

# HOUSE BILL No. 6487

November 8, 2018, Introduced by Rep. VanderWall and referred to the Committee on Natural Resources.

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
- 4 provisions of this part.

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

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

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

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

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

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

25           **(2) AS PROVIDED UNDER SECTION 81109(5), THE DEPARTMENT OF**  
 26 **STATE IS NOT REQUIRED TO ISSUE A CERTIFICATE OF TITLE TO THE OWNER**  
 27 **OF AN ORV IF THE TITLE IS SUBJECT TO A SECURITY INTEREST.**

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

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

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

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

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

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

23           (3) Receipt by the secretary of state of a properly tendered  
24 application for an ORV certificate of title that indicates the  
25 existence of a security interest in the ORV is a condition of  
26 perfection of a security interest in the ORV, **UNLESS, UNDER SECTION**  
27 **81109(5), THE DEPARTMENT OF STATE DOES NOT ISSUE CERTIFICATES OF**

1 **TITLE FOR ORVS SUBJECT TO A SECURITY INTEREST**, and is equivalent to  
2 filing a financing statement under the uniform commercial code,  
3 1962 PA 174, MCL 440.1101 to ~~440.11102~~, **440.9994**, with respect to  
4 the ORV. When a security interest in an ORV is perfected, it has  
5 priority over the rights of a lien creditor as lien creditor is  
6 defined in section 9102 of the uniform commercial code, 1962 PA  
7 174, MCL 440.9102.

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

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

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

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

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

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

20           (7) ~~(5)~~—Beginning January 1, 1992, a person who violates this  
21 section is responsible for a state civil infraction and may be  
22 ordered to pay a civil fine of not more than \$100.00.

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

27           (a) The applicant fails to furnish all required information or

1 reasonable additional information requested by the department of  
2 state.

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

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

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

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

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

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

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

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

1 application, including a notation of all secured interests in the  
2 ORV, the date on which the application was filed, and other  
3 information required by the department of state.

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

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

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

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

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

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

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

27 (a) If the intent of ~~reproduction, alteration, counterfeiting,~~

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

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

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

21 Sec. 81113. (1) If an ORV certificate of title or duplicate  
22 certificate of title is lost or mutilated or becomes illegible, the  
23 person entitled to possession of the certificate, or the legal  
24 representative or successor in interest to the titleholder of  
25 record, may ~~make application~~ **APPLY** to the department of state for a  
26 duplicate ORV certificate of title. Upon receipt of the  
27 application, the fee prescribed in section 81110, and information

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

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

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

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

26 (2) **EXCEPT FOR PERSONS WHO ARE NOT NORMALLY ENGAGED IN THE**  
27 **BUSINESS OR PRACTICE OF FINANCING ORVS, ALL SECURED PARTIES ARE**

1 REQUIRED TO PARTICIPATE IN THE ELECTRONIC LIEN TITLE SYSTEM.

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

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

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

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

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

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

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

24 (6) THE ELECTRONIC LIEN TITLE SYSTEM SHALL BE ESTABLISHED,  
25 IMPLEMENTED, AND OPERATIONAL BY APRIL 1, 2020.

26 (7) THE DEPARTMENT MAY REQUIRE A PERSON TO ENTER EVIDENCE OF  
27 SECURITY INTERESTS AND ANY RELATED INFORMATION INTO THE ELECTRONIC

1 LIEN TITLE SYSTEM IN LIEU OF PAPER DOCUMENTS BEGINNING APRIL 1,  
2 2020.

3 (8) AS USED IN THIS SECTION:

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

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

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

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