

## CHAPTER 342

## VEHICLE TITLE AND ANTI-THEFT LAW

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## TRANSFER OF TITLE

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## CERTIFICATE OF TITLE

**342.01 Words and phrases defined.** Words and phrases defined in s. 340.01 are used in the same sense in this chapter unless a different definition is specifically provided.

**342.02 Excepted liens and security interests.** This chapter does not apply to or affect:

(1) A lien given by statute or rule of law to a supplier of services or materials for the vehicle.

(2) A lien given by statute to the United States, this state or any political subdivision of this state.

(3) A security interest in a vehicle created by a manufacturer or dealer who holds the vehicle for sale, which shall be governed by the applicable provisions of ch. 409.

**342.05 When certificate of title required.** (1) The owner of a vehicle subject to registration in this state, whether or not such vehicle is operated on any highway of this state, shall make application for certificate of title for the vehicle under the following circumstances:

(a) If the owner has newly acquired the vehicle, he or she shall make application under s. 342.15.

(b) If the owner applies for registration of a vehicle without holding a valid certificate of title previously issued to that owner by the department for the vehicle, he or she shall at the same time apply for a certificate of title.

(2) Except as provided in sub. (3), an applicant's eligibility for a certificate of title is a prerequisite to registration of the vehicle. If the applicant for registration holds a valid certificate of title previously issued to the applicant by the department for the vehicle, that is prima facie evidence of ownership of the vehicle and the applicant need not apply for a new certificate of title on application for registration.

(3) This section does not apply in a situation where the law expressly authorizes registration of a vehicle in the name of a person other than the owner or where the law expressly authorizes registration without a certificate of title.

(4) Any owner who operates or consents to the operation of a vehicle for which a certificate of title is required without such certificate having been issued or applied for or any other person who operates a vehicle for which a certificate of title is required, knowing that the certificate of title has not been issued or applied for, may be required to forfeit not more

than \$200. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed and with postage prepaid.

(5) A nonresident who purchases a motor vehicle in this state and who intends to title and register the vehicle in another state is not required to apply for a certificate of title under this chapter unless the vehicle is subject to a security interest or except as provided in s. 342.16 (1). A nonresident who purchases a motor vehicle in this state may apply for a certificate of title under this chapter. A nonresident may purchase temporary operation plates under s. 341.09 (4), whether or not the nonresident applies for a certificate of title under this chapter.

**History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273; 1981 c. 150.

**342.06 Application for certificate of title.** (1) An application for a certificate of title shall be made to the department upon a form prescribed by it and shall be accompanied by the required fee. Each application for certificate of title shall contain the following information:

(a) The name and address of the owner.

(b) A description of the vehicle, including make, model, identifying number and any other information which the department may reasonably require for proper identification of the vehicle.

(c) The date of purchase by the applicant, the name and address of the person from whom the vehicle was acquired and the names and addresses of any secured parties in the order of their priority.

(d) If the vehicle is a new vehicle being registered for the first time, the signature of a dealer authorized to sell such new vehicle and, the manufacturer's document of origin. Such document of origin shall contain such information as is prescribed by the department.

(e) Any further evidence of ownership which may reasonably be required by the department to enable it to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the vehicle.

(f) If the identification number of the vehicle has been removed, obliterated or altered, or if the original casting has been replaced, or if the vehicle has not been numbered by the manufacturer, the application for certificate of title shall so state.

(g) If the vehicle is a used motor vehicle which was last previously registered in another jurisdiction, the applicant shall furnish any certificate of ownership issued by the other jurisdiction and a statement pertaining to the title history and ownership of such motor vehicle, such statement to be in the form the department prescribes, and shall furnish a certification by a law enforcement officer or by an employe designated by the department to the effect that the physical description of the motor vehicle has been checked and conforms to the description given in the application.

(h) If the applicant for certificate of title for a motor vehicle intends to utilize that vehicle as a taxicab or for public transportation, he shall state that fact in the application. If he knows that the vehicle has previously been used as a taxicab or for public transportation and that fact is not noted on the old certificate of title, he shall state in the application that the vehicle has previously been so used.

(2) Any person who knowingly makes a false statement in an application for a certificate of title may be fined not more than \$5,000 or imprisoned not more than 5 years or both.

(3) Any person intending to use a vehicle as a taxicab or for public transportation who fails to state such intent in his application for certificate of title or any person who fails to furnish any other information required by sub. (1) (h) may be required to forfeit not more than \$1,000.

History: 1973 c. 218; 1975 c. 121, 286; 1977 c. 29 s. 1654 (7) (a).

**342.07 Application when vehicle previously junked.** (1) Application for registration of and certificate of title for a motor vehicle which has previously been junked must be accompanied by the certificate of a state or county traffic officer to the effect that he has examined the motor vehicle described in the application and that, in his opinion, it is in such mechanical condition that operation thereof on the public highways will not jeopardize the safety of motorists or pedestrians and that the description of the vehicle conforms to the description given in the application. The application also must be accompanied by the inspection fee receipt from the clerk of the county employing the county traffic officer who made the examination or from the state traffic officer who made the examination.

(2) The applicant for registration of and certificate of title for a previously junked vehicle shall pay an examination fee of \$25 to the clerk of the county employing the examining officer or to the state traffic officer making the examination. Such clerk or state traffic officer shall give to the applicant a receipt showing payment of the fee and containing the applicant's name and the make and identifying numbers of the vehicle inspected.

(3) Subsections (1) and (2) do not apply if the owner applying for certificate of title for a motor vehicle which has previously been junked certifies to the department that the motor vehicle will not be operated on the public highways. In such case, the department shall stamp on the title: "NOT FOR HIGHWAY USE". If at a subsequent time the owner wishes to operate the motor vehicle on the public highways, the owner shall comply with subs. (1) and (2) at the time of making application for registration. In any event, any vehicle which is titled under this section shall be treated as a motor vehicle for the purposes of compliance with this chapter and ch. 346.

History: 1975 c. 385, 421; 1977 c. 29 s. 1654 (7) (a).

**342.08 Department to examine records.** Before issuing a certificate of title for a vehicle last previously registered in another jurisdiction, the department shall check the applica-

tion against the records of stolen vehicles in the department of justice.

History: 1973 c. 169; 1977 c. 29 s. 1654 (7) (a).

**342.09 When department to issue certificate and to whom; maintenance of records.** (1) The department shall file 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 deliver a certificate to the owner of the vehicle.

(2) The department shall maintain a record of all applications and all certificates of title issued by it:

(a) According to title number.

(b) According to engine or identification number.

(c) Alphabetically, according to name of owner.

(d) In any other manner which the department determines to be desirable.

(3) The department shall charge a fee of not less than \$2 for conducting a file search of vehicle title records.

History: 1977 c. 29 s. 1654 (7) (a); 1979 c. 221.

**342.10 Contents of certificate of title.** (1) Each certificate of title issued by the department shall contain:

(a) The name and address of the owner.

(b) The names of any secured parties in the order of priority as shown on the application or, if the application is based on another certificate of title, as shown on such certificate.

(c) The title number assigned to the vehicle.

(d) A description of the vehicle, including make, model and identifying number.

(e) Any other data which the department deems pertinent and desirable.

(2) The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, or insurance company, and may contain forms for application for a certificate of title by a transferee and for the naming of a secured party and the assignment or release of a security interest.

(3) Before issuing any new or duplicate certificate of title for a motor vehicle previously junked and reconditioned, the department shall stamp thereon the words "This vehicle previously junked and reconditioned". Before issuing a new or duplicate certificate of title for a motor vehicle previously licensed and used as a taxicab or for public transportation, the department shall stamp on such certificate the words "This motor vehicle has previously been used as a taxicab or for public transportation".

(4) Unless the applicant fulfills the requirements of s. 342.12 (3), a distinctive certificate of title shall be issued for a vehicle last previously registered in another jurisdiction the laws of which do not require that secured parties be named on a certificate of title to perfect their security interests. The certificate shall contain the legend "This vehicle may be subject to an undisclosed security interest" and may contain any other information the department prescribes. If no notice of a security interest in the vehicle is received by the department within 4 months from the issuance of the distinctive certificate of title, it shall, upon application and surrender of the distinctive certificate, issue a certificate of title in ordinary form.

(5) A certificate of title issued by the department is prima facie evidence of the facts appearing on it.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 79.

Certificate of title is not conclusive evidence of ownership; purpose of (5) is to furnish convenient evidence of vehicle ownership. Nat. Exchange Bank of Fond du Lac v. Mann, 81 W (2d) 352, 260 NW (2d) 716.

**342.11 Grounds for refusing issuance of certificate of title.**

The department shall refuse issuance of a certificate of title if any required fee is not paid or if it has reasonable grounds to believe that:

- (1) The person alleged to be the owner of the vehicle is not the owner; or
- (2) The application contains a false or fraudulent statement; or
- (3) The applicant fails to furnish the information or documents required by law or by the department pursuant to authority of law.

**History:** 1977 c. 29 s. 1654 (7) (a).

**342.12 Withholding certificate of title; bond.** (1) No certificate of title shall be issued by the department until the outstanding evidence of ownership is surrendered to the department.

(2) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department, subject to sub. (3), shall either:

- (a) Withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or
- (b) Issue a distinctive certificate of title pursuant to s. 342.10 (4) or 342.283.

(3) Notwithstanding sub. (2), the department may issue a nondistinctive certificate of title if the applicant fulfills either of the following requirements:

(a) The applicant is a dealer licensed under s. 218.01 or 218.11 and is financially responsible as substantiated by the last financial statement on file with the department, a finance company licensed under s. 138.09 or 218.01, a bank organized under the laws of this state, or a national bank located in this state; or

(b) The applicant has filed with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of 5 years or prior thereto if, apart from this section, a nondistinctive certificate of title could then be issued for the vehicle, or if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

**History:** 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a).

**342.13 Lost, stolen or mutilated certificates.** (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 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 the legend "This is a replacement certificate and may be subject to the rights of a person under the original certificate".

(2) The department shall not issue a new certificate of title to a transferee upon application made on a replacement until 15 days after receipt of the application.

(3) A person recovering an original certificate of title for which a replacement has been issued shall promptly surrender the original certificate to the department.

**History:** 1975 c. 297; 1977 c. 29 s. 1654 (7) (a).

**342.14 Fees.** The department shall be paid the following fees:

(1) For filing an application for the first certificate of title, \$5, by the owner of the vehicle.

(2) For the original notation and subsequent release of each security interest noted upon a certificate of title, a single fee of \$4 by the owner of the vehicle.

(3) For a certificate of title after a transfer, \$5, by the owner of the vehicle.

(4) For each assignment of a security interest noted upon a certificate of title, \$1 by the assignee.

(5) For a replacement certificate of title, \$8, by the owner of the vehicle.

(7) For processing applications for certificates of title which have a special handling request for fast service, a fee to be established by rule which shall approximate the cost to the department for providing this special handling service to persons so requesting.

**History:** 1975 c. 39, 297, 422; 1977 c. 29 ss. 1452, 1654 (7) (a); 1977 c. 418; 1979 c. 221; 1981 c. 20; 1983 a. 27.

## TRANSFER OF TITLE

**342.15 Transfer of interest in a vehicle.** (1) (a) If an owner transfers an interest in a vehicle, other than by the creation of a security interest, 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 cause the certificate to be mailed or delivered to the transferee, except that if the vehicle being transferred has been junked, the owner shall return the certificate to the department in accordance with s. 342.34.

(b) No person may transfer a motor vehicle without disclosing in writing to the transferee the odometer reading. The disclosure shall state either that the reading is known to be actual mileage, or that the reading is not the actual mileage and should not be relied upon, or that the reading reflects the mileage in excess of the designed mechanical limit of 99,999 miles or kilometers. The disclosure shall further state that either the odometer was not altered, set back, disconnected, repaired or replaced, or that the odometer was altered for repair or replacement purposes and the mileage registered on the repaired or replacement odometer was identical to that before the service, or that the repaired or replacement odometer was incapable of registering the same mileage, and was reset to zero and the mileage on the original odometer before repair or replacement was as stated by the transferor. No transferor shall knowingly give a false statement to a transferee in making the disclosure. The department shall prescribe the manner in which the written disclosure shall be made and retained. The transferor of a moped, motor bicycle, all-terrain vehicle, motor vehicle with a gross weight rating of more than 16,000 pounds or a vehicle 25 or more years old need not disclose odometer mileage as required by this subsection.

(c) If an owner transfers his or her interest in a vehicle to an insurance company, as a result of an insurance claim settlement, 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 cause the certificate to be mailed or delivered to the transferee.

(d) If an insurance company obtains ownership of a vehicle as a result of an insurance claim settlement and procures the certificate of title from the owner, such insurance company:

1. Upon transferring the vehicle to a licensed motor vehicle dealer or motor vehicle salvage dealer, is not required to send the certificate to the department, but shall promptly execute the assignment and warranty of title, showing the name and address of the transferee in the spaces provided therefor on the certificate or as the department prescribes and cause the certificate to be mailed or delivered to the transferee.

2. Upon transferring the vehicle to anyone other than a licensed motor vehicle dealer or motor vehicle salvage dealer, shall execute the application for a new certificate of title in the space provided therefor on the certificate or as the department prescribes, and cause the certificate and application to be mailed or delivered to the department.

(2) Except as provided in sub. (1) (d) and s. 342.16, the transferee shall, promptly after delivery to him or her of the vehicle, execute the application for a new certificate of title in the space provided therefor on the certificate or as the department prescribes, and cause the certificate and application to be mailed or delivered to the department.

(3) Except as provided in sub. (1) (d) and s. 342.16 and as between the parties, a transfer by an owner is not effective until the provisions of this section have been complied with. An owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of this section requiring action by him or her is not liable as owner for any damages thereafter resulting from operation of the vehicle.

(4) (a) If the vehicle being transferred is a motorcycle or an automobile or station wagon registered under the monthly series system or a motor home or a motor truck, dual purpose motor home or dual purpose farm truck which has a gross weight of not more than 8,000 pounds or a farm truck which has a gross weight of not more than 12,000 pounds, the owner shall remove the registration plates and retain and preserve them for use on any other vehicle of the same type and gross weight which may subsequently be registered in his or her name.

(b) If the vehicle being transferred is a vehicle registered under s. 341.26 at a special fee and the new owner will not be entitled to register the vehicle at such fee, the transferor shall remove and destroy the plates.

(c) In all other cases the transferor shall permit the plates to remain attached to the vehicle being transferred, except that if the vehicle has been junked the transferor shall remove and destroy the plates.

(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) may be required to forfeit not more than \$200.

(6) Except as provided in sub. (1) (d) and s. 342.16, any transferee of a vehicle who fails to make application for a new certificate of title immediately upon transfer to him or her of a vehicle may be required to forfeit not more than \$200. A certificate is considered to have been applied for when the application accompanied by the required fee has been delivered to the department or deposited in the mail properly addressed with postage prepaid.

(7) Any owner of a vehicle currently registered in this state who fails to comply with the requirements of sub. (4) may be required to forfeit not more than \$200.

**History:** 1971 c. 278; 1975 c. 121, 199; 1977 c. 29 ss. 1453, 1654 (7) (a); 1977 c. 79, 129, 203, 418, 447; 1983 a. 126, 227, 270, 538; 1985 a. 29, 202, 332.

Sub. (3) does not unambiguously state when title to vehicle is transferred from vendor to purchaser nor does it prevent passage of such title until a new certificate is obtained. *Nat. Exchange Bank of Fond du Lac v. Mann*, 81 W (2d) 352, 260 NW (2d) 716.

Although strict compliance with this section conclusively shows transfer of ownership, such compliance is not prerequisite to transfer. *Bachelor v. Employers Mut. Liability Ins. Co.* 93 W (2d) 564, 287 NW (2d) 817 (1980).

**342.16 Transfer to or from dealer. (1)** If a dealer acquires a new or used vehicle and holds it for resale or accepts a vehicle for sale on consignment the dealer need not send the certificate of title or application for original certificate to the department. Upon transferring the vehicle to another person the dealer shall immediately give the transferee on a form prescribed by the department a receipt for all title, registration, security interest and sales tax moneys paid to the dealer for transmittal to the department when required. The dealer shall promptly execute the assignment and warranty of title, showing the name and address of the transferee and of any secured party holding a security interest created or reserved at the time of the resale or sale on consignment, in the spaces provided therefor on the certificate or as the department prescribes, and shall within 7 business days following the sale or transfer mail or deliver the certificate or application for certificate to the department with the transferee's application for a new certificate. A nonresident who purchases a motor vehicle from a dealer in this state is not required to have a certificate of title issued for the vehicle in this state unless the dealer determines that a title is necessary to protect the interests of a secured party. The dealer is responsible for determining whether a title and perfection of security interest is required. The dealer is liable for any damages incurred by the department or any secured party for the dealer's failure to perfect a security interest which the dealer had knowledge of at the time of sale.

**(1m)** No motor vehicle dealer or motor vehicle salesman may transfer a motor vehicle without disclosing in writing to the transferee the odometer reading. The disclosure shall state either that the reading is known to be actual mileage, or that the reading is not the actual mileage and should not be relied upon, or that the reading reflects the mileage in excess of the designed mechanical limit of 99,999 miles or kilometers. The disclosure shall further state that either the odometer was not altered, set back, disconnected, repaired or replaced, or that the odometer was altered for repair or replacement purposes and the mileage registered on the repaired or replacement odometer was identical to that before the service, or that the repaired or replacement odometer was incapable of registering the same mileage, and was reset to zero and the mileage on the original odometer before repair or replacement was as stated by the transferor. No motor vehicle dealer or motor vehicle salesman may knowingly give a false statement to a transferee in making the disclosure. The department shall prescribe the manner in which the written disclosure shall be made and retained. The disclosure requirement does not apply to a moped, motor bicycle, all-terrain vehicle, motor vehicle with a gross weight rating of more than 16,000 pounds or a vehicle 25 or more years old.

**(2)** Every dealer shall maintain for 5 years a record in the form the department prescribes of every vehicle bought, sold or exchanged, or received for sale or exchange, which shall be open to inspection by a representative of the department or a peace officer during reasonable business hours.

(2m) (a) Notwithstanding the provisions of s. 342.13, upon the application of a dealer for the issuance of a certificate of title naming the dealer as owner of a vehicle purchased by the dealer and held for resale, the department shall issue the certificate of title to the dealer as soon as practicable after receipt of the application. If the original certificate of title is unavailable to the dealer at the time the dealer obtains possession of the vehicle for resale because of any of the reasons stated in s. 342.13, the dealer shall obtain from the prior owner, on a form prescribed by the department, such prior owner's certification of the security interests presently existing in the vehicle and submit such certification to the department with the application. The dealer shall be liable to any person who shall incur damages by reason that a certificate of title issued pursuant to this subsection fails to disclose a presently existing security interest.

(b) The dealer shall have a cause of action against a prior owner for damages incurred by the dealer by reason of the owner's failure to accurately list all security interests on the certification form required by par. (a). Any person who wilfully fails to disclose an existing security interest on such certification form may further be required to forfeit not more than \$200.

(3) Any dealer who fails to comply with this section may be required to forfeit not more than \$200.

**History:** 1973 c. 218; 1975 c. 121, 286, 351, 421; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273, 418; 1981 c. 150, 151, 391; 1985 a. 29, 202, 332.

**342.17 Involuntary transfers. (1)** If the interest of an owner in a vehicle passes to another other than by voluntary transfer, the transferee shall, except as provided in sub. (2), promptly mail or deliver to the department the last certificate of title, if available, and the documents required by the department to legally effect such transfer, and an application for a new certificate in the form the department prescribes.

(2) If the interest of the owner is terminated or the vehicle is sold under a security agreement by a secured party named in the certificate of title, the transferee shall promptly mail or deliver to the department the last certificate of title, an application for a new certificate in the form the department prescribes, and an affidavit made by or on behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement.

(3) A person holding a certificate of title whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate, and the action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or secured party named in the old certificate.

(4) (a) In all cases of the transfer of a vehicle owned by a decedent, except under par. (b), ward, trustee or bankrupt, the department shall accept as sufficient evidence of the transfer of ownership the following:

1. Evidence satisfactory to the department of the issuance of the letters of administration, letters testamentary, letters of guardianship, letters of trust or appointment of the trustee in bankruptcy;

2. The title executed by such administrator, executor, guardian or trustee; and

3. The evidence concerning payment of sales or use taxes required by s. 77.61 (1) or evidence that the transfer is exempt from such taxes.

(b) 1. The department shall transfer the decedent's interest in any vehicle to his or her surviving spouse upon receipt of

the title executed by the surviving spouse and an affidavit by the spouse which shall state:

a. The date of death of the decedent;

b. The approximate value and description of the vehicle; and

c. That the spouse is personally liable for the decedent's debts and charges to the extent of the value of the vehicle, subject to s. 859.25.

2. The transfer shall not affect any liens upon the vehicle.

3. Except as provided in subd. 4, this paragraph is limited to no more than 5 vehicles.

4. The limit in subd. 3 does not apply if the surviving spouse is proceeding under s. 867.03 (1) and the total value of the decedent's solely-owned property in the state, including the vehicles transferred under this paragraph, does not exceed \$5,000.

(c) Upon compliance with this subsection neither the secretary nor the department shall bear any liability or responsibility for the transfer of such vehicles in accordance with this section.

**History:** 1971 c. 164 s. 82; 1973 c. 40, 243; 1977 c. 29 s. 1654 (7) (a), (c); 1977 c. 273; 1985 a. 141.

**342.18 When department to issue a new certificate. (1)**

The department, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer documents required by law, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner.

(2) The department, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner. If the transfer constituted a termination of the owner's interest or a sale under a security agreement by a secured party named in the certificate, under s. 342.17 (2), the new certificate shall be issued free of the names and addresses of the secured party who terminated the owner's interest and of all secured parties subordinate under s. 342.19 to such secured party. If the outstanding certificate of title is not delivered to it, the department shall make demand therefor from the holder of such certificate.

(3) The department shall file and retain for 5 years a record of every surrendered certificate of title, the file to be maintained so as to permit the tracing of title of the vehicle designated therein.

(4) Under the following circumstances only, the department shall issue a certificate of title for a transferred vehicle without requiring registration of the vehicle:

(a) Application therefor accompanied by the required fee is made by a dealer licensed under s. 218.01 or 218.11, a finance company licensed under s. 138.09 or 218.01, a bank organized under the laws of this state, or a national bank located in this state, and the vehicle in question is a used vehicle for which the department had issued a certificate of title to the previous owner or a vehicle previously registered in another jurisdiction or is a mobile home; or

(b) Application therefor accompanied by the required fee is made by any other person and the vehicle in question is a vehicle for which the department had issued a certificate of title to the previous owner or is a vehicle previously registered in another jurisdiction or is a mobile home and the department is satisfied that the present owner has not operated or consented to the operation of the vehicle since it was transferred to that owner and that he or she understands that the certificate of title merely is evidence of ownership of the

vehicle and does not authorize operation of the vehicle on the highways of this state.

**History:** 1973 c. 116 s. 6; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273.

**342.19 Perfection of security interests.** (1) Unless excepted by s. 342.02, a security interest in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or secured parties of the vehicle unless perfected as provided in this chapter.

(2) Except as provided in sub. (2m), a security interest is perfected by the delivery to the department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party, and the required fee. It is perfected as of the time of its creation if such delivery is completed within 10 days thereafter, and without regard to the limitations expressed in s. 409.301 (2); otherwise, as of the time of such delivery.

(2m) If a secured party whose name and address is contained on the certificate of title for a vehicle acquires a new or additional security interest in the vehicle, such security interest is perfected at the time of its attachment under s. 409.203.

(3) An unperfected security interest is subordinate to the rights of persons described in s. 409.301.

(4) The rules of priority stated in s. 409.312, and the other sections therein referred to, shall, to the extent appropriate, apply to conflicting security interests in a vehicle of a type for which a certificate of title is required, or in a "previously certificated vehicle" as defined in s. 342.281. A security interest perfected under this section or under ss. 342.284 and 342.285 is a security interest perfected otherwise than by filing for purposes of s. 409.312.

(5) The rules stated in ss. 409.501 to 409.507 governing the rights and duties of secured parties and debtors and the requirements for, and effect of, disposition of a vehicle by a secured party, upon default shall, to the extent appropriate, govern the rights of secured parties and owners with respect to security interests in vehicles perfected under this chapter.

(6) If a vehicle is subject to a security interest when brought into this state, s. 409.103 (1), (2) and (3) state the rules which apply to determine the validity and perfection of the security interest in this state.

**History:** 1973 c. 336 s. 79; 1975 c. 286, 422; 1977 c. 29 s. 1654 (7) (a).

Ch. 342, not ch. 409, governs perfection of security interest in motor vehicles, but creation of interest is governed by ch. 409. *Milwaukee Mack Sales v. First Wis. Nat. Bank*, 93 W (2d) 589, 287 NW (2d) 708 (1980).

**342.195 Notification of person who has perfected security interest.** Upon request of a person who has perfected a security interest under s. 342.19, as shown by the records of the department, in a vehicle titled in this state, whenever the department receives information from another state that the vehicle is being titled in the other state and the information does not show that the security interest has been satisfied, the department shall notify the person. The person shall pay the department a \$2 fee for each notification.

**History:** 1983 a. 155; 1985 a. 202.

**342.20 Duties on creation of security interest.** If an owner creates a security interest in a vehicle, unless the name and address of the secured party already is contained on the certificate of title for the vehicle:

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

(2) The secured party shall immediately cause the certificate, application and the required fee to be mailed or delivered to the department.

(3) Upon receipt of the certificate of title, application and the required fee, 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 and to the register of deeds of the county of the debtor'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.

(4) The registers of deeds may maintain a file of all memoranda received from the department under sub. (3). Such filing, however, is not required for perfection, release or assignment of security interests, which shall be effective upon compliance with ss. 342.19 (2), 342.21 and 342.22 (1) and (2).

**History:** 1975 c. 286; 1977 c. 29 s. 1654 (7) (a); 1981 c. 20; 1985 a. 202 s. 37.

**342.21 Assignment of security interest.** (1) A secured party may assign, absolutely or otherwise, his security interest in the vehicle to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

(2) The assignee may but need not, to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as secured party, upon delivering to the department the certificate and an assignment by the secured party named in the certificate in the form the department prescribes.

**History:** 1977 c. 29 s. 1654 (7) (a).

**342.22 Release of security interest.** (1) 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 execute and deliver to the owner, as the department prescribes, a release of the security interest in the form and manner prescribed by the department and a notice to the owner stating in no less than 10-point boldface type the owner's obligation under sub. (2). If the secured party fails to execute and deliver the release and notice of the owner's obligation as required by this subsection, the secured party is liable to the owner for \$25 and for any loss caused to the owner by the failure.

(2) The owner, other than a dealer holding the vehicle for resale, upon receipt of the release and notice of obligation 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.

(3) The department may remove information pertaining to a security interest perfected under s. 342.19 from its computerized records when the following applicable period of time after the original perfection has elapsed unless the security interest is renewed in the same manner as provided in s. 342.19 (2) for perfection of a security interest:

- (a) For a mobile home, 16 years.
- (b) For a truck tractor, 8 years.
- (c) For any other vehicle, 6 years.

(4) Removal of information pertaining to a security interest from the records of the department under sub. (3) does not affect any security agreement between the owner of a vehicle and the holder of security interest in the vehicle.

History: 1977 c. 29 s. 1654 (7) (a); 1977 c. 217, 447; 1985 a. 202.

**342.23 Secured party's and owner's duties.** (1) A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to his security agreement and the indebtedness secured by it.

(2) An owner shall promptly deliver his 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 his security interest is to be assigned, extended or perfected.

(3) Any secured party who fails to disclose information pursuant to sub. (1) shall be liable for any loss caused to owner thereby.

(4) Any owner who fails to deliver the certificate of title to a secured party requesting it pursuant to sub. (2) 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.

History: 1971 c. 278.

**342.24 Method of perfecting exclusive.** The method provided in this chapter of perfecting and giving notice of security interests subject to this chapter is exclusive. Security interests subject to this chapter are hereby exempted from the provisions of law which otherwise require or relate to the filing of instruments creating or evidencing security interests.

The motor vehicle law provisions relating to security do not apply to a mobile home once it has become a fixture. *George v. Commercial Credit Corp.* 440 F (2d) 551.

**342.25 Suspension or revocation of certificate.** (1) The department shall suspend or revoke a certificate of title if it finds:

(a) The certificate of title was fraudulently procured, erroneously issued or prohibited by law;

(b) The vehicle has been scrapped, dismantled or destroyed; or

(c) A transfer of title is set aside by a court of record by order or judgment.

(2) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

(3) When the department suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the department.

(4) The department may seize and impound any certificate of title which has been suspended or revoked.

History: 1977 c. 29 s. 1654 (7) (a).

**342.255 Cancellation of title or registration.** The department shall cancel a title or registration whenever:

(1) A transfer of title is set aside by the court by order or judgment; or

(2) Fraud on the department is discovered by the department; or

(3) It is subsequently discovered that the issuance or possession of a title or registration is prohibited by law.

History: 1977 c. 29 s. 1654 (7) (a).

**342.26 Hearings and appeal.** Any person aggrieved by an act or omission of the department under this chapter is entitled, upon request, to a hearing and judicial review thereof in accordance with ch. 227. Contested cases shall be

heard and decided by the office of the commissioner of transportation.

History: 1977 c. 29 ss. 1454, 1654 (7) (a); 1981 c. 347 s. 80 (2).

**342.281 Previously certificated vehicle.** A previously certificated vehicle is a vehicle for which a certificate of title has been issued by the department prior to June 1, 1966.

History: 1977 c. 29 s. 1654 (7) (a).

**342.282 Deferred application to previously certificated vehicle.** Sections 342.19 to 342.24 shall not apply to a previously certificated vehicle until:

(1) There is a transfer of ownership of the vehicle; or

(2) The department issues a certificate of title of the vehicle under this chapter.

History: 1977 c. 29 s. 1654 (7) (a).

**342.283 Distinctive certificate.** If the department is not satisfied that there are no undisclosed security interests, created before June 1, 1966, in a previously certificated vehicle, it shall, unless the applicant fulfills the requirements of s. 342.12 (3), issue a distinctive certificate of title of the vehicle containing the legend "This vehicle may be subject to an undisclosed security interest" and any other information the department prescribes.

History: 1977 c. 29 s. 1654 (7) (a).

**342.284 New security interest in a previously certificated vehicle.** After June 1, 1966, a security interest in a previously certificated vehicle may be created and perfected only by compliance with ss. 342.19 and 342.24.

**342.285 Unsatisfied security interest in previously certificated vehicle.** (1) If a security interest in a previously certificated vehicle is perfected under any other applicable law of this state at the time this section takes effect (June 1, 1966), the security interest continues perfected until its perfection lapses under the law under which it was perfected (or would lapse in the absence of a further filing or renewal of filing) and thereafter, if, before such lapse, there is delivered to the department the existing certificate of title together with the application and fee required by s. 342.20 (1). In such case the department shall issue a new certificate pursuant to s. 342.20 (3).

(2) If a security interest in a previously certificated vehicle was created, but was unperfected, under any other applicable law of this state at the time this section takes effect (June 1, 1966), it may be perfected under sub. (1), but such perfection dates only from the date of the division's receipt of the certificate.

History: 1977 c. 29 s. 1654 (7) (a).

#### ANTI-THEFT AND ANTI-FRAUD PROVISIONS

**342.30 Assignment and stamping of new identification numbers.** (1) The department shall assign a new identification number for each vehicle subject to registration which has not been numbered by the manufacturer or on which the original number has been removed, obliterated or altered or on which the original casting has been replaced.

(2) An identification number assigned by the department to a mobile home, trailer or semitrailer shall be stamped upon the frame in a readily visible location. An identification number assigned to a motor vehicle manufactured prior to January 1, 1969, shall be permanently affixed to the left front pillar. The vehicle identification number for motor vehicles manufactured after January 1, 1969, shall be permanently affixed upon either a part of the vehicle that is not designed to be removed except for repair, or a separate plate which is permanently affixed to such part. The vehicle identification

number shall be located inside the passenger compartment and shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eyepoint is located outside the vehicle adjacent to the left windshield pillar. Identification numbers assigned for cycles shall be stamped on the left side, near the top of the engine casting just below the cylinder barrel. Such stamping or affixing shall be done under the supervision of a dealer, distributor or manufacturer registered under s. 341.51 or under the supervision of a peace officer. The person supervising the stamping or affixing shall make a report thereof to the department.

(3) Any owner of a vehicle for which the department has issued a new identification number who fails to have such number attached or stamped as required by sub. (2) may be required to forfeit not more than \$200.

History: 1971 c. 278; 1975 c. 121; 1977 c. 29 s. 1654 (7) (a); 1985 a. 202.

**342.31 Report of stolen or abandoned motor vehicles. (1)** Each sheriff and police department in the state shall immediately report to the department of justice each motor vehicle reported stolen or recovered within its jurisdiction.

(2) An owner of a garage or trailer park or of any type of storage or parking lot for motor vehicles shall report to the local law enforcement agency the make, motor number and serial or identification number of any vehicle stored, parked or left in his garage, park or lot for a period of more than 30 consecutive days unless arrangements have been made by the owner of the vehicle for its continuous storage or parking or unless the owner of the vehicle is personally known to the owner of the garage, park or lot. Any person who fails to submit such report may be required to forfeit not more than \$25.

History: 1971 c. 278; 1973 c. 169.

**342.33 Sale of vehicle used as taxicab.** No person shall sell or exchange, authorize or direct the sale or exchange of, or offer for sale or exchange any motor vehicle which the person knows has been used as a taxicab or for public transportation unless the certificate of title for such vehicle has been stamped by the department with the words "This motor vehicle has previously been used as a taxicab or for public transportation" and unless such certificate of title is exhibited by the vendor to the vendee before the sale of such vehicle is consummated. Any person who violates this section may be required to forfeit not more than \$1,000.

History: 1973 c. 218; 1977 c. 29 s. 1654 (7) (a); 1977 c. 273.

**342.34 Department to be notified of destruction or junking of vehicle. (1)** Any person owning or possessing a motor vehicle which has been junked or destroyed shall, within 10 days after the destruction or junking occurred:

(a) Notify the department of the destruction or junking; and

(b) Return the certificate of title to the department; and

(c) If the motor vehicle is a motorcycle or an automobile or station wagon registered under the monthly series system or a motor home or a motor truck, dual purpose motor home or dual purpose farm truck which has a gross weight of not more than 8,000 pounds or a farm truck which has a gross weight of not more than 12,000 pounds, the owner shall remove the registration plates and retain and preserve them for use on any other vehicle of the same type which may subsequently be registered in his or her name. If the motor vehicle is not a motorcycle or an automobile or station wagon registered under the monthly series system, or a motor home or a motor truck, dual purpose motor home or dual purpose farm truck which has a gross weight of not more than 8,000 pounds or a

farm truck which has a gross weight of not more than 12,000 pounds, he or she shall remove and destroy the plates.

(2) Any person violating this section may be required to forfeit not more than \$200.

History: 1971 c. 278; 1977 c. 29 ss. 1455, 1654 (7) (a); 1977 c. 129, 418; 1983 a. 126, 227, 270, 538.

**342.40 Vehicle abandonment prohibited; removal; disposal. (1)** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this subsection, whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours in cities of the 1st class and, in other cities, villages and towns, a period set by the governing body thereof, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when designated as not abandoned by a duly authorized municipal or county official pursuant to municipal or county ordinance.

(2) Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under sub. (3) except that if it is deemed by a duly authorized municipal or county representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the municipality or county prior to expiration of the impoundment period upon determination by the chief of police or sheriff having jurisdiction that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with sub. (3) (c).

(3) Any municipality or county may enact ordinances governing the removal and disposal of abandoned vehicles and provide a forfeiture in addition to providing for the recovery by the municipality or county of the cost of impounding and disposing of the vehicle.

(a) Any municipal or university police officer, sheriff's deputy, county traffic patrolman, state traffic officer or conservation warden who discovers any motor vehicle, trailer, semitrailer, or mobile home on any public highway or private or public property which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle the officer or warden shall notify the sheriff or chief of police of the abandonment and of the location of the impounded vehicle.

(b) The owner of any abandoned vehicle except a stolen vehicle is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the municipality against the owner. Whether or not the municipality recovers the cost of towing and enforcement, the municipality shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment.

(c) Any vehicle which is deemed abandoned by a duly authorized municipal or county representative and not disposed of under sub. (2) shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice

shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title, and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold. The municipality or county may dispose of the vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by a duly authorized municipal or county representative, in which event all bids may be rejected. If all bids are rejected or no bid is received, the municipality or county may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. If municipal or county ordinances do not state the procedure to be followed in advertising or providing public notice of the sale, a public notice shall be posted at the office of the municipal police department or the office of the county sheriff. The posting of the notice at the police or sheriff's department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale

of an abandoned vehicle, the municipality or county shall supply the purchaser with a completed form designed by the department enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area, but shall pay a reasonable storage fee established by the municipality or county for each day the vehicle remains in storage after the 2nd business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by any municipality or county shall be made available to any interested person or organization which makes a written request for such list. The municipality or county may charge a fee for the list.

(e) Within 5 days after the sale or disposal of a vehicle as provided in this subsection or sub. (2), the municipality or county shall advise the department of the sale or disposition on a form supplied by the department.

**History:** 1971 c. 131; 1973 c. 213; 1977 c. 29 s. 1654 (7) (a); 1977 c. 68, 203, 447.