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Representative Hagan

Cosponsors: Representatives Becker, Dean, Riedel, Vitale, Goodman, Green, Sheehy, Householder, Hughes, West, Anielski, Arndt, Brown, Craig, Cupp, Dever, Gavarone, Ginter, Holmes, Landis, Lang, Leland, Manning, Miller, Pelanda, Perales, Rezabek, Rogers, Romanchuk, Ryan, Schaffer, Schuring, Seitz, Stein, Thompson, Wiggam, Young

A BILL

To amend sections 2131.12, 2131.13, 4519.55, and 4519.60 of the Revised Code to allow persons to establish a joint ownership with right of survivorship with respect to an all-purpose vehicle or off-highway motorcycle and to allow owners of a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, or outboard motor who have joint ownership with right of survivorship to transfer title through a transfer-on-death designation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2131.12, 2131.13, 4519.55, and 4519.60 of the Revised Code be amended to read as follows:

Sec. 2131.12. (A) As used in this section:

(1) "Motor vehicle" has the same meaning as in section 4505.01 of the Revised Code.

(2) "Joint ownership with right of survivorship" means a
form of ownership of a motor vehicle, all-purpose vehicle, off-
highway motorcycle, watercraft, or outboard motor that is
established pursuant to this section and pursuant to which the
entire interest in the motor vehicle, all-purpose vehicle, off-
highway motorcycle, watercraft, or outboard motor is held by two
persons for their joint lives and thereafter by the survivor of
them.

(3) "Watercraft" has the same meaning as in division (A)
of section 1548.01 of the Revised Code.

(4) "All-purpose vehicle" has the same meaning as in
section 4519.01 of the Revised Code.

(5) "Off-highway motorcycle" has the same meaning as in
section 4519.01 of the Revised Code.

(B) (1) Any two persons may establish in accordance with
this section joint ownership with right of survivorship in a
motor vehicle ~~or in~~, an all-purpose vehicle, an off-highway
motorcycle, a watercraft, or an outboard motor for which a
certificate of title is required under Chapter 1548., 4505., or
4519. of the Revised Code.

(2) If two persons wish to establish joint ownership with
right of survivorship in a motor vehicle ~~or in~~, an all-purpose
vehicle, an off-highway motorcycle, a watercraft, or an outboard
motor that is required to be titled under Chapter 1548., 4505.,
or 4519. of the Revised Code, they may make a joint application
for a certificate of title under section 1548.07, 4505.06, or
~~1548.07~~ 4519.55 of the Revised Code, as applicable.

(C) If two persons have established in a certificate of
title joint ownership with right of survivorship in a motor

vehicle ~~or~~, an all-purpose vehicle, an off-highway motorcycle, 45
a watercraft, or an outboard motor that is required to be titled 46
under Chapter 1548., 4505., or 4519. of the Revised Code, and if 47
one of those persons dies, the interest of the deceased person 48
in the motor vehicle, all-purpose vehicle, off-highway 49
motorcycle, watercraft, or outboard motor shall pass to the 50
survivor of them upon transfer of title to the motor vehicle ~~or~~ 51
, all-purpose vehicle, off-highway motorcycle, watercraft, or 52
outboard motor in accordance with section 1548.11, 4505.10, or 53
1548.11-4519.60 of the Revised Code. The motor vehicle, all- 54
purpose vehicle, off-highway motorcycle, watercraft, or outboard 55
motor shall not be considered an estate asset and shall not be 56
included and stated in the estate inventory. 57

Sec. 2131.13. (A) As used in this section: 58

(1) "Designate or designation in beneficiary form" means 59
to designate, or the designation of, a motor vehicle, an all- 60
purpose vehicle, an off-highway motorcycle, a watercraft, or an 61
outboard motor in a certificate of title that indicates the 62
present owner of the motor vehicle, all-purpose vehicle, off- 63
highway motorcycle, watercraft, or outboard motor and the 64
intention of the present owner with respect to the transfer of 65
ownership on the present owner's death by designating one or 66
more persons as the beneficiary or beneficiaries who will become 67
the owner or owners of the motor vehicle, all-purpose vehicle, 68
off-highway motorcycle, watercraft, or outboard motor upon the 69
death of the present owner. 70

(2) "Motor vehicle" has the same meaning as in section 71
4505.01 of the Revised Code. 72

(3) "Person" means an individual, a corporation, an 73
organization, or other legal entity. 74

(4) "Transfer-on-death beneficiary or beneficiaries" means 75
a person or persons specified in a certificate of title of a 76
motor vehicle, all-purpose vehicle, off-highway motorcycle, 77
watercraft, or outboard motor who will become the owner or 78
owners of the motor vehicle, all-purpose vehicle, off-highway 79
motorcycle, watercraft, or outboard motor upon the death of the 80
present owner of the motor vehicle, all-purpose vehicle, off- 81
highway motorcycle, watercraft, or outboard motor. 82

(5) "Watercraft" has the same meaning as in section 83
1548.01 of the Revised Code. 84

(6) "Owner" includes the plural as well as the singular, 85
as specified in section 1.43 of the Revised Code. 86

(7) "Joint ownership with right of survivorship" has the 87
same meaning as in section 2131.12 of the Revised Code. 88

(8) "All-purpose vehicle" has the same meaning as in 89
section 4519.01 of the Revised Code. 90

(9) "Off-highway motorcycle" has the same meaning as in 91
section 4519.01 of the Revised Code. 92

(B) (1) An individual whose certificate of title of a motor 93
vehicle, all-purpose vehicle, off-highway motorcycle, 94
watercraft, or outboard motor shows sole ownership by that 95
individual may make an application for a certificate of title 96
under section 1548.07 ~~or~~, 4505.06, or 4519.55 of the Revised 97
Code to designate that motor vehicle, all-purpose vehicle, off- 98
highway motorcycle, watercraft, or outboard motor in beneficiary 99
form pursuant to this section. 100

(2) Individuals whose certificate of title of a motor 101
vehicle, all-purpose vehicle, off-highway motorcycle, 102
watercraft, or outboard motor shows joint ownership with right 103

of survivorship may jointly make an application for a 104
certificate of title under section 1548.07, 4505.06, or 4519.55 105
of the Revised Code to designate that motor vehicle, all-purpose 106
vehicle, off-highway motorcycle, watercraft, or outboard motor 107
in beneficiary form pursuant to this section. 108

(C) (1) A motor vehicle, all-purpose vehicle, off-highway 109
motorcycle, watercraft, or outboard motor is designated in 110
beneficiary form if the certificate of title of the motor 111
vehicle, all-purpose vehicle, off-highway motorcycle, 112
watercraft, or outboard motor includes the name or names of the 113
transfer-on-death beneficiary or beneficiaries. 114

(2) The designation of a motor vehicle, all-purpose 115
vehicle, off-highway motorcycle, watercraft, or outboard motor 116
in beneficiary form is not required to be supported by 117
consideration, and the certificate of title in which the 118
designation is made is not required to be delivered to the 119
transfer-on-death beneficiary or beneficiaries in order for the 120
designation in beneficiary form to be effective. 121

(D) The designation of a motor vehicle, all-purpose 122
vehicle, off-highway motorcycle, watercraft, or outboard motor 123
in beneficiary form may be shown in the certificate of title by 124
the words "transfer-on-death" or the abbreviation "TOD" after 125
the name of the owner of a motor vehicle, all-purpose vehicle, 126
off-highway motorcycle, watercraft, or outboard motor and before 127
the name or names of the transfer-on-death beneficiary or 128
beneficiaries. 129

(E) The designation of a transfer-on-death beneficiary or 130
beneficiaries on a certificate of title has no effect on the 131
ownership of a motor vehicle, all-purpose vehicle, off-highway 132
motorcycle, watercraft, or outboard motor until the death of the 133

owner of the motor vehicle, all-purpose vehicle, off-highway 134
motorcycle, watercraft, or outboard motor. The owner of a motor 135
vehicle, all-purpose vehicle, off-highway motorcycle, 136
watercraft, or outboard motor may cancel or change the 137
designation of a transfer-on-death beneficiary or beneficiaries 138
on a certificate of title at any time without the consent of the 139
transfer-on-death beneficiary or beneficiaries by making an 140
application for a certificate of title under section 1548.07~~-or-~~ 141
, 4505.06, or 4519.55 of the Revised Code. 142

(F) (1) Upon the death of the owner of a motor vehicle, 143
all-purpose vehicle, off-highway motorcycle, watercraft, or 144
outboard motor designated in beneficiary form, the ownership of 145
the motor vehicle, all-purpose vehicle, off-highway motorcycle, 146
watercraft, or outboard motor shall pass to the transfer-on- 147
death beneficiary or beneficiaries who survive the owner upon 148
transfer of title to the motor vehicle, all-purpose vehicle, 149
off-highway motorcycle, watercraft, or outboard motor in 150
accordance with section 1548.11~~-or-~~, 4505.10, or 4519.60 of the 151
Revised Code. The transfer-on-death beneficiary or beneficiaries 152
who survive the owner may apply for a certificate of title to 153
the motor vehicle, all-purpose vehicle, off-highway motorcycle, 154
watercraft, or outboard motor upon submitting proof of the death 155
of the owner of the motor vehicle, all-purpose vehicle, off- 156
highway motorcycle, watercraft, or outboard motor. 157

(2) If no transfer-on-death beneficiary or beneficiaries 158
survive the owner of a motor vehicle, all-purpose vehicle, off- 159
highway motorcycle, watercraft, or outboard motor, the motor 160
vehicle, all-purpose vehicle, off-highway motorcycle, 161
watercraft, or outboard motor shall be included in the probate 162
estate of the deceased owner. 163

(G) (1) Any transfer of a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, or outboard motor to a transfer-on-death beneficiary or beneficiaries that results from a designation of the motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, or outboard motor in beneficiary form is not testamentary.

(2) This section does not limit the rights of any creditor of the owner of a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, or outboard motor against any transfer-on-death beneficiary or beneficiaries or other transferees of the motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, or outboard motor under other laws of this state.

(H) (1) This section shall be known and may be cited as the "Transfer-on-Death of Motor Vehicle, All-Purpose Vehicle, Off-Highway Motorcycle, Watercraft, or Outboard Motor Statute."

(2) Divisions (A) to (H) of this section shall be liberally construed and applied to promote their underlying purposes and policy.

(3) Unless displaced by particular provisions of divisions (A) to (H) of this section, the principles of law and equity supplement the provisions of those divisions.

Sec. 4519.55. Application for a certificate of title for an off-highway motorcycle or all-purpose vehicle 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 any court of common pleas. An application for a certificate of title may be filed electronically by any

electronic means approved by the registrar in any county with 193
the clerk of the court of common pleas of that county. 194

If an application for a certificate of title is filed 195
electronically by an electronic dealer on behalf of the 196
purchaser of an off-highway motorcycle or all-purpose vehicle, 197
the clerk shall retain the completed electronic record to which 198
the dealer converted the certificate of title application and 199
other required documents. The registrar, after consultation with 200
the attorney general, shall adopt rules that govern the location 201
at which, and the manner in which, are stored the actual 202
application and all other documents relating to the sale of an 203
off-highway motorcycle or all-purpose vehicle when an electronic 204
dealer files the application for a certificate of title 205
electronically on behalf of the purchaser. 206

The application shall be accompanied by the fee prescribed 207
in section 4519.59 of the Revised Code. The fee shall be 208
retained by the clerk who issues the certificate of title and 209
shall be distributed in accordance with that section. If a clerk 210
of a court of common pleas, other than the clerk of the court of 211
common pleas of an applicant's county of residence, issues a 212
certificate of title to the applicant, the clerk shall transmit 213
data related to the transaction to the automated title 214
processing system. 215

If a certificate of title previously has been issued for 216
an off-highway motorcycle or all-purpose vehicle, the 217
application also shall be accompanied by the certificate of 218
title duly assigned, unless otherwise provided in this chapter. 219
If a certificate of title previously has not been issued for the 220
off-highway motorcycle or all-purpose vehicle, the application, 221
unless otherwise provided in this chapter, shall be accompanied 222

by a manufacturer's or importer's certificate; by a sworn 223
statement of ownership; or by a certificate of title, bill of 224
sale, or other evidence of ownership required by law of another 225
state from which the off-highway motorcycle or all-purpose 226
vehicle was brought into this state. The registrar, in 227
accordance with Chapter 119. of the Revised Code, shall 228
prescribe the types of additional documentation sufficient to 229
establish proof of ownership, including, but not limited to, 230
receipts from the purchase of parts or components, photographs, 231
and affidavits of other persons. 232

If the application is made by two persons regarding an 233
off-highway motorcycle or an all-purpose vehicle in which they 234
wish to establish joint ownership with right of survivorship, 235
they may do so as provided in section 2131.12 of the Revised 236
Code. If the applicant requests a designation of the off-highway 237
motorcycle or all-purpose vehicle in beneficiary form so that 238
upon the death of the owner of the off-highway motorcycle or 239
all-purpose vehicle, ownership of the off-highway motorcycle or 240
all-purpose vehicle will pass to a designated transfer-on-death 241
beneficiary or beneficiaries, the applicant may do so as 242
provided in section 2131.13 of the Revised Code. A person who 243
establishes ownership of an off-highway motorcycle or an all- 244
purpose vehicle that is transferable on death in accordance with 245
section 2131.13 of the Revised Code may terminate that type of 246
ownership or change the designation of the transfer-on-death 247
beneficiary or beneficiaries by applying for a certificate of 248
title pursuant to this section. 249

For purposes of the transfer of a certificate of title, if 250
the clerk is satisfied that a secured party has duly discharged 251
a lien notation but has not canceled the lien notation with a 252
clerk, the clerk may cancel the lien notation on the automated 253

title processing system and notify the clerk of the county of 254
origin. 255

In the case of the sale of an off-highway motorcycle or 256
all-purpose vehicle by a dealer to a general purchaser or user, 257
the certificate of title shall be obtained in the name of the 258
purchaser by the dealer upon application signed by the 259
purchaser. In all other cases, the certificate shall be obtained 260
by the purchaser. In all cases of transfer of an off-highway 261
motorcycle or all-purpose vehicle, the application for 262
certificate of title shall be filed within thirty days after the 263
later of the date of purchase or assignment of ownership of the 264
off-highway motorcycle or all-purpose vehicle. If the 265
application for certificate of title is not filed within thirty 266
days after the later of the date of purchase or assignment of 267
ownership of the off-highway motorcycle or all-purpose vehicle, 268
the clerk shall charge a late filing fee of five dollars in 269
addition to the fee prescribed by section 4519.59 of the Revised 270
Code. The clerk shall retain the entire amount of each late 271
filing fee. 272

Except in the case of an off-highway motorcycle or all- 273
purpose vehicle purchased prior to July 1, 1999, the clerk shall 274
refuse to accept an application for certificate of title unless 275
the applicant either tenders with the application payment of all 276
taxes levied by or pursuant to Chapter 5739. or 5741. of the 277
Revised Code based on the purchaser's county of residence, or 278
submits either of the following: 279

(A) A receipt issued by the tax commissioner or a clerk of 280
courts showing payment of the tax; 281

(B) An exemption certificate, in any form prescribed by 282
the tax commissioner, that specifies why the purchase is not 283

subject to the tax imposed by Chapter 5739. or 5741. of the 284
Revised Code. 285

Payment of the tax shall be made in accordance with 286
division (E) of section 4505.06 of the Revised Code and any 287
rules issued by the tax commissioner. When a dealer submits 288
payment of the tax to the clerk, the dealer shall retain any 289
discount to which the dealer is entitled under section 5739.12 290
of the Revised Code. The clerk shall issue a receipt in the form 291
prescribed by the tax commissioner to any applicant who tenders 292
payment of the tax with the application for a certificate of 293
title. If the application for a certificate of title is for an 294
off-highway motorcycle or all-purpose vehicle purchased prior to 295
July 1, 1999, the clerk shall accept the application without 296
payment of the taxes levied by or pursuant to Chapter 5739. or 297
5741. of the Revised Code or presentation of either of the items 298
listed in division (A) or (B) of this section. 299

For receiving and disbursing such taxes paid to the clerk 300
by a resident of the clerk's county, the clerk may retain a 301
poundage fee of one and one-hundredth per cent of the taxes 302
collected, which shall be paid into the certificate of title 303
administration fund created by section 325.33 of the Revised 304
Code. The clerk shall not retain a poundage fee from payments of 305
taxes by persons who do not reside in the clerk's county. 306

A clerk, however, may retain from the taxes paid to the 307
clerk an amount equal to the poundage fees associated with 308
certificates of title issued by other clerks of courts of common 309
pleas to applicants who reside in the first clerk's county. The 310
registrar, in consultation with the tax commissioner and the 311
clerks of the courts of common pleas, shall develop a report 312
from the automated title processing system that informs each 313

clerk of the amount of the poundage fees that the clerk is 314
permitted to retain from those taxes because of certificates of 315
title issued by the clerks of other counties to applicants who 316
reside in the first clerk's county. 317

In the case of casual sales of off-highway motorcycles or 318
all-purpose vehicles that are subject to the tax imposed by 319
Chapter 5739. or 5741. of the Revised Code, the purchase price 320
for the purpose of determining the tax shall be the purchase 321
price on an affidavit executed and filed with the clerk by the 322
seller on a form to be prescribed by the registrar, which shall 323
be prima-facie evidence of the price for the determination of 324
the tax. 325

In addition to the information required by section 4519.57 326
of the Revised Code, each certificate of title shall contain in 327
bold lettering the following notification and statements: 328
"WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You 329
are required by law to state the true selling price. A false 330
statement is in violation of section 2921.13 of the Revised Code 331
and is punishable by six months imprisonment or a fine of up to 332
one thousand dollars, or both. All transfers are audited by the 333
department of taxation. The seller and buyer must provide any 334
information requested by the department of taxation. The buyer 335
may be assessed any additional tax found to be due." 336

The clerk shall forward all payments of taxes, less 337
poundage fees, to the treasurer of state in a manner to be 338
prescribed by the tax commissioner and shall furnish information 339
to the commissioner as the commissioner may require. 340

Every clerk shall have the capability to transact by 341
electronic means all procedures and transactions relating to the 342
issuance of certificates of title for off-highway motorcycles 343

and all-purpose vehicles that are described in the Revised Code 344
as being accomplished by electronic means. 345

Sec. 4519.60. (A) In the event of the transfer of 346
ownership of an off-highway motorcycle or all-purpose vehicle by 347
operation of law, as upon inheritance, devise, bequest, order in 348
bankruptcy, insolvency, replevin, or execution of sale, or when 349
repossession is had upon default in performance of the terms of 350
a security agreement as provided in Chapter 1309. of the Revised 351
Code, a clerk of a court of common pleas, upon the surrender of 352
the prior certificate of title or the manufacturer's or 353
importer's certificate, or, when that is not possible, upon 354
presentation to the clerk of satisfactory proof of ownership and 355
rights of possession to the off-highway motorcycle or all- 356
purpose vehicle, and upon payment of the fee prescribed in 357
section 4519.59 of the Revised Code and presentation of an 358
application for certificate of title, may issue to the applicant 359
a certificate of title to the off-highway motorcycle or all- 360
purpose vehicle. Only an affidavit by the person or agent of the 361
person to whom possession of the off-highway motorcycle or all- 362
purpose vehicle has passed, setting forth the facts entitling 363
the person to the possession and ownership, together with a copy 364
of the journal entry, court order, or instrument upon which the 365
claim of possession and ownership is founded, is satisfactory 366
proof of ownership and right of possession. If the applicant 367
cannot produce that proof of ownership, the applicant may apply 368
directly to the registrar of motor vehicles and submit the 369
evidence the applicant has, and the registrar, upon finding the 370
evidence sufficient, may authorize the clerk to issue a 371
certificate of title. If, from the records in the office of the 372
clerk, there appears to be any lien on the off-highway 373
motorcycle or all-purpose vehicle, the certificate of title 374

shall contain a statement of the lien unless the application is 375
accompanied by proper evidence of its extinction. 376

(B) Upon the death of one of the persons who have 377
established joint ownership with right of survivorship under 378
section 2131.12 of the Revised Code in an off-highway motorcycle 379
or all-purpose vehicle and the presentation to the clerk of the 380
title and the certificate of death of the deceased person, the 381
clerk shall enter into the records the transfer of the off- 382
highway motorcycle or all-purpose vehicle to the surviving 383
person, and the title to the off-highway motorcycle or all- 384
purpose vehicle immediately passes to the surviving person. The 385
transfer does not affect any liens on the off-highway motorcycle 386
or all-purpose vehicle. 387

(C) Upon the death of an owner of an off-highway 388
motorcycle or all-purpose vehicle designated in beneficiary form 389
under section 2131.13 of the Revised Code, upon application of 390
the transfer-on-death beneficiary or beneficiaries designated 391
pursuant to that section, and upon presentation to the clerk of 392
the certificate of title and the certificate of death of the 393
deceased owner, the clerk shall transfer the off-highway 394
motorcycle or all-purpose vehicle and issue a certificate of 395
title to the transfer-on-death beneficiary or beneficiaries. The 396
transfer does not affect any liens upon any off-highway 397
motorcycle or all-purpose vehicle so transferred. 398

Section 2. That existing sections 2131.12, 2131.13, 399
4519.55, and 4519.60 of the Revised Code are hereby repealed. 400