



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-0056/1  
ARG:jld:jf

DOA:.....Byrnes, BB0068 - Online business transactions

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**TRANSPORTATION**

**DRIVERS AND MOTOR VEHICLES**

Under current law, DOT issues and delivers a certificate of title to the owner of a vehicle upon receipt of a proper application to title the vehicle. If there is a security interest in the vehicle, the security interest is noted on the certificate of title and the vehicle owner, not the secured party, holds the certificate of title.

Under this bill, if there is a security interest in a vehicle, DOT issues the certificate of title in the name of the vehicle owner but delivers the certificate of title to the secured party having the primary perfected security interest in the vehicle. Therefore, the secured party, not the vehicle owner, holds the certificate of title. This certificate of title may be in an automated format, including an electronic or digital form.

Under current law, a dealer, distributor, manufacturer, or transporter of vehicles may register with DOT and obtain issuance of vehicle registration plates. A finance company or financial institution may also register with DOT and obtain issuance of vehicle registration plates. Under certain circumstances, the dealer, distributor, manufacturer, transporter, finance company, or financial institution may display these plates on an unregistered vehicle and legally operate the vehicle on the highway. These plates are valid for a calendar year and, upon renewal of the plates, DOT may issue a registration tag or decal instead of issuing new plates.

This bill allows DOT to renew these registration plates without issuing new plates, tags, or decals.

Under current law, if a vehicle owner creates a security interest in a vehicle, the owner and the secured party are usually required to follow certain procedures to have the secured party identified on the vehicle's certificate of title. When certain requirements are met, DOT issues to the vehicle owner a new certificate of title containing the name and address of the new secured party. DOT must also deliver to the new secured party and to the register of deeds of the county of the owner's residence memoranda evidencing the notation of the security interest on the certificate.

Under this bill, DOT must deliver to the new secured party memoranda evidencing the notation of the security interest on the certificate of title only if the secured party is exempt from electronic filing of security interests.

#### **OTHER TRANSPORTATION**

Under current law, DOT may accept payment by credit card, debit card, or any other electronic payment mechanism of certain fees, which generally derive from transactions related to motor vehicles or motor vehicle operators. DOT may charge a convenience fee for each transaction in which payment by credit card, debit card, or other electronic payment mechanism is made. The amount of the convenience fee is established by DOT by rule, but must approximate the cost to DOT of providing the payment service. Until a rule is promulgated, the convenience fee is set by statute at \$2.50 for each transaction.

This bill allows DOT to accept payment by credit card, debit card, or any other electronic payment mechanism of any fee, not limited to fees in connection with transactions related to motor vehicles or motor vehicle operators. The bill also allows DOT to charge a convenience fee whenever payment by credit card, debit card, or other electronic payment mechanism is made.

This bill also allows DOT to establish procedures for conducting any transaction in an electronic format or using an electronic process. DOT may promulgate rules requiring a person to pay an additional fee for conducting an in-person, telephone, or paper transaction in lieu of using an electronic filing or submission option when DOT has made an electronic filing or submission option available.

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

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

**SECTION 1.** 85.14 (title) of the statutes is amended to read:

**85.14 (title) ~~Payments of fees and deposits by credit card, debit card, or other electronic payment mechanism; electronic transactions.~~**

**SECTION 2.** 85.14 (1) (a) of the statutes is amended to read:

85.14 (1) (a) The department may accept payment by credit card, debit card, or any other electronic payment mechanism of ~~a~~ any fee that is required to be paid to the department under ~~ch. 194, 218, 341, 342, 343 or 348~~. The department shall determine which fees may be paid by credit card, debit card, or any other electronic payment mechanism and the manner in which the payments may be made. If the department permits the payment of a fee by credit card, debit card, or any other electronic payment mechanism, the department may charge a convenience fee for each transaction in an amount to be established by rule. The convenience fee shall approximate the cost to the department for providing this service to persons who request it. If the department permits the payment of a fee by credit card, debit card, or any other electronic payment mechanism, the department may charge a service fee of \$2.50 for each transaction until a rule is promulgated under this paragraph.

**SECTION 3.** 85.14 (3) of the statutes is created to read:

85.14 (3) The department may establish procedures for conducting any transaction in an electronic format or using an electronic process. Any form prescribed by the department may be prescribed in an automated format to facilitate the department's authority under this subsection.

**SECTION 4.** 85.14 (4) of the statutes is created to read:

85.14 (4) The department may promulgate rules requiring a person to pay an additional fee for conducting an in-person, telephone, or paper transaction in lieu of using an electronic filing or submission option when the department has made an electronic filing or submission option available. These rules may provide for

exemptions from the additional fee for designated categories of persons or transactions. The fee authorized under this subsection is in addition to any other fee that may be imposed by the department.

**SECTION 5.** 218.0171 (2) (c) of the statutes is amended to read:

218.0171 (2) (c) To receive a comparable new motor vehicle or a refund due under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the consumer with the comparable new motor vehicle or refund. When the manufacturer provides the new motor vehicle or refund, the consumer shall return the motor vehicle having the nonconformity to the manufacturer and provide the manufacturer with the certificate of title and all endorsements necessary to transfer title to the manufacturer. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person shall, upon request of the consumer, provide the certificate to the manufacturer or to the consumer.

**SECTION 6.** 218.0171 (2) (cm) 2. of the statutes is amended to read:

218.0171 (2) (cm) 2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the refund to the motor vehicle lessor. When the manufacturer provides the refund, the motor vehicle lessor shall provide to the manufacturer the certificate of title and all endorsements necessary to transfer title to the manufacturer. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person

shall, upon request of the motor vehicle lessor, provide the certificate to the manufacturer or to the motor vehicle lessor.

**SECTION 7.** 218.23 (1) of the statutes is amended to read:

218.23 (1) Whenever a licensed motor vehicle salvage dealer acquires a motor vehicle for the purpose of wrecking it, the dealer shall mail or deliver the certificate of title or if the transfer to the salvage dealer was by a bill of sale, the bill of sale, for such vehicle to the department within 30 days after the vehicle is delivered to the salvage yard unless the previous owner already has done so or, if another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person already has done so. If ~~he or she~~ the dealer subsequently wishes to transfer such vehicle to another person, ~~he or she~~ the dealer shall make such transfer only by bill of sale. In such bill of sale, ~~he or she~~ the dealer shall describe the vehicle and shall state that the certificate of title for the vehicle has been mailed or delivered to the department because the vehicle was to have been junked.

**SECTION 8.** 341.13 (3m) of the statutes is repealed.

**SECTION 9.** 341.52 of the statutes is amended to read:

**341.52 Design of registration plates.** Registration plates for dealers, distributors, manufacturers, and transporters are subject to the provisions of s. 341.12 (2) and (3) except s. 341.12 (3) (c). In addition, each plate shall have displayed upon it a symbol capable of distinguishing it from any other plate which may be issued to the same dealer, distributor, manufacturer, or transporter.

**SECTION 10.** 341.53 of the statutes is amended to read:

**341.53 Expiration of registration; transferability of plates.** Certificates of registration and registration plates issued to dealers, distributors, manufacturers, or transporters shall be issued for the calendar year and are valid only during the

calendar year for which issued. Notwithstanding s. 341.13 (3), the department may renew registration plates issued to dealers, distributors, manufacturers, or transporters without issuing new plates or insert tags, decals, or other evidence of registration. Registration plates are transferable from one motor vehicle, trailer or semitrailer to another motor vehicle, trailer or semitrailer and from one recreational vehicle to another.

**SECTION 11.** 341.57 (2) of the statutes is amended to read:

341.57 (2) A finance company licensed under ss. 138.09 or 218.0101 to 218.0163, a credit union licensed under ch. 186, a savings bank organized under ch. 214, a savings and loan association organized under ch. 215 or a state bank or a national bank with offices in this state may apply to the department for registration on such form as the department provides. Upon receipt of the application together with a registration fee of \$75, the department shall register the applicant and shall issue one registration plate containing the registration number assigned to the applicant. The department, upon receiving a fee of \$5 for each additional plate desired by the applicant, shall issue additional plates as the applicant orders. Section 341.52 applies to the design of the plates. The registration and plates are valid only during the calendar year for which issued. Notwithstanding s. 341.13 (3), the department may renew registration plates issued under this subsection without issuing new plates or insert tags, decals, or other evidence of registration. A plate is transferable from one motor vehicle to another. The department may charge a fee of \$2 per plate for replacing lost, damaged or illegible plates issued under this subsection.

**SECTION 12.** 342.09 (1) of the statutes is renumbered 342.09 (1) (a) and amended to read:

342.09 (1) (a) The department shall maintain a record of each application for certificate of title received by it and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue and, except as provided in par. (b), deliver a certificate to the owner of the vehicle.

**SECTION 13.** 342.09 (1) (b) of the statutes is created to read:

342.09 (1) (b) If there is a perfected security interest in a vehicle, the department shall deliver the certificate of title to the secured party having the primary perfected security interest in the vehicle.

**SECTION 14.** 342.13 (1) of the statutes is amended to read:

342.13 (1) If a certificate of title is lost, stolen, mutilated, or destroyed, or becomes illegible, the owner or ~~legal representative of the owner~~ named in person in possession of the certificate, as shown by the records of the department, shall promptly make application for and may obtain a replacement upon furnishing information satisfactory to the department. The replacement certificate of title shall contain a notation, in a form determined by the department, identifying the certificate as a replacement certificate that may be subject to the rights of a person under the original certificate.

**SECTION 15.** 342.15 (1) (a) of the statutes is amended to read:

342.15 (1) (a) If an owner transfers an interest in a vehicle, other than by the creation of a security interest, the owner shall comply with the requirements of s. 342.155 and, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate, and the owner or person in possession of the certificate, as shown by the records of the department, shall cause the certificate to be mailed or delivered to the transferee,

except that if the vehicle being transferred is a junk vehicle or has been junked, the owner shall return the certificate to the department in accordance with s. 342.34.

**SECTION 16.** 342.15 (1) (c) of the statutes is amended to read:

342.15 (1) (c) If an owner transfers his or her interest in a salvage vehicle, the owner shall at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate, and the owner or person in possession of the certificate, as shown by the records of the department, shall cause the certificate to be mailed or delivered to the transferee.

**SECTION 17.** 342.15 (5) of the statutes is amended to read:

342.15 (5) Any owner of a vehicle for which a certificate of title has been issued, who upon transfer of the vehicle fails to execute ~~and deliver~~ the assignment and warranty of title required by sub. (1), or the owner or person in possession of such certificate of title, as shown by the records of the department, who fails to deliver the assignment and warranty of title required by sub. (1), may be required to forfeit not more than \$500.

**SECTION 18.** 342.20 (1) of the statutes is amended to read:

342.20 (1) The owner shall immediately execute, in the space provided therefor on the certificate of title or on a separate form or in an automated format prescribed by the department, an application to name the secured party on the certificate, showing the name and address of the secured party, and the owner or person in possession of the owner's certificate, as shown by the records of the department, shall cause the certificate, application and the required fee to be delivered to the secured party.

**SECTION 19.** 342.20 (3) of the statutes is amended to read:



342.20 (3) Upon receipt of the certificate of title, application, and the required fee, or upon receipt of the security interest statement and required fee if the secured party has utilized the process specified in s. 342.245 (1), the department shall issue to the owner a new certificate containing the name and address of the new secured party. The department shall deliver to such new secured party, unless the secured party utilized the process specified in s. 342.245 (1), and to the register of deeds of the county of the owner's residence, memoranda, in such form as the department prescribes, evidencing the notation of the security interest upon the certificate; and thereafter, upon any assignment, termination or release of the security interest, additional memoranda evidencing such action.

**SECTION 20.** 342.22 (1) (intro.) of the statutes is amended to read:

342.22 (1) (intro.) Within one month or within 10 days following written demand by the debtor after there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a vehicle under any security agreement between the owner and the secured party, the secured party shall mail or deliver the certificate of title for the vehicle to the department if the secured party is in possession of the certificate and shall also do one of the following:

**SECTION 21.** 342.22 (2) of the statutes is amended to read:

342.22 (2) ~~An~~ If an owner, other than a dealer holding the vehicle for resale, is in possession of the owner's certificate of title, the owner, upon receipt of the release and notice of obligation delivered under sub. (1) (a), shall promptly cause the certificate and release to be mailed or delivered to the department, which shall release the secured party's rights on the certificate and issue a new certificate. Upon receipt of the notice under sub. (1) (b), the owner may, in the form and manner

prescribed by the department and without additional fee, deliver an application and the certificate of title to the department and the department shall issue a new certificate of title free of the security interest notation.

**SECTION 22.** 342.23 (2) (a) of the statutes is renumbered 342.23 (2) and amended to read:

342.23 (2) An owner or person in possession of the owner's certificate of title, as shown by the records of the department, shall promptly deliver the owner's certificate of title to any secured party who is named on it or who has a security interest in the vehicle described in it under any other applicable prior law of this state, upon receipt of a notice from such secured party that the security interest is to be assigned, extended or perfected.

**SECTION 23.** 342.23 (2) (b) of the statutes is repealed.

**SECTION 24.** 342.23 (4) of the statutes is amended to read:

342.23 (4) Any owner or other person in possession of the owner's certificate of title who fails to deliver the certificate of title to a secured party requesting it pursuant to sub. (2) ~~(a)~~ shall be liable to such secured party for any loss caused to the secured party thereby and may be required to forfeit not more than \$200.

**SECTION 25.** 348.27 (11m) (d) of the statutes is amended to read:

348.27 (11m) (d) The secretary of transportation may limit the application of permits issued under this subsection to specific areas of the state or to specific highways. A permit authorized under this subsection takes effect upon the mailing or delivery of a complete application and the required fee to the department. A permit authorized under this subsection is valid for up to 90 days, as determined by the secretary of transportation.

**SECTION 9148. Nonstatutory provisions; Transportation.**

(1) CERTIFICATES OF TITLE. Notwithstanding chapter 342 of the statutes, as affected by this act, beginning on the effective date of this subsection, the department of transportation may, for 6 months after the effective date of this subsection, issue and deliver certificates of title under applicable provisions of chapter 342 of the statutes that are in effect on the day before the effective date of this subsection.

**SECTION 9348. Initial applicability; Transportation.**

(1) CERTIFICATES OF TITLE. The renumbering and amendment of section 342.09 (1) of the statutes and the creation of section 342.09 (1) (b) of the statutes first apply to applications for certificates of title that are submitted on the effective date of this subsection.

**SECTION 9448. Effective dates; Transportation.**

(1) CERTIFICATES OF TITLE. The treatment of sections 218.0171 (2) (c) and (cm) 2., 218.23 (1), 342.13 (1), 342.15 (1) (a) and (c) and (5), 342.20 (1), 342.22 (1) (intro.) and (2), and 342.23 (2) (a) and (b) and (4) of the statutes, the renumbering and amendment of sections 342.09 (1) of the statutes, and the creation of section 342.09 (1) (b) of the statutes and SECTIONS 9148 (1) and 9348 (1) of this act take effect on January 1, 2012.

(END)