



Sub. S.B. 59

124th General Assembly
(As Passed by the General Assembly)

Sens. Amstutz, Jacobson, Harris, Mallory, Prentiss, Spada, Oelslager, Johnson, Fingerhut, Hagan, Furney, Espy, Armbruster

Reps. Roman, Schmidt, Wolpert, Carano, Carmichael, Coates, Distel, Driehaus, Fessler, Flowers, Hughes, Salerno, Setzer, Sferra, Stapleton, Strahorn, White, Widowfield, Clancy, Otterman, Reidelbach, Hagan, Collier, Trakas, Blasdel, Evans, D. Miller, Britton, Patton, Damschroder, R. Miller, Beatty, G. Smith, Seitz, Oakar

Effective date: *

ACT SUMMARY

Electronic titling

- ? Allows various actions relating to the titling of, and the creation--perfection, 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 continuing law (secs. 1548.01, 1548.02, 1548.021, 1548.03, 1548.06, 1548.08, 1548.09, 1548.17, 1548.18, 1548.19, 1548.20, 4501.01(SS), 4503.035, 4503.182, 4505.021, 4505.03, 4505.032, 4505.04, 4505.06, 4505.08, 4505.09, 4505.13, 4505.18, 4505.181, 4505.19, 4505.20, 4519.01(J) and (K), 4519.51, 4519.511, 4519.512, 4519.52, 4519.521, 4519.53, 4519.55, 4519.57, 4519.58, 4519.59, 4519.66, 4519.67, and 4519.68).
- ? 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" (secs. 4501.01(SS), 4503.035, 4519.01(K), and 4519.511).

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- ? 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 (secs. 1548.021, 1548.06, 1548.09, 1548.20(B), 4505.021, 4505.06(A)(3), 4505.08(F), 4505.13(B), 4519.512, 4519.58(C), and 4519.68(B)).
- ? Permits electronic motor vehicle dealers and electronic dealers to print non-negotiable evidences of ownership under certain circumstances, including an authorization from a clerk of a court of common pleas (secs. 4505.08(G), 4505.09(A), 4519.58(D), and 4519.59(A)).
- ? Permits the owner of a motor vehicle, off-highway motorcycle, all-purpose vehicle, watercraft, or outboard motor to apply at any time to a clerk of a court of common pleas for a non-negotiable evidence of ownership if an electronic certificate of title previously was issued (secs. 1548.10, 1548.13, 4505.08(H), 4505.09(A), 4519.58(E), and 4519.59(A)).
- ? 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 act (secs. 4505.09(B)(3)(a) and (c) and 4505.25).
- ? Allows electronic motor vehicle dealers, electronic dealers of off-highway motorcycles and all-purpose vehicles, and vendors of watercraft and outboard motors to file certificate of title applications electronically with the clerk of a court of common pleas, with the dealer or vendor being required to forward the actual paper application and associated sale documents to any clerk of a court of common pleas within 30 days after the certificate of title is issued (secs. 1548.06, 4505.06(A)(3), and 4519.55).
- ? 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 via electronic means and in accordance with rules adopted pursuant to the Administrative Procedure Act applicable title information that is in an electronic format at the time of a request for access, with no fee being charged for the access (secs. 1548.141, 4505.141, and 4519.631).

- ? Requires clerks of courts of common pleas to have the capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft, outboard motor, motor vehicle, off-highway motorcycle, and all-purpose vehicle certificates of title that the Revised Code describes as being accomplished by electronic means (secs. 1548.06, 4505.06(I), and 4519.55).

Security interests

- ? Modifies former law's provisions pertaining to the creation--perfection, discharge, and cancellation of security interests in motor vehicles, off-highway motorcycles, all-purpose vehicles, watercraft, and outboard motors to reflect instances when a physical certificate of title exists and does not exist (secs. 1548.20, 4505.06, 4505.13, and 4519.68).
- ? Establishes seven business days after good funds in the correct amount to fully discharge the security interest have been credited to an account of the holder of a security interest that is reflected on a physical certificate of title (provided the holder has been provided specified information), as the time period within which the holder must convey the certificate or a specified sworn statement to the clerk of a court of common pleas to have the security interest "cancelled" prior to the certificate's delivery to the owner of a motor vehicle, watercraft, or outboard motor; and also sets late fees for the failure of a holder under certain circumstances to convey a certificate of title with a notation of a "discharged" security interest on it, or a specified affidavit and payment, to a dealer within seven business days after good funds in the correct amount to fully discharge the security interest have been credited to an account of the holder (secs. 1548.20(C), (D), and (H) and 4505.13(B), (C), and (H)).
- ? Requires a motor vehicle dealer or a motor vehicle leasing dealer obtaining a certificate of title in the name of a purchaser, when a security interest is to be noted on the certificate of title, to submit the application for the certificate of title, along with payment of the applicable tax, to a clerk of a court of common pleas within seven business days after the later of (1) the delivery of the motor vehicle to the purchaser or (2) the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the dealer's or leasing dealer's name, for the motor vehicle; establishes late fees in favor of the secured party for the failure of a dealer or leasing dealer to apply for the certificate of title within the required seven business days; and requires

dealers and leasing dealers to forward such a certificate of title to the secured party at a specified location after receiving it, with the notation of the security interest, from a clerk (sec. 4505.06(A)(5)).

Temporary license placards

- ? Requires motorized bicycle dealers and licensed motor vehicle dealers to notify the Registrar of Motor Vehicles, within 48 hours of the issuance of a temporary license placard, by electronic means via computer equipment purchased and maintained by the dealer or in another manner the Registrar prescribes (sec. 4503.182(B)).

Retention but limitation on applicability of notarization requirements

- ? Retains various statutory requirements that motor vehicle, off-highway motorcycle, all-purpose vehicle, watercraft, and outboard motor certificate of title applications be notarized, but limits their applicability to casual sales (secs. 1548.061, 4505.062, and 4519.551).

Clerk office databases

- ? Continues authority for a clerk of a court of common pleas to no longer retain on file, after seven years, "current" motor vehicle, manufactured or mobile home, off-highway motorcycle, or all-purpose vehicle certificate of title documents and supporting evidence and, after five years, "inactive" records pertaining to the same (secs. 4505.08(A) and 4519.58(B)).
- ? Repeals former law's requirements (1) that a clerk retain all "active" records and an index to them *in the database of the computer in the clerk's office* and (2) that a clerk retain in that database a record and index of all "inactive" motor vehicle, off-highway motorcycle, or all-purpose vehicle certificates of title for ten years and a record and index of all inactive titles for manufactured and mobile homes for 30 years (secs. 4505.08(A) and 4519.58(B)).

Registration and registration renewal

- ? Allows a motor vehicle owner to apply for, in addition to renew as under continuing law, a motor vehicle registration by electronic means using an electronic signature (sec. 4503.10).

- ? Allows an applicant to present an electronic certificate of title for inspection *at the time of first registration* of a motor vehicle, off-highway motorcycle, or all-purpose vehicle, in lieu of a physical certificate of title as required under former law, in a manner the Registrar of Motor Vehicles prescribes by rule (secs. 4503.10(B) and 4519.03(B) and (C)).
- ? Permits the official issuing a certificate of registration of a motor vehicle, off-highway motorcycle, or all-purpose vehicle under the latter circumstances to indicate the issuance with an electronic stamp or other notation that is associated with the electronic certificate of title as specified in the Registrar's rules (secs. 4503.10(B) and 4519.03(C)).

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 (Section 3(A) and (B) of the act).
- ? 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 \$2.75 until January 1, 2003, \$3.25 commencing on that date, and \$3.50 commencing on January 1, 2004, for each transaction or physical 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 (Section 3(A) and (B) of the act).
- ? Requires all such fees retained by a clerk of a court of common pleas for conducting transactions or physical inspections as a limited authority deputy registrar be paid into the county's certificate of title administration fund (Section 3(A) of the act).
- ? Requires the Registrar to make recommendations, not later than 24 months after the effective date of the act's pilot program provisions, 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 act).

Designation of certain clerks of courts of common pleas as deputy registrars

- ? For a three-year period, allows the Registrar of Motor Vehicles to designate as a deputy registrar, via a contract, a clerk of a court of common pleas of a county with a population of 40,000 or less according to the last federal census (secs. 325.33 and 4503.03(A)(1)(b), (B), and (C)).
- ? Requires all fees such a clerk receives in the capacity of deputy registrar to be paid into the county's certificate of title administration fund (secs. 325.33 and 4503.03(A)(1)(b)).

Other deputy registrar provision

- ? Allows each deputy registrar, with the prior approval of the Registrar of Motor Vehicles, to conduct at the location of the deputy registrar's office any business that is consistent with the functions of a deputy registrar and that is not specifically mandated or authorized by statute or implementing rules of the Registrar (sec. 4503.03(D)(2)).

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 was required by former law; and further authorizes any clerk to perform certain other actions relating to certificates of title that former law permitted only the clerk of the county in which the last certificate of title was issued to perform (secs. 1548.06, 1548.11, 1548.12, 1548.13, 1548.20, 4505.032, 4505.06(A), 4505.08(A), 4505.09(A), 4505.10, 4505.102(B)(5), 4505.11, 4505.12, 4505.13, 4519.521, 4519.55, 4519.57, 4519.58(A), 4519.59(A), 4519.60, 4519.61, 4519.62, and 4519.68).
- ? Requires the clerk of a court of common pleas who issues a certificate of title to, or enters a notation of the existence or cancellation of a security interest relating to, a motor vehicle, off-highway motorcycle, all-purpose vehicle, watercraft, or outboard motor of a resident of *another county*, to transmit data related to that transaction to the Automated Title Processing

System (secs. 1548.06, 1548.20(F), 4505.06(A)(2), 4505.13(F), 4519.55, and 4519.68(D)).

- ? Prohibits a clerk of a court of common pleas, in relation to motor vehicle, off-highway motorcycle, all-purpose vehicle, watercraft, and outboard motor certificates of title, from retaining a poundage fee from payments of taxes by persons who do not reside in the clerk's county (secs. 1548.06, 4505.06(B) and (D), and 4519.55).
- ? Allows a clerk of a court of common pleas to retain, however, from taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county, and requires the Registrar of Motor Vehicles or the Chief of the Division of Watercraft, in consultation with the Tax Commissioner and the clerks of the courts of common pleas, to develop a report from the Automated Title Processing System that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from the taxes when certificates of title are issued by the clerks of other counties to applicants who reside in the first clerk's county (secs. 1548.06, 4505.06(B) and (D), and 4519.55).
- ? Increases the statutory amount of certain poundage fees that a clerk of a court of common pleas could retain under former law, in relation to a watercraft, outboard motor, or motor vehicle certificate of title, from 1% of the taxes collected to 1.01% of the taxes collected, and requires that the fees be paid into the county's certificate of title administration fund (secs. 1548.06 and 4505.06(D)).
- ? Adds to the continuing forms of payments (cash or certified check, draft, or money order) that must be accepted by a clerk of a court of common pleas when taxes are paid in relation to a motor vehicle, etc. certificate of title application (1) cashier's checks and (2) teller checks issued by any insured financial institution (sec. 4505.06(E)).

Subsidy from Automated Title Processing Fund

- ? For a period of three years, allows the Registrar of Motor Vehicles to make monthly payments from the Automated Title Processing Fund to any clerk of a court of common pleas who certifies in a prescribed manner a net revenue loss for an applicable reporting period that is attributable to the act's implementation, which payments must be in the

amount of 100% of the clerk's certified net revenue loss for the applicable reporting period during the first year of payments, 75% of the clerk's certified net revenue loss for the applicable reporting period during the second year of payments, and 50% of the clerk's certified net revenue loss for the applicable reporting period during the third year of payments (Section 5 of the act).

Implementation of the act by the Registrar of Motor Vehicles and the Chief of the Division of Watercraft

- ? Requires the Registrar of Motor Vehicles and the Chief of the Division of Watercraft to implement to the maximum extent practicable all applicable provisions of the act by no later than nine months after their effective date (Section 6 of the act).

Legislative Service Commission study

- ? Requires the Legislative Service Commission to study the act's effect on customer service in the issuance of certificates of title and the act'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 (Section 4(A) of the act).
- ? 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 (Section 4(B) of the act).
- ? Requires the Commission to complete the study not later than February 15, 2003 (Section 4(C) of the act).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced Reported, S. Economic Development, Technology, & Aerospace	02-27-01	pp. 164-165
Passed Senate (32-1)	05-02-01	pp. 326-327
Reported, H. Local	05-02-01	pp. 328-329
Government and Townships	06-27-01	pp. 714-715
Passed House (90-9)	06-28-01	pp. 761-762
Concurrence (30-2)	06-28-01	p. 801

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