

SECTION 4
TITLE REQUIREMENTS

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A dealership must have a title for each vehicle (includes motorcycle, trailer, snowmobile, mobile/manufactured home and boat) that is being offered for sale.

A dealer may offer for sale, sell, or exchange a vehicle (includes trailer, motorcycle, snowmobile, mobile/manufactured home and boat) without a certificate of title if the dealer complies with the following:

1. The dealer has a record of purchase, sale, or exchange of a vehicle [purchase agreement or bill of sale] to include the satisfaction of any outstanding liens or encumbrances [proof of satisfaction of a lien shall be a copy of the check and the certified return receipt mail card or the confirmation number, if payment is made electronically] and a secured power of attorney.
2. If the vehicle is encumbered by a lien noted on the title, the dealer shows that payment has been tendered to the lienholder for the amount of the lien, except a lien that is the result of dealer inventory financing [proof that payment has been made shall be a copy of the check and the certified return receipt mail card or the confirmation number, if payment is made electronically]; or
3. If the dealer is required by law to obtain title prior to offering the vehicle for sale and the dealer has applied for title through the electronic on-line title system and has submitted the documents to the department.

If a vehicle is financed through a financial institution and the financial institution holds the title as collateral, a copy of the front and back of the title is sufficient; or a title on a vehicle with a manufacturer's weight of 26,000 pounds or greater that has been assigned to the dealer may be kept at another South Dakota dealership owned by the same dealer. A copy of the front and back of the title must be kept at the location where the vehicle is being offered for sale and the dealer must notify the department in writing as to where the title is to be kept.

Upon the sale of a vehicle, a dealer must deliver title to the purchaser within 30 days of sale of a vehicle.

Upon the sale of a manufactured/mobile home by a dealer, the dealer shall deliver the MSO or title, together with the required fees and completed forms, to the county treasurer within 30 days of the sale.

There are only two situations in which a (secure) power of attorney can be used by a dealer to assign a conforming title on a qualifying vehicle: 1) if the title is lost and a duplicate title is being applied for; or 2) if the title is being held by a lienholder.

In the event a dealer cannot deliver title to a retail customer within 30 days of the date of sale because a lienholder fails to release the lien or deliver the title, the dealer may apply to the division for a 30-day title delivery extension.

The request for an extension must be made within 40 days of the date of sale. A request made after 40 days shall be denied and the dealer is in violation of SDCL 32-3-7 (failure to deliver title within 30 days of the date of sale). To receive an extension, the dealer must provide the division with documentation that supports the steps taken to satisfy the lien in a timely manner and request the title. If the extension is approved, the division will authorize the issuance of a distinctive temporary permit. An extension cannot be authorized for over 30 days.

Titling Procedures:

Out-of-state vehicles: The dealership must obtain a South Dakota title for these vehicles within 30 days of purchase or entry of the vehicle into the state. The out-of-state title, along with the odometer statement and a damage disclosure, if applicable, is submitted to the Division of Motor Vehicles or the county treasurer's office. If the dealer is participating in the state's on-line computer system, the dealer is to enter the application on-line and then submit the paperwork to the Division of Motor Vehicles or the county treasurer. The title must be completely filled out and all assignments attached. [The dealership is allowed to offer the vehicle for sale before receiving a South Dakota title if South Dakota license plates are purchased for the vehicle or if the dealer has applied for title through the electronic on-line title system and has submitted the documents to the department.]

This requirement does not apply to vehicles taken in on trade on a new or used vehicle; a used vehicle purchased by a dealer and sold to another dealer (the dealer that subsequently retails the vehicle must title it prior to offering it for sale); vehicles with a gross vehicle weight rating of over 26,000 pounds; semi-trailers with a manufacturer's shipping weight of 9,000 pounds or more; boats; or mobile/manufactured homes.

Vehicles/boats traded from out-of-state: The dealership does not need to make application for a South Dakota title on these. The title must be assigned to the dealership when traded. When the vehicle/boat is sold, the assignment is from the dealership to the purchaser, using the reassignment section on the out-of-state title. On vehicles and boats, if applicable, a damage disclosure form (from the person trading in the vehicle/boat) must be attached and on vehicles, if applicable, a completed odometer statement and a Division of Motor Vehicles “Form 39” must be attached.

Vehicles from out-of-state purchased for wholesale: The dealership does not need to make application for a South Dakota title on a vehicle purchased by a dealer and being sold to another dealer. The dealer that purchases the vehicle for retail sale, however, is required to obtain title prior to selling the vehicle. [The dealership is allowed to offer the vehicle for sale before receiving a South Dakota title if South Dakota license plates are purchased for the vehicle or if the dealer has applied for title through the electronic on-line title system and has submitted the documents to the department.]

Vehicles/boats purchased in state: The title must be assigned to the dealership. The odometer statement and damage disclosure, when applicable, must be completed.

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Boat Titling:

Boats over 12 feet in length or motor boats of any length, except canoes, inflatable vessels, kayaks, sailboards and seaplanes, purchased or acquired by residents of this state, are required to be titled at time of registration. A boat subject to titling is also subject to the 3% excise tax, unless otherwise exempted. Boats that are not subject to the excise tax are subject to sales tax, unless otherwise exempted.

Odometer Requirements:

Odometer statements are required on vehicles 16,000 pounds or less and vehicles that are 9 years old or less. Federal and state odometer laws require the hand-printed name of the buyer and the seller, the hand-written signature of the buyer and seller, the address of the buyer and seller, the date of sale, and the odometer reading, along with specified odometer indicators. A dealer

must, upon sale of a vehicle, retain a copy of the front and back of the title after the title assignment has been made.

Salvage Title:

A salvage vehicle is any vehicle that an insurer or self-insurer determines a total loss due to theft or to damage caused by fire, vandalism, collision, weather, submersion in water, or flood.

Salvage applies to automobiles, motor trucks, truck tractors, semi-tractors, and motor homes that are 16,000 pounds (gvwr) or less and that are 6 years old or less.

If any insurer, in settlement of a total loss insurance claim, or self insurer acquires ownership of a salvage vehicle that does not have a salvage title, the insurer must within 30 days following acquisition of the title of that vehicle surrender the title to the department. A title indicating salvage will be issued to the insurer or self insurer.

If any insurer or self insurer declares a vehicle to be a total loss but does not acquire ownership of the vehicle, the owner must obtain a salvage title. The insurer or self insurer must notify the owner, in writing, of the obligation to obtain a salvage title before the owner sells or transfers the title. If the owner sells or transfers the ownership of the vehicle without first obtaining a salvage title, the owner is guilty of a Class 1 misdemeanor.

On any motor vehicle (regardless of age) whose title has been branded as salvage or with any other similar brand by another state or jurisdiction, the applicant shall receive a salvage title or at the option of the owner, a junking certificate.

Out-of state-title brands are displayed on all titles in the previous state field.

Recovered Theft:

If a stolen vehicle is recovered, the insurer or self-insurer, within 30 days of recovery, must inspect the vehicle and apply for title as follows:

- 1) If the vehicle has no damage or the damage is less than that defined under the damage disclosure law (SDCL 32-3-51.8), the existing salvage title must be surrendered. A title marked as recovered theft with no damage disclosure notation will be issued.
- 2) If the vehicle is damaged equal to or greater than that defined under the damage disclosure law (SDCL 32-3-51.8), the existing salvage title must

be surrendered. A title marked as recovered theft with the damage disclosure notation will be issued.

- 3) If the condition of the vehicle is such that it would have been determined a salvage vehicle as defined under the salvage definition (SDCL 32-3-51.19) due to damage to the vehicle, the salvage title is retained.

Damage Disclosure and Title Branding:

Damage disclosure statements are required on vehicles 16,000 pounds (gvwr) or less and vehicles and large boats that are 6 years old or less.

The following transactions do not require a damage disclosure statement: application for duplicate title, correction of title, transfer in which ownership does not change, repossession, operation-by-law, salvage title, rebuilt title, and junking certificate.

The current damage disclosure amount is \$5,000.

On a large boat that is 6 years old or newer whose title has been branded by another state or jurisdiction so that it discloses damage, salvage or a similar brand, the applicant shall receive a title that denotes the damage disclosure notation.

Out-of-state title brands shall be displayed on all titles in the previous state field.

The seller must complete the damage disclosure statement on any (qualifying) vehicle/large boat taken in on trade.

Damage Disclosure Notice:

A dealer is required to place a notice on **any** vehicle/large boat (regardless of age or weight) sold or offered for sale that has a salvage title, damage disclosure or other brand denoting damage on it. The notice must be printed on white NCR paper, measuring 4" x 6". The original is to be retained by the dealer and the copy is to be given to the purchaser. The information on the notice is to be printed in 12-point (minimum) Universe –bold – capital letters. The notice must be posted on the inside of a side window with the front of the form facing the outside, or in the case of a large boat on the front window so that it is clearly visible at all times on each vehicle/large boat that contains a salvage title, damage disclosure, or similar brand denoting damage offered for sale to consumers. At the time of sale of the vehicle/large boat, the dealer must remove the notice and have the purchaser sign and date it. The dealer must

retain the signed notice, along with copies of the title document, for 5 years from the date of sale.

If a dealer fails to display a damage disclosure notice (disclosure must be signed by the purchaser upon sale of a vehicle/large boat), the purchaser may return the motor vehicle/large boat to the dealer within 10 days after receiving the title and shall receive a full refund.

Junking Certificate:

If a vehicle is being parted out, a junking title certificate must be obtained.

A vehicle coming into the state that has a non-repairable, non-rebuildable, unrebuildable, scrap, or similar brand or notation on its title or bill of sale can only receive a South Dakota junking certificate or a “parts only” notation. The vehicle cannot be rebuilt and can only be used as parts for another vehicle.

Lemon Law:

South Dakota’s lemon law applies to new or previously untitled motor vehicles, except motor homes or vehicles having a manufacturer’s gross vehicle weight rating of 10,000 pounds or more. The “Lemon Law Rights Period” is the period ending 1 year after the date of the original delivery of a motor vehicle to a consumer or the first 12,000 miles of operation, whichever occurs first. If a motor vehicle has been returned to the manufacturer under the lemon law provisions, it may not be resold in this state unless: 1) the manufacturer obtains a title branded with the statement that the vehicle was returned to the manufacturer because it did not conform to its warranty, 2) discloses in writing to the purchaser the fact that the vehicle was returned under the lemon law, and 3) discloses in writing to the purchaser the nature of the nonconformity to the vehicle warranty.

Documents Required on Imported Vehicles:

Bill of sale and the foreign registration and/or the MSO or title. (On a new, Canadian manufactured vehicle a “New Vehicle Information Statement” (NVIS) is the Canadian MSO.)

Import Form – US Department of Homeland Security Bureau of Customs and Border Protection Entry – Immediate Delivery Document – Form 7501. Military may use a DD1252 or DD1854 in lieu of Form 7501 (2/10/09).

EPA Form 3520

U.S. DOT Form HS-7 (only needed if the vehicle does not meet the US EPA standards and the EPA form 3520 is not available)

Bond release letter from NHTSA (only needed if the vehicle does not meet the US EPA standards and EPA form 3520 not available)

English translation if documents are in a foreign language

On Canadian vehicles, a Lien Quest form or other documentation verifying lien status (can be obtained from: www.lienquest.com or www.carproof.com).

[A trailer and a boat require the following documentation: Custom Declaration Form, bill of sale and a registration or other ownership documentation.]

Three excise tax, SD damage disclosure form (if applicable); application for title, and driver's license or SSSN of each purchaser.

[The EPA form is only required on the following vehicles: 1968 or older light-duty, gasoline fueled automobiles and trucks; 1975 and older light duty, diesel fueled automobiles and trucks; 1976 and older catalyst equipped vehicles manufactured in conformity with federal emission standards, but which have been driven outside the U.S.; motorcycles manufactured after February 1, 1972; heavy duty engines manufactured after January 1, 1970, to be used in heavy duty trucks and motor homes.]

If an imported vehicle has been previously title and registered in the United States, a US custom form is required, but an EPA form is not required.

Unclaimed Vehicle Due to Unpaid Repair Bill:

A person may apply for a title on any motor vehicle that is left unclaimed, as the result of an unpaid repair bill by its owner or person lawfully in possession of the vehicle, on private property for a period of 30 days after written notice of intent to apply for a title is given to the owner and any readily identifiable insurer or lienholder by certified mail.

The owner, insurer, or the lienholder may reclaim the vehicle. The owner, insurer, or the lienholder shall notify the department and the repair facility within 30 days of receipt of the notice of their intent to reclaim the vehicle. If the owner, insurer, or lienholder fails to claim and remove the vehicle within 30 days after mailing of the notice, title irrevocably vests in the person to whom the repair bill is payable.

The vehicle must be sold at public auction and any excess money above settlement of the debt must be forwarded to the prior owner, insurer, and any other party with a legal interest in such vehicle. If unable to identify the owner, insurer, and any lienholder, the excess money shall be sent to the state treasurer and treated as unclaimed property.

Incorrect Certificate of Title:

Administrative Rule 64:28:10:03 states: Either the county treasurer, the dealer, or the owner shall return certificates of title with errors for correction to the department with a statement of facts explaining the reason for the correction.

The dealer and owner are responsible for assuring that the issued title contains accurate and correct information.