

Act No. 519
Public Acts of 2018
Approved by the Governor
December 27, 2018
Filed with the Secretary of State
December 28, 2018
EFFECTIVE DATE: March 29, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. VanderWall

ENROLLED HOUSE BILL No. 6487

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 81103, 81104, 81105, 81108, 81109, 81111, 81112, and 81113 (MCL 324.81103, 324.81104, 324.81105, 324.81108, 324.81109, 324.81111, 324.81112, and 324.81113), sections 81103, 81104, 81105, and 81111 as added by 1995 PA 58, section 81108 as amended by 2012 PA 28, section 81109 as amended by 1996 PA 175, section 81112 as amended by 2005 PA 271, and section 81113 as amended by 1997 PA 102, and by adding section 81114f.

The People of the State of Michigan enact:

Sec. 81103. (1) This section is subject to section 81109(5).

(2) After April 1, 1991, every ORV sold by a dealer to a retail purchaser shall be subject to the certificate of title provisions of this part.

(3) After April 1, 1991, a person who purchases or otherwise acquires an ORV shall apply for a certificate of title as provided in this part.

(4) After April 1, 1991, the owner of an ORV that has not been titled pursuant to subsection (2) or (3) or the code may apply for and, if otherwise eligible, receive a certificate of title issued under this part. If the ORV was previously titled under the code, it is not eligible for titling under this part.

Sec. 81104. The owner of an ORV that has been and is titled under this part may apply for and, if otherwise eligible, receive a title to the ORV under the code. If the owner applies for a title under the code, any certificate of title issued under this part shall at that time be surrendered to the department of state.

Sec. 81105. (1) Subject to subsection (2), after an ORV has been titled under this part, both of the following apply:

(a) The owner, except as provided in section 81104, shall not sell or otherwise assign ownership in the ORV without delivering to the transferee a certificate of title showing assignment of the ORV in the transferee's name.

(b) A person shall not purchase or otherwise acquire an ORV without obtaining a certificate of title to it in the person's name pursuant to either this part or the code.

(2) As provided under section 81109(5), the department of state is not required to issue a certificate of title to the owner of an ORV if the title is subject to a security interest.

Sec. 81108. (1) An application for an ORV certificate of title shall be on a form prescribed by the department of state. The application shall include a certification. The owner or purchaser shall sign the application or, if the application is

filed electronically, provide information requested by the department of state to verify the owner's identity. The application shall contain, in addition to other information required by the department of state, the following information:

(a) The applicant's name and address.

(b) A statement of any security interest or other liens on the ORV, along with the name and address of any lienholder.

(c) If a lien is not outstanding, a statement of that fact.

(d) A description of the ORV, including the year, make, model or series, and vehicle identification number.

(2) An application for an ORV certificate of title that indicates the existence of a security interest in the ORV shall, if requested by the security interest holder, be accompanied by a copy of the security agreement, which may be unsigned. The department of state shall indicate on the copy the date and place of filing and shall return the copy to the person who filed the application. The filer shall forward the copy to the security interest holder identified in the application.

(3) Receipt by the secretary of state of a properly tendered application for an ORV certificate of title that indicates the existence of a security interest in the ORV is a condition of perfection of a security interest in the ORV, unless, under section 81109(5), the department of state does not issue certificates of title for ORVs subject to a security interest, and is equivalent to filing a financing statement under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.9994, with respect to the ORV. When a security interest in an ORV is perfected, it has priority over the rights of a lien creditor as lien creditor is defined in section 9102 of the uniform commercial code, 1962 PA 174, MCL 440.9102.

Sec. 81109. (1) The purchaser or other transferee of an ORV subject to the titling provisions of this part shall, except as provided in subsection (2), apply to the department of state for issuance of a certificate of title to the ORV. The application shall be filed within 15 days after the date of purchase or transfer.

(2) A dealer selling ORVs at retail, within 15 days after delivering an ORV to a retail purchaser, shall apply to the department of state for issuance of an ORV certificate of title in the purchaser's name. The purchaser of the ORV shall sign the application and other papers necessary to enable the dealer to secure the title from the department of state. If the ORV was not previously titled, the application shall be accompanied by a manufacturer's certificate of origin.

(3) At the request of the applicant, the department of state shall process an application for an ORV certificate of title on an expedited basis.

(4) An application filed with the department of state pursuant to this section shall be accompanied by the fee or fees prescribed in section 81110.

(5) The department of state may require that all transactions concerning ORV security interests be conducted by electronic means, as determined by the department of state. In that case, if an ORV is subject to a security interest, the department of state is not required to issue a certificate of title to the owner of the ORV or a lienholder if it maintains a record of title electronically. After all security interests have been terminated, or for purposes of retitling the ORV in another state or any other purpose considered appropriate by the department of state, the department of state may issue a paper copy of the ORV title to the ORV owner.

(6) An ORV sale transaction in which a security interest is entered by electronic means shall include a document recording entry of the electronic security interest and information regarding the financial institution that holds the security interest. When a secured party is presented with payment in satisfaction of the security interest, a secured receipt in a form approved by the department of state may be produced and submitted to the department of state in lieu of the certificate of title for purposes of transferring ownership in the ORV.

(7) Beginning January 1, 1992, a person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

Sec. 81111. (1) The department of state may refuse to issue an original or duplicate ORV certificate of title under the circumstances provided in section 81109(5) or if any of the following occur:

(a) The applicant fails to furnish all required information or reasonable additional information requested by the department of state.

(b) The required fee has not been paid.

(c) The applicant is not entitled to an ORV certificate of title under this part.

(d) The ORV is titled under the code.

(e) The application contains a false or fraudulent statement.

(f) The department of state has reasonable grounds to believe that the ORV was stolen or embezzled.

(2) Subject to subsection (1), if satisfied that the applicant is the owner of the ORV and is otherwise entitled to an ORV certificate of title, the department of state shall issue an ORV certificate of title in the applicant's name. The certificate shall be mailed or otherwise delivered to the owner of the ORV or to another person specified by the owner in a separate instrument, in a form prescribed by the department of state.

(3) If the secretary of state is not satisfied as to the ownership of an ORV which is not a late model ORV and whose value does not exceed \$1,500.00, the secretary of state shall require the applicant to certify that the applicant is the owner of the ORV and therefore entitled to make application for a certificate of title for the ORV.

Sec. 81112. (1) An ORV certificate of title shall be manufactured in a manner to prevent as nearly as possible the reproduction, alteration, counterfeiting, forging, or duplication of the certificate without ready detection. An ORV certificate of title shall contain on its face the information set forth in the application, including a notation of all secured interests in the ORV, the date on which the application was filed, and other information required by the department of state.

(2) The department of state shall prescribe a uniform method of numbering ORV certificates of title.

(3) An ORV certificate of title shall contain a form for assignment and warranty of title by the owner with space for the notation of a security interest in the ORV. The ORV certificate of title may also contain other forms that the department of state considers necessary to facilitate the effective administration of this part. The certificate shall bear the coat of arms of this state.

(4) A person shall not do any of the following:

(a) Reproduce, alter, counterfeit, forge, or duplicate an ORV certificate of title or hold or use an ORV certificate of title knowing it is reproduced, altered, counterfeited, forged, or duplicated.

(b) Fraudulently indicate on an ORV certificate of title that there is no security interest on record for the ORV.

(c) Forge or counterfeit a letter, receipt, or other document from the holder of a security interest in an ORV indicating that the security interest has been released.

(5) A person who violates subsection (4) is subject to the following penalties:

(a) If the intent of the violation was to commit or aid in the commission of an offense punishable by imprisonment for 1 or more years, the person committing the violation is guilty of a misdemeanor punishable by imprisonment for a period equal to that which could be imposed for the commission of the offense the person had the intent to aid or commit or a fine of not more than \$5,000.00, or both.

(b) If the intent of the violation was to commit or aid in the commission of an offense punishable by imprisonment for not more than 1 year, the person committing the violation is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(6) A person who is convicted of a violation of subsection (4)(b) or (c), in addition to any other penalty, shall pay restitution to the holder of a security interest in the ORV in the amount of the outstanding lien on the ORV.

Sec. 81113. (1) If an ORV certificate of title or duplicate certificate of title is lost or mutilated or becomes illegible, the person entitled to possession of the certificate, or the legal representative or successor in interest to the titleholder of record, may apply to the department of state for a duplicate ORV certificate of title. Upon receipt of the application, the fee prescribed in section 81110, and information satisfactory to the department of state to establish entitlement to the duplicate, the department of state may issue a duplicate ORV certificate of title to the applicant. As provided under section 81109(5), the department of state is not required to issue a duplicate certificate of title to the owner of an ORV if the title is subject to a security interest.

(2) A duplicate ORV certificate of title shall contain the legend: "This is a duplicate certificate of title and may be subject to the rights of a person under the original certificate."

(3) The secretary of state shall maintain 1 or more indexes pertaining to ORV certificates of title. Upon receiving an application for an ORV certificate of title, the secretary of state may check the information in the application and accompanying documents against the indexes of titled, registered, stolen, and recovered ORVs and against other records maintained by the secretary of state.

Sec. 81114f. (1) The secretary of state may enter into 1 or more contracts under this section to establish, implement, and operate an electronic lien title system to process the notification and release of security interests in ORVs through electronic file transfers, or as otherwise determined by the secretary of state, in lieu of the issuance and maintenance of paper documents otherwise required by law. Any such contract shall require the protection of proprietary information in the electronic lien title system and provide for the protection of a competitive free market.

(2) Except for persons who are not normally engaged in the business or practice of financing ORVs, all secured parties are required to participate in the electronic lien title system.

(3) For the purposes of this part, any requirement that a security interest or other information appear on a certificate of title is satisfied by the inclusion of that information in an electronic file maintained in an electronic lien title system. The satisfaction of a security interest may be electronically transmitted to the secretary of state. A secured party shall execute a release of its security interest in an ORV in a manner prescribed by the department not more than 14 days after the secured party receives the payment in satisfaction of the security interest. If the certificate of title is in the possession of the ORV owner, the secured party shall deliver the release to the ORV owner or as otherwise directed by the owner. However, if the certificate of title is held electronically as provided under section 81109(5), the secured party

shall deliver the release of security interest to the department of state, and the department of state shall cancel the security interest. If the secured party fails to comply with these requirements for the release of a secured interest, the secured party is liable to the ORV owner for all damages sustained by the owner because of the failure to comply. The electronic lien title system shall provide a mechanism by which an ORV dealer may assign ownership of an ORV without proof that the prior security interest was satisfied existing on the electronic lien title system. However, in the event of such an assignment, the dealer warrants that the title is free and clear of all liens and assumes responsibility for the satisfaction of the security interest.

(4) A certified copy of the secretary of state's electronic record of a security interest is admissible in any civil, criminal, or administrative proceeding in this state as evidence of the existence of the security interest. If a certificate of title is maintained in the electronic lien title system, a certified copy of the secretary of state's electronic record of the certificate of title is admissible in any civil, criminal, or administrative proceeding in this state as evidence of the existence and contents of the certificate of title.

(5) The secretary of state may determine any requirements necessary to carry out this section, including, but not limited to, 1 or more of the following:

(a) Monitoring the reasonable fees charged by service providers or a contractor for the establishment and maintenance of the electronic lien title system.

(b) The qualifications of service providers for participation in the electronic lien title system.

(c) The qualifications for a contractor to enter into a contract with the secretary of state to establish, implement, and operate the electronic lien title system.

(d) Program specifications that a contractor must adhere to in establishing, implementing, and operating the electronic lien title system.

(6) The electronic lien title system under this section shall be established, implemented, and operational by February 16, 2021.

(7) By February 16, 2021, the department shall require a person to enter evidence of security interests and any related information into the electronic lien title system in lieu of paper documents.

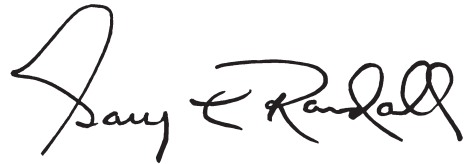
(8) As used in this section:

(a) "Contractor" means a person who enters into a contract with the secretary of state to establish, implement, and operate the electronic lien title system described in this section.

(b) "Electronic lien title system" means a system to process the notification and release of security interests through electronic file transfers that is established and implemented under this section.

(c) "Service provider" means a person who provides secured parties with software to manage electronic lien and title data as provided under this section.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor