

Motor Vehicle Division Informational Memo # 23-16
2023 Legislation – Remote Motor Vehicle Sales and Vehicles For Resale Subject to a Security Interest

DATE: May 12, 2023

FROM: Kelli Huser, Compliance Officer, MVD

TO: All Motor Vehicle Division staff and county treasurer staff

SUBJECT

This informational memo explains legislation enacted during the 2023 legislative session. HF 592 creates regulations for motor vehicle dealers to engage in remote sales and creates an additional way for lienholders to discharge security interests when a motor vehicle dealer uses the electronic registration and titling (ERT) process authorized under Iowa Code 321.20(2) to submit the next title application.

SUMMARY

HF 592 has two main parts:

- Creates regulations for motor vehicle dealers licensed in Iowa to engage in remote sales of motor vehicles, including the definition of “remote sale” and conditions that apply to remote sales.
- Creates a new process to discharge a security interest when a dealer submits an application through ERT. At this time, only Iowa-licensed motor vehicle dealers may submit applications through ERT.

The legislation is effective July 1, 2023.

LINK TO LEGISLATION

<https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=hf592>

CURRENT

Under current law, licensed motor vehicle dealers cannot engage in remote sales of motor vehicles. Under current law, there are only two ways for a lienholder to discharge a security interest (“SI”) on a certificate of title:

1. Lienholder sends title with SI cancellation (either cancelled on the title or separate form) to county treasurer.
 - Lienholder notes the SI cancellation on the face of the title or on a separate, notarized release form.
 - Lienholder delivers the title and the form to the county treasurer where the title was issued.
 - The county treasurer notes the SI cancellation on the title and in the records systems.
 - The county treasurer delivers the title to either the first secured party or the owner, as applicable.

2. Lienholder sends DOT-approved form to county treasurer for cancellation but separately sends title with SI cancellation to the next lienholder or owner, as applicable.
 - Lienholder notes the SI cancellation on the face of the title. Lienholder separately notes SI cancellation on a DOT-approved form.
 - Lienholder delivers DOT-approved form to the county treasurer. Separately, lienholder attaches a copy of the form to the title and delivers the title to the first lienholder or the owner, as applicable.
 - The county treasurer notes the SI cancellation in the statewide computer system and the county's records.

NEW

As of July 1, licensed motor vehicle dealers may engage in remote motor vehicle sales. The legislation defines remote sale, recognizes motor vehicle dealers can engage in remote sales, and explains the conditions that apply to legally engage in a remote sale.

As of July 1, there will be a new, third way for a lienholder to discharge a SI on a certificate of title when an application is submitted via ERT. ERT is authorized by Iowa Code 321.20(2).

3. Lienholder sends title with SI cancellation to motor vehicle dealer and motor vehicle dealer uses ERT for the next title application.
 - Lienholder notes the SI cancellation on the face of the title above the lienholder's signature and sends the title to a motor vehicle dealer.
 - The motor vehicle dealer submits the title application in ERT. The title application includes the title with the SI cancellation.
 - The county treasurer receives the title application. If the county treasurer is in the county where the title was issued, the county treasurer shall update the SI cancellation in the applicable program or computer system. Otherwise, the county treasurer shall notify the correct county treasurer to update the SI cancellation.

BUSINESS IMPACT

County treasurers and Iowa DOT staff will need to be aware of this new Iowa Code process to discharge a security interest. MVD staff should be aware that licensed motor vehicle dealers may engage in remote vehicle sales, and the conditions that apply. MVD will update internal manuals accordingly.

QUESTIONS AND ANSWERS

The following questions and answers provide additional information to you and to customers.

FOR THE NEW SECURITY INTEREST DISCHARGE PROCESS, WHAT IF THERE IS MORE THAN ONE SECURITY INTEREST ON THE VEHICLE?

All security interests must be discharged on the title before the vehicle can be transferred to another owner. The law change regarding physical stamping of the title does not impact the process for when a secondary (or tertiary) security interest remains on the title. In those cases, once the county has noted

the cancellation of the primary security interest, the county then forwards the title to the next secured party as provided in Iowa Code 321.50(5)(a).

FOR THE NEW REMOTE VEHICLE SALES PROCESS, WHAT SHOULD DEALERS KNOW?

Licensed motor vehicle dealers may engage in remote sales of motor vehicles. Remote sale is defined in the bill to mean “a sale of a motor vehicle conducted via mail, either electronically or by courier, including any offering, bartering, negotiating, exchanging, and other communication regarding the sale of the vehicle.” It includes delivering the vehicle to the residence of the buyer or another agreed-to location, if requested by the buyer.

Licensed motor vehicle dealers should be aware this law states that for remote vehicle sales:

- The motor vehicles must be located at a place of business of the retail seller.
- The dealer shall possess at time of sale the certificate of title to any motor vehicle offered for remote sale.
- The dealer may transmit a proposed purchase agreement to a prospective buyer if the result of negotiation between the parties. The dealer shall not deliver or negotiate to a buyer in person at any location other than the dealer’s place of business.
- The dealer shall not sign a proposed purchase agreement until the dealer receives an executed purchase agreement from the buyer. A signed purchase agreement must be delivered to the dealer’s place of business.
- A dealer shall not deliver a motor vehicle to a buyer away from the dealer’s place of business until the buyer’s purchase of the motor vehicle is completed.

MAY TOWABLE RV DEALERS LICENSED UNDER IOWA CODE 322C CONDUCT REMOTE SALES?

No. Towable RV dealers are licensed under Iowa Code 322C. The legislation amends Iowa Code 322. Because only retail sellers licensed under Iowa Code 322 may engage in remote sales, towable RV dealers are not included.