

Motor Vehicle Division Information Memo # 19-24

2019 Legislation – Self-Service Storage Facilities and Motor Vehicles

DATE: June 17, 2019

FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Vehicle and Motor Carrier Services staff, Iowa County Treasurers and County Treasurer's staff

SUBJECT

This informational memo explains legislation enacted during the 2019 legislative session regarding self-service storage facilities and the disposal of personal property, including motor vehicles.

SUMMARY

Senate File 528 repealed current Iowa Code chapter 578A titled as the "Self-Service Storage Facility Lien Act" and replaced it with new chapter 578B titled as the "Self-Service Storage Facilities Act." The legislation did not amend Iowa Code chapter 579, which relates to storage liens on property coming "in to the hands" of the storage lot operator. This legislation impacts us because when a vehicle subject to a self-service storage facility lien is sold in accordance with the provision of chapter 578B – which includes notification to any known security interest - the new owner may obtain title to the vehicle under the transfer of ownership by operation of law in accordance with the provisions in Iowa Code section 321.47. **The legislation is effective July 1, 2019.**

LINK TO LEGISLATION

<https://www.legis.iowa.gov/docs/publications/LGE/88/SF528.pdf>

CURRENT

Current Iowa Code section 321.47 allows for transfer of ownership by operation of law for a vehicle under the storage lien process but does not specifically reference a vehicle subject to a self-service storage facility lien.

NEW

The new legislation specifically amended Iowa Code section 321.47 (transfer of ownership by operation of law) to include a vehicle subject to a self-service storage facility lien.

BUSINESS IMPACT

This directive will cause us to review additional documentation when a vehicle subject to a self-service storage facility lien has been sold under the provision of Iowa Code chapter 578B. Namely, when a person seeks to title a vehicle after a transfer of ownership by operation of law has occurred due to sale of a vehicle subject to a self-service storage facility lien, that person shall present documentation with the title application that the sale was completed in compliance with the requirements in Iowa Code section 578B.7.

QUESTIONS AND ANSWERS

The following questions and answers provide additional information that will be helpful to you and to customers.

WHAT IS THE DIFFERENCE BETWEEN A STORAGE FACILITY UNDER IOWA CODE CHAPTER 579 AND A SELF-SERVICE STORAGE FACILITY UNDER IOWA CODE CHAPTER 578B?

Our understanding is that a storage facility contemplated under Iowa Code chapter 579 is one where you hand over control of your vehicle to the storage provider, for example, they have access to the vehicle's keys and can move your vehicle as necessary. A self-service storage facility, on the other hand, is one where you rent a specified "space" or "stall" and you maintain sole access to your vehicle being stored.

DOES AN AFFIDAVIT OF SALE TO SATISFY A STORAGE LIEN STILL NEED TO BE SUBMITTED FOR A VEHICLE PURCHASED FROM A SELF-SERVICE STORAGE FACILITY SALE?

Yes. While the Affidavit of Sale is not an Iowa DOT form (it is an Iowa Tax & Tags form), we should still require this affidavit or a substantially similar form to be completed when the new purchaser seeks to register and title a vehicle they purchased from a self-service storage facility sale.

WHAT DOCUMENTATION IS A PURCHASER REQUIRED TO PROVIDE TO PROVE THE SALE WAS MADE IN COMPLIANCE WITH IOWA CODE SECTION 578B.7?

The legislation requires a purchaser of a vehicle from a self-service storage facility sale to provide proof with the application for title that the sale was completed in compliance with the requirements in Iowa Code section 578B.7. Section 578B.7 outlines certain criteria that must be met before the sale may occur, including that:

- The self-service storage facility operator sent the required default notice to the vehicle owner prior to the sale by hand-delivery, verified mail, or electronic mail, which included:
 - A statement of the amount due the operator.
 - A general description of the property subject to the lien.
 - A demand for payment.
 - A statement that if payment is not made within the time stated in the notice, that the property will be subject to sale.
 - The operator's contact information.

- The self-service storage facility operator notified all persons whom the operator had actual knowledge that claimed a security interest in the property and also advertised the sale. If the property is a motor vehicle registered under Iowa Code chapter 321, the operator is required to conduct a search to determine whether there is a security interest.

There is no specified format for this documentation, but generally being able to identify that the sale was conducted by providing notice to the owner and all persons whom the operator had actual knowledge that claim a security interest in the property, that the operator conducted a search to determine if there was a security interest in the vehicle, as well as proof that the sale was advertised as required in the code, should be sufficient.

DOES THE VEHICLE OWNER HAVE ANY RIGHTS TO THE VEHICLE AFTER IT WAS SOLD TO SATISFY A SELF-SERVICE STORAGE FACILITY LIEN?

No. Iowa Code section 578B.7(6) specifically provides that a new purchaser of a vehicle to satisfy a lien under chapter 578B takes the property free of any rights of the prior owner, and that applies even if the operator fails to take the required steps (such as providing notice of default) under chapter 578B prior to the sale. This “savings clause” applies so as to not adversely affect the rights of the new purchaser even though the code requires the operator to take the steps to provide the notice. That code section also provides that a purchaser of a motor vehicle shall apply for a new title subject to the procedures outlined in Iowa Code section 321.47.