

## **CHAPTER 39-05 TITLE REGISTRATION**

**39-05-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires, "motor vehicle" includes a housetrailer or mobile home and a semitrailer designed to be towed by a truck tractor and "manufactured home" means a manufactured home as defined in section 41-09-02.

**39-05-02. Vehicles exempt from provisions of chapter.** Repealed by S.L. 1975, ch. 328, § 1.

**39-05-02.1. Certificate of title required.** Except as otherwise provided in this chapter, every owner of a vehicle which is in this state and for which no certificate of title has been issued shall make application to the department for a certificate of title to the vehicle.

**39-05-02.2. Exclusions from the certificate of title requirement.** No certificate of title need be obtained for:

1. A vehicle owned by the United States unless it is registered in this state.
2. A vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration, or a vehicle used by a manufacturer solely for testing.
3. A vehicle owned by a nonresident of this state and not required by law to be registered in this state.
4. A vehicle regularly engaged in interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state.
5. A vehicle moved solely by human or animal power.
6. Implements of husbandry.
7. Special mobile equipment.
8. A self-propelled invalid wheelchair or invalid tricycle.
9. Any vehicle which is driven or moved upon a highway only for the purpose of crossing the highway from one property to another. The vehicle shall cross the highway at an angle of approximately ninety degrees to the direction of the highway.
10. Other vehicles not required to be registered in this state or not required to display distinctive plates.
11. A manufactured home with respect to which the requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been satisfied.

**39-05-03. Department not to license vehicle until application is made for a certificate of title.** The department may not register or renew the registration for license of any vehicle unless and until an application is made for an official certificate of title for the vehicle, or unless satisfactory evidence is presented that a certificate of title for the vehicle has been issued previously to the lienholder or owner by the department or when engaged in interstate commerce the vehicle is titled in another state.

**39-05-04. Certificate of title required before vehicle can be operated on highway - Penalty.** Repealed by S.L. 1959, ch. 289, § 16.

### **39-05-05. Application for certificate of title - Contents - Fee.**

1. An application for a certificate of title must be made upon a form provided by the department and must contain all of the following:
  - a. A full description of the vehicle, including the name of the manufacturer, either the engine, serial, or identification number, and any other distinguishing marks. The department may assign a vehicle identification number for a vehicle not otherwise assigned a number. The assigned number must be permanently affixed to the vehicle and the department may require the vehicle be inspected before issuing a certificate of title for the vehicle.
  - b. A statement as to whether the vehicle is new or used.
  - c. A statement of the applicant's title and the name and address of each lienholder in the order of priority.
  - d. The name and address of the person to whom the certificate of title must be delivered.
  - e. If applicable, a statement as to whether the vehicle is a specially constructed, reconstructed, or foreign vehicle.
  - f. The owner's legal name, as evidenced by a valid state-issued driver's license, identity card, or any other documentary evidence that confirms to the satisfaction of the director the true identity of the owner, street address, city, and county, or township and county, of residence. When two or more owners are designated, at least one of the owners must comply with the identification requirement of this subdivision and all names used must be legal names. A dealer shall make specific inquiry as to this information before filling in the information on the application.
  - g. The department may require odometer disclosure information as required under the Truth in Mileage Act of 1986 [Pub. L. 99-579].
  - h. Any other information required by the department.
2. The owner of every vehicle that has been registered outside this state shall surrender to the department the certificate of title and registration card or other evidence that may satisfy the department the applicant is the lawful owner or possessor of the vehicle.
3. If the vehicle for which certificate of title is sought is a new vehicle, a certificate of title may not be issued unless a certificate of origin executed by the manufacturer of the vehicle is attached to the application for registration or is attached to the application for the certificate of title for the vehicle. If the new vehicle for which certificate of title is sought is of foreign manufacture, the certificate of origin must be furnished by the importer of the vehicle. The manufacturer or importer of all new vehicles shall designate the total shipping weight of the vehicle on the certificate of origin.
4. When a new vehicle is purchased from a dealer, the application for the certificate of title must include a statement of the transfer by the dealer.
5. Each application must be accompanied by a fee of five dollars, which is in addition to any fee charged for the registration of the vehicle.

**39-05-06. Application to be verified - When officers and employees of department may verify.** Repealed by S.L. 1977, ch. 340, § 1.

**39-05-07. False statement in application or other document - Penalty.** Repealed by S.L. 1975, ch. 106, § 673.

**39-05-08. Application to be checked against certain indexes.** The department shall maintain a vehicle identification number index of registered motor vehicles and upon receiving an application for a certificate of title it shall check first the vehicle identification number shown in the application against such index.

**39-05-09. Issuance, contents, delivery, and term of certificate.**

1. After checking the application for a certificate as provided in section 39-05-08 and except as provided in subsection 4, the department, if it is satisfied that the applicant is the person entitled to the possession of the vehicle, shall issue a certificate of title which must contain:
  - a. The name of the owner.
  - b. The vehicle identification number.
  - c. The signature of the director.
  - d. The date issued.
  - e. A description of the vehicle as determined by the department.
  - f. A statement of the owner's title and of all liens or encumbrances upon the vehicle therein described and whether possession is held by the owner or lienholder.
2. Upon the reverse side of such certificate must be contained forms for the assignment of title or interest and warranty thereof by the owner with a space for the notation of liens and encumbrances upon such vehicle at the time of a transfer.
3. The amount of any lien or encumbrance upon the vehicle need not be shown anywhere on the certificate of title, only the fact of such lien or encumbrance, and the identity of the lienholder or encumbrancer. The department shall deliver the certificate of title to the owner or first lienholder. The certificate is good for the life of the vehicle as long as the vehicle is owned or held by the original holder of the certificate.
4. The department may not issue a certificate of title for a manufactured home with respect to which there has been recorded an affidavit of affixation under section 47-10-27.
5. The holder of a manufacturer's certificate of origin to a manufactured home may deliver it to a person to facilitate conveying or encumbering the manufactured home. A person receiving a manufacturer's certificate of origin so delivered holds the certificate in trust for the person delivering the certificate.
6. Notwithstanding any other provision of law, a certificate of title issued by the department for a manufactured home is prima facie evidence of the facts appearing on the certificate, notwithstanding that the manufactured home, at any time, becomes affixed in any manner to real property.

**39-05-09.1. Lost, stolen, or mutilated certificate of title.** If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the department, and upon the payment of five dollars. The department

may issue a duplicate title at no cost to the first lienholder or, if none, the owner named in the certificate, when satisfied the first lienholder or owner did not receive the original title which was issued. The duplicate certificate of title must contain the legend "This is a duplicate certificate and may be subject to the rights of a person under the original certificate". It must be mailed to the first lienholder named in it or, if none, to the owner.

A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the department.

**39-05-09.2. Suspension or revocation of certificates of title.**

1. The department shall suspend or revoke a certificate of title, upon notice and reasonable opportunity to be heard in accordance with chapter 28-32, when authorized by any other provision of law or if it finds:
  - a. The certificate of title was fraudulently procured or erroneously issued;
  - b. The vehicle has been scrapped, dismantled, or destroyed; or
  - c. A person has acquired a vehicle but has failed to transfer the ownership as required by this chapter.
2. For purposes of this section, the following apply:
  - a. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.
  - b. When the department suspends or revokes a certificate of title, the owner or person in possession of it shall immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the department.
  - c. The department may seize and impound any certificate of title which has been suspended or revoked.
3. Except as provided in subsection 2 of section 39-05-35, the department may not suspend or revoke a certificate of title to a manufactured home by reason of the fact that at any time the manufactured home becomes affixed in any manner to real property.

**39-05-10. Registration card - Issuance - Contents - Signing.** Repealed by S.L. 1973, ch. 295, § 2.

**39-05-11. Altering or forging certificate of title - Penalty.** Any person who shall:

1. Alter with fraudulent intent any certificate of title issued by the department;
2. Forge or counterfeit any certificate of title purporting to have been issued by the department under the provisions of this chapter;
3. Alter or falsify with fraudulent intent or forge any assignment of a certificate of title; or
4. Use any certificate or assignment, knowing the same to have been altered, forged, or falsified;

is guilty of a class C felony.

**39-05-12. Registration card to be carried in or on vehicle - Inspection of card - Penalty.** Repealed by S.L. 1973, ch. 295, § 2.

**39-05-13. Duplicate number plate, trailer plate, certificate of registration card issued when, fee.** Repealed by S.L. 1959, ch. 289, § 16.

**39-05-14. Special number when engine or serial number is altered, removed, or defaced - Application - Stamping - Record.** Repealed by S.L. 1959, ch. 289, § 16.

**39-05-15. Registration card to be endorsed and sent to department upon transfer of vehicle - Penalty.** Repealed by S.L. 1949, ch. 246, § 1.

**39-05-16. Legal owner of a motor vehicle not to transfer title without certificate - Penalty.** Repealed by S.L. 1975, ch. 106, § 673.

**39-05-16.1. Release of a security interest.**

1. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the lienholder, the lienholder, within ten days after demand and in any event within thirty days of the satisfaction, shall execute a release of the lienholder's security interest in a manner prescribed by the department. The lienholder shall:
  - a. Mail or deliver the certificate of title and release to the next lienholder named on the certificate of title, who, within thirty days of receipt, shall mail or deliver the certificate of title, release, and a fee of five dollars to the department. The department shall issue and mail or deliver a new certificate of title to the first lienholder named on the new certificate of title.
  - b. If there are no other lienholders named on the certificate of title, mail or deliver the certificate of title and release to the owner or the owner's designee. Within thirty days of receipt, the person receiving the certificate of title and release shall mail or deliver the certificate of title, release, and a fee of five dollars to the department. The department may prescribe further application procedures and, upon determining that there has been a proper compliance with these procedures, shall issue a new certificate of title and mail or deliver it to the owner or the owner's designee.
2. Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of a prior lienholder, the lienholder whose security interest is satisfied shall execute, within ten days after demand and in any event within thirty days of the satisfaction, a release in the form the department prescribes and deliver the release to the owner or the owner's designee. Upon receipt of a release delivered by the owner to the lienholder in possession of the certificate of title, that lienholder shall mail or deliver the release and the certificate of title to the department. Upon the payment of a five dollar fee, the department shall issue a new certificate.
3. Notwithstanding this section, a lienholder who uses an electronic lien notification system shall follow the procedure adopted for that system by the department.

**39-05-17. Transfer of title of vehicle - Endorsement required - Certificate of title delivered - New certificate obtained - Penalty.**

1. The owner or transferor of a motor vehicle who transfers title to a vehicle shall endorse an assignment and warranty of title upon the certificate of title for the vehicle. The owner or transferor shall include on the assignment and warranty of title the name of the transferee and the selling price of the vehicle if applicable.
2. If legal title passes to the transferee, the owner shall deliver the endorsed certificate of title to the transferee within fifteen days.

3. If legal title passes to a lienholder rather than the transferee, the transferee shall endorse a statement that the lienholder holds the lien and shall send the certificate of title to the department with an application for a new certificate of title showing the names of the new owner and lienholder. The certificate of title when issued must be sent by the department to the lienholder or the department may use an electronic lien notification procedure in lieu of sending a certificate of title to a lienholder.
4. Within thirty days, the transferee shall deliver the endorsed certificate of title to the department with a transfer fee of five dollars, and shall make an application for a new certificate of title. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked if the transferee fails to present the endorsed certificate of title to the department for transfer and make application for a new certificate of title within thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder, delivery must be made to the owner.
5. A violation of this section by an owner, lienholder, or transferee is a class B misdemeanor.

**39-05-17.1. Certificate of title to be delivered.** Repealed by S.L. 2005, ch. 327, § 5.

**39-05-17.2. Body damage disclosure - Rules - When required - Penalty.**

1. The department shall adopt rules relating to the manner and form of disclosing motor vehicle body damage on the certificate of title to a motor vehicle. The rules must provide for a damage disclosure statement from the transferor to the transferee at the time ownership of a motor vehicle is transferred and provide that the department may not transfer the title without the required damage disclosure statement.
2. Motor vehicle body damage disclosure requirements apply only to the transfer of title on motor vehicles of a model year which have been released in the current calendar year and those motor vehicles of a model year which were released in the seven calendar years before the current calendar year. When a motor vehicle has been subject to this disclosure requirement and a motor vehicle of a model year has not been released in the current calendar year or the seven calendar years before the current calendar year, the holder of the certificate of title with the damage disclosure may have the disclosure removed and a new certificate of title issued for a fee of five dollars.
3. As used in this section, "motor vehicle body damage" means a change in the body or structure of a motor vehicle, generally resulting from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage to the motor vehicle which equals or exceeds the greater of eight thousand dollars or forty percent of the predamage retail value of the motor vehicle as determined by the national automobile dealers association official used car guide. The term does not include body or structural modifications, normal wear and tear, glass damage, hail damage, or items of normal maintenance and repair.
4. A person repairing, replacing parts, or performing body work on a motor vehicle of a model year which was released in the current calendar year or the seven calendar years before the current calendar year shall provide a statement to the owner of the motor vehicle when the motor vehicle has sustained motor vehicle body damage requiring disclosure under this section. The owner shall disclose this damage when ownership of the motor vehicle is transferred. When a vehicle is damaged in excess of seventy-five percent of its retail value as determined by the national automobile dealers association official used car guide, the person repairing, replacing parts, or performing body work on the motor vehicle of a model year which has been released in the current calendar year or the seven calendar years before the current calendar

year shall also advise the owner of the motor vehicle that the owner of the vehicle must comply with section 39-05-20.2.

5. The amount of damage to a motor vehicle is determined by adding the retail value of all labor, parts, and material used in repairing the damage. When the retail value of labor has not been determined by a purchase in the ordinary course of business, for example when the labor is performed by the owner of the vehicle, the retail value of the labor is presumed to be the product of the repair time, as provided in a generally accepted autobody repair flat rate manual, multiplied by thirty-five dollars.
6. A person who violates this section or rules adopted pursuant to this section is guilty of a class A misdemeanor.

**39-05-17.3. Vehicle leases that are not sales or security interests.** Notwithstanding any other provision of law, a transaction regarding motor vehicles or trailers does not create a sale or security interest merely because an agreement provides that the rental price may be adjusted by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

**39-05-18. Forwarding certificate of title to department not required when transferee is dealer - Exception.** Repealed by S.L. 1951, ch. 250, § 2.

**39-05-19. Obtaining certificate of title for vehicle when ownership obtained by other than voluntary means.** Whenever the ownership of any vehicle passes otherwise than by voluntary transfer, the transferee may obtain a certificate of title for the vehicle from the department upon application for the certificate and payment of a fee of five dollars. The application for the certificate must be accompanied by instruments or documents of authority, or copies thereof, as may be required by law to evidence or effect a transfer of title in or to chattels in such case. The department, when satisfied of the genuineness and regularity of such transfer, shall issue a new certificate of title to the person entitled thereto, provided that the department may not issue a certificate of title for a manufactured home with respect to which there has been recorded an affidavit of affixation under section 47-10-27.

**39-05-20. Transferee may obtain new certificate of title upon inability to obtain old certificate - Proof of ownership - Appeal.**

1. When the transferee of a vehicle is unable to obtain a properly assigned certificate of title for a vehicle, and makes application for a new certificate and presents satisfactory proof of ownership, the department may cancel the old certificate and issue a new certificate to the transferee, provided that the department may not issue a certificate of title for a manufactured home with respect to which there has been recorded an affidavit of affixation under section 47-10-27. Satisfactory proof of ownership must include compliance by the transferee with the procedures outlined in title 35. The department may establish procedures for determining satisfactory proof of ownership of a vehicle in those cases when the department is unable to determine the legal owner of record. Any person aggrieved by a decision of the department as to ownership of a vehicle may appeal that decision to the district court under chapter 28-32.
2. A person holding a certificate of title whose interests in the vehicle have been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the department upon request of the department. The delivery of the certificate pursuant to the request of the department does not affect the rights of the person surrendering the certificate. The action of the department in issuing a new certificate of title as provided herein is not conclusive upon the rights of the owner or lienholder listed in the old certificate.

**39-05-20.1. Salvage certificate of title.** The department shall issue a salvage certificate of title for a salvaged or destroyed vehicle when the owner of the vehicle has returned the

certificate of title for the vehicle to the department. The department shall prescribe the form and content of the salvage certificate of title. The certificate must include a prominent notation that it has been issued for a salvaged motor vehicle.

**39-05-20.2. Issuance of salvage certificate of title.** The owner of a vehicle that is damaged in excess of seventy-five percent of the vehicle's retail value as determined by the national automobile dealers association official used car guide shall forward the title for that vehicle to the department within ten days and the department shall issue a salvage certificate of title. Glass damage and hail damage must be excluded in the determination of whether a vehicle has been damaged in excess of seventy-five percent of the vehicle's retail value.

If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The applicant shall include with the application a certificate of inspection in the form required by the department, the salvage certificate of title, and a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle the words "previously salvaged" and a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application or unless other proof of the identity of the vehicle has been provided to the satisfaction of the department.

**39-05-20.3. Grounds for refusing certificate of title.** The department shall not issue a certificate of title or transfer a certificate of title upon any of the following grounds:

1. When the application contains any false or fraudulent statements or when the applicant has failed to furnish required information or reasonable additional information requested by the department or when the applicant is not entitled to the issuance of a certificate of title under this chapter.
2. When the vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.
3. When the department has reason to believe the vehicle is a stolen or embezzled vehicle or the granting of title would constitute a fraud against the rightful owner or other person having valid lien upon the vehicle.
4. When the certificate of title is suspended or revoked for any reason as provided in the motor vehicle laws of this state.
5. When the required fee has not been paid.
6. When any sales tax or motor vehicle excise tax, properly due, has not been paid.
7. For failure to provide security for payment of basic no-fault benefits and the liabilities covered under motor vehicle liability insurance on a motor vehicle as required by chapter 26.1-41.

**39-05-20.4. Titles for salvage and junk motor vehicles - Rules - Penalty.** The department may adopt rules defining salvage and junk motor vehicles and governing the manner and circumstances under which certificates of title for such a motor vehicle may be required. The rules must describe the facts and circumstances under which a person must receive from the department a salvage certificate of title or a junk certificate of title for a motor vehicle. A person who violates a rule adopted pursuant to this section is guilty of a class A misdemeanor.

**39-05-21. Refusal to issue certificate of title - Revoking certificate - Appeal.** If the department determines that an applicant for a certificate of title to a vehicle is not entitled thereto, it may refuse to issue the certificate, and in that event, unless the department reverses its decision or its decision is reversed by a court of competent jurisdiction, the applicant has no

further right to apply for a certificate of title on the statements in the application. The department, for a like reason, after notice and hearing, may revoke the outstanding certificate of title. Said notice must be served in person or by registered or certified mail. An appeal must be taken in accordance with the provisions of chapter 28-32.

**39-05-22. Department to maintain file of surrendered certificates of title - Purpose - Records.** The department shall retain and appropriately file every surrendered certificate of title, such file to be maintained to permit the tracing of title of vehicles designated therein.

1. The department shall file, upon receipt, each affidavit of affixation relating to a manufactured home that is delivered in accordance with section 47-10-27 when satisfied of the affidavit's genuineness and regularity.
2. The department shall maintain a record of each affidavit of affixation filed in accordance with subsection 1. The record must state the name of each owner of the related manufactured home, the county of recordation, the date of recordation, the book and page number of each book of records in which there has been recorded an affidavit of affixation under section 47-10-27, and any other information the department prescribes.
3. The department shall file, upon receipt, each application for surrender of the manufacturer's certificate of origin relating to a manufactured home that is delivered in accordance with subsection 1 of section 39-05-35, when satisfied of the application's genuineness and regularity.
4. The department shall file, upon receipt, each application for surrender of the certificate of title relating to a manufactured home that is delivered in accordance with subsection 2 of section 39-05-35, when satisfied of the application's genuineness and regularity.
5. The department shall file, upon receipt, each application for confirmation of conversion relating to a manufactured home that is delivered in accordance with subsection 3 of section 39-05-35, when satisfied of the application's genuineness and regularity.
6. The department shall maintain a record of each manufacturer's certificate of origin accepted for surrender as provided in subsection 1 of section 39-05-35. The record must state the name of each owner of the manufactured home, the date the manufacturer's certificate of origin was accepted for surrender, the county of recordation, the date of recordation, the book and page number of each book of records in which there has been recorded an affidavit of affixation under section 47-10-27, and any other information the department prescribes.
7. The department shall maintain a record of each manufactured home certificate of title accepted for surrender as provided in subsection 2 of section 39-05-35. The record must state the name of each owner of the manufactured home, the date the certificate of title was accepted for surrender, the county of recordation, the date of recordation, the book and page number of each book of records in which there has been recorded an affidavit of affixation under section 47-10-27, and any other information the department prescribes.
8. The department shall maintain a record of each application for confirmation of conversion accepted as provided in subsection 3 of section 39-05-35. The record must state the name of each owner of the manufactured home, the county of recordation, the date of recordation, the book and page number of each book of records in which there has been recorded an affidavit of affixation under section 47-10-27, and any other information the department prescribes.

9. Such file of surrendered certificates of title and the records referred to in subsections 6, 7, and 8 must be maintained for a period of five years or for such further time that the director may determine.

**39-05-23. Peace officers to report stolen and recovered motor vehicles to department.** Repealed by S.L. 1963, ch. 265, § 7.

**39-05-24. Index of stolen and recovered motor vehicles kept by department - Department to report to municipalities, counties, and other states.** Repealed by S.L. 1963, ch. 265, § 7.

**39-05-25. Receiving, transferring, or having possession of stolen vehicles - Felony.** Repealed by S.L. 1975, ch. 106, § 673.

**39-05-26. Used car dealers to maintain records - Contents.** Repealed by S.L. 1975, ch. 328, § 1.

**39-05-27. Vehicle dealer to have certificate of title or other documentary evidence to prove possession.** Every vehicle dealer shall have in the dealer's possession a separate certificate of title assigned to such dealer or other documentary evidence of the dealer's right to the possession of every vehicle in the dealer's possession.

**39-05-28. Penalty for defacing, destroying, removing, or altering engine, serial, or identification numbers.** Any person who with fraudulent intent shall:

1. Deface, destroy, remove, or alter the engine, serial, or identification number of a motor vehicle;
2. Place or stamp other than the original engine, serial, or identification number, or a number assigned, upon a motor vehicle; or
3. Sell or offer for sale any motor vehicle bearing an altered or defaced engine, serial, or identification number, other than the original or a number assigned,

is guilty of a class C felony.

**39-05-29. Registration of housetrailer - Provisions of chapter not applicable to trailers or semitrailers less than fifty dollars in value.** Repealed by S.L. 1961, ch. 253, § 6.

**39-05-30. Fees and revenues collected placed in highway tax distribution fund - Payment of salaries and expenses.** All fees and revenues received by the director under the provisions of this chapter must be deposited by the director in the state treasury. Such moneys must be placed in the highway tax distribution fund. All salaries and other expenses incurred in connection with the provisions of this chapter must be paid out of the motor vehicle registration fund in the manner provided by law for the disbursement of said fund.

**39-05-31. Director may employ office help and purchase supplies.** Within the legislative appropriation, the director may employ all office help and purchase all supplies necessary to carry out the provisions of this chapter.

**39-05-31.1. Administration of oaths.** Officers and employees of the department designated by the director may administer oaths for the purposes of this chapter but may not charge any fee therefor.

**39-05-32. Officers to enforce provisions of chapter.** The highway patrol and all other road or police officers shall enforce the provisions of this chapter.

**39-05-33. General penalty.** Any person violating any provision of this chapter for which another penalty is not provided specifically is guilty of a class B misdemeanor. This section does not apply to the department.

**39-05-34. Penalty for felony.** Repealed by S.L. 1975, ch. 106, § 673.

**39-05-35. Manufactured homes - Conversion to real property - Procedure - Rules.**

1. a. The owner or, if there is more than one owner, all owners, of a manufactured home that is covered by a manufacturer's certificate of origin which the owner is able to produce and that is permanently affixed to real property as defined in subsection 1 of section 47-10-27, or which the owner intends to permanently affix to real property as defined in subsection 1 of section 47-10-27, may surrender the manufacturer's certificate of origin to the manufactured home to the department by filing with the department an application for surrender of manufacturer's certificate of origin containing or accompanied by:
  - (1) The name, residence, and mailing address of the owner;
  - (2) A description of the manufactured home, including the name of the manufacturer, the make, the model name, the model year, the dimensions, the manufacturer's serial number of the manufactured home, whether the manufactured home is new or used, and any other information the department requires;
  - (3) The date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired, and the names and addresses of any security interest holders and lienholders in the order of their apparent priority;
  - (4) A statement, signed by the owner, stating either:
    - (a) Any facts or information known to the owner that may affect the validity of the title to the manufactured home or the existence or nonexistence of a security interest in or lien on the manufactured home; or
    - (b) That no such facts or information are known to the owner;
  - (5) A copy of the recorded affidavit of affixation as provided in accordance with subsection 5 of section 47-10-27;
  - (6) The original manufacturer's certificate of origin;
  - (7) The name and mailing address of each person wishing written acknowledgment of surrender from the department;
  - (8) The applicable fee for filing the application for surrender; and
  - (9) Any other information and documents the department reasonably requires to identify the owner of the manufactured home and to enable the department to determine whether the owner satisfied the requirements of subdivisions a through c of subsection 6 of section 47-10-27 and is entitled to surrender the manufacturer's certificate of origin and the existence or nonexistence of security interests in or liens on the manufactured home.

- b. When satisfied of the genuineness and regularity of the surrender of a manufacturer's certificate of origin to a manufactured home and upon satisfaction of the requirements of subdivision a, the department shall:
    - (1) Cancel the manufacturer's certificate of origin and update the department's records in accordance with the provisions of section 39-05-22; and
    - (2) Provide written acknowledgment of compliance with the provisions of this section to each person identified on the application for surrender of a manufacturer's certificate of origin under paragraph 7 of subdivision a.
  - c. Upon satisfaction of the requirements of this subsection, a manufactured home must be conveyed or encumbered as provided in chapter 47-10. If the application to surrender a manufacturer's certificate of origin is delivered to the department within sixty days of recording the related affidavit of affixation with the recorder in the county in which the real property to which the manufactured home is or will be affixed and the application is thereafter accepted by the department, the requirements of this subsection are deemed satisfied as of the date the affidavit of affixation was recorded.
  - d. Upon written request, the department shall provide written acknowledgment of compliance with the provisions of this subsection.
2. a. The owner or, if there is more than one owner, all owners, of a manufactured home that is covered by a certificate of title which the owner is able to produce and that is permanently affixed to real property as defined in subsection 1 of section 47-10-27, or which the owner intends to permanently affix to real property as defined in subsection 1 of section 47-10-27, may surrender the certificate of title to the manufactured home to the department by filing with the department an application for surrender of title containing or accompanied by:
    - (1) The name, residence, and mailing address of the owner;
    - (2) A description of the manufactured home, including the name of the manufacturer, the make, the model name, the model year, the dimensions, the manufacturer's serial number of the manufactured home, whether the manufactured home is new or used, and any other information the department requires;
    - (3) The date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired, and the names and addresses of any security interest holders and lienholders in the order of their apparent priority;
    - (4) A statement, signed by the owner, stating either:
      - (a) Any facts or information known to the owner that may affect the validity of the title to the manufactured home or the existence or nonexistence of a security interest in or lien on the manufactured home; or
      - (b) That no such facts or information are known to the owner;
    - (5) A copy of the recorded affidavit of affixation provided in accordance with subsection 5 of section 47-10-27;
    - (6) The original certificate of title;

- (7) The name and mailing address of each person wishing written acknowledgment of surrender from the department;
    - (8) The applicable fee for filing the application for surrender; and
    - (9) Any other information and documents the department reasonably requires to identify the owner of the manufactured home and to enable the department to determine whether the owner satisfied the requirements of subdivisions a through c of subsection 6 of section 47-10-27 and is entitled to surrender the certificate of title and the existence or nonexistence of security interests in or liens on the manufactured home.
  - b. The department may not accept for surrender a certificate of title to a manufactured home unless and until all security interests or liens perfected under section 35-01-05.1 have been released.
  - c. When satisfied of the genuineness and regularity of the surrender of a certificate of title to a manufactured home and upon satisfaction of the requirements of subdivisions a and b, the department shall:
    - (1) Cancel the certificate of title and update the department's records in accordance with the provisions of section 39-05-22; and
    - (2) Provide written acknowledgment of compliance with the provisions of this section to each person identified on the application for surrender of title under paragraph 7 of subdivision a.
  - d. Upon satisfaction of the requirements of this subsection, a manufactured home must be conveyed or encumbered as provided in chapter 47-10. If the application to surrender a certificate of title is delivered to the department within sixty days of recording the related affidavit of affixation with the recorder in the county in which the real property to which the manufactured home is or will be affixed, and the application is thereafter accepted by the department, the requirements of this subsection are deemed satisfied as of the date the affidavit of affixation was recorded.
  - e. Upon written request, the department shall provide written acknowledgment of compliance with the provisions of this subsection.
3. a. The owner or, if there is more than one owner, all owners, of a manufactured home that is not covered by a manufacturer's certificate of origin or a certificate of title, or of a manufactured home that is covered by a manufacturer's certificate of origin or certificate of title but which the owner of the manufactured home, after diligent search and inquiry, is unable to produce, and that is permanently affixed to real property as defined in subsection 1 of section 47-10-27, or which the owner intends to permanently affix to real property as defined in subsection 1 of section 47-10-27, may apply to the department by filing with the department an application for confirmation of conversion containing or accompanied by:
  - (1) The name, residence, and mailing address of the owner;
  - (2) A description of the manufactured home, including the name of the manufacturer, the make, the model name, the model year, the dimensions, the manufacturer's serial number of the manufactured home, whether the manufactured home is new or used, and any other information the department requires;

- (3) The date of purchase by the owner of the manufactured home, the name and address of the person from whom the home was acquired, and the names and addresses of any security interest holders and lienholders in the order of their apparent priority;
  - (4) A statement, signed by the owner, stating either:
    - (a) Any facts or information known to the owner that could affect the validity of the title to the manufactured home or the existence or nonexistence of a security interest in or lien on the manufactured home; or
    - (b) That no such facts or information are known to the owner;
  - (5) A recorded copy of the affidavit of affixation as provided in accordance with subsection 5 of section 47-10-27;
  - (6) A sworn declaration by an attorney duly admitted to practice in this state or an agent of a title insurance company duly licensed to issue policies of title insurance in this state that the manufactured home is free and clear of, or has been released from, all recorded security interests, liens, and encumbrances; and
    - (a) Any facts or information known to that person that could affect the validity of the title of the manufactured home or the existence or nonexistence of any security interest in or lien on the manufactured home; or
    - (b) That no such facts or information are known to that person;
  - (7) The name and mailing address of each person wishing written acknowledgment of surrender from the department;
  - (8) The applicable fee for filing the application for surrender; and
  - (9) Any other information and documents the department reasonably requires to identify the owner of the manufactured home and to enable the department to determine whether the owner satisfied the requirements of subdivisions a through c of subsection 6 of section 47-10-27 and the existence or nonexistence of security interests in or liens on the manufactured home.
- b. When satisfied of the genuineness and regularity of the application for confirmation of conversion of a manufactured home and upon satisfaction of the requirements of subdivision a, the department shall:
- (1) Update its records in accordance with the provisions of section 39-05-22; and
  - (2) Provide written acknowledgment of compliance with the provisions of this subsection to each person identified on the application for confirmation of conversion under paragraph 7 of subdivision a.
- c. Upon satisfaction of the requirements of this subsection, a manufactured home must be conveyed or encumbered as provided in chapter 47-10. If the application for confirmation of conversion of a manufactured home is delivered to the department within sixty days of recording the related affidavit of affixation with the recorder in the county in which the real property to which the manufactured home is or will be affixed and the application is thereafter

accepted by the department, the requirements of this subsection are deemed satisfied as of the date the affidavit of affixation was recorded.

- d. Upon written request, the department shall provide written acknowledgment of compliance with the provisions of this subsection.
4. The department may adopt rules to implement the provisions of this section.