must notify the previous beneficiary of the revocation.

Upon the death of the owner, the beneficiary must present to DOT a certified copy of the owner's death certificate. DOT is required to transfer the vehicle to the designated person after performing a title search to confirm the name of the

*, if there is no will,
↑*

3

beneficiary. If the beneficiary does not survive the owner, the vehicle belongs to the deceased owner's estate and passes under the deceased owner's will or by the law of intestate succession (if there is no will).

This bill provides that the designation of a beneficiary does not affect any liens on the vehicle and that a transaction involving the vehicle prior to the owner's death does not require the consent of the beneficiary. The bill also provides that the statutory provisions that apply generally to transfers of property at death (such as how long a person must survive an event to be considered to have survived the event) apply to the provisions related to designating a beneficiary of a vehicle on the certificate of title.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 342.06 (1) (L) of the statutes is created to read:

2 342.06 (1) (L) The name and address of a beneficiary designated under s.
3 342.175, if any.

4 SECTION 2. 342.10 (1) (f) of the statutes is created to read:

5 342.10 (1) (f) If the owner designates a beneficiary under s. 342.175, the name
6 and address of the beneficiary.

7 SECTION 3. 342.17 (title) and (1) of the statutes ^{*are*} amended to read:

8 342.17 (title) **Involuntary transfers and transfers on death.**

9 **(No H)** (1) If the interest of an owner in a vehicle passes to another ~~other than~~ by
10 voluntary involuntary transfer or by a designation under s. 342.175, the transferee
11 shall, except as provided in sub. (2), promptly mail or deliver to the department the
12 last certificate of title, if available, and the documents required by the department
13 to legally effect such transfer, and an application for a new certificate in the form the
14 department prescribes.

History: 1971 c. 164 s. 82; 1973 c. 40, 243; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1985 a. 141; 1991 a. 125, 239; 1995 a. 338, 421; 1997 a. 27.

15 SECTION 4. 342.17 (4) (a) (intro.) of the statutes is amended to read:

1 342.17 (4) (a) (intro.) In all cases of the transfer of a vehicle owned by a
2 decedent, ~~except under par. pars.~~ (b) and (bg), ward, trustee or bankrupt, the
3 department shall accept as sufficient evidence of the transfer of ownership the
4 following:

5 History: 1971 c. 164 s. 82; 1973 c. 40, 243; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1985 a. 141; 1991 a. 125, 239; 1995 a. 338, 421; 1997 a. 27.

5 **SECTION 5.** 342.17 (4) (b) 1. (intro.) of the statutes is amended to read:

6 342.17 (4) (b) 1. (intro.) The department shall transfer the decedent's interest
7 in any vehicle, other than a vehicle for which a beneficiary is designated under s.
8 342.175, to his or her surviving spouse upon receipt of the title executed by the
9 surviving spouse and a statement by the spouse which shall state:

10 **SECTION 6.** 342.17 (4) (bg) of the statutes is created to read:

11 342.17 (4) (bg) The department shall transfer any vehicle to a beneficiary
12 *designated to receive the vehicle under s. 342.175* if the designated beneficiary
13 survives the decedent and presents to the department a certified copy of the
14 decedent's death certificate. Upon receipt of the decedent's death certificate under
15 this paragraph, the department shall perform a title search to confirm the name of
16 the beneficiary designated under s. 342.175.

17 **SECTION 7.** 342.175 of the statutes is created to read:

18 **342.175 Designation of a transfer[✓]-on[✓]-death beneficiary.** (1) The owner
19 of a vehicle may designate in the certificate of title a beneficiary to whom the
20 department shall transfer the vehicle upon the owner's death if all of the following
21 apply:

22 (a) The owner designates only one beneficiary in the certificate of title.

23 (b) The vehicle does not qualify as marital property under ch. 766.

SECTION 7

1 (c) The owner does not own the vehicle as a joint tenant or as a tenant in
2 common.

3 (2) Upon receipt of an application for a certificate of title under s. 342.06, the
4 department shall notify the beneficiary designated under sub. (1), if any, of the
5 designation by mail.

6 (3) Any transaction prior to the owner's death that involves a vehicle for which
7 a beneficiary is designated under sub. (1) does not require the consent of the
8 designated beneficiary.

9 (4) Except as provided in sub. (5) and subject to s. 853.15, a beneficiary
10 designation under sub. (1) may not be changed or revoked by will or any other
11 instrument.

12 (5) An owner may revoke or change a designation under sub. (1) only by doing
13 any of the following:

14 (a) Applying for a new certificate of title without designating a beneficiary.

15 (b) Applying for a new certificate of title and designating a different beneficiary.

16 (c) Transferring the vehicle prior to death.

17 (6) If an owner submits an application for a certificate of title that does not
18 contain the name of the beneficiary previously designated under sub. (1), the
19 department shall, by mail, notify the beneficiary previously designated that the
20 owner has revoked the designation. ~~The department shall notify a previous~~

21 ~~beneficiary by mail.~~

22 (7) A transfer of title under this section does not affect any lien upon the
23 vehicle.

1 (8) If a beneficiary designated under sub. (1) does not survive the owner of the
2 vehicle and the owner has not changed or revoked the designation under sub. (5), the
3 vehicle belongs to the estate of the owner at the owner's death.

4 (9) Chapter 854 applies to transfers at death under this section.

5 **SECTION 8. Effective date.**

6 (1) This act takes effect on the first day of the 4th month beginning after
7 publication.

8 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1513/P1dn

ISR:.....
KMG

Date of
April 13, 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 non-marital 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.

Ivy G. Sager-Rosenthal
Legislative Attorney
Phone: (608) 261-4455

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.

Ivy G. Sager-Rosenthal
Legislative Attorney
Phone: (608) 261-4455

* Bruce, Sen Moran's office 5/12/99 @ 11:30

- want to introduce, need /1 version

- provide authority for DOT to charge fee
to cover cost of processing beneficiary
- @ DOT's discretion



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1513/PT
ISR&PJK:kmg:jf

In editing
5-19-99

redraft
make
run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Sen. Cat

1 AN ACT *to amend* 342.17 (title) and (1), 342.17 (4) (a) (intro.) and 342.17 (4) (b)
2 1. (intro.); and *to create* 342.06 (1)(L), 342.10 (1)(f), 342.17 (4) (bg) and 342.175
3 of the statutes; **relating to:** transferring a motor vehicle upon death of the
4 owner to a beneficiary designated in the certificate of title.

Analysis by the Legislative Reference Bureau

Under current law, the transfer of most motor vehicles upon the death of the owner must proceed through probate before the department of transportation (DOT) may transfer the vehicle.

This bill allows the owner of a vehicle to designate on the certificate of title a beneficiary to receive the vehicle upon the owner's death. This transfer occurs outside of probate.

Under this bill, upon application for a certificate of title, the owner may designate a beneficiary to receive the vehicle upon his or her death. DOT must record the name of the beneficiary on the certificate of title. A valid designation occurs only if the owner designates no more than one beneficiary in the certificate of title, the vehicle does not qualify as marital property and the owner is the sole owner of the vehicle.

An owner may revoke a designation only by applying for a new certificate of title and either changing the name of the beneficiary or choosing not to designate a beneficiary or by transferring the vehicle prior to death. Upon receiving an application for a certificate of title, DOT must notify the beneficiary and, if the owner revokes a designation, DOT must notify the previous beneficiary of the revocation.

Upon the death of the owner, the beneficiary must present to DOT a certified copy of the owner's death certificate. DOT is required to transfer the vehicle to the designated person after performing a title search to confirm the name of the beneficiary. If the beneficiary does not survive the owner, the vehicle belongs to the deceased owner's estate and passes under the deceased owner's will or, if there is no will, by the law of intestate succession.

This bill provides that the designation of a beneficiary does not affect any liens on the vehicle and that a transaction involving the vehicle prior to the owner's death does not require the consent of the beneficiary. The bill also provides that the statutory provisions that apply generally to transfers of property at death (such as how long a person must survive an event to be considered to have survived the event) apply to the provisions related to designating a beneficiary of a vehicle on the certificate of title.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 342.06 (1) (L) of the statutes is created to read:

2 342.06 (1) (L) The name and address of a beneficiary designated under s.
3 342.175, if any.

4 **SECTION 2.** 342.10 (1) (f) of the statutes is created to read:

5 342.10 (1) (f) If the owner designates a beneficiary under s. 342.175, the name
6 and address of the beneficiary.

7 **SECTION 3.** 342.17 (title) and (1) of the statutes are amended to read:

8 **342.17 (title) Involuntary transfers and transfers on death.** (1) If the
9 interest of an owner in a vehicle passes to another ~~other than~~ by ~~voluntary~~
10 involuntary transfer or by a designation under s. 342.175, the transferee shall,
11 except as provided in sub. (2), promptly mail or deliver to the department the last
12 certificate of title, if available, and the documents required by the department to
13 legally effect such transfer, and an application for a new certificate in the form the
14 department prescribes.

1 SECTION 4. 342.17 (4) (a) (intro.) of the statutes is amended to read:

2 342.17 (4) (a) (intro.) In all cases of the transfer of a vehicle owned by a
3 decedent, except under ~~par. pars.~~ (b) and (bg), ward, trustee or bankrupt, the
4 department shall accept as sufficient evidence of the transfer of ownership the
5 following:

6 SECTION 5. 342.17 (4) (b) 1. (intro.) of the statutes is amended to read:

7 342.17 (4) (b) 1. (intro.) The department shall transfer the decedent's interest
8 in any vehicle, other than a vehicle for which a beneficiary is designated under s.
9 342.175, to his or her surviving spouse upon receipt of the title executed by the
10 surviving spouse and a statement by the spouse which shall state:

11 SECTION 6. 342.17 (4) (bg) of the statutes is created to read:

12 342.17 (4) (bg) The department shall transfer any vehicle to a beneficiary
13 designated to receive the vehicle under s. 342.175 if the designated beneficiary
14 survives the decedent and presents to the department a certified copy of the
15 decedent's death certificate. Upon receipt of the decedent's death certificate under
16 this paragraph, the department shall perform a title search to confirm the name of
17 the beneficiary designated under s. 342.175. *and may charge the beneficiary
a fee to cover the cost of
performing the search*

18 SECTION 7. 342.175 of the statutes is created to read:

19 **342.175 Designation of a transfer-on-death beneficiary.** (1) The owner
20 of a vehicle may designate in the certificate of title a beneficiary to whom the
21 department shall transfer the vehicle upon the owner's death if all of the following
22 apply:

23 (a) The owner designates only one beneficiary in the certificate of title.

24 (b) The vehicle does not qualify as marital property under ch. 766.

1 (c) The owner does not own the vehicle as a joint tenant or as a tenant in
2 common.

3 (2) Upon receipt of an application for a certificate of title under s. 342.06, the
4 department shall notify the beneficiary ~~designated under sub. (1), if any,~~ of the
5 designation by mail.

→ that contains the name and address of
a beneficiary designated under sub. (1)

6 (3) Any transaction prior to the owner's death that involves a vehicle for which
7 a beneficiary is designated under sub. (1) does not require the consent of the
8 designated beneficiary.

9 (4) Except as provided in sub. (5) and subject to s. 853.15, a beneficiary
10 designation under sub. (1) may not be changed or revoked by will or any other
11 instrument.

12 (5) An owner may revoke or change a designation under sub. (1) only by doing
13 any of the following:

14 (a) Applying for a new certificate of title without designating a beneficiary.

15 (b) Applying for a new certificate of title and designating a different beneficiary.

16 (c) Transferring the vehicle prior to death.

17 (6) If an owner submits an application for a certificate of title that does not
18 contain the name of the beneficiary previously designated ^{by the owner} under sub. (1), the
19 department shall, by mail, notify the beneficiary previously designated that the
20 owner has revoked the designation.

21 (7) A transfer of title under this section does not affect any lien upon the
22 vehicle.

23 (8) If a beneficiary designated under sub. (1) does not survive the owner of the
24 vehicle and the owner has not changed or revoked the designation under sub. (5), the
25 vehicle belongs to the estate of the owner at the owner's death.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1513/lins
ISR:.....

1 Insert 2-6 ✓

2 SECTION 1. 342.14 (3r) of the statutes is created to read:

3 342.14 (3r) ^{Notwithstanding s. 342.09(3), upon} Upon filing an application under sub. (1) or (3) that contains the
4 name and address of a beneficiary designated under s. 342.175 (1) ~~and~~ ^{or} in addition
5 to any other fees specified under this section, a fee equal to the cost of processing a
6 designation made under s. 342.175 (1), by the owner of the vehicle.

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 6/1/99

To: Senator Moen

Relating to LRB drafting number: LRB-1513

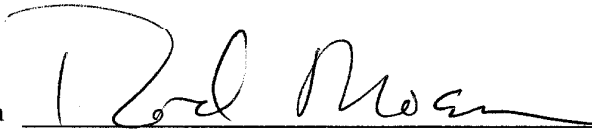
Topic

Allow certificate of title to designate gift of vehicle upon owner's death

Subject(s)

Transportation - motor vehicles

1. **JACKET** the draft for introduction



in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Ivy G. Sager-Rosenthal, Legislative Attorney
Telephone: (608) 261-4455