

# State of South Dakota

## EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

444L0354

### HOUSE BILL NO. 1119

Introduced by: Representatives Hunt, Fryslie, Gillespie, Hackl, Krebs, Lange, McLaughlin, Pederson (Gordon), Rounds, and Weems and Senators Napoli, Abdallah, Broderick, Hundstad, Kelly, Koskan, McNenny, Moore, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the sale of out-of-state  
2 motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-5-27 be repealed.

5 ~~— 32-5-27. Any dealer, person, firm, or corporation, which brings into the state or purchases~~  
6 ~~any used or secondhand out-of-state motor vehicles not currently licensed in this state for the~~  
7 ~~purpose of sale or resale, except as a trade-in on a new motor vehicle or another used motor~~  
8 ~~vehicle or vehicles receiving a junking certificate or motor vehicles with a gross vehicle weight~~  
9 ~~rating of over twenty-six thousand pounds or a semitrailer with a manufacturer's shipping weight~~  
10 ~~of nine thousand pounds or more, shall, within thirty days from the date of purchase or entry of~~  
11 ~~the motor vehicle into the limits of this state, or from the date of purchase at a dealer's car~~  
12 ~~auction agency, title the motor vehicle pursuant to chapter 32-3 and pay the excise tax pursuant~~  
13 ~~to chapter 32-5B but is not required to license the vehicle. Any licensed motor vehicle dealer~~  
14 ~~titling a motor vehicle pursuant to this section is exempt from paying the excise tax imposed by~~  
15 ~~§ 32-5B-1 on such vehicle. A vehicle titled by a licensed motor vehicle dealer pursuant to this~~



1 ~~section shall be issued a title indicating that no excise tax has been paid. Upon transfer of the~~  
2 ~~title to a subsequent purchaser of the motor vehicle, the excise tax shall be paid by the purchaser~~  
3 ~~or by any other person as defined by subdivision 2-14-2(18), on behalf of and as the agent for~~  
4 ~~the purchaser. A violation of this section is a Class 2 misdemeanor.~~

5 ~~— The provisions of this section do not apply to any motor vehicle titled and licensed in~~  
6 ~~another jurisdiction which is sold in this state through a dealer's car auction agency licensed~~  
7 ~~under the provisions of chapter 32-6B.~~

8 Section 2. That § 32-5B-1.3 be amended to read as follows:

9 32-5B-1.3. A licensed motor vehicle dealer may license a used motor vehicle which is part  
10 of his the dealer's inventory. If the dealer licenses the motor vehicle, ~~he~~ the dealer shall title the  
11 motor vehicle, but is exempt from the motor vehicle excise tax. ~~A~~ The licensed dealer may title  
12 the vehicle without licensing it. Any vehicle titled by a dealer but not licensed is exempt from  
13 the motor vehicle excise tax. A subsequent purchaser shall pay the excise tax. ~~This section does~~  
14 ~~not apply to those motor vehicles required to be titled pursuant to § 32-5-27.~~

15 Section 3. That § 32-5B-1.5 be amended to read as follows:

16 32-5B-1.5. ~~Except as provided in § 32-5-27, any~~ Any dealer who is required by law to take  
17 title to a motor vehicle, or required to take title to a motor vehicle for the purpose of resale  
18 because of the requirements of his dealer license, shall pay the excise tax established in § 32-5B-  
19 1 and the next purchaser is not exempt from the excise tax on the subsequent purchase.

20 Section 4. That § 32-3-51.8 be amended to read as follows:

21 32-3-51.8. ~~Upon the sale, transfer, or trade-in of a motor vehicle, or if licensing a motor~~  
22 ~~vehicle in South Dakota which is titled in another state or jurisdiction, the seller, transferor,~~  
23 ~~trader, or person wishing to license in South Dakota the motor vehicle which is titled in another~~  
24 ~~state or jurisdiction~~ Upon the sale, transfer, trade-in, or titling of a motor vehicle, the seller,

1 transferor, trader, or person wishing to title in South Dakota shall submit an accurately  
2 completed damage disclosure statement ~~when applying for a certificate of title pursuant to § 32-~~  
3 ~~3-18~~. The completed damage disclosure statement may be on the back of the certificate of title  
4 or on a separate document that has been approved for use by the department. Except as  
5 otherwise provided by this section, no certificate of title may be issued by the department unless  
6 the damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to  
7 intentionally falsify any information on the damage disclosure statement. No person or dealer  
8 is liable to a subsequent owner of a vehicle because a prior owner of the vehicle failed to  
9 disclose that the vehicle had previously been damaged and repaired. This section does not apply  
10 to any motor ~~vehicles~~ vehicle more than six model years old or with a gross vehicle weight  
11 rating of more than sixteen thousand pounds and does not apply if a rebuilt title or junking  
12 certificate is sought.

13 This section ~~does apply~~ applies to all other motor vehicles, but only damage in excess of five  
14 thousand dollars shall be disclosed in the statement. If the motor vehicle has incurred damages  
15 more than once, only those damages ~~which~~ that occurred at one time ~~would be~~ are considered  
16 in determining whether the damages exceeded five thousand dollars.

17 Section 5. That § 32-3-30 be amended to read as follows:

18 32-3-30. Except as provided in §§ 32-3-6; and 32-3-24, ~~and 32-3-32~~, every motor vehicle,  
19 trailer, or semitrailer certificate of title, upon transfer of ownership, shall contain a complete  
20 record showing the chain of title of ~~such~~ the motor vehicle, trailer, or semitrailer from the owner  
21 named on the front of the title to and including the applicant presenting the ~~same~~ certificate of  
22 title as evidence of ownership and applying for a new certificate of title.

23 Section 6. That § 32-3-31 be amended to read as follows:

24 32-3-31. ~~Except as provided in § 32-3-32~~ It is a Class 2 misdemeanor to deliver or accept

1 a transfer or assignment of a motor vehicle, trailer, or semitrailer certificate of title issued by the  
2 State of South Dakota, or a motor vehicle, trailer, or semitrailer muniment of title from another  
3 state, which does not contain or set forth the name of the seller and the name of the purchaser  
4 involved in the transfer of the motor vehicle, trailer, or semitrailer.

5 Section 7. That § 32-3-32 be repealed.

6 ~~—32-3-32. Notwithstanding §§ 32-3-30 and 32-3-31, dealers licensed under chapter 32-6B~~  
7 ~~may accept and transfer out-of-state certificates or muniments of title for motor vehicles,~~  
8 ~~trailers, or semitrailers taken as a trade-in on a new motor vehicle, trailer, or semitrailer or on~~  
9 ~~another used motor vehicle, trailer, or semitrailer if they obtain from the transferor a written~~  
10 ~~power of attorney authorizing them to complete such transfer or assignment, and keep a record~~  
11 ~~thereof.~~

12 Section 8. That § 32-5-25 be amended to read as follows:

13 32-5-25. ~~Except as otherwise provided in § 32-5-27, dealers~~ Dealers in motor vehicles who  
14 have paid the dealers' license fee and complied with chapter 32-6B ~~may not be~~ are not required  
15 to pay the registration fee provided in §§ 32-5-5 to 32-5-9, inclusive.

16 Section 9. That § 32-5B-13 be repealed:

17 ~~—32-5B-13. Following a retail sale of a motor vehicle licensed pursuant to § 32-5-27 to an~~  
18 ~~out-of-state resident who has not purchased the vehicle for the purpose of resale, the seller of~~  
19 ~~the vehicle upon application to the county treasurer shall receive a refund of the excise tax~~  
20 ~~imposed by § 32-5B-1. The seller shall present the county treasurer with a copy of the retail sale~~  
21 ~~order, a receipt for the payment of the excise tax, motor vehicle title, and an affidavit stating the~~  
22 ~~documents are valid before the county treasurer makes such refund.~~