



Bill Analysis (Expanded Version)

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Legislative Service Commission

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BILL SUMMARY

Electronic titling

- Allows various actions relating to the titling of, and the creation, discharge, and cancellation of security interests in, motor vehicles, off-highway motorcycles, all-purpose vehicles, watercraft, and outboard motors to be completed by electronic means, in addition to the methods authorized by current law.
- Requires the Registrar of Motor Vehicles to appoint certain motor vehicle dealers, off-highway motorcycle dealers, and all-purpose vehicle dealers as "electronic motor vehicle dealers" or "electronic dealers."
- Requires the issuance of a physical certificate of title to a motor vehicle, off-highway motorcycle, all-purpose vehicle, watercraft, or outboard motor unless the applicant specifically requests an electronic certificate of title.
- Allows the Registrar to use money from the Automated Title Processing Fund, in accordance with appropriations made by the General Assembly, to pay expenses related to implementing the bill.
- Allows electronic motor vehicle dealers and electronic dealers (off-highway motorcycles and all-purpose vehicles) to file certificate of title applications electronically with the clerk of a court of common pleas, with the dealer retaining the original paper application and associated documents.
- Authorizes motor vehicle, off-highway motorcycle, and all-purpose vehicle assignments between electronic motor vehicle dealers or electronic dealers to be accomplished by electronic means and requires

the clerk of a court of common pleas to collect a \$3 fee from the assignor dealer.

- Requires the Registrar, for motor vehicle, off-highway motorcycle, and all-purpose vehicle title information, and the Chief of the Division of Watercraft of the Department of Natural Resources, for watercraft and outboard motor title information, to enable the public to access the applicable title information via electronic means in accordance with rules adopted pursuant to the Administrative Procedure Act.

Motor vehicle lien releases

- Establishes five days after receipt of good funds as the time period within which a secured party with a "discharged" security interest in a motor vehicle must convey a physical certificate of title or a specified sworn statement to the clerk of the court of common pleas to have the security interest "cancelled" prior to the certificate's delivery to the motor vehicle's owner; and also sets late fees for the failure of a secured party under certain circumstances to convey a certificate of title with a notation of a "discharged" security interest on it or a specified affidavit to a motor vehicle dealer within five days after receipt of good funds.

Temporary license placards

- Reduces the fee that the Registrar charges a motor vehicle dealer for a temporary license placard for a motor vehicle by \$2.25 (currently, it is \$4.25) if the motor vehicle dealer involved notifies the Registrar of a placard's issuance by electronic means; but still requires a dealer to charge all motor vehicle purchasers \$4.25 regardless of how the transaction is communicated to the Registrar, thus enabling the dealer to retain an additional \$2.25 if the dealer uses electronic means of notification.

Elimination of notarization requirement

- Eliminates the current requirement that motor vehicle, off-highway motorcycle, all-purpose vehicle, watercraft, and outboard motor certificate of title applications be notarized.

Limited authority deputy registrars pilot program

- Requires the Registrar of Motor Vehicles to establish, by rule, a pilot program to appoint limited authority deputy registrars, who may include clerks of courts of common pleas.
- Provides that each limited authority deputy registrar appointed (1) may conduct only initial and transfer motor vehicle registration transactions via electronic means, and VIN inspections, in a manner approved in the rules that the Registrar adopts, (2) is entitled to collect and retain a fee of \$2.25 for each transaction or inspection that the limited authority deputy registrar conducts, and (3) must collect all fees and taxes that are required by law and related to these transactions or inspections in a manner approved by the Registrar.
- Requires the Registrar to make recommendations, not later than 24 months after the bill's effective date, to the Governor, Speaker of the House of Representatives, and President of the Senate regarding the success of the pilot program and the feasibility of establishing a permanent system of limited authority deputy registrars.

Cross-country titling

- Allows an application for a certificate of title for a motor vehicle, off-highway motorcycle, all-purpose vehicle, watercraft, or outboard motor to be filed with the clerk of *any court of common pleas* rather than only with the clerk of the county in which the applicant resides or of the county in which the transaction is consummated as is required by current law; and further authorizes any clerk to perform certain other actions relating to certificates of title that existing law permits only the clerk of the county in which the last certificate of title was issued to perform.

Legislative Service Commission study

- Requires the Legislative Service Commission to study (1) the bill's effect on customer service in the issuance of certificates of title and (2) the bill's fiscal impact, including, but not limited to, the impact on the collection of state and local permissive sales and use taxes and on balances in county certificate of title administration funds.
- Authorizes the Commission, in conducting the study, to seek the assistance of state agencies, political subdivisions, and organizations such

as the County Commissioners Association of Ohio, Ohio Clerk of Courts Association, and Ohio Automobile Dealers Association.

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CONTENT AND OPERATION

Motor vehicles, off-highway motorcycles, and all-purpose vehicles

Electronic motor vehicle dealers, electronic off-highway motorcycle and all-purpose vehicle dealers, and associated definitions

The bill requires the Registrar of Motor Vehicles to designate as an *electronic motor vehicle dealer* a motor vehicle dealer who meets all of the following criteria: (1) the dealer holds a current, valid dealer license issued under the Motor Vehicle Dealer Licensing Law, (2) the dealer participates in the Title Defect Recision Fund created under existing law, (3) the dealer has the capability, via electronic means, to send motor vehicle title and registration information, as specified by the Registrar, to the Registrar and court of common pleas clerks, and (4) the dealer meets other criteria for electronic motor vehicle dealers that the Registrar may establish by rule adopted under the Administrative Procedure Act (secs. 4501.01(SS) and 4503.034). It also requires the Registrar to designate as an *electronic dealer* a dealer of off-highway motorcycles or all-purpose vehicles who

(1) has the capability, via electronic means, to send title and registration information relating to those motorcycles and vehicles, as specified by the Registrar, to the Registrar and court of common pleas clerks and (2) meets other criteria for electronic dealers the Registrar may establish by rule adopted under the Administrative Procedure Act (secs. 4519.01(K) and 4519.511).

The bill uses the following terms defined in existing law in connection with the previously described dealers and electronic titling of motor vehicles, off-highway motorcycles, and all-purpose vehicles: (1) "**electronic record**" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another and (2) "**electronic**" means electrical, digital, magnetic, optical, or electromagnetic technology or any other form of technology that entails capabilities similar to the latter technologies (secs. 4501.01(OO) and (PP) and 4519.01(J)).

Temporary placards and fees

Current law authorizes the Registrar of Motor Vehicles to issue to a motorized bike dealer or a licensed motor vehicle dealer temporary license placards to be issued to *purchasers* for use on vehicles sold by the dealer. The dealer currently must notify the Registrar within 48 hours of the issuance of a temporary license placard, *on a form* prescribed by the Registrar. The bill instead requires that the dealer notify the Registrar of the issuance of a placard by electronic means via computer equipment purchased and maintained by the dealer or in any other manner prescribed by the Registrar. (Sec. 4503.182(B).)

Current law also fixes the fee for each placard issued by the Registrar to a "motor vehicle dealer" at \$2 plus a fee of \$2.25. Under the bill, the placard fee remains \$2 plus the fee of \$2.25 if the dealer notifies the Registrar of the issuance of the placard in a manner other than by electronic means via such computer equipment; but the fee for each placard issued by the Registrar to a motor vehicle dealer is only \$2 if the dealer notifies the Registrar of the issuance of the placards by electronic means via such computer equipment. The bill additionally specifies that, when a motor vehicle dealer issues a placard to the purchaser of a vehicle that the dealer sells, the dealer must collect and retain a fee of \$4.25. (Sec. 4503.182(B).)

Certificates of title

Application for a certificate of title: in general. The bill allows an application for a certificate of title to a motor vehicle, off-highway motorcycle, or all-purpose vehicle to be filed electronically by any "electronic means" (replacing current law's "electronic image transmission"--motor vehicles only) approved by

the Registrar of Motor Vehicles, as an alternative to applying for a certificate of title by other means authorized by current law. Current law permits an application's electronic image transmission relative to a motor vehicle certificate of title only in counties in which the clerk of the court of common pleas permits an electronic filing; the bill removes the clerk "permission" provision in conjunction with adding the Registrar's approval provision. (Secs. 4505.06(A) and 4519.55.)

The bill also provides that the owner of a motor vehicle, off-highway motorcycle, or all-purpose vehicle must apply for a certificate of title for the motorcycle or vehicle when required by the applicable certificate of title law, but, except as otherwise specifically required in that law, the owner may elect whether or not to have the clerk of the court of common pleas to whom the application is submitted issue a *physical certificate of title* for the motorcycle or vehicle as provided by current law. Except as otherwise specifically provided in the applicable certificate of title law, any provision of that law relating to the *cancellation, issuance, or surrender* of a certificate of title (including, but not limited to, provisions that contain a phrase such as "when a certificate of title is issued," "the clerk shall issue a certificate of title," or "the person shall obtain a certificate of title to the motor vehicle, off-highway motorcycle, or all-purpose vehicle," or another phrase of similar import) includes those circumstances when a clerk enters certificate of title information into the Automated Title Processing System but does not take any further action relating to a physical certificate of title for a motor vehicle, off-highway motorcycle, or all-purpose vehicle. (Secs. 4505.021, 4505.06, 4505.08(F), 4505.13(B), 4519.512, and 4519.58.)

Issuance of physical certificate of title. The bill requires that a clerk of a court of common pleas issue a physical certificate of title to an applicant *unless* the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. The fact that a physical certificate of title is not issued for a motor vehicle, off-highway motorcycle, or all-purpose vehicle does not affect its ownership. In that case, when the clerk completes the process of entering certificate of title application information into the Automated Title Processing System, the effect of the completion of the process is the same as if the clerk actually issued a physical certificate of title for the motorcycle or vehicle. (Secs. 4505.06(A), 4505.08(F), 4505.13(B), 4519.58, and 4519.68.)

An *electronic motor vehicle dealer* who applies for a certificate of title on behalf of a customer who purchases a motor vehicle from the dealer, or an *electronic dealer* who applies for a certificate of title on behalf of a customer who purchases an off-highway motorcycle or all-purpose vehicle from the dealer, may print a "non-negotiable evidence of ownership" for the customer if the customer so requests. The *authorization* to print the non-negotiable evidence of ownership

must come from the clerk with whom the dealer makes application for the certificate of title for the customer, but the *printing* by the dealer does not create an agency relationship of any kind between the dealer and the clerk. (Secs. 4505.08(G) and 4519.58.) The bill relatedly requires the clerk to charge a fee of \$5 for each non-negotiable evidence of ownership authorized and to retain all of the fee (secs. 4505.09(A) and 4519.59(A)).

Processing of applications for certificates of title: notarization. Current law requires an application for a certificate of title for a motor vehicle, off-highway motorcycle, or all-purpose vehicle to be in a form prescribed by the Registrar of Motor Vehicles and to be sworn to before a notary public or other officer empowered to administer oaths (i.e., notarized). The bill continues to require an application to be in the form the Registrar prescribes but eliminates the requirement that it also be notarized. (Secs. 4505.06(A) and 4519.55.)¹

Processing of applications for certificates of title: any clerk. Current law requires that an application for a certificate of title for a motor vehicle, off-highway motorcycle, or all-purpose vehicle be filed with the clerk of the court of common pleas of the county in which the applicant resides if the applicant is an Ohio resident or of the county in which the transaction is consummated if the applicant is not an Ohio resident. The bill instead requires that the application be filed with any clerk, and this requirement will apply whether the application is filed electronically or by other permissible means with a clerk. If a clerk who issues a certificate of title to an applicant is not, however, the clerk of the court of common pleas of the applicant's county of residence, the clerk must transmit data related to the transaction to the database of the automated data processing system in the office of the clerk of the court of common pleas of the applicant's county of residence. (Secs. 4505.06(A) and 4519.55.)

The bill also generally allows *any* clerk to perform certain other actions relating to certificates of title that current law permits only the clerk of the county in which the last certificate of title was issued to perform (secs. 4505.10(A), 4505.102(B)(5), 4505.11, 4505.12, 4505.13(B), 4519.55, 4519.60, 4519.61, 4519.62, and 4519.68(B)).

Processing of applications for certificates of title: retained matter. Existing law requires that a clerk retain the physical evidence of title presented by an applicant and on which a certificate of title is issued. The bill generally continues that requirement but provides that, if an application for a

¹ It appears that, with respect to off-highway motorcycles and all-purpose vehicles at least section 4519.56 of the Revised Code needs to be added to the bill and amended to remove its reference to the notarization of applications for certificates of title.

certificate of title is filed *electronically* by an *electronic motor vehicle dealer* on behalf of the purchaser of a motor vehicle or is filed electronically by an *electronic dealer* on behalf of the purchaser of an off-highway motorcycle or all-purpose vehicle, the clerk must retain *a complete electronic record* of the documentation so filed. Such an electronic motor vehicle dealer and such an electronic dealer also (1) must retain the actual application and all other documents relating to the sale of the motorcycle or vehicle for a period of time specified by the Registrar and (2) must make all of the documents available for inspection upon the request of the Registrar. (Secs. 4505.06(A) and 4519.55.)

Processing of applications for certificates of title: time period provisions. Under the bill, the process of entering certificate of title application information with respect to a *motor vehicle* into the Automated Title Processing System, if a physical certificate of title is *not* to be issued, must be completed within five business days after the application for title is filed with a clerk. Existing law, unchanged by the bill, requires that a physical certificate of title be issued within this five-day period. (Sec. 4505.06(A).)

The bill requires a clerk to "retain on file" the *complete electronic record of documentation* described above in relation to motor vehicles, off-highway motorcycles, or all-purpose vehicles, for the same time periods as existing law requires the clerk to retain on file records relating to a physical certificate of title for those vehicles or motorcycles. These time periods are seven years for current records, and five years for inactive records, after the date of filing. (Secs. 4505.08(A) and 4519.58.)

Processing of applications for certificates of title: required capability. The bill requires every clerk to have capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle, off-highway motorcycle, and all-purpose vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means (secs. 4505.06(I) and 4519.55).

Physical versus electronic certificates of title in specific circumstances

Certain person--dealer assignments. Under the bill, if a person who is not an electronic motor vehicle dealer owns a motor vehicle for which a physical certificate of title *has not been issued* by a clerk of a court of common pleas and the person sells the motor vehicle *to an electronic motor vehicle dealer*, or if a person who is not an electronic dealer owns an off-highway motorcycle or all-purpose vehicle for which a certificate of title has not been issued by a clerk and sells the motorcycle or vehicle to an electronic dealer, the person is not required to obtain a physical certificate of title to the motorcycle or vehicle in order to transfer ownership to the dealer. The person must present the dealer, in a manner

approved by the Registrar of Motor Vehicles, with sufficient proof of the person's identity and complete and sign a form prescribed by the Registrar that attests to the person's identity and assigns the motorcycle or vehicle to the dealer. The dealer then must inform a clerk via electronic means of the sale of the motorcycle or vehicle and the assignment of its ownership to the dealer. The clerk must enter the information relating to the assignment, including, but not limited to, the odometer disclosure statement required by existing law (motor vehicles only), into the Automated Title Processing System; ownership of the motorcycle or vehicle passes to the dealer when the clerk enters this information into the System; and the clerk must charge and collect from the dealer a fee of \$5 for each motorcycle or vehicle assigned to the dealer in this manner. The bill does not require the dealer to obtain a certificate of title to the motorcycle or vehicle in the dealer's name. (Secs. 4505.03, 4505.032(A), 4505.04, 4505.06(A), 4519.52, 4519.521(A), and 4519.53.)

The \$5 fee that the clerk must so charge and collect must be distributed in the following manner (secs. 4505.032(A)(2), 4505.09, 4519.521(A)(2), and 4519.59):

- The clerk must retain \$2.25 of the fee.
- The remaining \$2.75 of the fee must be paid to the Registrar by monthly returns, which must be forwarded to the Registrar not later than the fifth day of the month next succeeding that in which the fee is collected.
- The Registrar must pay (1) 25¢ of the amount the Registrar receives into the State Bureau of Motor Vehicles Fund established under current law, (2) 4¢ of that amount into the state treasury to the credit of the Motor Vehicle Dealers Board Fund established under current law, (3) 21¢ of that amount into the General Revenue Fund, (4) 25¢ of that amount into the state treasury to the credit of the Motor Vehicles Sales Audit Fund established under current law, and (5) \$2 of that amount into the state treasury to the credit of the Automated Title Processing Fund created under current law.

Certain dealer--dealer assignments. The ownership of a motor vehicle, off-highway motorcycle, or all-purpose vehicle may be assigned *between* electronic motor vehicle *dealers*, or between electronic dealers, without any of the dealers obtaining a certificate of title to the motorcycle or vehicle in the name of any of the dealers. The bill requires each assignor dealer to inform a clerk of a court of common pleas via electronic means of the sale of a motorcycle or vehicle to, and of the assignment of its ownership to, an assignee dealer. The clerk must enter the information relating to the assignment, including, but not limited to, the odometer disclosure statement required by existing law (motor vehicles only), into

the Automated Title Processing System; ownership of the motorcycle or vehicle passes to the assignee dealer when the clerk enters this information into the System; and the clerk must charge and collect from the assignor dealer a fee of \$3 for each assignment of ownership of a motorcycle or vehicle that the assignor dealer makes in this manner. (Secs. 4505.03, 4505.032(B), 4505.04, 4505.06(A), 4519.52, 4519.521(B), and 4519.53.)

The \$3 fee that the clerk must so charge and collect must be distributed in the following manner (secs. 4505.032(B)(2) and (3) and 4519.521(B)(2) and (3)):

- The clerk must retain \$2.25 of the fee.
- The remaining 75¢ of the fee must be paid to the Registrar of Motor Vehicles by monthly returns, which must be forwarded to the Registrar not later than the fifth day of the month next succeeding that in which the assignment is made.
- The Registrar must pay (1) 25¢ of the amount the Registrar receives into the State Bureau of Motor Vehicles Fund established under current law, (2) 4¢ into the state treasury to the credit of the Motor Vehicle Dealers Board Fund established under current law, (3) 21¢ of that amount into the General Revenue Fund, and (4) 25¢ of that amount into the state treasury to the credit of the Motor Vehicles Sales Audit Fund established under current law.

Other sales. If a person who is not an electronic motor vehicle dealer owns a motor vehicle for which a physical certificate of title *has not been issued* by a clerk and the person sells the motor vehicle to a person *who is not an electronic motor vehicle dealer*, or if a person who is not an electronic dealer owns an off-highway motorcycle or all-purpose vehicle for which a physical certificate of title *has not been issued* by a clerk and the person sells the motorcycle or vehicle to a person *who is not an electronic dealer*, the person selling the vehicle or motorcycle must obtain a physical certificate of title to it in order to transfer its ownership to the person who is not either type of dealer (sec. 4505.032(C) and 4519.521(C)).

Collection of sales and use tax by court of common pleas clerks

Existing law generally prohibits a clerk of a court of common pleas from accepting an application for a certificate of title for a motor vehicle, off-highway motorcycle, or all-purpose vehicle unless payment of the applicable sales or use tax accompanies the application. For receiving and disbursing these taxes, the clerk may retain a "poundage fee" of one and one-hundredth percent, or one percent if the transfer of *a motor vehicle* is made in another state or in interstate

commerce, which must be paid into the Certificate of Title Administration Fund created under current law in each county treasury. The bill continues these provisions, subject to one change; it specifies that the sales or use tax must be "based on the purchaser's county of residence." (Secs. 4505.06(B) and (D) and 4519.55.)

Existing law specifies that a clerk must accept payment of a tax in cash or by certified check, draft, or money order, and may accept the payment of a tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or another accepted form of payment. The bill adds to the forms of payments that must be accepted (1) cashier's checks and (2) teller checks issued by any insured financial institution (secs. 4505.06(E) and 4519.55).

Amounts available to clerks from the Automated Title Processing Fund

Under the bill, the Registrar of Motor Vehicles may use money from the Automated Title Processing Fund, in accordance with appropriations made by the General Assembly, to pay expenses related to implementing the bill (secs. 4505.09(B)(3)(c) and 4505.25).

Access to title information

The bill requires the Registrar of Motor Vehicles to enable the public to access motor vehicle, off-highway motorcycle, or all-purpose vehicle title information via electronic means. The Registrar, in accordance with the Administrative Procedure Act, must adopt rules governing this access. In adopting these rules, the Registrar must confer with the clerks of the court of common pleas. Access by the public to the information must comply with all restrictions contained in the Revised Code and federal law that govern disclosure of that information. (Secs. 4505.141 and 4519.631.)

Prohibitions relating to certificates of title

Current law prohibits any person from operating a motor vehicle, off-highway motorcycle, or all-purpose vehicle for which a certificate of title is required without having that certificate. The bill continues these prohibitions and also prohibits any person from operating a motor vehicle, off-highway motorcycle, or all-purpose vehicle for which a certificate of title is required (1) knowing that the ownership information relating to the vehicle or motorcycle has not been entered into the Automated Title Processing System by a clerk of a court of common pleas when a physical certificate of title has not been issued or (2) knowing that the certificate of title to the vehicle or motorcycle or its ownership as otherwise reflected in the Automated Title Processing System has been canceled. (Secs. 4505.18(A)(1) and (7), 4505.181, 4505.20, and 4519.66(A) and (F).)

Current law also prohibits any person from procuring or attempting to procure a certificate of title to a motor vehicle, off-highway motorcycle, or all-purpose vehicle, or from passing or attempting to pass a certificate of title or any assignment to a motor vehicle, off-highway motorcycle, or all-purpose vehicle, knowing or having reason to believe that it or any part of it has been acquired through commission of a theft offense. The bill adds a prohibition against gaining or attempting to gain in any other manner ownership to a motor vehicle, off-highway motorcycle, or all-purpose vehicle with that knowledge or reason to believe. (Secs. 4505.19(A) and 4519.67(A).)

Security interests

Manner of presenting a security interest. Current law provides that a secured party associated with a motor vehicle, off-highway motorcycle, or all-purpose vehicle, upon presentation of the *security agreement* to the clerk of the county in which the certificate of title was issued, together with the certificate of title and the prescribed fee, may have a notation of the security interest made (see "**Notation of agreement,**" below). The bill instead provides that such a secured party, upon presentation of *evidence of a security interest* to *any* clerk, together with the certificate of title (if a physical certificate of title exists) and the prescribed fee, may have a notation of the security interest made. It also provides, in the case of *motor vehicles only*, that a secured party may choose to present a clerk with evidence of a security interest *via electronic means*, and the clerk then must enter the security interest into the Automated Title Processing System. (Secs. 4505.13(B) and (C)(1) and 4519.68(B).)

Notation of agreement. The bill amends current law to provide that, if a physical certificate of title has *not been issued*, the entry of a clerk of a court of common pleas of a notation of a security interest agreement into the Automated Title Processing System has the same effect as when a notation of such an agreement is made on the face of a physical certificate of title. The effect under current law, unchanged by the bill, is that the security interest is valid as against the creditors of the debtor and subsequent purchasers, secured parties, and other lienholders or claimants. But, under the bill, *whether or not* a physical certificate of title is issued for a motor vehicle, off-highway motorcycle, or all-purpose vehicle, all security interests, liens, mortgages, and encumbrances entered into the Automated Title Processing System in relation to a particular certificate of title will take priority according to the order in which a clerk so enters them; current law, in contrast, provides that security interests, liens, mortgages, and encumbrances take priority according to the order in which they are noted upon a physical certificate of title. (Sec. 4505.13(B) and 4519.68(B).)

The bill also provides that a security interest in a motor vehicle, off-highway motorcycle, or all-purpose vehicle held as *inventory for sale* by a dealer

has priority over creditors of the dealer without entry of a notation of the security interest into the Automated Title Processing System if a physical certificate of title has *not been issued*. Current law provides that such a security interest has that priority without notation of the security interest on a physical certificate of title or retention of a manufacturer's or importer's certificate; the security interest is governed by the Secured Transactions Law. (Secs. 4505.13(A)(2) and 4519.68(A)(2).)

Discharge and cancellation of a security interest: in general. Under current law, when a security interest in a motor vehicle, off-highway motorcycle, or all-purpose vehicle is discharged, the holder of the security interest generally must note the discharge on the certificate of title's face over the holder's signature. Then, prior to delivering the certificate of title to the motorcycle's or vehicle's owner, the holder must present it to the appropriate clerk of a court of common pleas to have the clerk note the *cancellation* of the security interest on the certificate of title's face and upon the clerk's records. A special provision exists for canceling security interests pertaining to off-highway motorcycles or all-purpose vehicles that were entered into the Automated Title Processing System instead of being noted on a certificate of title's face. (Secs. 4505.13(B) and 4519.68(B).)

Under the bill, the latter procedure continues to apply in relation to off-highway motorcycles and all-purpose vehicles whether a physical certificate of title face notation or an Automated Title Processing System entry reflects a security interest that is discharged (sec. 4519.68(B)). But the bill proposes a slightly different procedure in relation to discharged security interests pertaining to *motor vehicles*. If a security interest in a motor vehicle is discharged and the holder of the security interest holds a *physical certificate of title*, the holder (similar to current law) generally must note the discharge on the certificate of title's face over the holder's signature. Then, prior to delivering the certificate of title to the motor vehicle's owner, the holder generally must convey the certificate of title or *a separate sworn statement of the discharge of the security interest* to a clerk of a court of common pleas to have the clerk note the cancellation of the security interest (1) on the certificate of title's face (if it was conveyed), (2) in the Automated Title Processing System, and (3) upon the clerk's records. Unlike existing law, this document conveyance to a clerk by the holder of a security interest must occur within five days after the holder's receipt of *good funds* (an undefined term).² (Sec. 4505.13(B).)

² *The bill does not seem to address the cancellation of discharged security interests in motor vehicles when a physical certificate of title was not issued. Presumably, in that case, it generally is intended that a separate sworn statement of the discharge of the security interest will be conveyed to a clerk of a court of common pleas to have the clerk*

The bill also permits any secured party associated with a *motor vehicle only* to notify a clerk of the discharge of its security interest *via electronic means* and then requires the clerk to enter the cancellation of the security interest into the Automated Title Processing System (sec. 4505.13(C)(1)).

Discharge and cancellation of a security interest: special provisions.

Under the bill, if a security interest is being satisfied by a motor vehicle dealer to whom a certificate of title is being transferred, the cancellation of the security interest must occur during the transfer. The secured party generally must convey the certificate of title, with the security interest's discharge noted on its face, to the motor vehicle dealer within five days after the secured party's receipt of "good funds" (undefined term). But, if the secured party is unable to provide a certificate of title to the motor vehicle dealer, the secured party instead must convey to the dealer an *affidavit* stating that the security interest is discharged, and payment for a *duplicate* certificate of title, within the five-day period. (Sec. 4505.13(C)(2).)

If a secured party fails to comply with either of those alternative conveyance requirements, the secured party is liable to the motor vehicle dealer for a *late fee* of \$10 per day for each certificate of title or affidavit and required fee conveyed to the dealer more than ten but less than 21 days after receipt of "good funds," and a late fee of \$25 per day from the 21st day on until those items are so conveyed (sec. 4505.13(C)(2)).

Physical certificate. If a physical certificate of title has not been issued for a motor vehicle, off-highway motorcycle, or all-purpose vehicle and all the security interests relating to it have been discharged, its owner may obtain a physical certificate of title from the clerk of any court of common pleas upon payment of the requisite fee (secs. 4505.13(E) and 4519.68(C)).

Data transmission. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of the county in which the owner of a motor vehicle, off-highway motorcycle, or all-purpose vehicle resides, enters a notation of the existence of, or the cancellation of, a security interest relating to the vehicle or motorcycle, the clerk must transmit the data relating to the notation to the data base of the automated data processing system in the office of the clerk of court of common pleas of the county of the owner's residence (secs. 4505.13(F) and 4519.68(D)).

note the cancellation of the security interest in the Automated Title Processing System and the clerk's records.



Pilot program for limited authority deputy registrars

The bill requires the Registrar of Motor Vehicles to adopt rules that establish a pilot program to appoint limited authority deputy registrars. The adoption must be within 30 days after the bill's effective date. (Section 3(A) and (B) of the bill.)

The Registrar may appoint the clerk of a court of common pleas as a limited authority deputy registrar notwithstanding a provision of current law that prohibits the appointment of clerks as deputy registrars. Each limited authority deputy registrar appointed under the pilot program (1) must conduct only initial and transfer motor vehicle registration transactions via electronic means, and VIN inspections, in a manner approved in the rules the Registrar adopts, (2) is entitled to collect and retain a fee of \$2.25 for each transaction or inspection conducted, and (3) must collect all fees and taxes that are required by law and related to these transactions or inspections in a manner approved by the Registrar. (Sec. 4503.03(B), not in the bill; Section 3(A) of the bill.)

The bill exempts the limited authority deputy registrars from the provisions of current law that (1) disqualify a person from serving as a deputy registrar because of campaign contributions the person, the person's spouse, or a member of the persons' immediate family makes to certain candidates or political entities within a specified period of time and (2) require a deputy registrar to file annual statements with the Registrar and the Secretary of State related to such contributions (secs. 4503.03(B) and 4503.033(A), not in the bill; Section 3(A) of the bill).

The Registrar must make recommendations, not later than 24 months after the bill's effective date, to the Governor, Speaker of the House of Representatives, and President of the Senate regarding the success of the pilot program and the feasibility of establishing a permanent system of limited authority deputy registrars (Section 3(C) of the bill).

Legislative Service Commission study

The bill requires the Legislative Service Commission to study (1) its effect on customer service in the issuance of certificates of title and (2) its fiscal impact, including, but not limited to, its impact on the collection of state and local permissive sales and use taxes and on balances in county certificate of title administration funds. The Commission, in conducting the study, may seek the assistance of state agencies, political subdivisions, and organizations such as the County Commissioners Association of Ohio, the Ohio Clerk of Courts Association, and the Ohio Automobile Dealers Association. (Section 4(A) and (B) of the bill.)

Watercraft and outboard motors

Certificates of title

Application for a certificate of title: in general. The bill requires the owner of a watercraft or outboard motor to apply for a certificate of title when required to do so by the Watercraft Certificate of Title Law, but, except as otherwise specifically required in that law, the owner may elect whether or not to have the clerk of the court of common pleas to whom the application is submitted issue a *physical certificate of title* for the watercraft or outboard motor (secs. 1548.021, 1548.06, and 1548.09). Additionally, the bill allows the application to be filed electronically by any "electronic means" approved by the Chief of the Division of Watercraft of the Department of Natural Resources, in any county with the clerk of the court of common pleas (secs. 1548.01 and 1548.06).

Under the bill, except as otherwise specifically provided in the Watercraft Certificate of Title Law, any provision of that law relating to the *cancellation, issuance, or surrender* of a certificate of title (including, but not limited to, provisions that contain a phrase such as "when a certificate of title is issued," "the clerk shall issue a certificate of title," or "the person shall obtain a certificate of title to the watercraft or outboard motor," or another phrase of similar import) includes those circumstances when a clerk enters certificate of title information into the Automated Title Processing System but does not take any further action relating to a physical certificate of title for a watercraft or outboard motor (sec. 1548.021).

Issuance of physical certificate of title. The bill requires a clerk of a court of common pleas to issue a physical certificate of title to an applicant *unless* the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title.³ The fact that a physical certificate of title is not issued for a watercraft or outboard motor does not affect its ownership. In that case, when the clerk completes the process of entering certificate of title application information into the Automated Title Processing System, the effect of the completion of the process is the same as if the clerk actually issued a physical certificate of title for the watercraft or outboard motor. (Secs. 1548.06 and 1548.09.)

However, as under existing law, the bill requires a person selling or otherwise disposing of a watercraft or outboard motor to generally deliver to the

³ A generally similar rule applies under the bill to secured parties who present a security agreement to a clerk (sec. 1548.20).

purchaser or other transferee a physical certificate of title with the requisite assignment on it (sec. 1548.03).

Processing of applications for certificates of title: notarization. Current law requires an application for a certificate of title to a watercraft or outboard motor as well as an *assignment* of such a certificate of title to be in a form prescribed by the Chief of the Division of Watercraft and to be sworn before a notary public or other officer empowered to administer oaths. The bill continues to require an application and assignment to be in the form the Chief prescribes but eliminates the requirement that it also be notarized. (Secs. 1548.06, 1548.07(A), and 1548.08.)⁴

Processing of applications for certificates of title: any clerk. Current law requires that an application for a certificate of title for a watercraft or outboard motor be filed with the clerk of the court of common pleas of the county in which the applicant resides if the applicant is an Ohio resident or of the county in which the transaction is consummated if the applicant is not an Ohio resident. The bill instead requires that the application be filed with *any* clerk, and this requirement will apply whether the application is filed electronically or by other permissible means with a clerk. If a clerk who issues a certificate of title to an applicant is not, however, the clerk of the court of common pleas of the applicant's county of residence, the clerk must transmit data related to the transaction to the database of the automated data processing system in the office of the clerk of the court of common pleas of the applicant's county of residence. (Sec. 1548.06.)

The bill also generally allows any clerk to perform certain other actions relating to certificates of title that current law permits only the clerk of the county in which the last certificate of title was issued to perform (secs. 1548.11(A), 1548.12, 1548.13, 1548.18(D), and 1548.20).

Processing of applications for certificates of title: required capability. The bill requires every clerk to have capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft or outboard motor certificates of title that are described in the Revised Code as being accomplished by electronic means (sec. 1548.06).

⁴ *It appears that references to applications "being sworn to" in section 1548.13 and to "oaths on any application" in section 1548.16 (not in the bill) need to be repealed to be consistent with the elimination of the notarization requirement.*

Collection of sales and use tax by court of common pleas clerks

Current law generally prohibits a clerk of a court of common pleas from accepting an application for a certificate of title for a watercraft or outboard motor unless the applicant tenders payment of all applicable sales or use tax with the application. For receiving and disbursing these taxes, the clerk may retain a "poundage fee" of 1%, which must be paid into the county general fund. The bill continues these provisions subject to one change--the sales or use tax must be "based on the applicant's county of residence." (Sec. 1548.06.)

Access to title information

The bill requires the Chief of the Division of Watercraft to enable the public to access watercraft or outboard motor title information via electronic means. The Chief, in accordance with the Administrative Procedure Act, must adopt rules governing this access. In adopting these rules, the Chief must confer with the clerks of the court of common pleas. (Sec. 1548.141(A).)

For instances where persons seek access via electronic means to certain watercraft or outboard motor title information, the rules must require the payment of specified fees as follows (sec. 1548.141; sec. 1548.14--not in the bill):

- For searches and reports of the records, \$2 for each name, number, or fact reported on;
- For photographic copies of records and their attestation, under the signature of the Chief, \$2 per copy.

Prohibitions relating to certificates of title

Current law generally prohibits any person from operating a watercraft, or a watercraft powered by an outboard motor, for which a certificate of title is required without having that certificate. The bill continues this prohibition and also prohibits any person from operating a watercraft, or a watercraft powered by an outboard motor, for which a certificate of title is required (1) knowing that the ownership information relating to the watercraft or outboard motor has not been entered into the automated data processing system by a clerk of a court of common pleas when a physical certificate of title has not been issued or (2) knowing that the certificate of title to or ownership of the watercraft or outboard motor as otherwise reflected in the Automated Title Processing System has been canceled. (Sec. 1548.18(A) and (F).)

Current law also prohibits any person from procuring or attempting to procure a certificate of title to a watercraft or outboard motor, or from passing or

attempting to pass a certificate of title or any assignment of a certificate of title to a watercraft or outboard motor, knowing or having reason to believe that it has been stolen. The bill adds a prohibition against gaining or attempting to gain, in any manner and by any means, ownership to a watercraft or outboard motor with that knowledge or reason to believe. (Sec. 1548.19(A).)

HISTORY

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