

SECOND REGULAR SESSION

# SENATE BILL NO. 1264

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEY.

Read 1st time February 28, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4937S.011

## AN ACT

To repeal sections 301.610, 301.620, 301.630, 301.640, 301.660, 301.661, 306.405, 306.410, 306.415, 306.420, 306.430, 306.440, 454.516, 700.355, 700.360, 700.365, 700.370, 700.380 and 700.390, RSMo, relating to motor vehicle titles, and to enact in lieu thereof seventeen new sections relating to the same subject, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 301.610, 301.620, 301.630, 301.640, 301.660, 301.661, 306.405, 306.410, 306.415, 306.420, 306.430, 306.440, 454.516, 700.355, 700.360, 700.365, 700.370, 700.380 and 700.390, RSMo, are repealed and seventeen new section enacted in lieu thereof, to be known as sections 301.610, 301.620, 301.630, 301.640, 301.660, 306.405, 306.410, 306.415, 306.420, 306.430, 306.440, 454.516, 700.355, 700.360, 700.365, 700.370 and 700.380, to read as follows:

301.610. 1. A certificate of ownership of a motor vehicle or trailer when issued by the director of revenue shall be mailed or confirmation of such ownership shall be electronically transmitted or mailed to the [first lienholder named in such certificate; and if no lienholder is shown, then the certificate of ownership shall be mailed to the] owner shown on the face of the title of such motor vehicle or trailer.

2. [A lienholder] **An owner** may elect that the director of revenue retain possession of an electronic certificate of ownership, and the director shall issue regulations to cover the procedure by which such election is made. Each such certificate of ownership shall require a separate election, unless the director provides otherwise by regulation. [A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.]

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

3. "Electronic certificate of ownership" means any electronic record of ownership, including a lien or liens that may be recorded.

301.620. If an owner creates a lien or encumbrance on a motor vehicle or trailer:

(1) The owner shall immediately execute the application, in the space provided therefor on the certificate of ownership or on a separate form the director of revenue prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder and the date of the lienholder's security agreement, and cause the certificate, application and the required fee to be delivered to the director of revenue. **Failure of the owner to name the lienholder in such application is a class C felony;**

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119 shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien as provided in section 301.600. **The lien shall be perfected when such notice of lien is received by the director of revenue, or perfected prior to the date of receipt as otherwise provided in section 301.600;**

(3) [Upon request of the owner or] **To perfect a lien for a** subordinate lienholder, [a lienholder] **an owner** in possession of the certificate of ownership shall either mail or deliver the certificate to the [subordinate lienholder for delivery to the director of revenue or, upon receipt from] **department of revenue or** the subordinate lienholder [of] **may obtain** the owner's application, the certificate and the required fee[,] **and** mail or deliver them to the director of revenue with the certificate. The delivery of the certificate does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the certificate, application and the required fee, the director of revenue shall issue a new certificate of ownership containing the name and address of the new lienholder, and shall mail the certificate as prescribed in section 301.610 or if a lienholder who has elected for the director of revenue to retain possession of an electronic certificate of ownership the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate. Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of ownership being electronically retained by the director and provide confirmation of the addition to both lienholders.

301.630. 1. A lienholder may assign, absolutely or otherwise, his or her lien or encumbrance in the motor vehicle or trailer to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate **or otherwise registers its assignment with**

**the department of revenue in a form required by the department of revenue.**

2. The assignee may, but need not [to] perfect the assignment, have the certificate of ownership endorsed or issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate and an assignment by the lienholder named in the certificate in the form the director of revenue prescribes the application and the required fee. **In the alternative, the assignee may comply with this public notice of assignment procedure by registering its assignment without the certificate of ownership, but meeting all other requirements.**

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.

301.640. 1. Upon the satisfaction of any lien or encumbrance of a motor vehicle or trailer [for which the certificate of ownership is in possession of the lienholder], the lienholder shall, within ten business days release the lien or encumbrance [on the certificate,] and mail or deliver the [certificate] **release indicating satisfaction of such lien or encumbrance in a form prescribed by the director of revenue** to the next lienholder named therein, or, if none, to the owner or any person who delivers to the lienholder an authorization from the owner to receive [the certificate] **such release indicating satisfaction. Each perfected subordinate lienholder if any, shall release such lien or encumbrance as provided herein for the first lienholder.** The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, RSMo.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of a lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner **or at the owner's election, the electronic certificate of ownership may remain with the department of revenue.**

3. Upon the satisfaction of any lien or encumbrance in a motor vehicle or trailer [for which a certificate is in possession of a prior lienholder], the lienholder whose lien or encumbrance is satisfied shall within ten business days release the lien or encumbrance [on the certificate and deliver the certificate] **with a written release as otherwise provided in this section,** to the owner or any person who delivers to the lienholder an authorization from the

owner to receive it. The **owner or** lienholder in possession of the certificate shall at the request of the owner and upon surrender of the certificate of title by the owner and receipt of the required fee, either mail or deliver the certificate of ownership to the director of revenue, or deliver the certificate to the owner, or the person authorized by the owner, for delivery to the director of revenue, who shall issue a new certificate.

4. If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

5. Any lienholder who fails to comply with subsection 1, 2 or 3 of this section shall pay to the person or persons satisfying the lien or encumbrance twenty-five dollars for the first ten business days after expiration of the time period prescribed in subsection 1, 2 or 3 of this section, and such payment shall double for each ten days thereafter in which there is continued noncompliance, up to a maximum of five hundred dollars for each lien. If delivery of the certificate is made by mail, the delivery date is the date of the postmark for purposes of this subsection.

301.660. All transactions involving liens or encumbrances on motor vehicles or trailers entered into before [July 1, 1991] **August 28, 2002**, and the rights, duties and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by any statute or other law amended or repealed by sections 301.600 to 301.660 as though the repeal or amendment had not occurred, **with the exception that any lienholder that holds a certificate of ownership in its possession that was perfected prior to August 28, 2002, and the lien or encumbrance has not been released, shall mail or otherwise transfer such certificate of ownership with all current liens or encumbrances to the last known address of the owner prior to August 28, 2003, provided the owner prepays a transfer fee of up to twenty-five dollars. If the lienholder mails such certificate of ownership to the owner, it shall be sent by first class certified mail, return receipt required and the following statement in at least ten point type shall be placed on the outside of the envelope in which such certificate is mailed, "IMPORTANT - MOTOR VEHICLE OR TRAILER OWNERSHIP DOCUMENTS ENCLOSED". If the lienholder transfers such certificate of ownership to the owner in person, the lienholder shall obtain a signed receipt for such certificate.**

306.405. 1. All certificates of title of an outboard motor, motorboat, vessel, or watercraft

issued by the director of revenue shall be mailed or confirmation of such ownership shall be electronically transmitted [or mailed to the first lienholder named in such certificate or, if no lienholder is named,] to the owner named therein.

2. [A lienholder] **An owner** may elect to have the director of revenue retain possession of an electronic certificate of title and the director shall issue regulations to govern the procedure for making such an election. Each such certificate of title shall require a separate election unless the director provides otherwise by regulation. [A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.]

3. "Electronic certificate of title" means any electronic record of ownership, including liens that may be recorded.

306.410. If an owner creates a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his or her security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so is a class [A misdemeanor] **C felony**;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien pursuant to section 306.400. **The lien shall be perfected when such notice of lien is received by the director of revenue, or perfected prior to the date of receipt as otherwise provided in section 306.400;**

(3) Upon request of the [owner or] subordinate lienholder, [a lienholder] **an owner** in possession of the certificate of title [who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue, unless such certificate of title secures future advance liens] **shall either mail or deliver the certificate to the subordinate lienholder for delivery to the director of revenue or, upon receipt from the subordinate lienholder of the owner's application, the certificate and the required fee, mail or deliver them to the director of revenue with the certificate.** The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his or her security agreement;

(4) Upon receipt of the certificate of title, application and the required fee, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title [to the first lienholder named in it or if a lienholder has elected to have the director of revenue retain possession of an electronic certificate of title,

the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate] **as prescribed in section 306.405.** Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title being electronically retained by the director and provide confirmation of the addition to both lienholders.

306.415. 1. A lienholder may assign, absolutely or otherwise, his or her lien or encumbrance on the outboard motor, motorboat, vessel, or watercraft to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder shall remain liable for any obligations as lienholder until the assignee is named as lienholder on the certificate of title **or otherwise registers its assignment with the department of revenue in a form required by the department of revenue.**

2. An assignee pursuant to subsection 1 of this section may, but need [not to] perfect the assignment, have the certificate of title issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate of title, an assignment by the lienholder named in the certificate of title, and the required fee in the form the director of revenue prescribes. **In the alternative, the assignee may comply with this public notice of assignment procedure by registering its assignment without the certificate of ownership, but meeting all other requirements.**

3. If the certificate of title is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of lien to the director in a form prescribed by the director. Upon receipt of notice of assignment, the director shall update the electronic certificate of title to reflect the assignment of lien and lienholder.

306.420. 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft [for which the certificate of title is in the possession of the lienholder and provided the owner waives any rights to future advances subject to a lien in this chapter], the lienholder shall, within ten days after demand and, in any event, within thirty days, execute a release of his or her lien or encumbrance, and mail or deliver the [certificate and] release to the next lienholder named therein, or, if no other lienholder is so named, to the owner or any person who delivers to the lienholder an authorization from the owner to receive the [certificate] **release.** The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. Upon the satisfaction of a second or third lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after

demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The [lienholder in possession of the certificate of title shall, at the request of the owner and upon receipt of the release and the required fee,] **owner or someone designated by the owner shall** either mail or deliver the certificate, the release, and the required fee to the director of revenue, [or deliver the certificate of title to the owner, or the person authorized by him or her, for delivery of the certificate, the release and required fee to the director of revenue,] who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.

3. If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

306.430. All transactions involving liens or encumbrances on outboard motors, motorboats, vessels, or watercraft entered into before April 1, 1986, and the rights, duties, and interests flowing from such transactions shall remain valid after [April 1, 1986] **August 28, 2002**, and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by sections 306.400 to 306.430 as though such repeal or amendment had not occurred, **with the exception that any lienholder that holds a certificate of ownership in its possession that was perfected prior to August 28, 2002, and the lien or encumbrance has not been released, shall mail or otherwise transfer such certificate of ownership with all current liens or encumbrances to the last known address of the owner prior to August 28, 2003, provided the owner prepays a transfer fee of up to twenty-five dollars. If the lienholder mails such certificate of ownership to the owner, it shall be sent by first class certified mail, return receipt required and the following statement in at least ten point type shall be placed on the outside of the envelope in which such certificate is mailed, "IMPORTANT - OUTBOARD MOTORS, MOTORBOATS, VESSELS OR WATERCRAFT OWNERSHIP DOCUMENTS ENCLOSED". If the lienholder transfers such certificate of ownership to the owner in person, the lienholder shall obtain a signed receipt for such certificate.**

306.440. Failure by the owner to indicate the lienholder of a lien or encumbrance attached to the outboard motor, motorboat, vessel, or watercraft at time of making application for title is a class [A misdemeanor] **C felony**.

454.516. 1. The director or IV-D agency may cause a lien pursuant to subsection 2 of this section or the obligee may cause a lien pursuant to subsection [9] **8** of this section for unpaid and delinquent child support to [be placed upon] **block the transfer of a certificate of**

**ownership of** motor vehicles, motor boats, outboard motors, manufactured homes and trailers that are registered in the name of a delinquent child support obligor[, if the title to the property is held by a lienholder].

2. The director or IV-D agency shall notify the department of revenue with the required information necessary to impose a lien pursuant to this section by filing a notice of lien, and the department of revenue shall notify the lienholder of the existence of such lien.

3. The department of revenue shall not register the lien unless:

(1) The director of revenue or the director's designee determines that the obligor has unpaid child support which exceeds one thousand dollars;

(2) The property has a value of more than three thousand dollars as determined by current industry publications that provide such estimates to dealers in the business, and the property's year of manufacture is within seven years of the date of filing of the lien except in the case of a motor vehicle that has been designated a historic vehicle;

(3) The property has no more than two existing liens for child support;

(4) The property has had no more than three prior liens for child support in the same calendar year.

4. In the event that a lien is placed and the obligor's total support obligation is eliminated, the director shall notify the department of revenue that the lien shall be removed.

5. Upon notification by the director that a lien exists pursuant to this section, the department of revenue shall [send a sticker of impaired title in an envelope which says prominently "important legal document" to the lienholder] **register the lien on the records of the department of revenue**. Such [sticker] **registration** shall contain the type and model of the property, the serial number of the property and the identification number of the obligor [and shall be properly affixed to the certificate of title by the lienholder].

6. Upon notification by the director that the lien shall be removed pursuant to subsection 4 of this section, the department of revenue shall [send a void sticker to the lienholder and such void sticker shall be properly affixed to the certificate of title by the lienholder covering the impaired title sticker. Such sticker] **register such removal of lien on its data bank, that** shall contain the type and model of the property, the serial number of the property and the identification number of the obligor.

7. When [a lienholder] **the department of revenue** has received notice of a lien created by the division or IV-D agency pursuant to this section and the obligor thereafter satisfies the debt to that lienholder, the [lienholder] **department of revenue** shall mail to the division or IV-D agency the [certificate of ownership] **satisfaction of lien or encumbrance in the form required by the department of revenue** on the motor vehicle, motor boat, outboard motor, manufactured home or trailer. The division or IV-D agency may hold [the certificate of ownership] **such satisfaction** until the child support obligation is satisfied, or levy and execute



on the motor vehicle, motor boat, outboard motor, manufactured home or trailer and sell same, at public sale, in order to satisfy the debt. [A lienholder shall inform dealers in the business of motor vehicles, motor boats, manufactured homes and trailers, upon request, of the existence or nonexistence of a lien imposed by the division pursuant to this section.]

8. [A good faith purchaser for value without notice of the lien or a lender without notice of the lien takes free of the lien.

9.] In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this section the obligee or the obligee's attorney shall file notice of the lien with the [lienholder or payor] **department of revenue**. This notice shall have attached a certified copy of the court order with all modifications and a sworn statement by the obligee or a certified statement from the court attesting to or certifying the amount of arrearages.

**9. Notwithstanding any other law to the contrary, the department of revenue shall maintain a child support lien data base that may be collected against the owner on a certificate of ownership provided for by chapters 301, 306 and 700, RSMo. To determine any existing liens for child support pursuant to this section, the lienholder, dealer or buyer shall contact the department of revenue and the department shall provide such information including whether such liens exist and the amount of such liens. A statement from the department of revenue shall be binding on the department for thirty days.**

700.355. All certificates of title to a manufactured home issued by the director of revenue shall be mailed or otherwise delivered to the [first lienholder named in such certificate or, if no lienholder is named,] to the owner named therein.

700.360. If an owner creates a lien or encumbrance on a manufactured home:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to [do so is a class A misdemeanor] **name the lienholder in such application is a class C felony;**

(2) [Upon request of] The owner [or subordinate lienholder, a lienholder] in possession of the certificate of title [who receives the] **with the** owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his security agreement;

(3) Upon receipt of the certificate of title, application and the required fee, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the [first lienholder] **owner** named in it.

700.365. 1. A lienholder may assign, absolutely or otherwise, his lien or encumbrance on the manufactured home to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder shall remain liable for any obligations as lienholder until the assignee is named as lienholder on the certificate of title **or otherwise register its assignment with the department of revenue in a form required by the department of revenue.**

2. An assignee under subsection 1 of this section may, but need not to perfect the assignment, have the certificate of title issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate of title, an assignment by the lienholder named in the certificate of title, and the required fee in the form the director of revenue prescribes. **In the alternative, the assignee may comply with this public notice of assignment procedure by registering its assignment without the certificate of ownership, but meeting all other requirements.**

700.370. 1. Upon the satisfaction of a lien or encumbrance on a manufactured home [for which the certificate of title is in the possession of the lienholder], the lienholder shall, within ten days after demand, and, in any event, within thirty days, [execute a] release [of his] **the** lien or encumbrance, and mail or deliver the [certificate and] release **indicating satisfaction of such lien or encumbrance in a form prescribed by the director of revenue** to the next lienholder named therein, or, if no other lienholder is so named, to the owner or any person who delivers to the lienholder an authorization from the owner to receive [the certificate] **such release**. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. Upon the satisfaction of a second or third lien or encumbrance on a manufactured home [for which the certificate of title is in the possession of the first lienholder], the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The [lienholder] **owner** in possession of the certificate of title shall[, at the request of the owner and] upon receipt of the release [and the required fee], either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to [the owner, or] the person authorized by [him] **the owner**, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.

700.380. All transactions involving liens or encumbrances on manufactured homes entered into before [December 31, 1985] **August 28, 2002**, and the rights, duties, and interests

flowing from such transactions shall remain valid [after December 31, 1985] **thereafter**, and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by sections 700.350 to 700.380 as though such repeal or amendment had not occurred, **with the exception that any lienholder that holds a certificate of ownership in its possession that was perfected prior to August 28, 2002, and the lien or encumbrance has not been released, shall mail or otherwise transfer such certificate of ownership with all current liens or encumbrances to the last known address of the owner prior to August 28, 2003, provided the owner prepays a transfer fee of up to twenty-five dollars. If the lienholder mails such certificate of ownership to the owner, it shall be sent by first class certified mail, return receipt required and the following statement in at least ten point type shall be placed on the outside of the envelope in which such certificate is mailed, "IMPORTANT - MANUFACTURED HOME OWNERSHIP DOCUMENTS ENCLOSED". If the lienholder transfers such certificate of ownership to the owner in person, the lienholder shall obtain a signed receipt for such certificate.**

[301.661. The changes in sections 301.190, 301.610, 301.620, 301.630 and 301.640 made through the provisions of house bill no. 884, as enacted in the second regular session of the eighty-sixth general assembly are remedial and should be given that construction.]

[700.390. Failure by the owner to indicate the lienholder of a lien or encumbrance attached to the manufactured home at time of making application for title is a class A misdemeanor.]

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