

**SUBSTITUTE FOR
HOUSE BILL NO. 6487**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
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:

- 1 Sec. 81103. (1) **THIS SECTION IS SUBJECT TO SECTION 81109(5).**
- 2 (2) After April 1, 1991, every ORV sold by a dealer to a
- 3 retail purchaser shall be subject to the certificate of title

1 provisions of this part.

2 (3) ~~(2)~~ After April 1, 1991, a person who purchases or
3 otherwise acquires an ORV shall ~~make application~~ **APPLY** for a
4 certificate of title as provided in this part.

5 (4) ~~(3)~~ After April 1, 1991, the owner of an ORV that has not
6 been titled pursuant to subsection ~~(1)~~ ~~(2)~~ or ~~(2)~~ ~~(3)~~ or the code
7 may apply for and, if otherwise eligible, receive a certificate of
8 title issued under this part. If the ORV was previously titled
9 under the code, it is not eligible for titling under this part.

10 Sec. 81104. The owner of an ORV that has been and is titled
11 under this part may ~~, if the ORV is otherwise eligible,~~ apply for
12 **AND, IF OTHERWISE ELIGIBLE, RECEIVE** a title to the ORV under the
13 code. If the owner applies for a title under the code, ~~the~~ **ANY**
14 **CERTIFICATE OF** title issued under this part shall at that time be
15 surrendered to the department of state.

16 Sec. 81105. ~~(1) After~~ **SUBJECT TO SUBSECTION (2), AFTER** an ORV
17 has been titled under this part, both of the following ~~shall~~
18 ~~occur~~ **APPLY**:

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

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

26 **(2) AS PROVIDED UNDER SECTION 81109(5), THE DEPARTMENT OF**
27 **STATE IS NOT REQUIRED TO ISSUE A CERTIFICATE OF TITLE TO THE OWNER**

1 **OF AN ORV IF THE TITLE IS SUBJECT TO A SECURITY INTEREST.**

2 Sec. 81108. (1) An application for an ORV certificate of title
3 shall be on a form prescribed by the department of state. The
4 application shall include a certification. The owner or purchaser
5 shall sign the application or, if the application is filed
6 electronically, provide information requested by the department of
7 state to verify the owner's identity. The application shall
8 contain, in addition to other information required by the
9 department of state, the following information:

10 (a) The applicant's name and address.

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

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

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

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

24 (3) Receipt by the secretary of state of a properly tendered
25 application for an ORV certificate of title that indicates the
26 existence of a security interest in the ORV is a condition of
27 perfection of a security interest in the ORV, **UNLESS, UNDER SECTION**

1 81109(5), THE DEPARTMENT OF STATE DOES NOT ISSUE CERTIFICATES OF
2 TITLE FOR ORVS SUBJECT TO A SECURITY INTEREST, and is equivalent to
3 filing a financing statement under the uniform commercial code,
4 1962 PA 174, MCL 440.1101 to ~~440.11102~~, ~~440.9994~~, with respect to
5 the ORV. When a security interest in an ORV is perfected, it has
6 priority over the rights of a lien creditor as lien creditor is
7 defined in section 9102 of the uniform commercial code, 1962 PA
8 174, MCL 440.9102.

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

15 (2) A dealer selling ORVs at retail, within 15 days after
16 delivering an ORV to a retail purchaser, shall ~~make application~~
17 **APPLY TO THE DEPARTMENT OF STATE** for issuance of an ORV certificate
18 of title in the purchaser's name. The purchaser of the ORV shall
19 sign the application and other papers necessary to enable the
20 dealer to secure the title from the department of state. If the ORV
21 was not previously titled, the application shall be accompanied by
22 a manufacturer's certificate of origin.

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

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

1 in section 81110.

2 (5) THE DEPARTMENT OF STATE MAY REQUIRE THAT ALL TRANSACTIONS
3 CONCERNING ORV SECURITY INTERESTS BE CONDUCTED BY ELECTRONIC MEANS,
4 AS DETERMINED BY THE DEPARTMENT OF STATE. IN THAT CASE, IF AN ORV
5 IS SUBJECT TO A SECURITY INTEREST, THE DEPARTMENT OF STATE IS NOT
6 REQUIRED TO ISSUE A CERTIFICATE OF TITLE TO THE OWNER OF THE ORV OR
7 A LIENHOLDER IF IT MAINTAINS A RECORD OF TITLE ELECTRONICALLY.
8 AFTER ALL SECURITY INTERESTS HAVE BEEN TERMINATED, OR FOR PURPOSES
9 OF RETITLING THE ORV IN ANOTHER STATE OR ANY OTHER PURPOSE
10 CONSIDERED APPROPRIATE BY THE DEPARTMENT OF STATE, THE DEPARTMENT
11 OF STATE MAY ISSUE A PAPER COPY OF THE ORV TITLE TO THE ORV OWNER.

12 (6) AN ORV SALE TRANSACTION IN WHICH A SECURITY INTEREST IS
13 ENTERED BY ELECTRONIC MEANS SHALL INCLUDE A DOCUMENT RECORDING
14 ENTRY OF THE ELECTRONIC SECURITY INTEREST AND INFORMATION REGARDING
15 THE FINANCIAL INSTITUTION THAT HOLDS THE SECURITY INTEREST. WHEN A
16 SECURED PARTY IS PRESENTED WITH PAYMENT IN SATISFACTION OF THE
17 SECURITY INTEREST, A SECURED RECEIPT IN A FORM APPROVED BY THE
18 DEPARTMENT OF STATE MAY BE PRODUCED AND SUBMITTED TO THE DEPARTMENT
19 OF STATE IN LIEU OF THE CERTIFICATE OF TITLE FOR PURPOSES OF
20 TRANSFERRING OWNERSHIP IN THE ORV.

21 (7) ~~(5)~~—Beginning January 1, 1992, a person who violates this
22 section is responsible for a state civil infraction and may be
23 ordered to pay a civil fine of not more than \$100.00.

24 Sec. 81111. (1) The department of state may refuse to issue an
25 original or duplicate ORV certificate of title **UNDER THE**
26 **CIRCUMSTANCES PROVIDED IN SECTION 81109(5)** OR if any of the
27 following occur:

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

4 (b) The required fee has not been paid.

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

7 (d) The ORV is titled under the code.

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

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

11 (2) ~~IF~~ **SUBJECT TO SUBSECTION (1), IF** satisfied that the
12 applicant is the owner of the ORV and is otherwise entitled to an
13 ORV certificate of title, the department of state shall issue an
14 ORV certificate of title in the applicant's name. The certificate
15 shall be mailed or otherwise delivered to the owner of the ORV or
16 to another person specified by the owner in a separate instrument,
17 in a form prescribed by the department of state.

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

24 Sec. 81112. (1) An ORV certificate of title shall be
25 manufactured in a manner to prevent as nearly as possible the
26 reproduction, alteration, counterfeiting, forging, or duplication
27 of the certificate without ready detection. An ORV certificate of

1 title shall contain on its face the information set forth in the
2 application, including a notation of all secured interests in the
3 ORV, the date on which the application was filed, and other
4 information required by the department of state.

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

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

14 (4) A person ~~who intentionally reproduces, alters,~~
15 ~~counterfeits, forges, or duplicates~~ **SHALL NOT DO ANY OF THE**
16 **FOLLOWING:**

17 (A) **REPRODUCE, ALTER, COUNTERFEIT, FORGE, OR DUPLICATE** an ORV
18 certificate of title or ~~who uses a~~ **HOLD OR USE AN ORV CERTIFICATE**
19 **OF TITLE KNOWING IT IS** reproduced, altered, counterfeited, forged,
20 or duplicated. ~~ORV certificate of title~~

21 (B) **FRAUDULENTLY INDICATE ON AN ORV CERTIFICATE OF TITLE THAT**
22 **THERE IS NO SECURITY INTEREST ON RECORD FOR THE ORV.**

23 (C) **FORGE OR COUNTERFEIT A LETTER, RECEIPT, OR OTHER DOCUMENT**
24 **FROM THE HOLDER OF A SECURITY INTEREST IN AN ORV INDICATING THAT**
25 **THE SECURITY INTEREST HAS BEEN RELEASED.**

26 (5) **A PERSON WHO VIOLATES SUBSECTION (4)** is subject to the
27 following penalties:

1 (a) If the intent of ~~reproduction, alteration, counterfeiting,~~
2 ~~forging, duplication, or use~~ **THE VIOLATION** was to commit or aid in
3 the commission of an offense punishable by imprisonment for 1 or
4 more years, the person committing the ~~reproduction, alteration,~~
5 ~~counterfeiting, forging, duplication, or use~~ **VIOLATION** is guilty of
6 a misdemeanor punishable by imprisonment for a period equal to that
7 which could be imposed for the commission of the offense the person
8 had the intent to aid or commit or a fine of not more than
9 \$5,000.00, or both.

10 (b) If the intent of the ~~reproduction, alteration,~~
11 ~~counterfeiting, forging, duplication, or use~~ **VIOLATION** was to
12 commit or aid in the commission of an offense punishable by
13 imprisonment for not more than 1 year, the person committing the
14 ~~reproduction, alteration, counterfeiting, forging, duplication, or~~
15 ~~use~~ **VIOLATION** is guilty of a misdemeanor punishable by imprisonment
16 for not more than 1 year or a fine of not more than \$1,000.00, or
17 both.

18 (6) A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION
19 (4) (B) OR (C), IN ADDITION TO ANY OTHER PENALTY, SHALL PAY
20 RESTITUTION TO THE HOLDER OF A SECURITY INTEREST IN THE ORV IN THE
21 AMOUNT OF THE OUTSTANDING LIEN ON THE ORV.

22 Sec. 81113. (1) If an ORV certificate of title or duplicate
23 certificate of title is lost or mutilated or becomes illegible, the
24 person entitled to possession of the certificate, or the legal
25 representative or successor in interest to the titleholder of
26 record, may ~~make application~~ **APPLY** to the department of state for a
27 duplicate ORV certificate of title. Upon receipt of the

1 application, the fee prescribed in section 81110, and information
2 satisfactory to the department of state to establish entitlement to
3 the duplicate, the department of state may issue a duplicate ORV
4 certificate of title to the applicant. **AS PROVIDED UNDER SECTION**
5 **81109(5), THE DEPARTMENT OF STATE IS NOT REQUIRED TO ISSUE A**
6 **DUPLICATE CERTIFICATE OF TITLE TO THE OWNER OF AN ORV IF THE TITLE**
7 **IS SUBJECT TO A SECURITY INTEREST.**

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

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

18 **SEC. 81114F. (1) THE SECRETARY OF STATE MAY ENTER INTO 1 OR**
19 **MORE CONTRACTS UNDER THIS SECTION TO ESTABLISH, IMPLEMENT, AND**
20 **OPERATE AN ELECTRONIC LIEN TITLE SYSTEM TO PROCESS THE NOTIFICATION**
21 **AND RELEASE OF SECURITY INTERESTS IN ORVS THROUGH ELECTRONIC FILE**
22 **TRANSFERS, OR AS OTHERWISE DETERMINED BY THE SECRETARY OF STATE, IN**
23 **LIEU OF THE ISSUANCE AND MAINTENANCE OF PAPER DOCUMENTS OTHERWISE**
24 **REQUIRED BY LAW. ANY SUCH CONTRACT SHALL REQUIRE THE PROTECTION OF**
25 **PROPRIETARY INFORMATION IN THE ELECTRONIC LIEN TITLE SYSTEM AND**
26 **PROVIDE FOR THE PROTECTION OF A COMPETITIVE FREE MARKET.**

27 (2) **EXCEPT FOR PERSONS WHO ARE NOT NORMALLY ENGAGED IN THE**

1 BUSINESS OR PRACTICE OF FINANCING ORVS, ALL SECURED PARTIES ARE
2 REQUIRED TO PARTICIPATE IN THE ELECTRONIC LIEN TITLE SYSTEM.

3 (3) FOR THE PURPOSES OF THIS PART, ANY REQUIREMENT THAT A
4 SECURITY INTEREST OR OTHER INFORMATION APPEAR ON A CERTIFICATE OF
5 TITLE IS SATISFIED BY THE INCLUSION OF THAT INFORMATION IN AN
6 ELECTRONIC FILE MAINTAINED IN AN ELECTRONIC LIEN TITLE SYSTEM. THE
7 SATISFACTION OF A SECURITY INTEREST MAY BE ELECTRONICALLY
8 TRANSMITTED TO THE SECRETARY OF STATE. A SECURED PARTY SHALL
9 EXECUTE A RELEASE OF ITS SECURITY INTEREST IN AN ORV IN A MANNER
10 PRESCRIBED BY THE DEPARTMENT NOT MORE THAN 14 DAYS AFTER THE
11 SECURED PARTY RECEIVES THE PAYMENT IN SATISFACTION OF THE SECURITY
12 INTEREST. IF THE CERTIFICATE OF TITLE IS IN THE POSSESSION OF THE
13 ORV OWNER, THE SECURED PARTY SHALL DELIVER THE RELEASE TO THE ORV
14 OWNER OR AS OTHERWISE DIRECTED BY THE OWNER. HOWEVER, IF THE
15 CERTIFICATE OF TITLE IS HELD ELECTRONICALLY AS PROVIDED UNDER
16 SECTION 81109(5), THE SECURED PARTY SHALL DELIVER THE RELEASE OF
17 SECURITY INTEREST TO THE DEPARTMENT OF STATE, AND THE DEPARTMENT OF
18 STATE SHALL CANCEL THE SECURITY INTEREST. IF THE SECURED PARTY
19 FAILS TO COMPLY WITH THESE REQUIREMENTS FOR THE RELEASE OF A
20 SECURED INTEREST, THE SECURED PARTY IS LIABLE TO THE ORV OWNER FOR
21 ALL DAMAGES SUSTAINED BY THE OWNER BECAUSE OF THE FAILURE TO
22 COMPLY. THE ELECTRONIC LIEN TITLE SYSTEM SHALL PROVIDE A MECHANISM
23 BY WHICH AN ORV DEALER MAY ASSIGN OWNERSHIP OF AN ORV WITHOUT PROOF
24 THAT THE PRIOR SECURITY INTEREST WAS SATISFIED EXISTING ON THE
25 ELECTRONIC LIEN TITLE SYSTEM. HOWEVER, IN THE EVENT OF SUCH AN
26 ASSIGNMENT, THE DEALER WARRANTS THAT THE TITLE IS FREE AND CLEAR OF
27 ALL LIENS AND ASSUMES RESPONSIBILITY FOR THE SATISFACTION OF THE

1 SECURITY INTEREST.

2 (4) A CERTIFIED COPY OF THE SECRETARY OF STATE'S ELECTRONIC
3 RECORD OF A SECURITY INTEREST IS ADMISSIBLE IN ANY CIVIL, CRIMINAL,
4 OR ADMINISTRATIVE PROCEEDING IN THIS STATE AS EVIDENCE OF THE
5 EXISTENCE OF THE SECURITY INTEREST. IF A CERTIFICATE OF TITLE IS
6 MAINTAINED IN THE ELECTRONIC LIEN TITLE SYSTEM, A CERTIFIED COPY OF
7 THE SECRETARY OF STATE'S ELECTRONIC RECORD OF THE CERTIFICATE OF
8 TITLE IS ADMISSIBLE IN ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE
9 PROCEEDING IN THIS STATE AS EVIDENCE OF THE EXISTENCE AND CONTENTS
10 OF THE CERTIFICATE OF TITLE.

11 (5) THE SECRETARY OF STATE MAY DETERMINE ANY REQUIREMENTS
12 NECESSARY TO CARRY OUT THIS SECTION, INCLUDING, BUT NOT LIMITED TO,
13 1 OR MORE OF THE FOLLOWING:

14 (A) MONITORING THE REASONABLE FEES CHARGED BY SERVICE
15 PROVIDERS OR A CONTRACTOR FOR THE ESTABLISHMENT AND MAINTENANCE OF
16 THE ELECTRONIC LIEN TITLE SYSTEM.

17 (B) THE QUALIFICATIONS OF SERVICE PROVIDERS FOR PARTICIPATION
18 IN THE ELECTRONIC LIEN TITLE SYSTEM.

19 (C) THE QUALIFICATIONS FOR A CONTRACTOR TO ENTER INTO A
20 CONTRACT WITH THE SECRETARY OF STATE TO ESTABLISH, IMPLEMENT, AND
21 OPERATE THE ELECTRONIC LIEN TITLE SYSTEM.

22 (D) PROGRAM SPECIFICATIONS THAT A CONTRACTOR MUST ADHERE TO IN
23 ESTABLISHING, IMPLEMENTING, AND OPERATING THE ELECTRONIC LIEN TITLE
24 SYSTEM.

25 (6) THE ELECTRONIC LIEN TITLE SYSTEM UNDER THIS SECTION SHALL
26 BE ESTABLISHED, IMPLEMENTED, AND OPERATIONAL BY FEBRUARY 16, 2021.

27 (7) BY FEBRUARY 16, 2021, THE DEPARTMENT SHALL REQUIRE A

1 PERSON TO ENTER EVIDENCE OF SECURITY INTERESTS AND ANY RELATED
2 INFORMATION INTO THE ELECTRONIC LIEN TITLE SYSTEM IN LIEU OF PAPER
3 DOCUMENTS.

4 (8) AS USED IN THIS SECTION:

5 (A) "CONTRACTOR" MEANS A PERSON WHO ENTERS INTO A CONTRACT
6 WITH THE SECRETARY OF STATE TO ESTABLISH, IMPLEMENT, AND OPERATE
7 THE ELECTRONIC LIEN TITLE SYSTEM DESCRIBED IN THIS SECTION.

8 (B) "ELECTRONIC LIEN TITLE SYSTEM" MEANS A SYSTEM TO PROCESS
9 THE NOTIFICATION AND RELEASE OF SECURITY INTERESTS THROUGH
10 ELECTRONIC FILE TRANSFERS THAT IS ESTABLISHED AND IMPLEMENTED UNDER
11 THIS SECTION.

12 (C) "SERVICE PROVIDER" MEANS A PERSON WHO PROVIDES SECURED
13 PARTIES WITH SOFTWARE TO MANAGE ELECTRONIC LIEN AND TITLE DATA AS
14 PROVIDED UNDER THIS SECTION.

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