AN ACT

ENTITLED, An Act to revise certain provisions regarding the titling of motor vehicles, boats, mobile homes, and manufactured homes and the issuance of temporary permits by licensed dealers.

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

Section 1. That § 32-3-7 be amended to read as follows:

32-3-7. Any person, upon the sale and delivery of any used or secondhand motor vehicle, shall within forty-five days thereof deliver to the purchaser a certificate of title, endorsed according to law, and issued for the vehicle by the department. However, notwithstanding any other provision of law, if the purchaser defaults on the terms of the sale within the forty-five day period, the seller does not have to deliver the certificate of title to the purchaser. The seller shall notify the department in writing of the seller's refusal to deliver title to the purchaser within fourteen days of the purchaser's default on the terms of the sale. A violation of this section is a Class 2 misdemeanor.

Section 2. That § 32-3-7.1 be amended to read as follows:

32-3-7.1. If a licensed dealer does not deliver title within forty-five days as required by § 32-3-7, and the dealer has satisfied any lien in compliance with chapter 32-6B, 32-6C, 32-7A, or 32-7B and the delay in delivering title was caused because the lien holder failed to release the lien or deliver the title document in accordance with § 32-3-44, the dealer may request additional time to deliver title to the retail purchaser. The dealer's request for an extension shall be made within fifty days of the date of sale. Any request after the fifty days shall be denied and the dealer is in violation of § 32-3-7. The dealer shall provide to the department documentation to support the steps taken to satisfy the lien in a timely manner and request the title. If the department finds the request for additional time is substantiated, the department may authorize the issuance of another temporary license permit not to exceed forty-five days.

Section 3. That § 32-3-26 be amended to read as follows:

32-3-26. In any transfer of a motor vehicle, trailer, or semitrailer, the application for certificate of title shall be filed within forty-five days after the date of assignment of such motor vehicle, trailer, or semitrailer. However, licensed dealers need not apply for a certificate of title for any motor vehicle, trailer, or semitrailer in stock or acquired for stock purposes. Upon transfer of such a vehicle the licensed dealer shall give the transferee a reassignment of the certificate of title on such motor vehicle, trailer, or semitrailer or an assignment of a manufacturer's statement of origin or a manufacturer's certificate of origin.

Section 4. That § 32-3-27 be amended to read as follows:

32-3-27. Except as provided in § 32-3-26 for licensed dealers, if the application for certificate of title is presented more than forty-five days after date of assignment of the certificate of title or the manufacturer's certificate of origin of the motor vehicle, trailer, or semitrailer to the purchaser, the officer receiving the application shall collect, in addition to the fee established in § 32-3-18, a late fee of one dollar for each week or fraction thereof beyond the forty-five day limitation for twenty-five weeks and a late fee of fifty dollars for twenty-six weeks or more. Any person applying for a title more than ninety days after the date of assignment is guilty of a Class 2 misdemeanor. If the purchaser of a vehicle fails to comply with the provisions of § 32-3-26 to transfer the title within forty-five days, and the seller files a written complaint attesting to the facts, the purchaser is guilty of a Class 2 misdemeanor.

Section 5. That § 32-3-73 be amended to read as follows:

32-3-73. Any dealer, upon the sale and delivery of any new motor vehicle, shall, within forty-five days of the sale and delivery of the new motor vehicle, deliver to the purchaser the manufacturer's statement of origin or manufacturer's certificate of origin for the motor vehicle. However, notwithstanding any other provision of law, if the purchaser defaults on the terms of the sale within

the forty-five day period, the seller does not have to deliver the manufacturer's statement of origin or manufacturer's certificate of origin to the purchaser. The seller shall notify the department in writing of the seller's refusal to deliver the manufacturer's statement of origin or manufacturer's certificate of origin to the purchaser within fourteen days of the purchaser's default on the terms of the sale. A violation of this section is a Class 2 misdemeanor. Any subsequent violation that occurs within two years from any violation of this section is a Class 1 misdemeanor.

Section 6. That § 32-3A-21 be amended to read as follows:

32-3A-21. Each owner of a large boat subject to titling under §§ 32-3A-20 to 32-3A-32, inclusive, shall apply to the county treasurer for issuance of a certificate of title for the large boat within forty-five days after acquisition. The application shall be on forms the department prescribes, and accompanied by the certificate of title or other acceptable ownership document previously issued for the boat if the boat is used or the manufacturer's statement of origin if the boat is new, a bill of sale and the required fee. The application shall contain the date of sale and purchase price of the large boat or the fair market value if no sale immediately preceded the transfer, and any additional information the department requires. If the application is made for a large boat last previously registered or titled in another state or foreign country, the application shall contain this information and any other information the department requires.

Section 7. That § 32-3A-22 be amended to read as follows:

32-3A-22. If a dealer buys or acquires a used large boat for resale, the dealer may apply for and obtain a certificate of title as provided in §§ 32-3A-20 and 32-3A-21. If a dealer buys or acquires a used unnumbered large boat, the dealer shall apply for a certificate of title in the dealer's name within forty-five days. If a dealer buys or acquires a new large boat for resale, the dealer may apply for a certificate of title in the dealer's name.

Section 8. That § 32-3A-23 be amended to read as follows:

32-3A-23. Any boat dealer or motor vehicle dealer licensed pursuant to chapter 32-6B transferring a large boat requiring titling under §§ 32-3A-20 to 32-3A-32, inclusive, shall assign the title to the new owner within forty-five days of the date of sale, or if a new large boat, the boat dealer shall assign the manufacturer's certificate of origin to the new owner within forty-five days of the date of sale. Within forty-five days the applicant shall forward all title fees and applications to the county treasurer. A violation of this section is a Class 2 misdemeanor. Any subsequent violation that occurs within two years from any violation of this section is a Class 1 misdemeanor.

Section 9. That § 32-3A-24 be amended to read as follows:

32-3A-24. No person may sell, assign, or transfer a large boat titled by the state without delivering to the purchaser or transferee a certificate of title with an assignment on it showing title in the purchaser or transferee. The certificate of title with an assignment shall be transferred to the purchaser or transferee within forty-five days from the date of the sale, assignment, or transfer. No person may purchase or otherwise acquire a large boat required to be titled by the state without obtaining a certificate of title for it in that person's name. A violation of this section is a Class 2 misdemeanor. Any subsequent violation that occurs within two years from any violation of this section is a Class 1 misdemeanor.

Section 10. That § 32-3A-41 be amended to read as follows:

32-3A-41. If application for certificate of title is presented more than forty-five days after date of assignment of title or acquisition of the large boat if no title exists or more than forty-five days after assignment of the manufacturer's statement of origin, the officer receiving the application shall collect, in addition to the regular established fees, a late fee of one dollar for each week or fraction thereof beyond the forty-five day limitation for twenty-five weeks and a late fee of fifty dollars for twenty-six weeks or more. Any person applying for a title twenty-six weeks beyond the forty-five day limitation is guilty of a Class 2 misdemeanor.

Section 11. That § 32-5-27 be amended to read as follows:

32-5-27. Any dealer, person, firm, corporation, or limited liability company which brings into the state or purchases any used or secondhand out-of-state motor vehicles not currently licensed in this state for the purpose of sale or resale, except as a trade-in on a new motor vehicle or another used motor vehicle, a used motor vehicle purchased by a dealer and sold to another dealer, vehicles receiving a junking certificate, motor vehicles with a gross vehicle weight rating of over twenty-six thousand pounds, or a semitrailer with a manufacturer's shipping weight of nine thousand pounds or more, shall, within forty-five days from the date of purchase or entry of the motor vehicle into the limits of this state, or from the date of purchase at a dealer's car auction agency, title the motor vehicle pursuant to chapter 32-3 and pay the excise tax pursuant to chapter 32-5B but is not required to license the vehicle. Any licensed motor vehicle dealer titling a motor vehicle pursuant to this section is exempt from paying the excise tax imposed by § 32-5B-1 on the vehicle. A vehicle titled by a licensed motor vehicle dealer pursuant to this section shall be issued a title indicating that no excise tax has been paid. Upon transfer of the title to a subsequent purchaser of the motor vehicle, the excise tax shall be paid by the purchaser or by any other person as defined by subdivision 2-14-2(18), on behalf of and as the agent for the purchaser. A violation of this section is a Class 2 misdemeanor.

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

Section 12. That § 32-6B-26 be amended to read as follows:

32-6B-26. In the case of a vehicle which is sold by a licensed dealer, the dealer may provide a temporary forty-five day license permit. The permit authorizes the operation of the vehicle upon the highways of this state for a period of forty-five days after the date of sale or until the time the

purchaser receives his regular license plates from the county treasurer, whichever comes first.

Section 13. That § 32-6B-27 be amended to read as follows:

32-6B-27. A temporary forty-five day license permit shall be affixed to the inside windows, to the front at the lower right-hand corner of the windshield, and to the rear on the lower left-hand corner of the rear window or to the lower rear portion of the left rear window. In the case of motorcycles or trailers, the permit shall be affixed in the manner provided for metal number plates.

Section 14. That § 32-6B-28 be amended to read as follows:

32-6B-28. The owner of a vehicle described in § 32-6B-26, shall within forty-five days after the date of purchase, apply to the county treasurer of the owner's county of residence for registration and shall possess a bill of sale, or duplicate thereof, or a properly assigned registration card, which is subject at all times to inspection by a law enforcement officer.

Section 15. That § 32-6B-29 be amended to read as follows:

32-6B-29. No dealer may use the temporary license permits provided for in § 32-6B-26, upon any vehicle owned by the dealer or for any purpose other than for vehicles sold by the dealer. No person may renew the temporary license permit nor change or alter the date or other information thereon. A violation of this section is a Class 1 misdemeanor.

Section 16. That § 32-6B-30 be amended to read as follows:

32-6B-30. The department shall prescribe, by rule, the size, color, material, and design of dealers' demonstration, in-transit, and temporary forty-five day license permits to be used by dealers licensed under this chapter. Every temporary forty-five day license permit, or dealers' demonstration, or in-transit permit, authorized by this chapter shall show the dealer's license number, which shall be of the dimensions prescribed by the department and shall have a space in which the dealer shall enter in ink the date upon which the vehicle was delivered to the purchaser and other information as the department considers necessary. Any dealer may obtain his required supply of dealers' demonstration

or in-transit permits from his own source, but the permit shall conform to the requirements of the department.

Section 17. That § 32-6C-10 be amended to read as follows:

32-6C-10. If a snowmobile is sold by a licensed dealer, the dealer may provide a temporary forty-five day license permit which is a permit to operate the snowmobile in this state for a period of forty-five days after the date of sale or until the time the purchaser receives the regular license decals from the county treasurer, whichever occurs first. No dealer may use the permit upon any snowmobile owned by the dealer or for any purpose other than for snowmobiles sold by the dealer. No person may renew the temporary license permit nor change or alter the date or other information on the permit. A violation of this section is a Class 1 misdemeanor.

Section 18. That § 32-7A-17 be amended to read as follows:

32-7A-17. Any transfer or reassignment of a mobile home or manufactured home title shall be accompanied by an affidavit issued by the county treasurer of the county in which the mobile home or manufactured home is registered, stating that the current year's taxes are paid. The county treasurer shall apply the requirements of §§ 10-21-36 to 10-21-39, inclusive, to determine if the current year's taxes are paid. No title may be transferred until the taxes under § 10-9-3 or 10-21-4 are paid. No transfer of title may be completed unless the mobile home or manufactured home is registered as provided in § 10-9-3 or 10-4-2.6. In any event the title or manufacturer's statement of origin shall be transferred within forty-five days of delivery of the manufactured home or mobile home. A violation of this section is a Class 2 misdemeanor.

Section 19. That ARSD 61:24:04:07 be amended to read as follows:

61:24:04:07. 45-day sold permit requirements. A licensed dealer shall issue a 45-day sold permit which shall comply with the following requirements: Be on white paper no larger than 8-1/2 by 11 and no smaller than 4 by 6-1/4 and indicate the (1) STATE; (2) DEALER LICENSE TYPE and

EXPIRATION DATE; (3) DEALER NAME, CITY, AND STATE; (4) DEALER LICENSE NUMBER; (5) DESCRIPTION OF THE VEHICLE; (6) YEAR, MAKE, AND VEHICLE IDENTIFICATION NUMBER; (7) DATE SOLD: DAY, MONTH, AND YEAR; and the (8) NAME AND ADDRESS OF THE PERSON WHO PURCHASED THE VEHICLE. The print on the permit must be of a size of print that is clearly visible and readable at 50 feet.

Section 20. That ARSD 61:24:04:08 be amended to read as follows:

61:24:04:08. Special plate order permit. Any applicant who applies for a special plate shall be issued a 45-day "PLATE ORDERED" permit at no charge. The permit is void after 45 days or upon receipt of the actual special plate whichever comes first.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1132

_____
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. 1132
File No. ____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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

_____
Governor

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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