

Regular Session, 2009

HOUSE BILL NO. 478

BY REPRESENTATIVE HARRISON

1 AN ACT

2 To amend and reenact R.S. 10:9-309(1), 311(b), 501(a)(3), 515(i), and 516(a)(3), and R.S.
3 34:851.20(M)(1) and (3), 852.1, 852.2(2), (3), and (7) through (17), 852.3(A),
4 852.4(A) and (B)(2), (3), and (6), 852.5, 852.6, 852.7(A)(4) and (B), 852.8, 852.10,
5 852.11(B) and (C), 852.12, 852.14(A) and (C), 852.15, 852.16(A), (D) through (H),
6 and (I)(1) and (3), 852.17, and 852.20 and to enact R.S. 10:9-504(5) and R.S.
7 34:851.20(M)(4) and (5), 852.2(18), and 852.23, relative to titling; to provide for
8 titling and registering of certain vessels and outboard motors; and to provide for
9 perfection of security interests in certain motors; to provide for effectiveness of
10 certain financing statements; to provide for definitions; to provide for certificates of
11 title; to provide for form and content of application for title and certificate of title;
12 to provide for duplicate titles; to provide for exemptions; to provide for
13 manufacturers and dealers; to provide for transfer of and interest in outboard motors;
14 to provide for liens; to provide for rules and regulations; and to provide for related
15 matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 10:9-309(1), 311(b), 501(a)(3), 515(i), and 516(a)(3) are hereby
18 amended and reenacted and R.S. 10:9-504(5) is hereby enacted to read as follows:

19 §9-309. Security interest perfected upon attachment

20 The following security interests are perfected when they attach:

21 (1) a purchase-money security interest in consumer goods, except as
22 otherwise provided in R.S. 10:9-501(a)(1) with respect to titled motor vehicles and
23 R.S. 10:9-311(b) with respect to consumer goods that are subject to a statute or treaty
24 described in R.S. 10:9-311(a) and R.S. 10:9-501(a)(3) with respect to a titled vessel
25 or outboard motor;

26 * * *

1 §851.20. Identification number

2 * * *

3 M.(1) Any application for registration or title of a an outboard motor as
4 defined in R.S. 34:852.2(9) with a serial number that has been removed or obliterated
5 whether on purpose or accident; a vessel as defined in R.S. 34:852.2(17) that is a
6 homemade boat vessel, a vessel with an alteration in length due to restoration,
7 construction, or other means that would require a change to the vessel's title
8 document or registration certificate, a vessel with a hull identification number that
9 has been removed or obliterated whether on purpose or by accident, a vessel with an
10 incorrect hull identification number or a vessel with no hull identification number
11 ~~shall first be submitted to the nearest regional office of the Department of Wildlife~~
12 ~~and Fisheries. An agent associated with that regional office~~ The enforcement
13 division shall make a visual inspection of the ~~boat~~ outboard motor or vessel to
14 determine if it is homemade, to determine ownership, or to verify ownership. If the
15 inspection of the ~~boat~~ outboard motor or vessel is favorable and approved by the
16 State Boating Law Administrator or his designee, the agent shall issue and stamp a
17 sequential hull number on the boat. ~~The owner of the boat shall then submit the~~
18 ~~registration form with the favorable inspection report of the agent to the Department~~
19 ~~of Wildlife and Fisheries for processing.~~ Persons shall be required to obtain titles for
20 such approved outboard motors and vessels at the time of application.

21 * * *

22 (3) Any proprietor of a scrap or salvage yard who is in receipt of an
23 ~~aluminum boat~~ outboard motor which does not have a serial number or vessel which
24 does not have a hull identification number affixed thereto shall notify ~~an agent~~
25 ~~associated with the nearest regional office of the Department of Wildlife and~~
26 Fisheries to obtain verification of ownership thereof prior to payment of any value
27 for the receipt of the ~~boat~~ outboard motor or vessel, unless proper ownership can be
28 verified by registration or title.

29 (4) For the purposes of this Subsection "homemade vessel" shall mean a
30 vessel that is built by an individual for personal use from raw materials that does not

1 require the assignment of a federal hull identification number by a manufacturer
2 pursuant to federal law. The term shall not include a rebuilt or reconstituted vessel.

3 (5) Hull identification numbers issued by the department and inspections of
4 outboard motors shall be for identification purposes only and shall not guarantee the
5 seaworthiness or to certify compliance with safety standards as required by the
6 United States Coast Guard.

7 * * *

8 PART IV-A. VESSEL AND MOTOR TITLING ACT

9 §852.1. Short title

10 This Part may be cited as the "Vessel and Motor Titling Act".

11 §852.2. Definitions

12 As used in this Part:

13 * * *

14 (2) "Certificate of origin" means a document establishing the initial chain of
15 ownership, such as a manufacturer's certificate of origin (MCO) or statement of
16 origin (MSO), or an importer's certificate of origin (ICO) or statement of origin
17 (ISO), or a builder's certification (Form CG-1261, under 46 CFR Part 67) provided
18 by the manufacturer of a new vessel or outboard motor or its distributor, that is the
19 only valid indication of ownership between the manufacturer, its distributor, its
20 franchised new vessel or outboard motor dealers, and the original purchaser.

21 (3) "Dealer" means any person who engages wholly or in part in the business
22 of buying, selling, or exchanging for value new or used vessels or outboard motors,
23 or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or
24 otherwise. A dealer must have an established place of business for the sale, trade,
25 and display of such vessels or motors, selling two or more within any twelve
26 consecutive months.

27 * * *

28 (7) "Manufacturer" means any person engaged in the business of
29 manufacturing or importing new vessels or outboard motors for the purpose of sale
30 or trade.

1 (8) "Operate", "operated", or "operation" means all operations of a vessel or
2 outboard motor when it is at the pier, idle in the water, at anchor, or being propelled
3 through the water.

4 (9) "Outboard motor" means a mechanical combustion engine manufactured
5 to produce a twenty-five or more horsepower engine and designed to attach outboard
6 of the transom of a vessel.

7 ~~(9)~~ (10) "Owner" means a person, other than a secured party, having property
8 rights in, or title to, a vessel or outboard motor. ~~"The term"~~ The term includes a
9 person entitled to use or possess a vessel or outboard motor subject to a security
10 interest in another person, but does not include a lessee under a lease not intended
11 as security.

12 ~~(10)~~ (11) "Person" means any natural person or individual, firm, partnership,
13 corporation, association, limited liability company, or other entity.

14 ~~(11)~~ (12) "Possesses" means the person has acquired rights in or title to a
15 vessel or outboard motor by virtue of a gift, donation, raffle, or exchange or the
16 person built the vessel or outboard motor themselves.

17 ~~(12)~~ (13) "Security interest" means an interest that is reserved or created by
18 an agreement that secures payment or performance of an obligation. A lien or
19 privilege created by operation of law is not a "security interest".

20 ~~(13)~~ (14) "State of principal operation" means the state on whose waters a
21 vessel or outboard motor is operated or to be operated most during a calendar year.

22 ~~(14)~~ (15) "Title-holding state" means a state whose department is required
23 by law to send the certificate of title to the first secured party.

24 ~~(15)~~ (16) "Undocumented vessel" means a vessel for which a certificate of
25 documentation has not been issued by the United States Coast Guard under 46
26 U.S.C., Chapter 121.

27 ~~(16)~~ (17) "Vessel" means every description of watercraft and air boats,
28 including homemade boats, other than a seaplane on the water, used or capable of
29 being used as a means of transportation on water, valued in excess of two thousand
30 five hundred dollars, to be principally operated on the waters of this state, required

1 to be numbered, not held as inventory for sale or lease, and transferred for the first
2 time on or after July 1, 2008.

3 ~~(17)~~ (18) "Waters of the state" means any waters within the jurisdiction of
4 the state.

5 §852.3. Certificate of title authorized

6 A. Upon the implementation of this Part, any person who purchases or
7 possesses ~~a vessel valued in excess of two thousand five hundred dollars, either of~~
8 the following to be principally operated on the waters of this state, ~~required to be~~
9 ~~numbered, and~~ not held as inventory for sale or lease, ~~and transferred for the first~~
10 ~~time on or after July 1, 2008,~~ may apply to the department for a certificate of title for
11 the vessel following :

12 (1) A vessel valued in excess of two thousand five hundred dollars and
13 required to be numbered and transferred for the first time on or after July 1, 2008.

14 (2) An outboard motor transferred for the first time on or after January 1,
15 2011.

16 * * *

17 §852.4. Application for certificate of title; form; content

18 A. An application for a certificate of title may be made by the owner within
19 sixty days after acquiring the vessel or outboard motor or after a change in the ~~vessel~~
20 data listed on the certificate of title. The application shall be on forms prescribed
21 and furnished by the department.

22 B. The application shall contain:

23 * * *

24 (2) The name and address of all persons having any liens or security interests
25 upon the vessel or outboard motor in the order of their priority.

26 (3) A description of the vessel or outboard motor to be titled, including an
27 entry for identification of the state or country in which the vessel or outboard motor
28 was last numbered, titled, or registered under the laws of another jurisdiction or a
29 foreign country, the name of the manufacturer or model, the model year or year
30 built; In the case of a vessel, the application shall also include the complete hull

1 identification number, vessel length, vessel type, principal material of hull
2 construction, and propulsion type. In the case of an outboard motor, the application
3 shall also include the serial number.

4 * * *

5 (6) The date of sale and gross purchase price of the vessel or outboard motor,
6 or the fair market value if no sale immediately preceded the transfer or, if the vessel
7 or outboard motor was not purchased but acquired by other means, the date of the
8 acquisition and the fair market value of the vessel or outboard motor at the time of
9 the acquisition.

10 * * *

11 §852.5. Acquisition of vessel or outboard motor by dealer

12 If a dealer buys or acquires a used outboard motor or numbered vessel for
13 resale, the dealer shall report the acquisition to the department on forms the
14 department provides, or the dealer may apply for and obtain a certificate of title as
15 provided in this Part. If a dealer acquires a new vessel or outboard motor and he
16 wishes to obtain a title for resale, the dealer may apply for and obtain a certificate of
17 title as provided in this Part. Every dealer transferring a vessel or outboard motor
18 he wishes to have titled shall assign the title to the new owner or the new owner's
19 designee or, in the case of a new vessel or outboard motor, assign either the
20 certificate of origin or, if titled, the title.

21 §852.6. Prohibition of vessel or outboard motor sale, assignment, or transfer without
22 certificate of title or documentation

23 A. No person shall sell, assign, or transfer a vessel or outboard motor titled
24 by the department or documented with the United States Coast Guard without
25 delivering to the new owner or the new owner's designee a certificate of title or a
26 certificate of documentation with an assignment in the new owner's name.

27 B. The provisions of this Section shall not apply to vessel or outboard motor
28 dealers and supervised financial organizations or licensed lenders as defined in R.S.
29 9:3516, when they acquire or dispose of such vessels or outboard motors in
30 connection with enforcement of any security interest held therein.

1 §852.7. Certificate of title; form and content

2 A. Each certificate of title shall contain:

3 * * *

4 (4) A description of the vessel or outboard motor, including ~~the vessel~~
5 ~~identification number as required in 33 CFR 187.5~~, the name of manufacturer or
6 model, the model year or year built; or manufactured. In the case of a vessel, the
7 description shall also include the vessel identification number as required by 33 CFR
8 187.5, vessel length, vessel type, principal material of hull construction, and
9 propulsion type. In the case of an outboard motor, the application shall also include
10 the serial number.

11 * * *

12 B. Space must be provided on the certificate for assignment of interest in the
13 vessel or outboard motor, with a certification that statements provided on the title
14 assignment are true and correct to the best of the owner's knowledge, information,
15 and belief, under penalty of perjury.

16 §852.8. Retention of records of title

17 The department shall retain the evidence used to establish the accuracy of the
18 information required for vessel or outboard motor titling purposes and may make the
19 evidence available to the United States Coast Guard and participating authorities
20 upon request.

21 * * *

22 §852.10. Manufacturer's or importer's certificate of origin required

23 No dealer shall purchase or otherwise acquire a new vessel or outboard motor
24 without obtaining from the seller a manufacturer's or importer's certificate of origin
25 or equivalent document. No manufacturer, importer, dealer, or other person shall sell
26 or otherwise dispose of a new vessel or outboard motor to a dealer for purposes of
27 resale without delivering to the dealer a manufacturer's or importer's certificate of
28 origin or equivalent document.

1 application shall be accompanied by the title previously issued ~~for the vessel~~, if
 2 available, or an original or authentic copy of the legal transfer document, together
 3 with such instruments or documents of authority, or copies thereof, satisfactory to
 4 the department as proof of ownership, and the required fee.

5 * * *

6 C. The provisions of this Section shall not apply to vessel or outboard motor
 7 dealers and supervised financial organizations or licensed lenders as defined in R.S.
 8 9:3516, when they acquire or dispose of such vessels or outboard motors in
 9 connection with enforcement of any security interest held therein.

10 §852.15. Transfer of title; absence of executor or administrator of estate

11 If the titled owner is deceased and no one has qualified as administrator or
 12 executor of the owner's estate, a transfer may be made by a legatee or distributee.
 13 The legatee or distributee shall present to the department the original certificate of
 14 title, a copy of the decedent's death certificate, and a statement to the effect that there
 15 has not been or is not expected to be anyone who qualifies as executor or
 16 administrator. The statement shall contain the name, residence at the time of death,
 17 and date of death of the decedent, and the name of any other person having an
 18 interest in the vessel or outboard motor for which the title is to be transferred. If
 19 these persons are of legal age, they shall indicate in writing their consent to the
 20 transfer of the title.

21 §852.16. Security interest in vessels or outboard motors; certificate of title to show
 22 interest; notice; exemptions

23 A. The department, upon receiving an application or financing statement for
 24 a certificate of title to a vessel or outboard motor or financing statement showing a
 25 security interest in the vessel or outboard motor, shall show upon the face of the
 26 certificate of title all security interests in the order of their priority as shown on the
 27 application or the order in which the applications or financing statements are
 28 received by the department provided such receipt subsequently is validated by the
 29 department. The application or financing statement shall contain the name and
 30 address of the owner, a description of the vessel or outboard motor as required in

1 R.S. 34:852.7, and the name and address, including zip code, of the secured party.
 2 A security interest covering a titled vessel or outboard motor subject to this Part shall
 3 be perfected as of the time the application or financing statement is received by the
 4 Department of Wildlife and Fisheries, so long as such receipt subsequently is
 5 validated by the secretary of the Department of Wildlife and Fisheries. The secretary
 6 shall, upon the request of any person, issue a certification whenever the financing
 7 statement is delivered to his office. Such certification receipt may include one or
 8 more security agreement applications. Security interests affecting titled vessels or
 9 outboard motors, perfected by filing with the Department of Wildlife and Fisheries,
 10 shall be created by and shall take rank and priority in accordance with Chapter 9 of
 11 the Uniform Commercial Code, R.S. 10:9-101 et seq. Such an application or
 12 financing statement is filed for such purposes when received provided such receipt
 13 subsequently is validated by the department.

* * *

15 D. The certificate of title when issued by the department showing a security
 16 interest shall be adequate notice to the state, creditors, and purchasers that a security
 17 interest in the vessel or outboard motor exists. The recording or filing of such
 18 security interest in the local jurisdiction where the purchaser or debtor resides shall
 19 not be required.

20 E. If application for the recordation of a security interest to be placed upon
 21 a vessel or outboard motor is filed in the principal office of the department, it shall
 22 be valid to all persons as if the recordation had been done on the day the security
 23 interest was acquired provided such receipt subsequently is validated by the
 24 department.

25 F. Except in the case of security interest in vessels or outboard motors which
 26 are in inventory held for sale or lease, the security interest shown on the certificates
 27 of title issued by the department pursuant to applications for certificates shall have
 28 priority over any other liens or security interest against the vessel or outboard motor
 29 however created and recorded, except for liens designated under Subsection ~~(f)~~ I of
 30 this Section.

1 G. The certificate of title of the vessel or outboard motor shall be delivered
 2 to the person holding the security interest having first priority upon the vessel or
 3 outboard motor. The title shall be retained by that lienholder until the entire amount
 4 of the security interest is fully paid by the owner of the vessel or outboard motor.
 5 The certificate of title shall then be delivered to the secured party next in order of
 6 priority and so on, or, if none, then to the owner of the vessel or outboard motor.

7 H. Upon the satisfaction of a security interest in a vessel or outboard motor,
 8 the secured party shall attach to the certificate of title a release of security interest in
 9 whatever form as may be prescribed by or acceptable to the department. Within
 10 thirty days, the secured party shall mail or deliver the certificate of title to the vessel
 11 or outboard motor owner together with the security release. Upon request of the
 12 owner and upon receipt of the security release and the certificate of title, the
 13 department shall correct its records and issue a new certificate of title to the owner.

14 I. This Section does not apply to any of the following:

15 (1) A lien given by statute to a supplier of services or materials for the vessel
 16 or outboard motor.

17 * * *

18 (3) Any lien arising out of an attachment of a vessel or outboard motor.

19 §852.17. Certificate of origin; evidence of ownership; rebuttal

20 Issuance of a certificate of origin under provision of the law shall be prima
 21 facie evidence of ownership of a vessel or outboard motor and entitlement of the
 22 owner to a certificate of title, but such certificate of origin and certificate of title shall
 23 be subject to rebuttal.

24 * * *

25 §852.20. Electronic media system for lien recordation and title information

26 The department is hereby authorized to develop and implement a computer
 27 system which will permit the voluntary electronic recording of information
 28 concerning the perfection and release of vessel or outboard motor security interests
 29 without submitting or receiving paper title documents. The department may allow
 30 the submission of vessel or outboard motor title information for new, transferred, and

1 corrected certificates of title, including the perfection and release of security
2 interests, through electronic media in a cost-effective manner in lieu of the
3 submission and maintenance of paper documents otherwise required by this Part.

4 * * *

5 §852.23. Titling abandoned and salvaged vessels and outboard motors

6 The department is authorized to adopt rules and regulations pursuant to the
7 Administrative Procedure Act to establish guidelines and procedures for the
8 registration and titling of vessels or outboard motors which are abandoned, salvaged,
9 towed and stored abandoned vessels, court ordered transferred, and vessels or
10 outboard motors which lack prior documentation of ownership.

11 Section 3. The Department of Wildlife and Fisheries shall undertake procedures for
12 the implementation of Sections 1 and 2 of this Act prior to their effective date, including the
13 development and promulgation of rules and regulations in accordance with the
14 Administrative Procedure Act.

15 Section 4. Sections 1 and 2 of this Act, except the provisions of R.S. 34:852.23, shall
16 become effective on January 1, 2011.

17 Section 5. The provisions of R.S. 34:852.23 shall become effective on July 1, 2009.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____