

February 23, 1951.  
Passed on File.

**Senate File 445**

By WALTER, WATSON of O'Brien and RISK.

Passed Senate, Date .....

Vote: Ayes..... Nays.....

Passed House, Date .....

Vote: Ayes..... Nays.....

Approved .....

# A BILL FOR

An Act relating to motor vehicles, the ownership thereof and other interests therein, and to provide for the issuance of certificates of title therefor upon payment of certain fees, and to prescribe penalties for violations of this act.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 Section 1. Definitions. The following words and phrases  
2 when used in this act shall, for the purposes of this act,  
3 have the meanings respectively ascribed to them in this  
4 section:

5 1. "Commissioner" means the commissioner of public  
6 safety of the state.

7 2. "Department" means the state department of public  
8 safety.

9 3. "Motor vehicle" means every vehicle which is  
10 self-propelled, except farm tractors, implements of  
11 husbandry and special mobile equipment as defined in  
12 Chapter 321, Code 1946, and excepting also vehicles used  
13 exclusively upon stationary rails or tracks and vehicles  
14 known as trackless trolleys which are propelled by

15 electric power but not operated upon rails.

16 4. "New Motor vehicle" means only a newly manufactured  
17 or newly assembled motor vehicle which has not been previously  
18 registered in any state or foreign country.

19 5. "Used motor vehicle" means every motor vehicle other  
20 than a "new motor vehicle."

21 6. "Manufacturer's certificate of origin" means the  
22 original written instrument or document required to be  
23 executed and delivered by the manufacturer to his distributor  
24 or a dealer, or to a person purchasing direct from the  
25 manufacturer, certifying the origin of the motor vehicle.

26 7. "Certificate of title" means the document issued in  
27 conformance with this act, certifying ownership of a motor  
28 vehicle other than a manufacturer's certificate of origin.

29 8. "Assignment" means the execution of a prescribed  
30 form transferring ownership of a motor vehicle from the  
31 person named therein to the purchaser.

32 9. "Contract" means a conditional sales agreement, bailment,  
33 lease, chattel mortgage, trust receipt or any other form of  
34 security or agreement, wherein and whereby possession of a  
35 motor vehicle is delivered to the buyer and title therein  
36 is to vest in the buyer at a subsequent time upon the payment  
37 of part or all of the price, or upon the performance of any  
38 other condition or happening of any contingency, or upon the  
39 payment of a sum substantially equivalent to the value of the  
40 motor vehicle, by which contract it is agreed that the buyer

41 is bound to become, or has the option of becoming, the owner  
42 of the motor vehicle upon full compliance with the terms of  
43 the contract.

44 10. "Title papers" means any instrument or document that  
45 evidences ownership of a motor vehicle.

46 11. "Owner" means a person who holds the legal title of  
47 a motor vehicle, or in the event a motor vehicle is the subject  
48 of an agreement for the conditional sale or lease thereof with  
49 the right of purchase upon performance of the conditions stated  
50 in the agreement and with an immediate right of possession  
51 vested in the conditional vendee or lessee, or in the event a  
52 mortgagor of a vehicle is entitled to possession, then such  
53 conditional vendee or lessee or mortgagor shall be deemed the  
54 owner for the purposes of this act.

55 12. "Manufacturer" means every person who originally  
56 manufactured or assembled the motor vehicle.

57 13. "Dealer" means every person engaged in the business  
58 of buying, selling, exchanging, or otherwise dealing in new or  
59 used motor vehicles, who has an established place of business  
60 for such purpose in this state, and is licensed in this state  
61 in accordance with the provisions of Chapter 322, Code 1946.

62 14. "Person" means every natural person, firm, copartnership,  
63 association, joint adventure, corporation, company, receiver,  
64 trustee, assignee, executor, administrator, sheriff, constable,  
65 marshal, or other person in a representative or official  
66 capacity, and members, officers, agents, employees, or other

67 representatives of those hereinbefore enumerated.

68 15. "Buyer" means any purchaser, conditional vendee,  
69 lessee, bailee, transferee, chatel mortgagee, or any person  
70 buying, attempting to buy, or receiving a motor vehicle under  
71 conditional sales contract, lease, bailment, transfer agreement,  
72 chattel mortgage, trust receipt or any other form of security  
73 or possession agreement, or legal successor in interest.

74 16. "Seller" means a manufacturer, dealer, lessor,  
75 bailor, transferor, conditional vendor, chattel mortgagor, or  
76 person selling, attempting to sell, exchanging, or  
77 delivering a motor vehicle, under a conditional sales contract,  
78 lease, bailment, transfer agreement, chattel mortgage, trust  
79 receipt or other form of security or possession agreement or  
80 legal successor in interest.

81 17. "Sell" or "sale" or "purchase" or any form thereof  
82 means absolute or voluntary sales and purchases, agreements  
83 to sell and purchase, bailments, chattel mortgages, leases,  
84 trust receipts, and other forms of security agreement whereby  
85 any motor vehicles are sold and purchased, or agreed to be  
86 sold and purchased, involuntary, statutory, and judicial sales,  
87 inheritance, devise or bequest, gift or any other form or  
88 manner of sale or agreement of sale thereof, or the giving or  
89 transferring possession of a motor vehicle to a person for a  
90 permanent use.

91 18. "Purchaser" means a person who takes possession of  
92 a motor vehicle by transfer of ownership, either for use or

93 resale, except a dealer when he takes possession through a  
94 manufacturer's certificate of origin.

95 19. "Manufacturer's numbers" means the original  
96 manufacturer's factory number, serial number, or other  
97 distinguishing identification number affixed or attached to, or  
98 imprinted upon, the body or chassis, or either or both of them,  
99 of a motor vehicle, and the original manufacturer's number  
100 affixed to, or imprinted upon, the engine or motor of a motor  
101 vehicle.

1 Sec. 2. Commissioner to administer Act. The commissioner  
2 shall administer and enforce the provisions of this act and  
3 make rules and regulations necessary for its administration  
4 and enforcement.

1 Sec. 3. Title papers for each motor vehicle. Every  
2 person shall have for each motor vehicle in his possession in  
3 this state and shall at all times carry in such motor vehicle  
4 (a) a non-negotiable copy of the certificate of title therefor  
5 issued in conformity with this act, and (b) the certificate of  
6 registration for the motor vehicle if it is registered by the  
7 department and a certificate of registration has been issued  
8 therefor. He shall produce the non-negotiable copy of the  
9 certificate of title, and the certificate of registration, upon  
10 demand by the commissioner or a peace officer or authorized  
11 employee of the department. If he fails to do so, the  
12 commissioner or such officer may seize and take possession of  
13 the motor vehicle and hold and dispose of it in the manner

14 provided for in section 22 of this act.

15 If a motor vehicle is registered in another state or a  
16 foreign country and is being used or operated in this state,  
17 the person in possession of it or using or operating it in this  
18 state must be entitled to ownership or possession according to  
19 the laws of the state or foreign country where it is registered,  
20 and shall produce to the commissioner or any peace officer or  
21 authorized employee of the department documents showing title  
22 to, or right of possession in, the motor vehicle in that person  
23 or in the person who has authorized him to use and operate it,  
24 or certificate of registration or other evidence of registration,  
25 besides registration plates, issued by the state or foreign  
26 country or department thereof to that person, or to the person  
27 who has authorized him to use and operate the motor vehicle,  
28 evidencing the registration of the motor vehicle in that state  
29 or foreign country.

1 Sec. 4. Certificate of title required before registration  
2 or a vehicle. Neither the department nor any county treasurer  
3 shall after the effective date of this act initially register  
4 or renew the registration of any motor vehicle, unless and  
5 until the owner thereof shall make application for and be  
6 granted an official certificate of title for such vehicle or  
7 present satisfactory evidence that a certificate of title for  
8 such vehicle has been previously issued to such owner in  
9 accordance with the provisions of this act.

1 Sec. 5. Manufacturer's certificate of origin. When a new

2 motor vehicle is sold or delivered in this state by the  
3 manufacturer to his distributor or to a dealer, or to a person  
4 purchasing directly from the manufacturer, the manufacturer  
5 shall execute and deliver to his distributor or to the dealer,  
6 or to the person purchasing directly from the manufacturer,  
7 manufacturer's certificate of origin in the form prescribed by  
8 the commissioner. The manufacturer's certificate of origin  
9 shall contain the manufacturer's numbers of the vehicle delivered,  
10 the name of the manufacturer, the horse power, and a description  
11 of the make, style, year and model of the motor vehicle. When  
12 a new motor vehicle is sold in this state, the manufacturer,  
13 his distributor or a dealer shall execute and deliver an  
14 assignment of the manufacturer's certificate of origin, which  
15 assignment shall contain a full statement under oath of all  
16 liens and encumbrances, if any, on such motor vehicle listed  
17 in the order of their priority.

1 Sec. 6. Certificate of title required. No person, except  
2 as provided in sec. 5 of this act, shall hereafter sell or  
3 otherwise dispose of a motor vehicle without delivery to the  
4 purchaser or transferee thereof a certificate of title with  
5 such assignment thereon as may be necessary to show title in  
6 the purchaser or transferee, nor purchase or otherwise acquire  
7 or bring into this state, except for temporary use, a motor  
8 vehicle unless he shall obtain a certificate of title or a  
9 manufacturer's certificate of origin for the same in his name  
10 in accordance with the provisions of this act.

1     Sec. 7. Certificate of title evidence of ownership. No  
2 person, except as provided in section 12 of this act, acquiring  
3 a motor vehicle from the owner thereof, whether such owner be  
4 a manufacturer, dealer or otherwise, shall acquire any right,  
5 title, claim or interest in or to such motor vehicle until he  
6 shall have had issued to him a certificate of title to such  
7 motor vehicle, or delivered to him a manufacturer's certificate  
8 of origin for the same; nor shall any waiver or estoppel operate  
9 in favor of such person against a person having possession of  
10 such certificate of title or a manufacturer's certificate of  
11 origin for such motor vehicle for a valuable consideration.  
12 No court in any case at law or in equity shall recognize the  
13 right, title, claim or interest of any person in or to any  
14 motor vehicle sold or disposed of, or mortgaged or encumbered,  
15 unless evidenced by a certificate of title or a manufacturer's  
16 certificate or origin duly issued, in accordance with the  
17 provisions of this act.

1     Sec. 8. Application for certificate of title; duties of  
2 county treasurer. Application for certificate of title shall  
3 be made upon a form prescribed by the commissioner, and shall  
4 be sworn to before a notary public or other officer empowered  
5 to administer oaths. Such application shall be filed with the  
6 county treasurer of the county in which the applicant resides  
7 if the applicant is a resident of this state, or if not such  
8 a resident, in the county in which the transaction is  
9 consummated, and shall be accompanied by the fee prescribed

10 in this act. If a certificate of title has not previously been  
11 issued for such motor vehicle in this state, the application,  
12 unless otherwise provided for in this act, shall be  
13 accompanied by (a) a manufacturer's certificate of origin as  
14 provided for in this act, or (b) a certificate of title or  
15 other evidence of ownership required by the law of another state,  
16 or (c) an affidavit of ownership by the applicant or his  
17 legal representative or agent wherein said applicant states  
18 under oath that he is the owner, has had the present possession  
19 of the described motor vehicle for which a certificate of title  
20 is applied for and that such motor vehicle was either registered  
21 in this state during the registration year immediately preceding  
22 the effective date of this act or, being previously registered  
23 in this state, was in storage in this state continuously as an  
24 unregistered motor vehicle during such preceding registration  
25 year; the form of such affidavit of ownership shall be  
26 prescribed by the commissioner, but shall, in addition to such  
27 other information as he may require, contain a full statement  
28 of all liens, mortgages and encumbrances, if any, on such motor  
29 vehicle listed in the order of their priority. The county  
30 treasurer shall retain the evidence of title presented by the  
31 applicant and on which the certificate of title is issued.  
32 The county treasurer shall use reasonable diligence in  
33 ascertaining whether or not the facts in such application are  
34 true by checking the application and documents accompanying  
35 the same with the motor vehicle records of his office, and if

36 satisfied that the applicant is the owner of such motor vehicle  
37 and the application is in proper form the county treasurer shall  
38 issue a certificate of title over his signature and official  
39 seal, but not otherwise. In the case of the sale of a motor  
40 vehicle by a dealer to a general purchaser or user, the  
41 certificate of title shall be obtained in the name of the  
42 purchaser by the dealer upon application signed by the  
43 purchaser, and in all other cases the certificate of title  
44 shall be obtained by the purchaser; provide, however, when  
45 the transferee of a motor vehicle is a dealer who acquires and  
46 holds such motor vehicle for resale and operates the same only  
47 for purposes incident to a resale and displays thereon the  
48 registration plates issued for such motor vehicle, he shall not  
49 be required to apply for and obtain a certificate of title for  
50 such motor vehicle, but upon transfer of his title or interest  
51 in or to such motor vehicle to another person, he shall execute  
52 and acknowledge a reassignment of the certificate of title or  
53 manufacturer's certificate of origin on such motor vehicle and  
54 deliver the same to the person to whom such transfer is made.

1     Sec. 9. Execution of certificate of title; to be in  
2 quintuplicate; where filed; copy of lienholder. The county  
3 treasurer shall issue the certificate of title in quintuplicate.

4 All certificates of title shall be typewritten or printed by  
5 other mechanical machines. Four copies of such certificate of  
6 title shall have printed or stamped on the face thereof  
7 "non-negotiable"; one such copy shall be retained by the county

8 treasurer in his office, two such copies shall be transmitted,  
9 postage prepaid, on that date to the department of public safety,  
10 and the remaining such copy shall be delivered to the applicant.  
11 The county treasurer shall sign and affix his official seal to  
12 the original certificate of title and, if there are no liens on  
13 said motor vehicle, shall deliver the certificate to the  
14 applicant. If there are one or more liens on said motor vehicle,  
15 the certificate of title shall be delivered or mailed on the  
16 date of issuance to the holder of the first lien. For the  
17 purposes of this act, all liens, mortgages and encumbrances  
18 noted upon a certificate of title shall take priority according  
19 to the order in time in which the same are noted thereon by  
20 the county treasurer. Such certificate of title shall be good  
21 for the life of the motor vehicle so long as the same is owned  
22 or held by the original holder of such certificate. The  
23 department shall prescribe a uniform method of numbering  
24 certificates of title in such a manner that the county of  
25 issuance shall be indicated, and the county treasurer shall  
26 assign numbers to certificates of title in the manner prescribed  
27 by the department. The county treasurer shall file all  
28 certificates of title and other instruments or documents  
29 pertaining to the issuance of such certificates of title in  
30 accordance with regulations to be prescribed by the  
31 department and shall maintain in his office indexes for such  
32 certificates of title; provided, however, that the county  
33 treasurer shall not be required to retain on file any

34 instruments or documents pertaining to the issuance of such  
35 certificates for a period of longer than seven (7) years after  
36 the date of filing thereof with him, but may thereafter  
37 destroy the same.

1     Sec. 10. Fees; amount; disposition. The county  
2 treasurer of the various counties shall charge a fee of fifty  
3 cents (50c) for each certificate of title, and a fee of fifty  
4 cents (50c) for each notation of any lien on a certificate of  
5 title, which charge or charges shall be in addition to the  
6 fees provided by law for the registration of such motor vehicle.  
7 In addition to all other fees imposed by law for the issuance  
8 of a certificate of title, the various county treasurers are  
9 hereby authorized and required to collect a delinquency fee of  
10 five dollars (\$5.00) where the application for an original  
11 certificate of title or a transfer thereof by assignment is not  
12 made within five days, Sundays and holidays excepted, after a  
13 motor vehicle is purchased or otherwise acquired. The various  
14 county treasurers shall issue certificates of title without  
15 requiring the payment of any fees for such issuance when the  
16 purchaser is the United States, a department of the United  
17 States Government, this state or any political subdivision of  
18 this state or any municipality therein. The county treasurers  
19 of the various counties shall retain for the purpose of defraying  
20 the expenses of administering this act, twenty-five cents  
21 (25c) of the fifty cents (50c) charged for each certificate  
22 of title and twenty-five cents (25c) of the fifty cents

23 (50c) charged for each notation of lien; any surplus of such  
24 funds remaining in the hands of any county treasurer at the  
25 end of any fiscal year, shall on the commissioner's order be  
26 paid to the department of public safety. The remaining  
27 twenty-five cents (25c) charged for the certificate of title  
28 and the remaining twenty-five cents (25c) charged for the  
29 notation of any lien on a certificate of title shall be paid  
30 to the department and shall, together with such funds as may  
31 be by it received from the various county treasurers, be  
32 used by the commissioner for the cost of administering this  
33 act, but any balance of such funds in excess of one hundred  
34 thousand dollars remaining in the department's hands at the  
35 end of any biennium shall be paid by it to the state treasurer  
36 to be credited to the state primary road fund. The county  
37 treasurer of each county shall on the tenth day of each month  
38 report under oath to the department on forms furnished by the  
39 department, giving a full and complete statement of all fees  
40 so received by such county treasurer during the preceding  
41 calendar month, and shall forward to the treasurer of the state  
42 duplicate of such report.

1     Sec. 11. Record of certificate of title; duties of  
2 commissioner and department; cancellation of certificate.  
3 The commissioner shall issue such regulations as he may deem  
4 necessary to insure a uniform and orderly operation of this  
5 act, and the county treasurers of the various counties shall  
6 conform thereto. The department shall receive and file in

7 its office such copies of certificates of title or other  
8 instruments or documents forwarded to it by the county treasurers  
9 under the provisions of this act, as may be necessary for it  
10 to maintain and complete its records, and shall maintain  
11 indexes covering the state at large for the certificates and  
12 instruments so filed. Such indexes shall be by motor number  
13 or other distinguishing identification number and alphabetically  
14 by owner's name and shall be for the state at large and not for  
15 individual counties. The department shall provide and furnish  
16 the forms required by this act. The department shall check with  
17 its records all duplicate copies of certificates of title  
18 received in its office from the various county treasurers. If  
19 it appears that a certificate of title should not have been  
20 issued, the department shall have the power and it shall be  
21 its duty to notify the county treasurer who issued such  
22 certificates of title to cancel the same, and such county  
23 treasurer shall thereupon enter the cancellation upon its  
24 records. The county treasurer shall notify the person to whom  
25 such certificate of title was issued, as well as any lienholders  
26 appearing thereon of the cancellation and shall demand the  
27 surrender of such certificate of title, but said cancellation  
28 shall not affect the validity of any lien noted thereon. The  
29 holder of such certificate of title shall return the same to  
30 the county treasurer forthwith. If a certificate of  
31 registration has been issued to a holder of a certificate of  
32 title so cancelled, the county treasurer shall immediately

33 cancel the same and demand the return of such certificate of  
34 registration and registration plates or tags and the holder of  
35 such certificate of registration and registration plates or  
36 tags shall return the same to the county treasurer forthwith.

37 The department may, at its discretion, make photostat,  
38 microfilm or other photographic copies of any copies of  
39 certificates of title or other instruments or documents filed  
40 with it under the provisions of this act. When such photostat  
41 or microfilm copies have been made, the department may, at its  
42 discretion, destroy such copies of certificates of title or  
43 other instruments or documents in such manner as prescribed by  
44 the commissioner. Such photostat, microfilm or other  
45 photographic records shall be admissible in evidence when duly  
46 certified and authenticated by the officer having custody and  
47 control thereof.

1 Sec. 12. Liens and mortgages on motor vehicles; validity  
2 thereof; notation on certificate; priority; notation of  
3 cancellation; failure to deliver certificate; penalties;  
4 release. The provisions of Chapter 556, Code 1946, shall never  
5 be construed to apply or to permit or require the deposit,  
6 filing or other record whatsoever of a chattel mortgage,  
7 conveyance intended to operate as a mortgage, trust receipt  
8 conditional sales contract, or other lien or encumbrance or  
9 title retention instrument, or any copy of the same, made after  
10 the effective date of this act and covering a motor vehicle.  
11 Any mortgage, conveyance intended to operate as a mortgage,

12 trust receipt, conditional sales contract, or other lien or  
13 encumbrance or title retention instrument, other than a lien  
14 dependent upon possession, if such instrument is accompanied  
15 by delivery of a manufacturer's certificate of origin and  
16 followed by actual and continued possession of the same by the  
17 holder of such instrument, or in the case of a certificate of  
18 title, if a notation of the same has been made by the county  
19 treasurer on the face thereof, shall be valid as against the  
20 creditors of the mortgagor, whether armed with process or not,  
21 and subsequent purchasers, mortgagees, and other lienholders  
22 or claimants, but otherwise shall not be valid against them.  
23 All liens, mortgages and encumbrances, noted upon a certificate  
24 of title, shall take priority according to the order of time in  
25 which the same are noted thereon by the county treasurer.  
26 Exposure of sale of any motor vehicle by the owner thereof,  
27 with the knowledge or with the knowledge and consent of the  
28 holder of any lien, mortgage or encumbrance thereon, shall not  
29 render the same void or ineffective as against the creditors  
30 of such owner, or against the holders of subsequent liens,  
31 mortgages or encumbrances upon such motor vehicle. The holder  
32 of a chattel mortgage, trust receipt, conditional sales  
33 contract or other lien or encumbrance or title retention  
34 instrument, upon presentation of such instrument to the county  
35 treasurer of the county where such certificates of title was  
36 issued together with the certificate of title and the fee  
37 prescribed by this act, may have a notation of such lien made

38 on the face of such certificate of title. The county treasurer  
39 shall enter said notation and the date thereof over his  
40 signature or that of his deputy and the seal of his office,  
41 and shall also note such lien and the date of notation on the  
42 copy of the certificate of title in his files, and on that  
43 date shall notify the department which upon receipt of such  
44 notification shall do likewise. The county treasurer shall also  
45 indicate by appropriate notation on such instrument itself the  
46 fact that such lien has been noted on the certificate of title.  
47 The holder of a junior lien, duly executed in the manner  
48 prescribed by law governing such lien instruments, may make  
49 application to permit notation of such junior lien on the  
50 certificate of title on a form prescribed by the commissioner  
51 which shall be sworn to before a notary public or other officer  
52 empowered to administer oaths. Such application shall be  
53 forwarded by such junior lienholder to the first lienholder  
54 or other person holding the certificate of title who shall,  
55 within ten days after the receipt of such application, attach  
56 the application to the certificate of title in his possession  
57 and deliver both documents to the county treasurer who issued  
58 the certificate of title. The county treasurer upon receipt  
59 of the application and certificate of title, together with the  
60 fee prescribed for notation of lien from the junior lienholder,  
61 shall note such junior lien on the certificate of title and  
62 deliver the certificate of title to the first lienholder. At  
63 the same time the county treasurer shall note such lien on the

64 copy of the certificate of title in his files and shall notify  
65 the junior lienholder and the owner of the motor vehicle of  
66 the notation of such junior lien on the certificate of title.  
67 Whenever a lien is discharged the holder thereof shall execute  
68 a notarized release within twenty days after payment is received,  
69 such release to contain the certificate of title number, the  
70 amount of the lien and the date of notation thereof. The  
71 holder shall also note a cancellation of such lien on the face  
72 of the certificate of title under his, her or its signature,  
73 and deliver the release and certificate of title to the county  
74 treasurer, who shall note the cancellation of said lien on the  
75 face of the certificate of title and on the copy of the  
76 certificate of title in his files. The county treasurer shall  
77 then deliver the certificate of title to the then first  
78 lienholder, or, if there is no such lienholder, to the owner,  
79 or as otherwise directed by the owner. Such cancellation of  
80 lien shall be noted on the certificate of title by the county  
81 treasurer without charge. The provisions of Chapter 556,  
82 Code 1946, shall continue to apply to the deposit, filing,  
83 refiling, or other record whatsoever of a chattel mortgage,  
84 conveyance intended to operate as a mortgage, trust receipt,  
85 conditional sales contract, or other lien or encumbrance or  
86 title retention instrument, or any copy of the same, made  
87 prior to the effective date of this act, and covering a motor  
88 vehicle.

1 Sec. 13. Transfer of title by operation of law. In the

2 event of the transfer of ownership of a motor vehicle by  
3 operation of law as upon inheritance, devise or bequest, order  
4 in bankruptcy, insolvency, replevin or execution sale, or  
5 whenever a motor vehicle is sold to satisfy storage or repair  
6 charges, or repossession is had upon default in performance of  
7 a chattel mortgage, trust receipt, conditional sales contract,  
8 or other like agreement, the county treasurer of the county in  
9 which the last certificate of title to such motor vehicle was  
10 issued, upon the surrender of the prior certificate of title  
11 or manufacturers' certificate of origin, or when that is not  
12 possible, upon presentation of satisfactory proof to the county  
13 treasurer of ownership and right of possession to such motor  
14 vehicle and upon payment of the fee prescribed in this act, and  
15 the presentation of an application for certificate of title,  
16 may issue to the applicant a certificate of title thereto. Only  
17 an affidavit by the person or the agent or legal representative  
18 of the person to whom possession of such motor vehicle has so  
19 passed, setting forth the facts entitling him to such  
20 possession and ownership, together with such instruments or  
21 documents of authority or certified copies thereof as may be  
22 sufficient or required by law to evidence or effect a  
23 transfer of title or interest in or to such motor vehicle, shall  
24 be considered satisfactory proof of ownership and right of  
25 possession. In the event of the death of an owner of one or  
26 more motor vehicles, the total value of which does not exceed  
27 \$1000.00, who does not leave other property necessitating the

28 procuring of administration or letters testamentary as by law  
29 provided, the surviving husband or wife or children or next of  
30 kin in the order named may make application for title after  
31 first having furnished the county treasurer proper proof of the  
32 death of the registered owner and having attached to such  
33 application an affidavit setting forth the fact that said  
34 applicant is the surviving husband or wife or child or next of  
35 kin; upon the proper filing of such application, the county  
36 treasurer shall issue to the applicant a certificate of title.  
37 Provided, however, that in all instances where title has been  
38 transferred by operation of law, if, from the records in the  
39 office of the department there appears to be any lien or liens  
40 on such motor vehicle, such certificate of title shall contain  
41 a statement of such liens unless the application is  
42 accompanied by proper evidence of their satisfaction or  
43 extinction.

44 If a motor vehicle is seized, levied upon or attached and  
45 taken into possession, actually or constructively, by virtue of  
46 judicial process issued by a court of competent jurisdiction in  
47 this state, or by virtue of a state or federal statute, the  
48 officer or person so seizing and taking possession of such  
49 motor vehicle shall immediately file with the county treasurer  
50 of the county in which the last certificate of title to such  
51 motor vehicle was issued, a notice in writing giving a full  
52 description of the motor vehicle, and the name and address of  
53 the person from whom taken, and shall attach a copy of the

54 process of statutory or other authority to the notice.

55 A county treasurer may cancel any certificate of title  
56 previously issued by him and issue a new certificate of title  
57 to a dealer or any lienholder upon written verified application  
58 therefor and satisfactory proof to the county treasurer:

59 1. That a lien on the motor vehicle described in such  
60 application has been foreclosed by the applicant and the  
61 ownership thereof has been adjudicated; or

62 2. That the motor vehicle described in such application  
63 has been repossessed by the applicant under the terms and  
64 conditions of the instrument creating the lien.

65 If, from the records in the office of the county treasurer,  
66 there appears to be a lien or liens on such motor vehicle senior  
67 to that of the applicant, the new certificate of title shall  
68 contain a statement showing the existence of such senior lien or  
69 liens unless the application is accompanied by proper evidence  
70 of their satisfaction or extinction. If, from the records in  
71 the office of the county treasurer, there appears to be any lien  
72 or liens on such motor vehicle junior to that of the applicant,  
73 the county treasurer shall require the applicant to give a notice  
74 by registered mail to such junior lienholder or lienholders of  
75 such application for a new certificate of title stating the  
76 amount due on applicant's claim, unless a waiver of such notice  
77 by the junior lienholder is filed with the county treasurer. A  
78 new certificate of title shall be issued to the applicant after  
79 the expiration of five days after receipt of such notice by the

80 junior lienholder or lienholders unless a junior lienholder shall  
81 have paid or has tendered payment of all amounts due to the  
82 senior lienholder. In the event of such payment or tender of  
83 payment by a junior lienholder, such junior lienholder shall be  
84 issued a new certificate of title upon proper application  
85 therefor and proof of his right thereto.

1     Sec. 14. Defective certificate of title or defective title  
2 papers. If the certificate of title or title papers to the  
3 motor vehicle is or are defective or improper, the bona fide  
4 owner of the motor vehicle or any lienholder may apply to the  
5 department to correct the defects in such certificate of title  
6 or to permit the title papers to be received and the certificate  
7 of title to be issued thereon.

8     The department shall upon such proof as it may require  
9 showing that it is just and equitable that the defects be  
10 corrected or that the certificate of title or title papers be  
11 received, with or without hearing, determine the truth and merits  
12 of the application and whether the holder appears to be a bona  
13 fide owner of the motor vehicle, or the holder of a lien thereon,  
14 and may order the appropriate county treasurer to issue a  
15 certificate of title correcting the defects or permitting the  
16 certificate of title or title papers to be received. The  
17 applicant submitting the defective certificate of title or title  
18 papers shall pay to the county treasurer a fee of two dollars  
19 (\$2.00) for the issuance of such certificate of title, and such  
20 fees shall be used by the county treasurer for administering

21 this act, provided, however, that if the defect in the original  
22 certificate of title was occasioned by an error on the part of  
23 such county treasurer, a corrected certificate of title shall  
24 be issued without charge by the county treasurer to the  
25 applicant.

26 Before such certificate of title is issued by the county  
27 treasurer, the department may require the applicant to furnish  
28 a good and sufficient indemnity bond in a penal sum of double  
29 the value of the motor vehicle, running to the county treasurer  
30 for the purpose of indemnifying any and all persons who might  
31 subsequently establish legal ownership or any interest in or to  
32 such motor vehicle at the time certificate of title issued as  
33 compensation in full for all damages sustained or suffered by  
34 reason of the issuance of the certificate of title in  
35 accordance with the provisions of this section.

1 Sec. 15. Lost or destroyed certificate of title; issuance  
2 of duplicate. In the event any certificate of title is lost,  
3 mutilated, becomes illegible or is destroyed, the owner or legal  
4 representative or successor in interest of the owner of such  
5 motor vehicle, or the holder of a lien thereon, shall immediately  
6 make application to the county treasurer of the county where such  
7 certificate of title was issued for a certified copy of the  
8 certificate of title. Such application shall be signed and sworn  
9 to by the person making the same. The county treasurer shall,  
10 upon proper application, issue a certified copy of said  
11 certificate of title under the provisions of this act. Such

12 certified copy and all subsequent certificates of title issued  
13 in the chain of title originated by said certified copy shall  
14 be plainly marked across their faces "reissued copy", and any  
15 subsequent purchaser of said motor vehicle in the chain of title  
16 originating through such certified copy shall acquire only such  
17 rights in such motor vehicle as the original holder of said  
18 certified copy himself had. Any purchaser of such motor vehicle  
19 may at the time of such purchase require the seller of the same  
20 to indemnify him and all subsequent purchasers of said motor  
21 vehicle against any loss which he or they may suffer by reason  
22 of any claim or claims presented upon the original certificate  
23 of title. In the event of the recovery of the original  
24 certificate of title by the owner, he shall forthwith surrender  
25 such original certificate of title to the county treasurer for  
26 cancellation. A fee of one dollar (\$1.00), shall be paid to the  
27 county treasurer for each such reissued certificate of title,  
28 and such fees shall be used by the county treasurer for  
29 administering this act.

1 Sec. 16. Grounds for refusal to issue certificate of title.

2 The department or the county treasurer shall refuse the  
3 issuance of a certificate of title upon any of the following  
4 grounds:

5 1. That the application contains any false or fraudulent  
6 statement or that the applicant has failed to furnish the  
7 required information or reasonable additional information  
8 requested by the department or the county treasurer or that the

9 applicant is not entitled to the issuance of a certificate of  
10 title to the motor vehicle under this act;

11 2. That the department or the county treasurer has  
12 reasonable grounds to believe that the motor vehicle is a stolen  
13 or embezzled motor vehicle or that the issuance of a certificate  
14 of title would constitute a fraud against the rightful owner or  
15 any other person having a valid lien upon such motor vehicle;

16 3. That the required fee or fees have not been paid;

17 4. That the required sales tax or use tax on the motor  
18 vehicle has not been paid.

1 Sec. 17. Surrender and cancellation of certificate of title;  
2 when required. Any owner, who scraps, junks, dismantles, wrecks  
3 or destroys a motor vehicle, or changes such motor vehicle in  
4 such manner that it loses its character as a motor vehicle or  
5 that it is not the motor vehicle described in the certificate  
6 of title issued for such motor vehicle, shall immediately  
7 surrender and deliver the certificate of title for such motor  
8 vehicle to the county treasurer who issued the same and  
9 thereupon said county treasurer shall, with the consent of all  
10 holders of any liens noted thereon, enter a cancellation of  
11 such certificate of title upon his records and shall immediately  
12 notify the department of such cancellation.

13 Any owner who sells a motor vehicle as scrap or to be  
14 dismantled, junked, or destroyed shall assign the certificate  
15 of title thereto to the purchaser and shall deliver such  
16 certificate to assigned to the county treasurer who issued the

17 same for cancellation. A certificate of title shall not again  
18 be issued for such motor vehicle in the event it is scrapped,  
19 dismantled, junked or destroyed.

20 Upon cancellation of a certificate of title in a manner  
21 prescribed in this section, the county treasurer and the  
22 department may remove from their files and cancel and destroy  
23 all certificates of title and all copies thereof for such motor  
24 vehicle.

1 Sec. 18. Cancellation of title; sale of motor vehicle to  
2 non-resident of state; notice. A county treasurer upon receipt  
3 of notification from another state or foreign country that a  
4 certificate of title issued by him has been surrendered by the  
5 owner in conformity with the laws of such other state or  
6 foreign country, may cancel the record of such certificate of  
7 title and remove the same from his files, and shall immediately  
8 notify the department of such cancellation which shall likewise  
9 remove the record of such certificate of title from its files.

10 In case a motor vehicle titled under this act is sold to a  
11 non-resident of this state, the seller of such motor vehicle  
12 shall notify the department of such sale within five days  
13 thereafter on a form prescribed by the commissioner for such  
14 purpose.

1 Sec. 19. Department authorized to suspend or revoke  
2 certificate of title. The department is hereby authorized to  
3 suspend or revoke the certificate of title for any motor vehicle  
4 in any of the following events:

5 1. When the department is satisfied that such certificate  
6 of title was fraudulently or erroneously issued;

7 2. When the motor vehicle has been dismantled, scrapped,  
8 junked, wrecked or destroyed;

9 3. When the department determines that the required fees  
10 for such certificate of title have not been paid and the same  
11 are not paid upon reasonable notice and demand by the department;

12 4. When the department determines that the owner has  
13 committed any offense under this act involving the certificate  
14 of title to be suspended or revoked;

15 5. When the department is so authorized under any other  
16 provision of law.

1 Sec. 20. Certificate of title to be returned to the  
2 department upon cancellation, suspension or revocation.

3 Whenever the department as authorized hereunder cancels,  
4 suspends, or revokes a certificate of title for any motor vehicle,  
5 the owner or person in possession of the same shall immediately  
6 return such certificate of title so cancelled, suspended, or  
7 revoked to the department.

1 Sec. 21. Seizure of documents. The commissioner or any  
2 person acting under the commissioner's direction or any county  
3 treasurer is hereby authorized to seize and take possession of  
4 any manufacturer's certificate of origin, certificate of title  
5 or other title papers to which the department or such county  
6 treasurer may be entitled or which any person is under duty to  
7 return to the department or such county treasurer, or which may

8 be fictitious, or which have been unlawfully or erroneously  
9 issued, from any person or place in this state, with all the  
10 rights, privileges and immunities conferred by law on an  
11 officer executing a writ of replevin.

1 Sec. 22. Seizure of motor vehicles; notice; sale; officer's  
2 fees. Whenever any motor vehicle is seized under the provisions  
3 of section 3 of this act, the commissioner, peace officer, or  
4 such other officer seizing and taking possession of such motor  
5 vehicle shall give notice of such seizure by registered mail  
6 addressed to the registered owner of such motor vehicle at his  
7 last known address appearing on the records of the department.  
8 Said notice shall notify such owner of the fact that such motor  
9 vehicle is in the custody of such officer and that the same may  
10 be recovered by him by complying with the provisions of this act,  
11 within fifteen days from the date of said notice. If within  
12 fifteen days from the date of said notice, the owner complies  
13 with the provisions of this act, the officer having said motor  
14 vehicle in his custody shall deliver the same to such owner  
15 upon payment by him of the costs and fees incurred incident to  
16 the seizure and holding of said motor vehicle. If the owner of  
17 said motor vehicle does not comply with the provisions of this  
18 act within fifteen days from the date of said notice, the officer  
19 having possession of said motor vehicle shall advertise the  
20 same for sale in a newspaper published within the county where  
21 such vehicle was seized at least once each week for two consecutive  
22 weeks. Said motor vehicle shall be sold at public auction to the

23 highest bidder and said sale must be held within one week  
24 following the date of the last publication of the notice as  
25 provided for herein. After deducting from the total receipts  
26 of the sale the costs incident to such sale, the costs incident  
27 to the seizure and holding of such motor vehicle and the fees  
28 for his services, such officer shall pay any balance remaining  
29 to the department and the commissioner shall use the same for the  
30 purpose of administering this act. The officer seizing such  
31 vehicle shall be entitled to receive a fee of two dollars for  
32 such seizure which shall be collected from the owner of the  
33 seized motor vehicle, and on the sale of such motor vehicle  
34 shall be entitled to receive, in addition to such fee, the  
35 same compensation as a constable is entitled to receive for the  
36 sale of property on execution.

1     Sec. 23. Appeal. Any person denied a certificate of title  
2 or whose certificate has been cancelled, suspended or revoked  
3 under the provisions of this act, may, within ten (10) days after  
4 notice thereof, file a petition in certiorari in the district  
5 court of the county of his residence to determine whether such  
6 order or act is lawful and reasonable. The filing of such a  
7 petition shall not suspend the order or act of the department  
8 or commissioner unless a stay thereof is allowed by a judge of  
9 said court pending final determination of the matter. The  
10 court shall hear such petition and make any appropriate order  
11 or decree.

1     Sec. 24. Commissioner to prescribe forms. The commissioner

2 shall prescribe and provide suitable forms of application,  
3 manufacturer's certificate of origin, certificates of title,  
4 and all other forms requisite or deemed necessary to carry out  
5 the provisions of this act.

1 Sec. 25. Appointment of manufacturer's agent.

2 Manufacturers shall appoint and authorize agents whose duty it  
3 shall be to sign manufacturers' certificates of origin. The  
4 department shall have the power to require that a certified copy  
5 of a list containing the names and the facsimile signatures of  
6 the duly authorized agents be furnished to it and to be forwarded  
7 to each county treasurer in the respective counties within the  
8 state and may prescribe the form of authorization to be used by  
9 manufacturers and the method of certification of the names of  
10 said agents.

1 Sec. 26. Alteration or forgery of certificates; holding  
2 and using same; penalties. Any person who shall falsely make,  
3 alter, forge or counterfeit, or cause to be falsely made,  
4 altered, forged or counterfeited, any certificate of title or  
5 manufacturer's certificate of origin, to a motor vehicle issued  
6 pursuant to the provisions of this act, or any assignment upon  
7 or of such certificate of title or manufacturer's certificate  
8 of origin, or any cancellation of any lien or liens on a motor  
9 vehicle, or who holds or uses such certificate of title,  
10 manufacturer's certificate of origin, assignment, or cancellation  
11 of lien or liens knowing the same to have been falsely made,  
12 altered, forged or counterfeited, shall be deemed guilty of a

13 felony, and upon conviction thereof shall be imprisoned in the  
14 penitentiary not more than ten years or be fined not exceeding  
15 one thousand dollars and imprisoned in the county jail not  
16 exceeding one year for each offense.

1     Sec. 27. Passing title of stolen cars; penalty. Any  
2 person who shall procure or attempt to procure a certificate of  
3 title to a motor vehicle, or who passes or attempts to pass a  
4 certificate of title or any assignment thereof to a motor vehicle,  
5 knowing or having reason to believe that such motor vehicle has  
6 been stolen, shall be deemed guilty of a felony, and upon  
7 conviction thereof shall be imprisoned in the penitentiary not  
8 more than ten years or be fined not exceeding one thousand  
9 dollars or imprisoned in the county jail not exceeding one year  
10 for each offense.

1     Sec. 28. False statements. Any person who fraudulently  
2 uses a false or fictitious name or gives a false or fictitious  
3 address in any application for a certificate of title herein  
4 provided for or in any assignment thereof, or knowingly makes  
5 a false statement or knowingly conceals a material fact or  
6 otherwise commits a fraud in any such application for a  
7 certificate of title, assignment of certificate of title,  
8 affidavit of ownership and possession, or any other affidavit  
9 required under the provisions of this act, shall be fined not  
10 exceeding one thousand dollars, or be imprisoned in the county  
11 jail for not more than one year, or both, for each offense.

1     Sec. 29. Operating motor vehicle without certificate of

2 title; penalty. Any person who shall after July 1, 1950, except  
3 as otherwise provided for in this act, operate in this state a  
4 motor vehicle for which a certificate of title is required  
5 without having such certificate of title in accordance with the  
6 provisions of this act, or upon which the certificate of title  
7 has been cancelled, suspended or revoked, or who shall knowingly  
8 permit any such motor vehicle to be operated in this state by  
9 another, shall be fined not exceeding five hundred dollars or  
10 be imprisoned in the county jail for not more than six months,  
11 or both.

1 Sec. 30. Other violations; penalties. If a person:

- 2 1. Sells, transfers, or purports to sell or transfer a  
3 motor vehicle without delivering to the purchaser or  
4 transferee thereof a certificate of title or a manufacturer's  
5 certificate of title or a manufacturer's certificate of origin,  
6 to such motor vehicle duly assigned to such purchaser as  
7 provided for in this act; or
- 8 2. Except as otherwise provided for in this act, being  
9 a dealer or acting on behalf of a dealer shall acquire,  
10 purchase, hold or display for sale a motor vehicle without  
11 having obtained a manufacturer's certificate of origin or a  
12 certificate of title therefor as provided for in this act; or
- 13 3. Fails to surrender any certificate of title upon  
14 cancellation, suspension, or revocation by the department and  
15 notice thereof as prescribed in this act; or
- 16 4. Fails to surrender any certificate of title upon

17 cancellation by a county treasurer and notice thereof as  
18 prescribed in this act; or

19 5. Fails to surrender any certificate of title to the  
20 county treasurer as provided for in this act in case of the  
21 scrapping, junking, dismantling, wrecking, destruction or  
22 change of motor vehicle in such respect that it is not the motor  
23 vehicle described in the certificate of title; or

24 6. Being the holder of a certificate of title, wilfully  
25 fails or refuses to deliver such certificate of title to the  
26 appropriate county treasurer for the purpose of showing a  
27 junior lien on such certificate of title; or

28 7. Knowingly permits the use of a certificate of title in  
29 any manner by another not entitled thereto, except as provided  
30 for in this act; or

31 8. Violates any of the provisions of this act or any lawful  
32 rules and regulations promulgated by the commission pursuant  
33 to the provisions of this act for which no penalty is otherwise  
34 provided—shall upon conviction thereof be punished by a fine  
35 of not exceeding five hundred dollars or by imprisonment for not  
36 more than ninety days, or both, for each offense.

1 Sec. 31. Penalties to be in addition to those imposed by  
2 other statutes. The provisions of sections 26, 27, 28, 29 and  
3 30 of this Act shall supplement and be in addition to any and  
4 all other penalties prescribed or imposed by law for forgery,  
5 frauds, false statements, or theft or unauthorized taking or use  
6 of any motor vehicle.

1     Sec. 32. Constitutionality. If any part or parts of this  
2 act shall be held to be unconstitutional, such  
3 unconstitutionality shall not affect the validity of the  
4 remaining parts of this act. The legislature hereby declares  
5 that it would have passed the remaining parts of this act if it  
6 had known that such part or parts thereof would be declared  
7 unconstitutional.

1     Sec. 33. Title of act. This act may be cited as the motor  
2 vehicle certificate of title act.

1     Sec. 34. Effective date of act. This act shall be in full  
2 force and effect from and after January 1, 1950.