

---

## Judiciary Committee

---

### HB 2653

**Title:** An act relating to transfer of vehicle ownership upon the death of the registered owner.

**Brief Description:** Facilitating transfer of a vehicle upon death.

**Sponsors:** Representatives Carrell, Mielke, Roach, Crouse, Nixon and Benson.

#### Brief Summary of Bill

- Creates a "certificate of ownership in beneficiary form" in which an owner of a motor vehicle or trailer may name a beneficiary to take ownership of the vehicle or trailer upon the owner's death.
- Provides that a beneficiary named on the certificate cannot be revoked or changed by a will and the transfer of the motor vehicle or trailer under the certificate is not subject to probate laws.

**Hearing Date:** 2/7/02

**Staff:** Trudes Hutcheson (786-7384).

#### Background:

The disposition of a person's property upon death is usually determined by the terms of a will, other testamentary documents or arrangements, such as joint tenancy accounts, and other laws governing the distribution of property. A probate is the legal procedure to prove the validity of a will and administer property of the deceased person. Estates consisting only of personal property with a value under \$60,000 may be subject to special statutes that have fewer procedures than traditional probate laws.

Nonprobate assets are those rights and interests of a person having beneficial ownership that pass on the person's death under a written instrument other than the person's will. An example of a nonprobate asset is a "payable on death" bank account (POD account), which belongs to the depositor until it is paid to the named beneficiary upon the depositor's death.

Joint tenancy and tenants by the entirety are types of ownership of property by two or more

persons in which each owns an undivided interest in the whole property and each has a right of survivorship. Neither party may sell the property without the consent of the other. Upon the death of one of the tenants, the surviving tenant has ownership of the whole property. The deceased tenant's share cannot be passed on in a will or through other means.

Unlike a joint tenancy, a tenancy in common is a type of ownership where each tenant holds an undivided interest in the property and upon the death of one, the deceased's interest can be passed on in a will or other testamentary procedure. Community property is property owned in common by a husband and wife, each having an undivided one-half interest by reason of the marriage. A person may pass his or her one-half share of community property to another person upon death.

Under the Motor Vehicle laws, the term "motor vehicle" generally means every vehicle which is self-propelled. "Trailer" is defined as including every vehicle without motive power designed for being drawn by or used in conjunction with a motor vehicle.

### **Summary of Bill:**

A sole owner of a motor vehicle or trailer, or multiple owners who are joint tenants with right of survivorship or tenants by the entirety, may request the Department of Licensing (DOL) to issue a "certificate of ownership in beneficiary form." The certificate of ownership in beneficiary form shall direct the DOL to transfer the certificate of ownership of the motor vehicle or trailer to the named beneficiary upon the death of the sole owner or upon the death of all multiple owners. If more than one beneficiary is named, the transfer of ownership shall be as joint tenants with right of survivorship or as tenants by the entirety.

A certificate of ownership in beneficiary form must include the words "transfer on death" or "TOD" followed by the name of the beneficiary.

During the lifetime of the sole owner or lifetimes of all multiple owners, the consent of the beneficiary is not required for a transaction relating to the motor vehicle or trailer. A certificate of ownership in beneficiary form may be revoked or changed at any time before the transfer to the beneficiary only:

- (a) by sale of the motor vehicle or trailer; or
- (b) by filing with the DOL an application to reissue the certificate of ownership with no designated beneficiary or naming a different beneficiary.

Other than those two circumstances, the designation of a beneficiary may not be changed or revoked by a will, other instrument or a change in circumstances.

The beneficiary's interest in the motor vehicle or trailer at the death of the owner or owners is subject to any contract of sale, assignment of ownership, or security interest to which the owner or owners of the motor vehicle or trailer were subject during their lifetime.

The transfer of a motor vehicle or trailer by a certificate of ownership in beneficiary form is not considered testamentary and not subject to the requirements in the probate laws.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.