

Sec. 2. **EFFECTIVE DATE; APPLICATION.**

Section 1 is effective the day following final enactment and applies to matters pending on or commenced on or after the effective date.

Presented to the governor May 18, 1989

Signed by the governor May 19, 1989, 8:55 p.m.

CHAPTER 188—S.F.No. 834

An act relating to consumer protection; requiring motor vehicle damage disclosures and branding certificates of title; amending Minnesota Statutes 1988, sections 168A.04, subdivisions 1 and 4; and 168A.05, subdivisions 3 and 5; proposing coding for new law in Minnesota Statutes, chapter 325F.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 168A.04, subdivision 1, is amended to read:

Subdivision 1. The application for the first certificate of title of a vehicle in this state shall be made by the owner to the department on the form prescribed by the department and shall contain:

(1) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;

(2) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, and whether new or used;

(3) the date of purchase by applicant, the name and address of the person from whom the vehicle was acquired, the names and addresses of any secured parties in the order of their priority, and the dates of their respective security agreements;

(4) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage; ~~and~~

(5) with respect to vehicles subject to sections 6 and 7, whether the vehicle sustained damage by collision or other occurrence which exceeded 70 percent of the actual cash value; and

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(6) any further information the department reasonably requires to identify the vehicle and to enable it to determine whether the owner is entitled to a certificate of title, and the existence or nonexistence and priority of any security interest in the vehicle.

Sec. 2. Minnesota Statutes 1988, section 168A.04, subdivision 4, is amended to read:

Subd. 4. If the application refers to a vehicle last previously registered in another state or country, the application shall contain or be accompanied by:

(1) any certificate of title issued by the other state or country;

(2) any other information and documents the department reasonably requires to establish the ownership of the vehicle and the existence or nonexistence and priority of any security interest in it;

(3) the certificate of a person authorized by the department that the identifying number of the vehicle has been inspected and found to conform to the description given in the application, or any other proof of the identity of the vehicle the department reasonably requires; and

(4) with respect to vehicles subject to sections 6 and 7, whether the vehicle sustained damage by collision or other occurrence which exceeded 70 percent of actual cash value.

Sec. 3. Minnesota Statutes 1988, section 168A.05, subdivision 3, is amended to read:

Subd. 3. **CONTENT OF CERTIFICATE.** Each certificate of title issued by the department shall contain:

(1) the date issued;

(2) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;

(3) the names and addresses of any secured parties in the order of priority as shown on the application, or if the application is based on a certificate of title, as shown on the certificate, or as otherwise determined by the department;

(4) the title number assigned to the vehicle;

(5) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, whether new or used, and if a new vehicle, the date of the first sale of the vehicle for use;

(6) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage; ~~and~~

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(7) with respect to vehicles subject to sections 6 and 7, the appropriate term "flood damaged," "rebuilt," or "reconstructed"; and

(8) any other data the department prescribes.

Sec. 4. Minnesota Statutes 1988, section 168A.05, subdivision 5, is amended to read:

Subd. 5. **ASSIGNMENT AND WARRANTY OF TITLE FORMS.** 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, and may contain forms for applications for a certificate of title by a transferee, the naming of a secured party, and the assignment or release of security interests, and shall include language necessary to implement sections 6 and 7.

Sec. 5. **[325F.664] NEW MOTOR VEHICLE DAMAGE DISCLOSURES.**

Subdivision 1. DEFINITION. For the purposes of this section, the term "new motor vehicle" means a motor vehicle as defined in section 80E.03, subdivision 7, including vehicles driven for demonstration purposes.

Subd. 2. DISCLOSURE OF DAMAGE EXCEEDING FOUR PERCENT OF RETAIL PRICE. (a) Before the sale of a new motor vehicle, a dealer must disclose and describe to the buyer, in a clear and conspicuous written statement and orally in the course of the sales presentation, any damage to the vehicle of which the dealer had actual knowledge, if the dealer's cost of repairs exceeded four percent of the manufacturer's suggested retail price, or \$500, whichever is greater.

(b) A manufacturer, distributor, or importer must disclose and describe to its franchised dealers, in a clear and conspicuous written statement, any repaired damage exceeding four percent of the manufacturer's suggested retail price, or \$500, whichever is greater.

(c) Damaged or stolen glass, tires, wheels, bumpers, radios, and in-dash audio components are excluded from the disclosure requirements of this subdivision if the damaged or stolen parts are replaced with identical manufacturer's original equipment.

Sec. 6. **[325F.6641] DISCLOSURE OF MOTOR VEHICLE DAMAGE.**

Subdivision 1. DAMAGE. (a) If a motor vehicle has sustained damage by collision or other occurrence which exceeds 70 percent of its actual cash value so that the vehicle becomes a class C total loss vehicle, the seller must disclose that fact to the buyer, if the seller has actual knowledge of the damage.

(b) The disclosure required under this subdivision must be made in writing on the application for title and registration or other transfer document, in a manner prescribed by the registrar of motor vehicles. The registrar shall revise the certificate of title form, including the assignment by seller (transferor) and

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reassignment by licensed dealer sections of the form, the separate application for title forms, and other transfer documents to accommodate this disclosure. If the seller is a motor vehicle dealer licensed pursuant to section 168.27, the disclosure required by this section must be made orally by the dealer to the prospective buyer in the course of the sales presentation.

Subd. 2. FORM OF DISCLOSURE. The disclosure required in this section must be made in substantially the following form: "To the best of my knowledge, this vehicle has has not sustained damage in excess of 70 percent actual cash value."

Sec. 7. [325F.6642] TITLE BRANDING.

Subdivision 1. FLOOD DAMAGE. If the application for title and registration indicates that the vehicle has been classified as a class B or C total loss vehicle because of water or flood damage, the registrar of motor vehicles shall record the term "flood damaged" on the certificate of title and all subsequent certificates of title issued for that vehicle.

Subd. 2. CLASS C VEHICLES. Upon transfer and application for title to all class C total loss vehicles, the registrar of motor vehicles shall record the term "rebuilt" on the first Minnesota certificate of title and all subsequent Minnesota certificates of title used for that vehicle.

Subd. 3. OUT-OF-STATE VEHICLES. (a) Upon transfer and application for title of all repaired vehicles with out-of-state titles that bear the term "damaged," "salvage," "rebuilt," "reconditioned," or any similar term, the registrar of motor vehicles shall record the term "rebuilt" on the first Minnesota certificate of title and all subsequent Minnesota certificates of title used for that vehicle.

(b) The registrar shall mark "rebuilt" on the first Minnesota certificate of title and all subsequent certificates of title issued for any vehicle which came into the state unrepaired and for which a salvage certificate of title was issued unless the person applying for the Minnesota title offers proof satisfactory to the registrar that the vehicle did not sustain damage equivalent to the 70 percent standard set forth in this section. The proof shall include photographs of the vehicle and either an insurance adjuster's written report or a written repair estimate which details the parts and labor required to repair the vehicle. The photographs and other documents submitted as proof under this subdivision must be filed and retained by the registrar so as to permit verification of the proof offered.

(c) For vehicles with out-of-state titles which bear the term "flood damaged," the registrar of motor vehicles shall record the term "flood damaged" on the first Minnesota certificate of title and all subsequent Minnesota certificates of title issued for that vehicle.

Subd. 4. RECONSTRUCTED VEHICLES. For vehicles that are reconstructed within the meaning of section 168A.15, the registrar shall record the

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term "reconstructed" on the certificate of title and all subsequent certificates of title.

Subd. 5. MANNER OF BRANDING. The designation of "flood damaged," "rebuilt," or "reconstructed" on a certificate of title shall be made by the registrar of motor vehicles in a clear and conspicuous manner, in a color different from all other writing on the certificate of title.

Subd. 6. CLASS C TOTAL LOSS VEHICLE; DEFINITION. For the purposes of this section, a class C total loss vehicle means a vehicle, damaged by collision or other occurrence, for which a salvage certificate of title has been issued and vehicles with damage of at least 70 percent of the vehicle's actual cash value immediately prior to sustaining the damage based on a written retail repair estimate or invoice, as determined by an insurer or dealer pursuant to section 168A.151 or by comparing an insurer's written retail repair estimate of damage or actual loss payout to the average trade-in value of the vehicle according to the National Automobile Dealers Association's Official Used Car Guide or other similar publication approved by the registrar.

Subd. 7. DEALER DISCLOSURE. If a licensed motor vehicle dealer offers for sale a vehicle with a branded title, the dealer shall orally disclose the existence of the brand in the course of the sales presentation.

Subd. 8. FLOOD DAMAGE; DEALER LOTS. If a motor vehicle, which is part of a licensed motor vehicle dealer's inventory, has been submerged or flooded above the bottom of the dashboard while parked on the dealer's lot, the dealer must disclose that fact in writing to any buyer and must orally disclose that fact in the course of a sales presentation to any prospective buyer. The buyer must also disclose the existence of the flood damage in writing to any subsequent buyer.

Sec. 8. [325F.6643] REMEDIES; PENALTIES.

(a) A person who violates sections 5 to 7 is subject to the remedies and penalties, including a private right of action, provided in section 8.31.

(b) A person injured by a violation of sections 5 to 7 shall recover the actual damages sustained, together with costs and disbursements, including reasonable attorney fees. In its discretion, the court may increase the award of damages to an amount not to exceed three times the actual damages sustained, or \$2,500, whichever is greater.

(c) The relief provided in this section is in addition to any remedies otherwise available under the common law or other statutes of this state.

Sec. 9. [325F.6644] APPLICATION.

Sections 6 and 7 do not apply to vehicles that are six years old or older as calculated from the first day of January of the designated model year or to commercial motor vehicles with a gross vehicle rating of 26,000 pounds or more.

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Sec. 10. EFFECTIVE DATE AND TRANSITION.

Section 5 is effective October 1, 1989. Sections 1 to 4 and 6 to 9 are effective July 1, 1990. All certificates of title issued after that date must include the disclosure language in the assignment by seller (transferor), reassignment by licensed dealer sections, and other transfer documents, and the appropriate designation "flood damaged," "rebuilt," or "reconstructed" as required by section 7. No title application or title transfer shall be rejected by the registrar for failure to include the disclosures required by sections 1 to 7 if the application for title, the assignment by seller (transferor), reassignment by licensed dealer, or other transfer documents have not been revised to include the appropriate form for disclosure pursuant to section 6, subdivision 2.

Presented to the governor May 18, 1989

Signed by the governor May 19, 1989, 8:51 p.m.

CHAPTER 189—S.F.No. 331

An act relating to notaries public; eliminating the requirement that notaries be bonded; amending Minnesota Statutes 1988, sections 359.02 and 359.071.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 359.02, is amended to read:

359.02 TERM, BOND, OATH, REAPPOINTMENT.

Every A notary ~~so~~ commissioned ~~shall hold~~ under section 359.01 holds office for six years, unless sooner removed by the governor or the district court; ~~and,~~ Before entering upon the duties of office, a newly commissioned notary shall give a bond to the state in the sum of \$10,000, to be approved by the governor, conditioned for the faithful discharge of the duties of office, which, with file the notary's oath of office, shall be filed with the secretary of state. Within ten days before the expiration of the commission a notary may be reappointed for a new term to commence and to be designated in the new commission as beginning upon the day immediately following such the date of the expiration. The reappointment so made shall go into takes effect and be is valid although the appointing governor may not be in the office of governor on said the effective day.

Sec. 2. Minnesota Statutes 1988, section 359.071, is amended to read:

359.071 CHANGE OF RESIDENCE.

A notary public who, during a term of office, establishes residency in a county of this state other than the county for which appointed, may file with the

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