

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1040

(SENATE AUTHORS: PRATT, Rest and Limmer)

DATE	D-PG	OFFICIAL STATUS
02/23/2015	393	Introduction and first reading Referred to Environment and Energy
04/06/2016	5685a	Comm report: To pass as amended and re-refer to Judiciary
04/07/2016		Author added Limmer Comm report: To pass as amended and re-refer to Transportation and Public Safety

A bill for an act

relating to titling; providing for transfer-on-death of title to watercraft and motor vehicles; exempting transfer from motor vehicle sales tax; amending Minnesota Statutes 2014, sections 256B.15, subdivision 1a; 297B.01, subdivision 16; proposing coding for new law in Minnesota Statutes, chapters 86B; 168A.

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

Section 1. **[86B.841] TRANSFER-ON-DEATH TITLE TO WATERCRAFT.**

Subdivision 1. **Titled as transfer-on-death.** A natural person who is the owner of a watercraft may have the watercraft titled in transfer-on-death or TOD form by including in the application for the certificate of title a designation of a beneficiary or beneficiaries to whom the watercraft must be transferred on death of the owner or the last survivor of joint owners with rights of survivorship, subject to the rights of secured parties.

Subd. 2. **Designation of beneficiary.** A watercraft is registered in transfer-on-death form by designating on the certificate of title the name of the owner and the names of joint owners with identification of rights of survivorship, followed by the words "transfer-on-death to (name of beneficiary or beneficiaries)." The designation "TOD" may be used instead of "transfer-on-death." A title in transfer-on-death form is not required to be supported by consideration, and the certificate of title in which the designation is made is not required to be delivered to the beneficiary or beneficiaries in order for the designation to be effective.

Subd. 3. **Interest of beneficiary.** The transfer-on-death beneficiary or beneficiaries have no interest in the watercraft until the death of the owner or the last survivor of joint owners with rights of survivorship. A beneficiary designation may be changed at any time by the owner or by all joint owners with rights of survivorship, without the consent of the beneficiary or beneficiaries, by filing an application for a new certificate of title.

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

2.10 Subd. 5. **Rights of creditors.** (a) This section does not limit the rights of any
2.11 secured party or creditor of the owner of a watercraft against a transfer-on-death
2.12 beneficiary or beneficiaries.

2.13 (b) The state or a county agency with a claim or lien authorized by section 246.53,
2.14 256B.15, 261.04, or 270C.63, is a creditor for purposes of this subdivision. A claim
2.15 or lien under those sections continues to apply against the designated beneficiary or
2.16 beneficiaries after the transfer under this section if other assets of the deceased owner's
2.17 estate are insufficient to pay the amount of the claim. The claim or lien continues to apply
2.18 to the watercraft until the designated beneficiary sells or transfers it to a person against
2.19 whom the claim or lien does not apply and who did not have actual notice or knowledge
2.20 of the claim or lien.

2.21 Sec. 2. **[168A.125] TRANSFER-ON-DEATH TITLE TO MOTOR VEHICLE.**

2.22 Subdivision 1. **Titled as transfer-on-death.** A natural person who is the owner of
2.23 a motor vehicle may have the motor vehicle titled in transfer-on-death or TOD form by
2.24 including in the application for the certificate of title a designation of a beneficiary or
2.25 beneficiaries to whom the motor vehicle must be transferred on death of the owner or the last
2.26 survivor of joint owners with rights of survivorship, subject to the rights of secured parties.

2.27 Subd. 2. **Designation of beneficiary.** A motor vehicle is registered in
2.28 transfer-on-death form by designating on the certificate of title the name of the owner and
2.29 the names of joint owners with identification of rights of survivorship, followed by the
2.30 words "transfer-on-death to (name of beneficiary or beneficiaries)." The designation "TOD"
2.31 may be used instead of "transfer-on-death." A title in transfer-on-death form is not required
2.32 to be supported by consideration, and the certificate of title in which the designation is
2.33 made is not required to be delivered to the beneficiary or beneficiaries in order for the
2.34 designation to be effective. If the owner of the motor vehicle is married, the designation of
2.35 a beneficiary other than the owner's spouse requires the spouse's written consent.

3.1 Subd. 3. **Interest of beneficiary.** The transfer-on-death beneficiary or beneficiaries
3.2 have no interest in the motor vehicle until the death of the owner or the last survivor of
3.3 joint owners with rights of survivorship. A beneficiary designation may be changed at any
3.4 time by the owner or by all joint owners with rights of survivorship, without the consent of
3.5 the beneficiary or beneficiaries, by filing an application for a new certificate of title.

3.6 Subd. 4. **Vesting of ownership in beneficiary.** Ownership of a motor vehicle titled
3.7 in transfer-on-death form vests in the designated beneficiary or beneficiaries on the death
3.8 of the owner or the last of the joint owners with rights of survivorship, subject to the
3.9 rights of secured parties. The transfer-on-death beneficiary or beneficiaries who survive
3.10 the owner may apply for a new certificate of title to the motor vehicle upon submitting
3.11 a certified death record of the owner of the motor vehicle. If no transfer-on-death
3.12 beneficiary or beneficiaries survive the owner of a motor vehicle, the motor vehicle must
3.13 be included in the probate estate of the deceased owner. A transfer of a motor vehicle to a
3.14 transfer-on-death beneficiary or beneficiaries is not a testamentary transfer.

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

3.18 (b) The state or a county agency with a claim or lien authorized by section 246.53,
3.19 256B.15, 261.04, or 270C.63, is a creditor for purposes of this subdivision. A claim
3.20 or lien under those sections continues to apply against the designated beneficiary or
3.21 beneficiaries after the transfer under this section if other assets of the deceased owner's
3.22 estate are insufficient to pay the amount of the claim. The claim or lien continues to
3.23 apply to the motor vehicle until the designated beneficiary sells or transfers it to a person
3.24 against whom the claim or lien does not apply and who did not have actual notice or
3.25 knowledge of the claim or lien.

3.26 Sec. 3. Minnesota Statutes 2014, section 256B.15, subdivision 1a, is amended to read:

3.27 Subd. 1a. **Estates subject to claims.** (a) If a person receives any medical assistance
3.28 hereunder, on the person's death, if single, or on the death of the survivor of a married
3.29 couple, either or both of whom received medical assistance, or as otherwise provided
3.30 for in this section, the total amount paid for medical assistance rendered for the person
3.31 and spouse shall be filed as a claim against the estate of the person or the estate of the
3.32 surviving spouse in the court having jurisdiction to probate the estate or to issue a decree
3.33 of descent according to sections 525.31 to 525.313.

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

3.35 (1) the person's probate estate;

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

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

4.8 (4) all of the person's interests in joint accounts, multiple-party accounts, and
4.9 pay-on-death accounts, brokerage accounts, investment accounts, or the proceeds of
4.10 those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the
4.11 person's death to the extent the interests become part of the probate estate under section
4.12 524.6-207; and

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

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

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

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

4.31 (1) the person was over 55 years of age, and received services under this chapter;

4.32 (2) the person resided in a medical institution for six months or longer, received
4.33 services under this chapter, and, at the time of institutionalization or application for
4.34 medical assistance, whichever is later, the person could not have reasonably been expected
4.35 to be discharged and returned home, as certified in writing by the person's treating
4.36 physician. For purposes of this section only, a "medical institution" means a skilled

5.1 nursing facility, intermediate care facility, intermediate care facility for persons with
 5.2 developmental disabilities, nursing facility, or inpatient hospital; or

5.3 (3) the person received general assistance medical care services under chapter 256D.

5.4 (f) The claim shall be considered an expense of the last illness of the decedent for
 5.5 the purpose of section 524.3-805. Notwithstanding any law or rule to the contrary, a
 5.6 state or county agency with a claim under this section must be a creditor under section
 5.7 524.6-307. Any statute of limitations that purports to limit any county agency or the state
 5.8 agency, or both, to recover for medical assistance granted hereunder shall not apply to any
 5.9 claim made hereunder for reimbursement for any medical assistance granted hereunder.
 5.10 Notice of the claim shall be given to all heirs and devisees of the decedent, and to other
 5.11 persons with an ownership interest in the real property owned by the decedent at the time
 5.12 of the decedent's death, whose identity can be ascertained with reasonable diligence. The
 5.13 notice must include procedures and instructions for making an application for a hardship
 5.14 waiver under subdivision 5; time frames for submitting an application and determination;
 5.15 and information regarding appeal rights and procedures. Counties are entitled to one-half
 5.16 of the nonfederal share of medical assistance collections from estates that are directly
 5.17 attributable to county effort. Counties are entitled to ten percent of the collections for
 5.18 alternative care directly attributable to county effort.

5.19 Sec. 4. Minnesota Statutes 2014, section 297B.01, subdivision 16, is amended to read:

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

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

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

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

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

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

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

6.6 (i) spouses;

6.7 (ii) parents and a child; or

6.8 (iii) grandparents and a grandchild;

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

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