

AN ACT

ENTITLED, An Act to revise certain provisions regarding the records required to be kept by certain dealers and to require that certain liens be paid by a dealer before a vehicle, snowmobile, mobile or manufactured home, or boat is offered for sale, sold, or exchanged.

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

Section 1. That § 32-6B-20 be amended to read as follows:

32-6B-20. Each dealer licensed under the provisions of this chapter, shall keep books, records, or files, in such form as prescribed or approved by the department, including the following:

- (1) A record of the purchase, sale, or exchange, of any vehicle;
- (2) A description of each vehicle purchased, sold, or exchanged, together with the name and address of the owner or other person from whom the vehicle was purchased or received and to whom it was sold or delivered. The description shall include the vehicle identification number, manufacturer's make and model, and odometer mileage; and
- (3) A certificate of title from the previous owner of any vehicle not purchased from the manufacturer, from the time the vehicle is delivered to the dealer until it has been disposed of by the dealer.

The books and records and other papers and documents shall, at all times during business hours of the day, be subject to inspection by the secretary of revenue and regulation.

Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as follows:

A dealer is not required to keep a certificate of title for any vehicle with a manufacturer's weight of sixteen thousand pounds or greater if a copy of the front and back of the certificate of title which has been assigned to the dealer is kept at the location where the vehicle is being offered for sale and the original certificate of title for the vehicle is kept at another South Dakota dealership owned by

the same dealer or kept by a lending institution.

Prior to keeping any certificate of title at another dealership or at a lending institution, the dealer shall notify the department in writing where the certificate of title is to be kept.

Section 3. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as follows:

A dealer may offer for sale, sell, or exchange a vehicle without a certificate of title if the dealer complies with the following applicable provisions:

- (1) The dealer has a record of purchase, sale, or exchange of a vehicle to include the satisfaction of any outstanding liens or encumbrances and a secured power of attorney;
- (2) If the vehicle is encumbered by a lien noted on the title, the dealer shows that payment has been tendered to the lienholder for the amount of the lien, except a lien that is the result of dealer inventory financing; or
- (3) If the dealer is required by law to obtain title prior to offering the vehicle for sale and the dealer has applied for title through the electronic on-line title system and has submitted the documents to the department.

This section does not relieve a dealer from the provisions of § 32-3-7.

Section 4. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as follows:

If a person trades in a vehicle to a dealer or enters into a consignment agreement with a dealer whereby the dealer will sell the vehicle and the vehicle has a lien noted on the title, the dealer and person may agree that the dealer shall satisfy the lien amount by paying the lienholder who is noted on the title. Failure to satisfy a lien pursuant to this section constitutes theft pursuant to chapter 22-30A. The degree of theft is determined by the amount of the unsatisfied lien. Multiple violations of this section occurring within any thirty-day period may be aggregated in amount to determine the

degree of theft.

Section 5. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as follows:

If a dealer enters into an agreement pursuant to section 4 of this Act, the dealer shall satisfy the lien within ten business days after the receipt of funds. No dealer may offer the vehicle for sale until payment has been tendered to the lienholder, except on a consigned vehicle, whereby the dealer shall comply with the terms of the consignment agreement.

Section 6. That § 32-6C-6 be amended to read as follows:

32-6C-6. Any dealer licensed under the provisions of this chapter, shall keep books, records, or files, in such form as prescribed or approved by the department, including the following:

- (1) A record of the purchase, sale, or exchange, of any snowmobile;
- (2) A description of each snowmobile purchased, sold, or exchanged, together with the name and address of the owner or other person from whom the snowmobile was purchased or received and to whom it was sold or delivered. The description shall include the snowmobile identification number and manufacturer's make and model; and
- (3) A certificate of title from the previous owner of any snowmobile not purchased from the manufacturer, from the time the snowmobile is delivered to the dealer until it has been disposed of by the dealer.

The books and records and other papers and documents shall, at all times during business hours of the day, be subject to inspection by the secretary of revenue and regulation.

Section 7. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as follows:

A dealer may offer for sale, sell, or exchange a snowmobile without a certificate of title if the dealer complies with the following applicable provisions:

- (1) The dealer has a record of purchase, sale, or exchange of a snowmobile to include the satisfaction of any outstanding liens or encumbrances and a secured power of attorney;
- (2) If the snowmobile is encumbered by a lien noted on the title, the dealer shows that payment has been tendered to the lienholder for the amount of the lien, except a lien that is the result of dealer inventory financing; or
- (3) If the dealer is required by law to obtain title prior to offering the snowmobile for sale and the dealer has applied for title through the electronic on-line title system and has submitted the documents to the department.

This section does not relieve a dealer from the provisions of § 32-3-7.

Section 8. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as follows:

If a person trades in a snowmobile to a dealer or enters into a consignment agreement with a dealer whereby the dealer will sell the snowmobile and the snowmobile has a lien noted on the title, the dealer and person may agree that the dealer shall satisfy the lien amount by paying the lienholder who is noted on the title. Failure to satisfy a lien pursuant to this section constitutes theft pursuant to chapter 22-30A. The degree of theft is determined by the amount of the unsatisfied lien. Multiple violations of this section occurring within any thirty-day period may be aggregated in amount to determine the degree of theft.

Section 9. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as follows:

If a dealer enters into an agreement pursuant to section 8 of this Act, the dealer shall satisfy the lien within ten business days after the receipt of funds. No dealer may offer the snowmobile for sale until payment has been tendered to the lienholder, except on a consigned snowmobile, whereby the dealer shall comply with the terms of the consignment agreement.

Section 10. That § 32-7A-12 be amended to read as follows:

32-7A-12. Any dealer or manufacturer licensed under the provisions of this chapter, shall keep books, records, or files, in such form as may be prescribed by the Department of Revenue and Regulation, including the following:

- (1) A record of the purchase, sale, or exchange, of any mobile or manufactured home;
- (2) A description of each mobile or manufactured home purchased, sold, or exchanged, together with the name and address of the owner or other person from whom the mobile or manufactured home was purchased or received and to whom it was sold or delivered. The description shall include the mobile or manufactured home identification number and manufacturer's make and model; and
- (3) A certificate of title from the previous owner of any mobile or manufactured home not purchased from the manufacturer, from the time the mobile or manufactured home is delivered to the dealer until it has been disposed of by the dealer.

The books and records and other papers and documents shall, at all times during business hours of the day, be subject to inspection by the secretary of revenue and regulation.

Section 11. That chapter 32-7A be amended by adding thereto a NEW SECTION to read as follows:

A dealer may offer for sale, sell, or exchange a mobile or manufactured home without a certificate of title if the dealer complies with the following applicable provisions:

- (1) The dealer has a record of purchase, sale, or exchange of a mobile or manufactured home to include the satisfaction of any outstanding liens or encumbrances and a secured power of attorney;
- (2) If the mobile or manufactured home is encumbered by a lien noted on the title, the dealer shows that payment has been tendered to the lienholder for the amount of the lien, except

a lien that is the result of dealer inventory financing; or

- (3) If the dealer is required by law to obtain title prior to offering the mobile or manufactured home for sale and the dealer has applied for title through the electronic on-line title system and has submitted the documents to the department.

This section does not relieve a dealer from the provisions of § 32-3-7.

Section 12. That chapter 32-7A be amended by adding thereto a NEW SECTION to read as follows:

If a person trades in a mobile or manufactured home to a dealer or enters into a consignment agreement with a dealer whereby the dealer will sell the mobile or manufactured home and the mobile or manufactured home has a lien noted on the title, the dealer and person may agree that the dealer shall satisfy the lien amount by paying the lienholder who is noted on the title. Failure to satisfy a lien pursuant to this section constitutes theft pursuant to chapter 22-30A. The degree of theft is determined by the amount of the unsatisfied lien. Multiple violations of this section occurring within any thirty-day period may be aggregated in amount to determine the degree of theft.

Section 13. That chapter 32-7A be amended by adding thereto a NEW SECTION to read as follows:

If a dealer enters into an agreement pursuant to section 12 of this Act, the dealer shall satisfy the lien within ten business days after the receipt of funds. No dealer may offer the mobile or manufactured home for sale until payment has been tendered to the lienholder, except on a consigned mobile or manufactured home, whereby the dealer shall comply with the terms of the consignment agreement.

Section 14. That § 32-7B-9 be amended to read as follows:

32-7B-9. Any dealer licensed under the provisions of this chapter, shall keep books, records, or files, in such form as prescribed or approved by the department, including the following:

- (1) A record of the purchase, sale, or exchange, of any boat;
- (2) A description of each boat purchased, sold, or exchanged, together with the name and address of the owner or other person from whom the boat was purchased or received and to whom it was sold or delivered. The description shall include the boat identification number and manufacturer's make and model; and
- (3) A certificate of title from the previous owner of any boat not purchased from the manufacturer, from the time the boat is delivered to the dealer until it has been disposed of by the dealer.

The books and records and other papers and documents shall, at all times during business hours of the day, be subject to inspection by the secretary of revenue and regulation.

Section 15. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as follows:

A dealer may offer for sale, sell, or exchange a boat without a certificate of title if the dealer complies with the following applicable provisions:

- (1) The dealer has a record of purchase, sale, or exchange of a boat to include the satisfaction of any outstanding liens or encumbrances and a secured power of attorney;
- (2) If the boat is encumbered by a lien noted on the title, the dealer shows that payment has been tendered to the lienholder for the amount of the lien, except a lien that is the result of dealer inventory financing; or
- (3) If the dealer is required by law to obtain title prior to offering the boat for sale and the dealer has applied for title through the electronic on-line title system and has submitted the documents to the department.

This section does not relieve a dealer from the provisions of § 32-3-7.

Section 16. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as

follows:

If a person trades in a boat to a dealer or enters into a consignment agreement with a dealer whereby the dealer will sell the boat and the boat has a lien noted on the title, the dealer and person may agree that the dealer shall satisfy the lien amount by paying the lienholder who is noted on the title. Failure to satisfy a lien pursuant to this section constitutes theft pursuant to chapter 22-30A. The degree of theft is determined by the amount of the unsatisfied lien. Multiple violations of this section occurring within any thirty-day period may be aggregated in amount to determine the degree of theft.

Section 17. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as follows:

If a dealer enters into an agreement pursuant to section 16 of this Act, the dealer shall satisfy the lien within ten business days after the receipt of funds. No dealer may offer the boat for sale until payment has been tendered to the lienholder, except on a consigned boat, whereby the dealer shall comply with the terms of the consignment agreement.

An Act to revise certain provisions regarding the records required to be kept by certain dealers and to require that certain liens be paid by a dealer before a vehicle, snowmobile, mobile or manufactured home, or boat is offered for sale, sold, or exchanged.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1111

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1111
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State