

AN ACT

To amend section 4505.06 of the Revised Code to authorize the clerks of the courts of common pleas to accept additional methods of payment for motor vehicle title taxes and to establish procedures to ensure collection of the funds.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 4505.06 of the Revised Code be amended to read as follows:

Sec. 4505.06. (A) Application for a certificate of title shall be made upon a form prescribed by the registrar of motor vehicles, and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of the court of common pleas of the county in which the applicant resides if the applicant is a resident of this state or, if not a resident, in the county in which the transaction is consummated. The application shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code; and if a certificate of title previously has been issued for the motor vehicle in this state, it shall be accompanied by that certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the motor vehicle in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate or by a certificate of title, bill of sale, or other evidence of ownership required by the law of another state from which the motor vehicle was brought into this state. If the application refers to a motor vehicle last previously registered in another state, the application also shall be accompanied by the physical inspection certificate required by section 4505.061 of the Revised Code. If the application is made by two persons regarding a motor vehicle in which they wish to establish joint ownership with right of survivorship they may do so as provided in section 2106.17 of the Revised Code. The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The clerk shall use reasonable diligence in ascertaining whether or not the facts in the

application are true by checking the application and documents accompanying it with the records of motor vehicles in the clerk's office; if satisfied that the applicant is the owner of the motor vehicle and that the application is in the proper form, the clerk, within five business days after the application is filed, shall issue a certificate of title over the clerk's signature and sealed with the clerk's seal. For purposes of the transfer of a certificate of title, if the clerk is satisfied that the secured party has duly discharged a lien notation, but has not canceled the lien notation with the clerk of the county of origin, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

In the case of the sale of a motor vehicle by a dealer or a manufactured home broker to a general buyer or user, the certificate of title shall be obtained in the name of the buyer by the dealer or the manufactured home broker upon application signed by the buyer, and shall be issued within five business days after the application for title is filed with the clerk.

In all other cases, except as provided in division (D)(2) of section 4505.11 of the Revised Code, such certificates shall be obtained by the buyer. In all cases of transfer of a motor vehicle, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. If an application for a certificate of title is not filed within that period, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(B) The clerk, except as provided in this section, shall refuse to accept for filing any application for a certificate of title and shall refuse to issue a certificate of title unless the dealer or manufactured home broker or the applicant, in cases in which the certificate shall be obtained by the buyer, submits with the application payment of the tax levied by or pursuant to Chapters 5739. and 5741. of the Revised Code ~~by cash, certified check, draft, or money order payable to the clerk.~~ ~~The clerk also may accept payment by a corporate check of a new motor vehicle dealer licensed under Chapter 4517. of the Revised Code.~~ Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by

the registrar and agreed upon by the tax commissioner showing payment of the tax or a receipt issued by the commissioner showing the payment of the tax. When submitting payment of the tax to the clerk, a dealer shall retain any discount to which the dealer is entitled under section 5739.12 of the Revised Code.

For receiving and disbursing such taxes paid to the clerk, the clerk may retain a poundage fee of one and one one-hundredth per cent, which shall be paid into the certificate of title administration fund created by section 325.33 of the Revised Code.

In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of a bequest, under the laws of intestate succession, to a surviving spouse pursuant to section 2106.17, 2106.18, or 4505.10 of the Revised Code, or in connection with the creation of a security interest.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax ~~by cash, certified check, draft, or money order payable to~~. Upon payment of the tax in accordance with division (E) of this section, the clerk, ~~who~~ shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax. For receiving and disbursing such taxes paid to the clerk, the clerk may retain a poundage fee of one per cent. When the vendor is not regularly engaged in the business of selling motor vehicles, the vendor shall not be required to purchase a vendor's license or make reports concerning such sales.

(E) The clerk shall accept any payment of a tax in cash, or by certified check, draft, or money order payable to the clerk and submitted with an application for a certificate of title under division (B) or (D) of this section. The clerk also may accept payment of the tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or any other accepted form of payment made payable to the clerk. The clerk may require bonds, guarantees, or letters of credit to ensure the collection of corporate, business, or personal checks. Any service fee charged by a third party to a clerk for the use of any form of payment may be paid by the clerk from the certificate of title administration fund created in section 325.33 Of the Revised Code, or may be assessed by the clerk upon the applicant as an additional fee. Upon collection, the additional fees shall be paid by the clerk into that certificate of title administration fund.

The clerk shall make a good faith effort to collect any payment of taxes due but not made because the payment was returned or dishonored, but the clerk is not personally liable for the payment of uncollected taxes or uncollected fees. The clerk shall notify the tax commissioner of any such payment of taxes that is due but not made and shall furnish such information to the commissioner as the commissioner requires. The clerk shall deduct the amount of taxes due but not paid from the clerk's periodic remittance of tax payments, in accordance with procedures agreed upon by the tax commissioner. The commissioner may collect taxes due by assessment in the manner provided in section 5739.13 Of the Revised Code.

Any person who presents payment that is returned or dishonored for any reason is liable to the clerk for payment of a penalty over and above the amount of the taxes due. The clerk shall determine the amount of the penalty, which shall be no greater than that amount necessary to compensate

the clerk for banking charges, legal fees, or other expenses incurred by the clerk in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies. Subsequently collected penalties, poundage, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with such information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing such application and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

The clerk shall forward all payments of taxes, less poundage fee, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish such information to the commissioner as the commissioner requires.

~~(F)~~(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state

the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

SECTION 2. That existing section 4505.06 of the Revised Code is hereby repealed.

SECTION 3. Section 4505.06 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 353 and Am. Sub. S.B. 182 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____