

1 HB316  
2 106358-4  
3 By Representatives Thigpen, Harper, Black, Beasley, Faust,  
4 Robinson (O), Taylor, White, Coleman, Curtis, Robinson (J),  
5 Martin, Newton (C), Boothe and Allen  
6 RFD: Government Operations  
7 First Read: 03-FEB-09

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ENROLLED, An Act,

To amend Sections 32-8-2, 32-8-3, 32-8-6, 32-8-9, 32-8-12, 32-8-13, 32-8-31, 32-8-32, 32-8-35, and 32-8-41 Code of Alabama 1975, to change the definition of a new motor vehicle; to provide the Department of Revenue with the authority to promulgate rules to issue and transfer certificates of title electronically; to change title exemption and inspection requirements; to specify parties required to sign title applications; to add Section 32-8-68 to the Code of Alabama 1975, to provide the Department of Revenue with the authority to record and release security interests electronically; to repeal Section 32-8-14, Code of Alabama 1975; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 32-8-2, 32-8-3, 32-8-6, 32-8-9, 32-8-12, 32-8-13, 32-8-31, 32-8-32, ~~and 32-8-35,~~ 32-8-35, and 32-8-41 Code of Alabama 1975, are amended to read as follows:

"§32-8-2.

1           "For the purpose of this chapter, the following  
2 terms shall have the meanings respectively ascribed to them in  
3 this section, except where the context clearly indicates a  
4 different meaning:

5           "(1) CURRENT ADDRESS. A new address different from  
6 the address shown on the application or on the certificate of  
7 title. The owner, within 30 days after the address is changed  
8 from that shown on the application or on the certificate of  
9 title, shall notify the department of the change of address in  
10 the manner prescribed by the department.

11           "(2) DEALER. A person licensed as an automobile or  
12 motor vehicle dealer, manufactured home dealer, or travel  
13 trailer dealer and engaged regularly in the business of  
14 buying, selling or exchanging motor vehicles, trailers,  
15 semitrailers, trucks, tractors or other character of  
16 commercial or industrial motor vehicles, manufactured homes or  
17 travel trailers in this state, and having in this state an  
18 established place of business.

19           "(3) DEPARTMENT. The Department of Revenue of this  
20 state.

21           "(4) DESIGNATED AGENT. Each judge of probate,  
22 commissioner of licenses, director of revenue, or other county  
23 official in this state authorized and required by law to issue  
24 motor vehicle license tags, who may perform his or her duties  
25 under this chapter personally or through his or her deputies,

1 or such other persons located in this state, as the department  
2 may designate; the term shall also mean those "dealers" as  
3 herein defined who are appointed by the department as provided  
4 in Section 32-8-34 to perform the duties of "designated agent"  
5 for the purposes of this chapter; the "dealers" may perform  
6 their duties under this chapter either personally or through  
7 any of their officers or employees.

8 "(5) IMPLEMENT OF HUSBANDRY. Every vehicle designed  
9 and adapted exclusively for agricultural, horticultural, or  
10 livestock raising operations or for lifting or carrying an  
11 implement of husbandry and in either case not subject to  
12 licensing or registration if used upon the highways.

13 "(6) LIEN. Every kind of written lease which is  
14 substantially equivalent to an installment sale or which  
15 provides for a right of purchase, conditional sale,  
16 reservation of title, deed of trust, chattel mortgage, trust  
17 receipt, and every written agreement or instrument of whatever  
18 kind or character whereby an interest other than absolute  
19 title is sought to be held or given on a motor vehicle or  
20 manufactured home.

21 "(7) LIENHOLDER. Any person, firm, copartnership,  
22 association, or corporation holding a lien as herein defined  
23 on a motor vehicle or manufactured home.

24 "(8) MANUFACTURER. Any person regularly engaged in  
25 the business of manufacturing, constructing, assembling,

1 importing, or distributing new motor vehicles or manufactured  
2 homes, either within or without this state.

3 "(9) MANUFACTURED HOME. A structure, transportable  
4 in one or more sections, and which is built on a permanent  
5 chassis, and not designed normally to be drawn or pulled on  
6 the highway except to change permanent locations, but is  
7 designed to be used as a dwelling, with or without a permanent  
8 foundation, when connected to the required utilities,  
9 including the plumbing, heating, air conditioning, and  
10 electrical systems, if any contained therein. It may be used  
11 as a place of residence, business, profession, trade, or for  
12 any other purpose, by the owner, lessee, or assigns and may  
13 consist of one or more units that can be attached or jointed  
14 together. Except for Article 1 (Definitions), wherever in this  
15 chapter, as amended, the terms vehicle or motor vehicle shall  
16 appear, they shall be deemed to refer also to manufactured  
17 homes.

18 "(10) MOTOR VEHICLE. The term shall include all of  
19 the following:

20 "a. Every automobile, motorcycle, mobile trailer,  
21 semitrailer, truck, truck tractor, trailer and other device  
22 that is self-propelled or drawn, in, upon, or by which any  
23 person or property is or may be transported or drawn upon a  
24 public highway except such as is moved by animal power or used  
25 exclusively upon stationary rails or tracks.

1            "b. Every trailer coach and travel trailer  
2 manufactured upon a chassis or undercarriage as an integral  
3 part thereof drawn by a self-propelled vehicle.

4            "(11) NEW VEHICLE or NEW MANUFACTURED HOME. A motor  
5 vehicle or manufactured home that has never been the subject  
6 of a first sale for use and includes, among others, vehicles  
7 maintained in a dealer's inventory, vehicles provided by the  
8 manufacturer or dealer for use by participants in charity,  
9 sporting, or other special events, vehicles used for drivers'  
10 education, and vehicles delivered to customers that were  
11 subsequently returned to the dealer without a ~~certificate of~~  
12 title registration being issued on the vehicle.

13            "(12) NONRESIDENT. Every person who is not a  
14 resident of this state.

15            "(13) OWNER. A person, other than a lienholder,  
16 having the property in or title to a vehicle or manufactured  
17 home. The term includes a person entitled to the use and  
18 possession of a vehicle or manufactured home subject to a  
19 security interest in another person, but excludes a lessee  
20 under a lease not intended as security. Under any  
21 lease-purchase or installment sales agreement where a  
22 governmental agency, either city, county or state, is the  
23 lessee or purchaser with a security interest or right to  
24 purchase, the lessee or purchaser shall be the owner for  
25 purposes of this chapter.

1           "(14) PERSON. The term shall include every natural  
2 person, firm, copartnership, association, or corporation.

3           "(14.1) PICKUP TRUCK. A truck with not more than two  
4 axles and a gross weight not exceeding 12,000 pounds.

5           "(15) POLE TRAILER. Every vehicle without motive  
6 power designed to be drawn by another vehicle and attached to  
7 the towing vehicle by means of a reach or pole, or by being  
8 boomed or otherwise secured to the towing vehicle, and  
9 ordinarily used for transporting long or irregularly shaped  
10 loads such as logs, poles, pipes, boats, or structural members  
11 capable generally of sustaining themselves as beams between  
12 the supporting connections.

13           "(16) SCRAP METAL PROCESSOR. Any person, firm, or  
14 corporation engaged in the business of buying scrap vehicles  
15 or manufactured homes, automotive parts, or other metallic  
16 waste by weight to process the material into scrap metal for  
17 remelting purposes, who utilizes machinery and equipment for  
18 processing and manufacturing ferrous and nonferrous metallic  
19 scrap into prepared grades, and whose principal product is  
20 metallic scrap.

21           "(17) SCRAP VEHICLE or SCRAP MANUFACTURED HOME. Any  
22 vehicle or manufactured home that has been crushed or  
23 flattened by mechanical means or which has been otherwise  
24 damaged to the extent that it cannot economically be repaired  
25 or made roadworthy.

1           "(18) SECURITY AGREEMENT. A written agreement that  
2 reserves or creates a security interest.

3           "(19) SECURITY INTEREST. An interest in a vehicle or  
4 manufactured home reserved or created by agreement and which  
5 secures payment or performance of an obligation. The term  
6 includes the interest of a lessor under a lease intended as  
7 security. A security interest is "perfected" when it is valid  
8 against third parties generally, subject only to specific  
9 statutory exceptions.

10           "(20) SPECIAL MOBILE EQUIPMENT. Every vehicle not  
11 designed or used primarily for the transportation of persons  
12 or property and only incidentally operated or moved over the  
13 highway, including but not limited to: ditch-digging  
14 apparatus; well-boring apparatus; road construction and  
15 maintenance machinery such as asphalt spreaders, bituminous  
16 mixers, bucket loaders, tractors other than truck tractors,  
17 ditchers, leveling graders, finishing machines, motor graders,  
18 road rollers, scarifiers, earth-moving carryalls and scrapers,  
19 power shovels and draglines, and self-propelled cranes; and  
20 earth-moving equipment. The term does not include manufactured  
21 homes, dump trucks, truck-mounted transit mixers, cranes, or  
22 shovels or other vehicles designed for the transportation of  
23 persons or property to which machinery has been attached.



1           "(21) STATE. A state, territory, or possession of  
2 the United States, the District of Columbia, the Commonwealth  
3 of Puerto Rico, or a province of the Dominion of Canada.

4           "(22) TRAVEL TRAILER. A vehicle without motive  
5 power, designed and constructed as a camping vehicle or a  
6 temporary dwelling, living, or sleeping place and designed to  
7 be drawn or pulled on the highway, but not including folding  
8 or collapsible camping trailers and manufactured homes as  
9 defined in this section.

10           "(23) USED VEHICLE or USED MANUFACTURED HOME. A  
11 motor vehicle or manufactured home that has been the subject  
12 of a first sale for use, whether within this state or  
13 elsewhere.

14           "(23.1) UTILITY TRAILER. A vehicle without motive  
15 power designed to be drawn by a passenger car or pickup truck,  
16 including folding or collapsible camping trailers.

17           "(24) VEHICLE OR MANUFACTURED HOME IDENTIFICATION  
18 NUMBER. The numbers and letters on a motor vehicle or  
19 manufactured home designated by the manufacturer or assigned  
20 by the department for the purpose of identifying the motor  
21 vehicle or manufactured home.

22           "§32-8-3.

23           "(a) The department shall prescribe and provide  
24 suitable forms of applications, certificates of title, notices

1 of security interests, and all other notices and forms  
2 necessary to carry out the provisions of this chapter.

3 "(b) The department may do any of the following:

4 "(1) Make necessary investigations to procure  
5 information required to carry out the provisions of this  
6 chapter.

7 "(2) Adopt and enforce reasonable rules and  
8 regulations to carry out the provisions of this chapter.

9 "(3) Assign a new identification number to a vehicle  
10 if it has none, or its identification number is destroyed or  
11 obliterated, or its motor is changed, and shall issue a new  
12 certificate of title showing the new identification number.

13 "(4) Revoke the authority of a dealer or other  
14 person appointed by the department to act as a designated  
15 agent under this chapter when it finds that the dealer or  
16 other person has failed to faithfully perform his or her  
17 duties under this chapter or has been convicted of violating  
18 any felony provisions of this chapter or of Title 40.

19 "(c) The department, in accordance with applicable  
20 privacy and confidentiality statutes, rules, and regulations,  
21 may make available information concerning the status of a  
22 title on any vehicle as reflected by the records in a manner  
23 prescribed by the department. The department shall charge the  
24 fees set forth in Section 32-8-6; provided, that no fee shall  
25 be charged Alabama law enforcement agencies or law enforcement

1 agencies of any other state when that state furnishes like or  
2 similar information without charge to the department or to  
3 Alabama law enforcement agencies.

4 "(d) Wherever this chapter provides that a written  
5 certificate or other document is to be filed with the  
6 department, the commissioner may establish procedures for and  
7 accept in lieu of such paper document a filing made by  
8 electronic means. The department may establish procedures for  
9 the electronic transfer of title and recording and release of  
10 security interests. Such filing or transfer by electronic  
11 means shall be accepted only if the content of the filing  
12 satisfies all of the requirements of this section.

13 "§32-8-6.

14 "(a) There shall be paid to the department for  
15 issuing and processing documents required by this chapter a  
16 fee of fifteen dollars (\$15) for each of the following  
17 transactions:

18 "(1) Each application for certificate of title;

19 "(2) Each application for replacement or corrected  
20 certificate of title;

21 "(3) Each application for certificate of title after  
22 transfer;

23 "(4) Each notice of security interest;

24 "(5) Each assignment by lienholder;

1           "(6) Each application for ordinary certificate of  
2 title upon surrender of a distinctive certificate; or

3           "(7) Each application for information as to the  
4 status of the title of a vehicle.

5           "(b) The designated agents shall add the sum of one  
6 dollar fifty cents (\$1.50) for each transaction, as specified  
7 in subsection (a), processed for which this fee is charged to  
8 be retained as the agent's commission for services rendered,  
9 and all other fees collected shall be remitted to the  
10 department in a manner prescribed by the department.

11           "(c) If more than one transaction is involved in any  
12 application on a single vehicle and if supported by all  
13 required documents, the fee charged by the department and by  
14 the designated agent for processing and issuing shall be  
15 considered as only one transaction for which the designated  
16 agent shall receive and retain one dollar fifty cents (\$1.50)  
17 and shall collect and remit to the department fifteen dollars  
18 (\$15).

19           "(d) Every transaction shall be accompanied by the  
20 fee specified in this chapter, regardless of whether the title  
21 is issued electronically or not, unless specifically exempted  
22 by this chapter.

23           "§32-8-9.

24           "The department shall provide each designated agent  
25 with ~~a supply of~~ the forms and ~~the~~ rules and regulations

1 provided for in this chapter, ~~and shall furnish each~~  
2 ~~designated agent with at least five copies thereof.~~

3 "§32-8-12.

4 "A person is guilty of a Class C felony who, with  
5 fraudulent intent:

6 "(1) Alters, forges or counterfeits a certificate of  
7 title;

8 "(2) Alters or forges an assignment of a certificate  
9 of title, or an assignment or release of a security interest,  
10 on a certificate of title or a form the department prescribes;

11 "(3) Has possession of or uses a certificate of  
12 title, knowing it has been altered, forged or counterfeited;  
13 or

14 "(4) Uses a false or fictitious name or address, or  
15 makes a material false statement, or fails to disclose a  
16 security interest, or conceals any other material fact, in an  
17 application for a certificate of title.

18 "§32-8-13.

19 "A person is guilty of a Class A misdemeanor who:

20 "(1) With fraudulent intent, permits another, not  
21 entitled thereto, to use or have possession of a certificate  
22 of title;

23 "(2) Willfully fails to mail or deliver a  
24 certificate of title or application therefor to the department  
25 within 10 days after time required by this chapter;

1           "(3) Willfully fails to deliver to his transferee a  
2 certificate of title within 10 days after the time required by  
3 this chapter; or

4           "(4) Knowingly and willfully commits a fraud in any  
5 application for a title or registration; or

6           "(5) Willfully violates any other provision of this  
7 chapter, except as otherwise provided in this chapter.

8           "§32-8-31.

9           "No certificate of title shall be issued for any of  
10 the following:

11           "(1) A vehicle owned by the United States or any  
12 agency thereof.

13           "(2) A vehicle owned by a manufacturer or dealer and  
14 held for sale, even though incidentally moved on the highway  
15 or used for purposes of testing or demonstration, or a vehicle  
16 used by a manufacturer solely for testing.

17           "(3) A vehicle owned by a nonresident of this state  
18 and not required by law to be registered in this state.

19           "(4) A vehicle ~~regularly engaged in the interstate~~  
20 ~~transportation of persons or property for which a currently~~  
21 ~~effective certificate of title has been issued in another~~  
22 state for which the Alabama license plate issuing official has  
23 verified that the current owner or operator is recorded as the  
24 owner or operator on a currently effective certificate of

1 title issued by another state and the certificate of title is  
2 being held by a recorded lienholder.

3 "(5) A vehicle moved solely by animal power.

4 "(6) An implement of husbandry.

5 "(7) Special mobile equipment.

6 "(8) A pole trailer.

7 "(9) Manufactured homes, travel trailers, and mobile  
8 trailers designated 1989 year models and prior year models.

9 "(10) A new manufactured home placed on the owner's  
10 land when classified real property through the surrender of  
11 the manufacturer's certificate of origin and a real property  
12 deed is issued.

13 "(11) Utility trailers ~~not exceeding 16 feet in~~  
14 ~~length, excluding the tongue and hitch, and with not more than~~  
15 ~~one axle, other than moving collapsible and folding campers~~  
16 designated 1990 and subsequent year models.

17 "(12) A vehicle designated a 1974 year model or  
18 prior year model.

19 "§32-8-32.

20 "(a) No motor vehicle license (or license plate) ~~may~~  
21 shall be issued and no motor vehicle license (or license  
22 plate) ~~may~~ shall be transferred for use on a motor vehicle  
23 required to be titled under this chapter except on  
24 presentation by the owner to the ~~judge of probate or other~~  
25 license plate issuing ~~officer~~ official, the copy of an

1 application for a certificate of title to such vehicle, or a  
2 certificate of title to such vehicle, ~~7. a duplicate certificate~~  
3 ~~of title to such vehicle where the original is held by a~~  
4 ~~lienholder, or a copy of the application for a replacement~~  
5 ~~certificate of title; provided however, when the owner of a~~  
6 ~~motor vehicle has complied with the provisions of this section~~  
7 ~~in licensing a motor vehicle transferred to him this This~~  
8 section shall not apply thereafter to the renewal of such  
9 license by such owner of such motor vehicle.

10 "(b) No motor vehicle license or license plate shall  
11 be issued and no motor vehicle license or license plate shall  
12 be transferred for use on a motor vehicle not required to be  
13 titled under this chapter other than a vehicle subject to  
14 registration pursuant to Section 32-6-56, until the license  
15 plate issuing official has physically inspected the vehicle  
16 and verified that the vehicle identification number on the  
17 vehicle is the same as the documents required to register the  
18 vehicle; provided, however, this subsection shall not apply  
19 thereafter to the renewal of the license by the owner of such  
20 motor vehicle.

21 (c) The provisions of subsection (b) shall not apply  
22 to 1975 and subsequent year motor vehicles owned by a  
23 manufacturer or dealer and held for sale or vehicles  
24 registered under the provisions of Section 40-12-264(b) or  
25 Section 40-12-264(g).



1           "§32-8-35.

2           "(a) The application for the first certificate of  
3 title of a vehicle in this state shall be made by the owner to  
4 a designated agent, on the form the department prescribes, and  
5 shall contain all of the following:

6                 "(1) The name, current residence, and mailing  
7 address of the owner.

8                 "(2) A description of the vehicle including the  
9 following data: Year, make, model, vehicle identification  
10 number, type of body, the number of cylinders, color, and  
11 whether new or used.

12                 "(3) The date of purchase by applicant, the name and  
13 address of the person from whom the vehicle was acquired, and  
14 the names and addresses of any lienholders in the order of  
15 their priority and the dates of their security agreements.

16                 "(4) Other information that the department may  
17 require.

18           "(b) If the application is for a vehicle purchased  
19 from a dealer, it shall contain the name and address of any  
20 lienholder holding a security interest created or reserved at  
21 the time of the sale and the date of the security agreement  
22 and shall be signed by the ~~dealer~~ designated agent as well as  
23 the owner, and the designated agent shall ~~promptly mail or~~  
24 ~~deliver~~ forward the application to the department in a manner  
25 prescribed by the department.

1           "(c) If the application is for a new vehicle, it  
2 shall be accompanied by the certified manufacturer's statement  
3 of origin showing proper assignments to the applicant. The  
4 manufacturer upon the shipment of a motor vehicle into this  
5 state shall forthwith furnish the dealer with a certified  
6 statement of origin.

7           "(d) Each application shall contain or be  
8 accompanied by the certificate of a designated agent that the  
9 vehicle has been physically inspected by the agent, that the  
10 vehicle identification number and descriptive data shown on  
11 the application, pursuant to the requirements of subsection  
12 (a) (2), are correct, and that the agent identified the person  
13 signing the application and witnessed the signature.

14           "(e) If the application is for a first certificate  
15 of title on a vehicle other than a new vehicle, then the  
16 application shall conform with the requirements of this  
17 section; except, that in lieu of the manufacturer's statement  
18 of origin, the application shall be accompanied by a copy of  
19 the notarized bill of sale of the motor vehicle whereby the  
20 applicant claims title or in lieu thereof certified copies of  
21 the last two years' license tag and tax receipts and any other  
22 information the department may reasonably require to identify  
23 the vehicle and to enable the department to determine the  
24 ownership of the vehicle and the existence or nonexistence of  
25 security interests in it.

1           "(f) If the application refers to a vehicle last  
2 previously registered in another state or country, the  
3 application shall contain or be accompanied by the following:

4           "(1) Any certificate of title issued by the other  
5 state or country.

6           "(2) Any other information and documents as the  
7 department may reasonably require to establish the ownership  
8 of the vehicle and the existence or nonexistence of security  
9 interests in it.

10           "(3) The certificate of a designated agent that the  
11 vehicle has been physically inspected by him or her, that the  
12 vehicle identification number and descriptive data shown on  
13 the application pursuant to subsection (a)(2) are correct, and  
14 any other proof of the identity of the vehicle as the  
15 department may reasonably require.

16           "(g) Every designated agent, within 10 calendar days  
17 after an application is received by him or her, shall forward  
18 to the department, in a manner as prescribed by the  
19 department, the fee as provided in Section 32-8-6, and the  
20 application, along with any other evidence of title as may  
21 have been delivered to the designated agent by the applicant."

22           "32-8-41.

23           "The certificate of title shall be mailed to the  
24 first lienholder named in it or, if none, to the owner. If the  
25 certificate of title is issued electronically, the designated

1 agent that processed the application shall, at the time of  
2 issuance, provide the owner with a printed copy of such  
3 electronic certificate of title record."

4 Section 2. Section 32-8-68 is added to the Code of  
5 Alabama 1975, to read as follows:

6 §32-8-68.

7 Notwithstanding any requirement in this chapter that  
8 a lien on a motor vehicle shall be noted on the face of the  
9 certificate of title, if there is one lien or more liens or  
10 encumbrances on the motor vehicle, the department may  
11 electronically transmit the lien to the first lienholder and  
12 notify the first lienholder of any additional liens.

13 Subsequent lien satisfactions may be electronically  
14 transmitted to the department and shall include the name and  
15 address of the person satisfying the lien. If liens and lien  
16 releases are processed electronically and the last lien is  
17 satisfied, a title will be issued to the owner of the vehicle  
18 in a manner prescribed by the department. When a vehicle is  
19 subject to an electronic lien, the certificate of title for  
20 the vehicle shall be considered to be physically held by the  
21 lienholder for purposes of compliance with state or federal  
22 odometer disclosure requirements. A duly certified copy of the  
23 department's electronic record of the lien shall be admissible  
24 in any civil, criminal, or administrative proceeding in this  
25 state as evidence of the existence of the lien.

1           Section 3. All laws or parts of laws which conflict  
2 with this act are repealed and specifically Section 32-8-14,  
3 Code of Alabama 1975, is repealed.

4           Section 4. Although this bill would have as its  
5 purpose or effect the requirement of a new or increased  
6 expenditure of local funds, the bill is excluded from further  
7 requirements and application under Amendment 621, now  
8 appearing as Section 111.05 of the Official Recompilation of  
9 the Constitution of Alabama of 1901, as amended, because the  
10 bill defines a new crime or amends the definition of an  
11 existing crime.

12           Section 5. This act shall become effective on the  
13 first day of the third month following its passage and  
14 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 19-FEB-09, as amended.

Greg Pappas  
Clerk

Senate

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09-APR-09

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Passed