

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

444L0354

## HOUSE TRANSPORTATION COMMITTEE

### ENGROSSED NO. **HB 1119** - 01/31/2005

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Hunt, Fryslic, 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 amended to read as follows:

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, a used motor vehicle purchased by a dealer and sold to another dealer,~~ vehicles  
9 receiving a junking certificate ~~or,~~ motor vehicles with a gross vehicle weight rating of over  
10 twenty-six thousand pounds, or a semitrailer with a manufacturer's shipping weight of nine  
11 thousand pounds or more, shall, within thirty days from the date of purchase or entry of the  
12 motor vehicle into the limits of this state, or from the date of purchase at a dealer's car auction  
13 agency, title the motor vehicle pursuant to chapter 32-3 and pay the excise tax pursuant to  
14 chapter 32-5B but is not required to license the vehicle. Any licensed motor vehicle dealer



1 titling a motor vehicle pursuant to this section is exempt from paying the excise tax imposed by  
2 § 32-5B-1 on such vehicle. A vehicle titled by a licensed motor vehicle dealer pursuant to this  
3 section shall be issued a title indicating that no excise tax has been paid. Upon transfer of the  
4 title to a subsequent purchaser of the motor vehicle, the excise tax shall be paid by the purchaser  
5 or by any other person as defined by subdivision 2-14-2(18), on behalf of and as the agent for  
6 the purchaser. A violation of this section is a Class 2 misdemeanor.

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

10 Section 2. That § 32-3-51.8 be amended to read as follows:

11 ~~32-3-51.8. Upon the sale, transfer, or trade-in of a motor vehicle, or if licensing a motor~~  
12 ~~vehicle in South Dakota which is titled in another state or jurisdiction, the seller, transferor,~~  
13 ~~trader, or person wishing to license in South Dakota the motor vehicle which is titled in another~~  
14 ~~state or jurisdiction~~ Upon the sale, transfer, trade-in, or titling of a motor vehicle, the seller,  
15 transferor, trader, or person wishing to title in South Dakota shall submit an accurately  
16 completed damage disclosure statement ~~when applying for a certificate of title pursuant to § 32-~~  
17 ~~3-18.~~ The completed damage disclosure statement may be on the back of the certificate of title  
18 or on a separate document that has been approved for use by the department. Except as  
19 otherwise provided by this section, no certificate of title may be issued by the department unless  
20 the damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to  
21 intentionally falsify any information on the damage disclosure statement. No person or dealer  
22 is liable to a subsequent owner of a vehicle because a prior owner of the vehicle failed to  
23 disclose that the vehicle had previously been damaged and repaired. This section does not apply  
24 to any motor vehicles vehicle more than six model years old or with a gross vehicle weight

1 rating of more than sixteen thousand pounds and does not apply if a rebuilt title or junking  
2 certificate is sought.

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

7 Section 3. That § 32-5B-13 be repealed:

8 ~~32-5B-13. Following a retail sale of a motor vehicle licensed pursuant to § 32-5-27 to an~~  
9 ~~out-of-state resident who has not purchased the vehicle for the purpose of resale, the seller of~~  
10 ~~the vehicle upon application to the county treasurer shall receive a refund of the excise tax~~  
11 ~~imposed by § 32-5B-1. The seller shall present the county treasurer with a copy of the retail sale~~  
12 ~~order, a receipt for the payment of the excise tax, motor vehicle title, and an affidavit stating the~~  
13 ~~documents are valid before the county treasurer makes such refund.~~