

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

As Engrossed: S2/22/11
A Bill

SENATE BILL 292

4
5 By: Senator D. Wyatt
6 By: Representatives McLean, Wren

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8 **For An Act To Be Entitled**

9 AN ACT TO ALLOW THE TRANSFER ON DEATH TO A
10 BENEFICIARY OF CERTAIN VEHICLES AND MOTORBOATS THAT
11 ARE REGISTERED WITH THE DEPARTMENT OF FINANCE AND
12 ADMINISTRATION; AND FOR OTHER PURPOSES.

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15 **Subtitle**

16 TO ALLOW THE TRANSFER ON DEATH TO A
17 BENEFICIARY OF CERTAIN VEHICLES AND
18 MOTORBOATS THAT ARE REGISTERED WITH THE
19 DEPARTMENT OF FINANCE AND ADMINISTRATION.

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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23
24 SECTION 1. Arkansas Code § 27-14-705(a)(1), regarding the application
25 for registration and certificate of title for a vehicle, is amended to read
26 as follows:

27 (a)(1) Every owner of a vehicle subject to the registration under this
28 chapter shall make application to the Office of Motor Vehicle for the
29 registration ~~thereof~~ of the vehicle and issuance of a certificate of title or
30 a certificate of title with beneficiary under § 27-14-727 for ~~such the~~
31 vehicle upon the appropriate forms furnished by the office.

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33 SECTION 2. Arkansas Code § 27-14-713(c), regarding the issuance of
34 registration certificates and certificates of title, is amended to add an
35 additional subsection to read as follows:

36 (c)(1)(A) The certificate of title shall contain, upon ~~the~~ its face



1 ~~thereof~~, the identical information required upon the face of the registration
2 certificate.

3 (B) In addition, it shall contain:

4 (i) a A statement of the owner's title; and

5 (ii) A statement of all liens and encumbrances upon
6 on the vehicle therein described; and

7 (iii) A statement as to whether possession is held
8 by the owner under a lease, contract of conditional sale, or other like
9 agreement; and

10 (iv) If a certificate of title is issued as a
11 certificate of title with beneficiary, the information required under § 27-
12 14-727.

13 (2) The certificate shall bear the seal of the office.

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15 SECTION 3. Arkansas Code § 27-14-713(d)(1), regarding the issuance of
16 registration certificates and certificates of title, is amended to add an
17 additional subsection to read as follows:

18 (d)(1) The certificate of title shall contain upon the front side a
19 space for the signature of the owner, and the owner shall write his or her
20 name with pen and ink in such space upon receipt of the certificate, except
21 when a surviving owner or a beneficiary applies for a new title under § 27-
22 14-727.

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24 SECTION 4. Arkansas Code Title 27, Chapter 14, Subchapter 7 is amended
25 to add an additional section to read as follows:

26 27-14-727. Certificate of title with beneficiary.

27 (a) As used in this section:

28 (1)(A) "Beneficiary" means one (1) individual who is designated
29 to become the owner of a vehicle upon the death of the current owner as
30 indicated on the certificate of title issued under this chapter.

31 (B) "Beneficiary" does not include a business, firm,
32 partnership, corporation, association, or any other legally-created entity;

33 (2) "Certificate of title with beneficiary" means a certificate
34 of title for a vehicle issued under this chapter that indicates the present
35 owner of the vehicle and designates a beneficiary as provided under this
36 section;

1 (3)(A) "Owner" means an individual who holds legal title of a
2 vehicle and can include more than one (1) person but not more than three (3)
3 persons.

4 (B) "Owner" does not include a business, firm,
5 partnership, corporation, association, or any other legally-created entity;
6 and

7 (4) "Vehicle" means a motorized or nonmotorized piece of
8 equipment with wheels that is:

9 (A) Primarily used to transport persons or property on the
10 streets, roads, or highways; and

11 (B) Required to be registered, licensed, and titled by the
12 Office of Motor Vehicle of the Revenue Division of the Department of Finance
13 and Administration under this chapter.

14 (b)(1) If the owner or joint owners want to transfer a vehicle upon
15 death by operation of law, the owner or joint owners may request that the
16 office issue a certificate of title with beneficiary which includes a
17 directive to the office to transfer the certificate of title upon the death
18 of the owner or upon the death of all joint owners to the beneficiary named
19 on the face of the certificate of title with beneficiary.

20 (c)(1) The owner of a vehicle may submit a transfer on death
21 application to the office to request the issuance of a certificate of title
22 with beneficiary or a change to a certificate of title with beneficiary.

23 (2) The owner shall provide the following information in the
24 application:

25 (A) Whether the applicant seeks to add, remove, or change
26 a beneficiary;

27 (B) The full legal name of the beneficiary;

28 (C) The social security number of the beneficiary;

29 (D) The address of the beneficiary;

30 (E) The vehicle identification number of the vehicle;

31 (F) The year, make, model, and body type of the vehicle;

32 (G) The printed full legal name of the owner of the
33 vehicle;

34 (H) The Arkansas driver's license or identification card
35 number for the owner of the vehicle; and

36 (I) The signature of the owner of the vehicle.

1 (3) The owner shall include the following with the application:

2 (A) The certificate of title for the vehicle issued under
3 this chapter;

4 (B) The title application fee of four dollars (\$4.00) as
5 provided under § 27-14-705(c) and the title fee under § 27-14-602(b); and

6 (C) The certificate of title with beneficiary processing
7 fee of ten dollars (\$10.00).

8 (4)(A) The fee remitted under subdivision (c)(3)(C) of this
9 section shall be deposited into the State Central Services Fund for the
10 benefit of the Revenue Division of the Department of Finance and
11 Administration.

12 (B) The fee shall be credited as supplemental and in
13 addition to all other funds as may be deposited for the benefit of the
14 division.

15 (C) The fee shall not be considered or credited to the
16 office as direct revenue.

17 (d)(1) The office shall not issue a certificate of title with
18 beneficiary to an owner of a vehicle if:

19 (A) The vehicle is encumbered by a lien; or

20 (B) The owner holds his or her interest in the vehicle as
21 tenants in common with another person.

22 (2) If a lien request is made for a beneficiary title, the
23 beneficiary shall be removed and the lien added.

24 (e) The certificate of title with beneficiary issued by the office
25 shall include after the name of the owner the words "transfer on death to" or
26 the abbreviation "TOD" followed by the name of the beneficiary.

27 (f) During the lifetime of the sole owner or before the death of the
28 last surviving joint owner:

29 (1) The signature or consent of the beneficiary is not required
30 for any transaction relating to the vehicle for which a certificate of title
31 with beneficiary has been issued; and

32 (2) The certificate of title with beneficiary is revoked by:

33 (A) Selling the vehicle with proper assignment and
34 delivery of the certificate of title to another person; or

35 (B) Filing an application with the office to remove or
36 change a beneficiary as provided under subsection (c) of this section.

1 (g) Except as provided in subsection (f) of this section, the
2 designation of the beneficiary in a certificate of title with beneficiary
3 shall not be changed or revoked:

4 (1) By will or any other instrument;

5 (2) Because of a change in circumstances; or

6 (3) In any other manner.

7 (h) The interest of the beneficiary in a vehicle on the death of the
8 sole owner or on the death of the last surviving joint owner is subject to
9 any contract of sale, assignment, or security interest to which the owner of
10 the vehicle was subject during his or her lifetime.

11 (i)(1)(A) Upon the death of the owner, the office shall issue a new
12 certificate of title for the vehicle to the surviving owner or, if no
13 surviving owners, to the beneficiary if the surviving owner or beneficiary
14 presents the following:

15 (i) Proof of death of the owner which includes a
16 death certificate issued by the state or a political subdivision of the
17 state;

18 (ii) Surrender of the outstanding certificate of
19 title with beneficiary; and

20 (iii) Application and payment of the title
21 application fee and title fee.

22 (B) A certificate of title issued under this subsection
23 will be subject to any existing security interest.

24 (2) If the surviving owner or beneficiary chooses, he or she can
25 submit a completed certificate of title with beneficiary application as
26 provided under this section, along with the ten dollar (\$10.00) processing
27 fee, at the time of the application for a new title under this subsection.

28 (3) The transfer under this subsection is a transfer by
29 operation of law and § 27-14-907 applies to the extent practicable and not in
30 conflict with this section.

31 (j) The transfer of a vehicle upon the death of the owner under this
32 section is not testamentary and is not subject to administration under Title
33 28 of the Arkansas Code.

34 (k) The procedures and fees under § 27-14-720 shall apply for
35 obtaining a duplicate title with beneficiary.

36 (l)(1) The office may promulgate rules for the administration of this

1 section.

2 (2) If rules are promulgated, the office shall consult with the
3 Arkansas State Game and Fish Commission about the rules.

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5 SECTION 5. Arkansas Code Title 27, Chapter 101, Subchapter 3 is
6 amended to add an additional section to read as follows:

7 27-101-313. Certificate of number with beneficiary.

8 (a) As used in this section:

9 (1)(A) "Beneficiary" means one (1) individual who is designated
10 to become the owner of a motorboat upon the death of the current owner as
11 indicated on the certificate of number issued under this chapter.

12 (B) "Beneficiary" does not include a business, firm,
13 partnership, corporation, association, or any other legally-created entity;

14 (2) "Certificate of number with beneficiary" means a certificate
15 issued for a motorboat under this chapter that indicates the present owner of
16 the motorboat and designates a beneficiary as provided under this section;

17 (3) "Motorboat" means a boat registered and numbered under this
18 chapter; and

19 (4)(A) "Owner" means an individual who holds *the certificate of*
20 *number* to a motorboat and can include more than one (1) person but not more
21 than three (3) persons.

22 (B) "Owner" does not include a business, firm,
23 partnership, corporation, association, or any other legally-created entity.

24 (b)(1) If the owner or joint owners want to transfer a motorboat upon
25 death by operation of law, the owner or joint owners may request that the
26 Revenue Division of the Department of Finance and Administration issue a
27 certificate of number with beneficiary which includes a directive to the
28 division to transfer the certificate of number upon the death of the owner or
29 upon the death of all joint owners to the beneficiary named on the face of
30 the certificate of number with beneficiary.

31 (c)(1) To obtain a certificate of number with beneficiary, the owner
32 of a motorboat shall submit a transfer on death application to the Revenue
33 Division of the Department of Finance and Administration to request the
34 issuance of a certificate of number with beneficiary or a change to a
35 certificate of number with beneficiary.

36 (2) The owner shall provide the following information in the

1 application:

2 (A) Whether the applicant seeks to add, remove, or change
3 a beneficiary;

4 (B) The full legal name of the beneficiary;

5 (C) The social security number of the beneficiary;

6 (D) The address of the beneficiary;

7 (E) The identification number of the motorboat;

8 (F) The year, make, model, and length of the motorboat;

9 (G) The printed full legal name of the owner of the

10 motorboat;

11 (H) The Arkansas driver's license or identification card
12 number for the owner of the motorboat; and

13 (I) The signature of the owner of the motorboat.

14 (3) The owner shall include the following with the application:

15 (A) The certificate of number for the motorboat issued
16 under this chapter;

17 (B) The certificate of number application fee as provided
18 under § 27-101-306; and

19 (C) The certificate of number with beneficiary application
20 fee of ten dollars (\$10.00).

21 (4)(A) The fee remitted under subdivision (c)(3)(C) of this
22 section shall be deposited into the State Central Services Fund for the
23 benefit of the Revenue Division of the Department of Finance and
24 Administration.

25 (B) The fee shall be credited as supplemental and in
26 addition to all other funds as may be deposited for the benefit of the
27 division.

28 (C) The fee shall not be considered or credited to the
29 division as direct revenue.

30 (d) The division shall not issue a certificate of number with
31 beneficiary to an owner of a motorboat if the owner holds his or her interest
32 in the motorboat as tenants in common with another person.

33 (e) The certificate of number with beneficiary issued by the division
34 shall include after the name of the owner the words "transfer on death to" or
35 the abbreviation "TOD" followed by the name of the beneficiary.

36 (f) During the lifetime of the sole owner or before the death of the

1 last surviving joint owner:

2 (1) The signature or consent of the beneficiary is not required
3 for any transaction relating to the motorboat for which a certificate of
4 number with beneficiary has been issued; and

5 (2) The certificate of number with beneficiary is revoked by:

6 (A) Selling the motorboat with completion of the
7 application for transfer of the certificate of number as provided under § 27-
8 101-309 and transferring to another person; or

9 (B) Filing an application with the division to remove or
10 change a beneficiary as provided under subsection (c) of this section.

11 (g) Except as provided in subsection (f) of this section, the
12 designation of the beneficiary in a certificate of number with beneficiary
13 shall not be changed or revoked by will:

14 (1) By will or any other instrument;

15 (2) Because of a change in circumstances; or

16 (3) In any other manner.

17 (h) The interest of the beneficiary in a motorboat on the death of the
18 sole owner or on the death of the last surviving joint owner is subject to
19 any contract of sale, assignment, or security interest to which the owner of
20 the motorboat was subject during his or her lifetime.

21 (i)(1)(A) Upon the death of the owner, the division shall issue a new
22 certificate of number for the motorboat to the surviving owner or, if no
23 surviving owners, to the beneficiary if the surviving owner or beneficiary
24 presents the following:

25 (i) Proof of death of the owner which includes a
26 death certificate issued by the state or a political subdivision of the
27 state;

28 (ii) Surrender of the outstanding certificate of
29 number with beneficiary; and

30 (iii) Application and payment of the certificate of
31 number fee for the motorboat.

32 (B) A certificate of number issued under this subsection
33 will be subject to any existing security interest.

34 (2) If the surviving owner or beneficiary chooses, he or she can
35 submit a completed certificate of number with beneficiary application as
36 provided under this section, along with the ten dollar (\$10.00) processing

1 fee, at the time of the application for a new certificate under this
2 subsection.

3 (j) The transfer of a motorboat upon the death of the owner under this
4 section is not testamentary and is not subject to administration under Title
5 28.

6 (k) The procedures and fees under § 27-101-304(e)(2) shall apply for
7 obtaining a duplicate certificate with beneficiary.

8 (l) The division may promulgate rules for the administration of this
9 section.

10 /s/D. Wyatt
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