

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1009

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DATE	D-PG	OFFICIAL STATUS
02/15/2017	609	Introduction and first reading
		Referred to Transportation Finance and Policy
03/08/2017	1159	Comm report: To pass and re-referred to Judiciary and Public Safety Finance and Policy
03/13/2017		Comm report: To pass as amended and re-refer to Transportation Finance and Policy

1.1 A bill for an act

1.2 relating to motor vehicles; providing for transfer-on-death of title to motor vehicles;

1.3 exempting transfer from motor vehicle sales tax; amending Minnesota Statutes

1.4 2016, sections 256B.15, subdivision 1a; 297B.01, subdivision 16; proposing coding

1.5 for new law in Minnesota Statutes, chapter 168A.

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

1.7 Section 1. **[168A.125] TRANSFER-ON-DEATH TITLE TO MOTOR VEHICLE.**

1.8 Subdivision 1. **Titled as transfer-on-death.** A natural person who is the owner of a

1.9 motor vehicle may have the motor vehicle titled in transfer-on-death or TOD form by

1.10 including in the application for the certificate of title a designation of a beneficiary or

1.11 beneficiaries to whom the motor vehicle must be transferred on death of the owner or the

1.12 last survivor of joint owners with rights of survivorship, subject to the rights of secured

1.13 parties.

1.14 Subd. 2. **Designation of beneficiary.** A motor vehicle is registered in transfer-on-death

1.15 form by designating on the certificate of title the name of the owner and the names of joint

1.16 owners with identification of rights of survivorship, followed by the words "transfer-on-death

1.17 to (name of beneficiary or beneficiaries)." The designation "TOD" may be used instead of

1.18 "transfer-on-death." A title in transfer-on-death form is not required to be supported by

1.19 consideration, and the certificate of title in which the designation is made is not required to

1.20 be delivered to the beneficiary or beneficiaries in order for the designation to be effective.

1.21 If the owner of the motor vehicle is married at the time of the designation, the designation

1.22 of a beneficiary other than the owner's spouse requires the spouse's written consent.

1.23 Subd. 3. **Interest of beneficiary.** The transfer-on-death beneficiary or beneficiaries have

1.24 no interest in the motor vehicle until the death of the owner or the last survivor of joint

2.1 owners with rights of survivorship. A beneficiary designation may be changed at any time
2.2 by the owner or by all joint owners with rights of survivorship, without the consent of the
2.3 beneficiary or beneficiaries, by filing an application for a new certificate of title.

2.4 Subd. 4. **Vesting of ownership in beneficiary.** Ownership of a motor vehicle titled in
2.5 transfer-on-death form vests in the designated beneficiary or beneficiaries on the death of
2.6 the owner or the last of the joint owners with rights of survivorship, subject to the rights of
2.7 secured parties. The transfer-on-death beneficiary or beneficiaries who survive the owner
2.8 may apply for a new certificate of title to the motor vehicle upon submitting a certified death
2.9 record of the owner of the motor vehicle. If no transfer-on-death beneficiary or beneficiaries
2.10 survive the owner of a motor vehicle, the motor vehicle must be included in the probate
2.11 estate of the deceased owner. A transfer of a motor vehicle to a transfer-on-death beneficiary
2.12 or beneficiaries is not a testamentary transfer.

2.13 Subd. 5. **Rights of creditors.** (a) This section does not limit the rights of any secured
2.14 party or creditor of the owner of a motor vehicle against a transfer-on-death beneficiary or
2.15 beneficiaries.

2.16 (b) The state or a county agency with a claim or lien authorized by section 246.53,
2.17 256B.15, 261.04, or 270C.63 is a creditor for purposes of this subdivision. A claim or lien
2.18 under those sections continues to apply against the designated beneficiary or beneficiaries
2.19 after the transfer under this section if other assets of the deceased owner's estate are
2.20 insufficient to pay the amount of the claim. The claim or lien continues to apply to the motor
2.21 vehicle until the designated beneficiary sells or transfers it to a person against whom the
2.22 claim or lien does not apply and who did not have actual notice or knowledge of the claim
2.23 or lien.

2.24 Sec. 2. Minnesota Statutes 2016, section 256B.15, subdivision 1a, is amended to read:

2.25 Subd. 1a. **Estates subject to claims.** (a) If a person receives medical assistance hereunder,
2.26 on the person's death, if single, or on the death of the survivor of a married couple, either
2.27 or both of whom received medical assistance, or as otherwise provided for in this section,
2.28 the amount paid for medical assistance as limited under subdivision 2 for the person and
2.29 spouse shall be filed as a claim against the estate of the person or the estate of the surviving
2.30 spouse in the court having jurisdiction to probate the estate or to issue a decree of descent
2.31 according to sections 525.31 to 525.313.

2.32 (b) For the purposes of this section, the person's estate must consist of:

2.33 (1) the person's probate estate;

3.1 (2) all of the person's interests or proceeds of those interests in real property the person
3.2 owned as a life tenant or as a joint tenant with a right of survivorship at the time of the
3.3 person's death;

3.4 (3) all of the person's interests or proceeds of those interests in securities the person
3.5 owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time
3.6 of the person's death, to the extent the interests or proceeds of those interests become part
3.7 of the probate estate under section 524.6-307;

3.8 (4) all of the person's interests in joint accounts, multiple-party accounts, and pay-on-death
3.9 accounts, brokerage accounts, investment accounts, or the proceeds of those accounts, as
3.10 provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the
3.11 extent the interests become part of the probate estate under section 524.6-207; and

3.12 (5) assets conveyed to a survivor, heir, or assign of the person through survivorship,
3.13 living trust, transfer-on-death of title or deed, or other arrangements.

3.14 (c) For the purpose of this section and recovery in a surviving spouse's estate for medical
3.15 assistance paid for a predeceased spouse, the estate must consist of all of the legal title and
3.16 interests the deceased individual's predeceased spouse had in jointly owned or marital
3.17 property at the time of the spouse's death, as defined in subdivision 2b, and the proceeds of
3.18 those interests, that passed to the deceased individual or another individual, a survivor, an
3.19 heir, or an assign of the predeceased spouse through a joint tenancy, tenancy in common,
3.20 survivorship, life estate, living trust, or other arrangement. A deceased recipient who, at
3.21 death, owned the property jointly with the surviving spouse shall have an interest in the
3.22 entire property.

3.23 (d) For the purpose of recovery in a single person's estate or the estate of a survivor of
3.24 a married couple, "other arrangement" includes any other means by which title to all or any
3.25 part of the jointly owned or marital property or interest passed from the predeceased spouse
3.26 to another including, but not limited to, transfers between spouses which are permitted,
3.27 prohibited, or penalized for purposes of medical assistance.

3.28 (e) A claim shall be filed if medical assistance was rendered for either or both persons
3.29 under one of the following circumstances:

3.30 (1) the person was over 55 years of age, and received services under this chapter prior
3.31 to January 1, 2014;

3.32 (2) the person resided in a medical institution for six months or longer, received services
3.33 under this chapter, and, at the time of institutionalization or application for medical assistance,

4.1 whichever is later, the person could not have reasonably been expected to be discharged
4.2 and returned home, as certified in writing by the person's treating physician. For purposes
4.3 of this section only, a "medical institution" means a skilled nursing facility, intermediate
4.4 care facility, intermediate care facility for persons with developmental disabilities, nursing
4.5 facility, or inpatient hospital;

4.6 (3) the person received general assistance medical care services under the program
4.7 formerly codified under chapter 256D; or

4.8 (4) the person was 55 years of age or older and received medical assistance services on
4.9 or after January 1, 2014, that consisted of nursing facility services, home and
4.10 community-based services, or related hospital and prescription drug benefits.

4.11 (f) The claim shall be considered an expense of the last illness of the decedent for the
4.12 purpose of section 524.3-805. Notwithstanding any law or rule to the contrary, a state or
4.13 county agency with a claim under this section must be a creditor under section 524.6-307.
4.14 Any statute of limitations that purports to limit any county agency or the state agency, or
4.15 both, to recover for medical assistance granted hereunder shall not apply to any claim made
4.16 hereunder for reimbursement for any medical assistance granted hereunder. Notice of the
4.17 claim shall be given to all heirs and devisees of the decedent, and to other persons with an
4.18 ownership interest in the real property owned by the decedent at the time of the decedent's
4.19 death, whose identity can be ascertained with reasonable diligence. The notice must include
4.20 procedures and instructions for making an application for a hardship waiver under subdivision
4.21 5; time frames for submitting an application and determination; and information regarding
4.22 appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of
4.23 medical assistance collections from estates that are directly attributable to county effort.
4.24 Counties are entitled to ten percent of the collections for alternative care directly attributable
4.25 to county effort.

4.26 Sec. 3. Minnesota Statutes 2016, section 297B.01, subdivision 16, is amended to read:

4.27 Subd. 16. **Sale, sells, selling, purchase, purchased, or acquired.** (a) "Sale," "sells,"
4.28 "selling," "purchase," "purchased," or "acquired" means any transfer of title of any motor
4.29 vehicle, whether absolutely or conditionally, for a consideration in money or by exchange
4.30 or barter for any purpose other than resale in the regular course of business.

4.31 (b) Any motor vehicle utilized by the owner only by leasing such vehicle to others or
4.32 by holding it in an effort to so lease it, and which is put to no other use by the owner other
4.33 than resale after such lease or effort to lease, shall be considered property purchased for
4.34 resale.

5.1 (c) The terms also shall include any transfer of title or ownership of a motor vehicle by
5.2 other means, for or without consideration, except that these terms shall not include:

5.3 (1) the acquisition of a motor vehicle by inheritance from or by bequest of, or
5.4 transfer-on-death of title by, a decedent who owned it;

5.5 (2) the transfer of a motor vehicle which was previously licensed in the names of two
5.6 or more joint tenants and subsequently transferred without monetary consideration to one
5.7 or more of the joint tenants;

5.8 (3) the transfer of a motor vehicle by way of gift from a limited used vehicle dealer
5.9 licensed under section 168.27, subdivision 4a, to an individual, when the transfer is with
5.10 no monetary or other consideration or expectation of consideration and the parties to the
5.11 transfer submit an affidavit to that effect at the time the title transfer is recorded;

5.12 (4) the transfer of a motor vehicle by gift between:

5.13 (i) spouses;

5.14 (ii) parents and a child; or

5.15 (iii) grandparents and a grandchild;

5.16 (5) the voluntary or involuntary transfer of a motor vehicle between a husband and wife
5.17 in a divorce proceeding; or

5.18 (6) the transfer of a motor vehicle by way of a gift to an organization that is exempt from
5.19 federal income taxation under section 501(c)(3) of the Internal Revenue Code when the
5.20 motor vehicle will be used exclusively for religious, charitable, or educational purposes.