

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1393

Short Title: Releasing Regulated.

(Public)

Sponsors: Senators Wilson; Rauch and Daughtry.

Referred to: Rules and Operation of the Senate.

May 25, 1990

A BILL TO BE ENTITLED

AN ACT TO MAKE RELEASING OF MOTOR VEHICLES UNLAWFUL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-106.2. Fraudulent transfer of a motor vehicle.

(a) As used in this section:

(1) 'Lease' means the grant of use and possession of a motor vehicle for consideration whether or not the grant includes an option to buy the vehicle.

(2) 'Security interest' means an interest in personal property or fixtures that secures or performance of an obligation.

(3) 'Third party' means a person other than the actor or the owner of the vehicle.

(4) 'Transfer' means to transfer possession, whether or not another right is also transferred by means of a sale, lease, sublease, lease assignment, or other property transfer.

(b) A person commits an offense if the person acquires, accepts possession of, or exercises control over the motor vehicle of another, under a written or oral agreement to arrange for the transfer of the vehicle to a third party and:

(1) Knowing the vehicle is subject to a security interest, lease, or lien, the person transfers the vehicle to a third party without first obtaining written authorization from the vehicle's secured creditor, lessor, or lienholder;

1 (2) Intending to defraud or harm the vehicle's owner, the person transfers
2 the vehicle to a third party;

3 (3) Intending to defraud or harm the vehicle's owner, the person disposes
4 of the vehicle in a manner other than by transfer to a third party; or

5 (4) The person does not disclose the location of the vehicle on the request
6 of the vehicle's owner, secured creditor, lessor, or lienholder.

7 (c) For the purposes of subdivision (b)(2) of this section, the person is
8 presumed to have intended to defraud or harm the motor vehicle's owner if the person
9 does not take reasonable steps to determine whether or not the third party is financially
10 able to pay for the vehicle.

11 (d) It is a defense to prosecution under subdivision (b)(1) of this section that
12 the entire indebtedness secured by or owed under the security interest, lease, or lien is
13 paid or satisfied in full not later than the 30th day after the date that the transfer was
14 made.

15 (e) It is not a defense to prosecution under subdivision (b)(1) of this section that
16 the motor vehicle's owner has violated a contract creating a security interest, lease, or
17 lien in the motor vehicle.

18 (f) An offense under subdivision (b)(1), (b)(2), or (b)(3) of this section is:

19 (1) A Class H felony if the value of the motor vehicle is twenty thousand
20 dollars (\$20,000) or more; or

21 (2) A Class I felony if the value of the motor vehicle is less than twenty
22 thousand dollars (\$20,000).

23 (g) An offense under subdivision (b)(4) of this section is a misdemeanor."

24 Sec. 2. There is appropriated from the General Fund to the Administrative
25 Office of the Courts the sum of \$10,000 for the 1990-91 fiscal year for the development
26 of the necessary forms and procedures to implement the processing of the new crimes
27 created by Section 1 of this act.

28 Sec. 3. Section 1 of this act shall become effective October 1, 1990. Section
29 2 of this act shall become effective July 1, 1990. Section 3 of this act is effective upon
30 ratification.