

By the Committees on Agriculture and Consumer Services;  
Transportation; and Senator King

303-1742-01

1                                   A bill to be entitled  
2           An act relating to off-highway vehicles;  
3           creating ch. 261, F.S.; creating the T. Mark  
4           Schmidt Off-Highway-Vehicle Safety and  
5           Recreation Act; providing legislative intent;  
6           providing definitions; creating the T. Mark  
7           Schmidt Off-Highway-Vehicle Recreation Advisory  
8           Committee; providing duties and  
9           responsibilities; providing for duties and  
10          responsibilities of the Department of  
11          Agriculture and Consumer Services; providing  
12          for rulemaking authority; providing for the  
13          publication and distribution of a guidebook;  
14          providing for the repair, maintenance, and  
15          rehabilitation of areas, trails, and lands;  
16          providing for contracts and agreements;  
17          providing criteria for recreation areas and  
18          trails; providing for the use of designated  
19          off-highway-vehicle funds within the Incidental  
20          Trust Fund of the Division of Forestry,  
21          Department of Agriculture and Consumer  
22          Services; amending s. 316.2074, F.S.; revising  
23          the definition of the term "all-terrain  
24          vehicle"; prohibiting the use of all-terrain  
25          vehicles on public roadways in the state;  
26          creating the Florida Off-Highway-Vehicle  
27          Titling and Registration Act; providing  
28          legislative intent; providing definitions;  
29          providing for administration by the Department  
30          of Highway Safety and Motor Vehicles; providing  
31          for rules, forms, and notices; requiring

1 certificates of title; providing for  
2 application for and issuance of certificates of  
3 title; providing for duplicate certificates of  
4 title; requiring the furnishing of a  
5 manufacturer's statement of origin; requiring  
6 registration; providing for application for and  
7 issuance of certificate of registration,  
8 registration number, and decal; providing for  
9 the registration period and for reregistration  
10 by mail; providing for change of interest and  
11 address; providing for duplicate registration  
12 certificate and decal; providing for fees;  
13 providing for disposition of fees; providing  
14 for refusal to issue and authority to cancel a  
15 certificate of title or registration; providing  
16 for crimes relating to certificates of title  
17 and registration decals; providing penalties;  
18 providing for noncriminal infractions;  
19 providing penalties; amending s. 375.315, F.S.,  
20 relating to the registration of off-road  
21 vehicles; providing an appropriation; providing  
22 an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 261, Florida Statutes, consisting of sections 261.01, 261.02, 261.03, 261.04, 261.05, 261.06, 261.07, 261.08, 261.09, 261.10, 261.11, and 261.12, Florida Statutes, is created to read:

1           261.01 Short title.--This chapter may be cited as the  
2 "T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation  
3 Act."

4           261.02 Legislative intent.--

5           (1) The Legislature finds that off-highway vehicles  
6 are becoming ever-increasingly popular in this state and that  
7 the use of these vehicles should be controlled and managed to  
8 minimize negative effects on the environment, wildlife  
9 habitats, native wildlife, and native flora.

10           (2) The Legislature declares that effectively managed  
11 areas and adequate facilities for the use of off-highway  
12 vehicles are compatible with this state's overall recreation  
13 plan and the underlying goal of multiple use.

14           (3) It is the intent of the Legislature that:

15           (a) Existing off-highway-vehicle recreational areas,  
16 facilities, and opportunities be improved and appropriately  
17 expanded and be managed in a manner consistent with this  
18 chapter, in particular to maintain natural resources and  
19 sustained long-term use of off-highway-vehicle trails and  
20 areas.

21           (b) New off-highway-vehicle recreational areas,  
22 facilities, and opportunities be provided and managed pursuant  
23 to this chapter in a manner that will sustain both long-term  
24 use and the environment.

25           (c) Nothing contained within this act shall be  
26 construed to require the construction or maintenance of  
27 off-highway-vehicle recreation areas, facilities, or trails on  
28 public lands where such construction or maintenance would be  
29 inconsistent with the property's management objectives or land  
30 management plan.

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1           261.03 Definitions.--As used in this chapter, the  
2 term:

3           (1) "Advisory committee" means the Off-Highway-Vehicle  
4 Recreation Advisory Committee created by s. 261.04.

5           (2) "ATV" means any motorized off-highway or  
6 all-terrain vehicle 50 inches or less in width, having a dry  
7 weight of 900 pounds or less, designed to travel on three or  
8 more low-pressure tires, having a seat designed to be  
9 straddled by the operator and handlebars for steering control,  
10 and intended for use by a single operator with no passenger.

11           (3) "Department" means the Department of Agriculture  
12 and Consumer Services.

13           (4) "Division" means the Division of Forestry of the  
14 Department of Agriculture and Consumer Services.

15           (5) "OHM" or "off-highway motorcycle" means any motor  
16 vehicle used off the roads or highways of this state which has  
17 a seat or saddle for the use of the rider and is designed to  
18 travel with not more than two wheels in contact with the  
19 ground, but excludes a tractor or a moped.

20           (6) "Off-highway vehicle" means any ATV or OHM used  
21 off the roads or highways of this state for recreational  
22 purposes, and which is not registered and licensed for highway  
23 use under chapter 320.

24           (7) "Program" means the Off-Highway Vehicle Recreation  
25 Program.

26           (8) "Public lands" means lands within the State of  
27 Florida which are available for public use and which are  
28 owned, operated or managed by a federal, state, county or  
29 municipal governmental entity.

30           (9) "System" means the off-highway-vehicle recreation  
31 areas and trails on public lands within the state.

1           (10) "Trust fund" means the Incidental Trust Fund of  
2 the Division of Forestry, Department of Agriculture and  
3 Consumer Services.

4           261.04 Creation of the Off-Highway-Vehicle Recreation  
5 Advisory Committee; members; appointment.--

6           (1) The Off-Highway-Vehicle Recreation Advisory  
7 Committee is created within the Division of Forestry and  
8 consists of nine members, all of whom are appointed by the  
9 Commissioner of Agriculture. The appointees shall include one  
10 representative of the Department of Agriculture and Consumer  
11 Services, one representative of the Department of Highway  
12 Safety and Motor Vehicles, one representative of the  
13 Department of Environmental Protection's Office of Greenways  
14 and Trails, one representative of the Fish and Wildlife  
15 Conservation Commission, one citizen with scientific expertise  
16 in disciplines relating to ecology, wildlife biology, or other  
17 environmental sciences, one representative of a licensed  
18 off-highway-vehicle dealer, and three representatives of  
19 off-highway-vehicle recreation groups. In making these  
20 appointments, the commissioner shall consider the places of  
21 residence of the members to ensure statewide representation.

22           (2) The term of office of each member of the advisory  
23 committee is 2 years. The members first appointed shall  
24 classify themselves by lot so that the terms of four members  
25 expire June 30, 2003, and the terms of five members expire  
26 June 30, 2004.

27           (3) In case of a vacancy on the committee, the  
28 commissioner shall appoint a successor member for the  
29 unexpired portion of the term.

30           (4) The members shall elect a chair among themselves  
31 who shall serve for 1 year or until a successor is elected.

1           (5) The members shall not receive a salary; however,  
2 they shall be entitled to be reimbursed for the actual and  
3 necessary expenses incurred in the performance of their  
4 duties.

5           261.05 Duties and responsibilities of the  
6 Off-Highway-Vehicle Recreation Advisory Committee.--

7           (1) The advisory committee shall establish policies to  
8 guide the department regarding the off-highway-vehicle  
9 recreational program and the system of off-highway-vehicle  
10 recreation areas and trails.

11           (2) The advisory committee shall make recommendations  
12 to the department regarding off-highway-vehicle safety and  
13 training and education programs in the operation of such  
14 vehicles.

15           (3) The advisory committee must be informed regarding  
16 all governmental activities affecting the program.

17           (4) The advisory committee must be informed regarding  
18 off-highway-vehicle impacts and effects on the environment,  
19 wildlife habitats, and native flora and fauna, and shall make  
20 recommendations to avoid or minimize adverse environmental  
21 impacts and promote sustained long-term use.

22           (5) The advisory committee must be fully informed  
23 regarding the inventory of off-highway-vehicle access and  
24 opportunities.

25           (6) The advisory committee shall meet at various times  
26 and locations throughout the state to receive public comments  
27 on the implementation of the program and shall take these  
28 public comments into consideration when making its  
29 recommendations.

30           (7) The advisory committee shall review and make  
31 recommendations annually regarding the department's proposed

1 budget of expenditures from the designated off-highway-vehicle  
2 funds in the trust fund, which may include providing funds to  
3 match grant funds available from other sources.

4 (8) The advisory committee shall make recommendations  
5 regarding all capital outlay expenditures from the trust fund  
6 proposed for inclusion in the budget.

7 (9) The advisory committee shall review grant  
8 applications submitted by any governmental agency or entity,  
9 or non-governmental entity, requesting moneys from the trust  
10 fund to create, operate, manage, or improve  
11 off-highway-vehicle recreation areas or trails within the  
12 state, protect and restore affected natural areas in the  
13 system, or provide off-highway-vehicle driver education. The  
14 advisory committee shall recommend to the department approval  
15 or denial of such grant applications based upon criteria  
16 established by the advisory committee.

17 261.06 Functions, duties, and responsibilities of the  
18 department.--The following are functions, duties, and  
19 responsibilities of the department through the division:

20 (1) Coordination of the planning, development,  
21 conservation, and rehabilitation of state lands in and for the  
22 system.

23 (2) Coordination of the management, maintenance,  
24 administration, and operation of state lands in the system,  
25 and the provision of law enforcement and appropriate public  
26 safety activities.

27 (3) Management of the trust fund and approval of the  
28 advisory committee's budget recommendations.

29 (4) Implementation of the program, including the  
30 ultimate approval of grant applications submitted by  
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1 governmental agencies or entities or non-governmental  
2 entities.  
3 (5) Coordination to help ensure compliance with  
4 environmental laws and regulations of the program and lands in  
5 the system.  
6 (6) The implementation of the policies established by  
7 the advisory committee.  
8 (7) Provision of staff assistance to the advisory  
9 committee.  
10 (8) Preparation of plans for lands in, or proposed to  
11 be included in, the system.  
12 (9) Conducting surveys and the preparation of studies  
13 as are necessary or desirable for implementing the program.  
14 (10) Recruitment and utilization of volunteers to  
15 further the program.  
16 (11) Rulemaking authority to implement the provisions  
17 of ss. 261.01-261.10.  
18 261.07 Publication and distribution of guidebook;  
19 contents.--In consultation with the advisory committee, the  
20 department shall publish a guidebook, including the text of  
21 this chapter, other laws and regulations relating to the  
22 program, and maps of areas and trails for the system. The  
23 guidebook may include other public areas, trails, and  
24 facilities for the use of off-highway vehicles. The guidebook  
25 must include information regarding the responsibilities of  
26 users of the system and must set forth pertinent laws, rules,  
27 and regulations including particular provisions and other  
28 information intended to prevent trespass and damage to public  
29 or private property. The guidebook must be prepared at minimal  
30 cost to facilitate the broadest possible distribution and must  
31 be available for distribution no later than October 1, 2002.



1           261.08 Repair, maintenance, and rehabilitation of  
2 areas, trails, and lands.--

3           (1) The protection of public safety, the appropriate  
4 use of lands in the system, and the conservation of the  
5 environment, wildlife habitats, native wildlife, and native  
6 flora in the system are of the highest priority in the  
7 management of the system. Accordingly, the public land  
8 managing agency shall avoid or minimize adverse impacts to the  
9 environment, promptly repair and continuously maintain areas  
10 and trails, anticipate and prevent accelerated erosion, and  
11 rehabilitate lands to the extent damaged by  
12 off-highway-vehicle use in accordance with the management  
13 plans of the public land managing agency.

14           (2) The public land managing agency shall monitor the  
15 condition of soils and wildlife habitat in each area of the  
16 system to determine whether there is compliance with  
17 applicable environmental laws and regulations and take  
18 appropriate action as necessary.

19           261.09 Contracts and agreements.--The public land  
20 managing agency may contract with private persons or entities  
21 and enter into cooperative agreements with other public  
22 agencies for the care and maintenance of lands in the system,  
23 including contracts for law enforcement services with public  
24 agencies having law enforcement powers.

25           261.10 Criteria for recreation areas and  
26 trails.--Publicly owned or operated off-highway-vehicle  
27 recreation areas and trails shall be designated and maintained  
28 for recreational travel by off-highway vehicles. These areas  
29 and trails need not be generally suitable or maintained for  
30 normal travel by conventional two-wheel-drive vehicles, and  
31 should not be designated as recreational foot paths. State

1 off-highway-vehicle recreation areas and trails must be  
2 selected and managed in accordance with this chapter.

3 261.11 Penalties.--No off-highway vehicle may be  
4 operated upon the public roads, streets, or highways of this  
5 state. A violation of this section is a noncriminal traffic  
6 infraction, punishable as provided in chapter 318.

7 261.12 Designated off-highway-vehicle funds within the  
8 Incidental Trust Fund of the Division of Forestry, Department  
9 of Agriculture and Consumer Services.--

10 (1) The designated off-highway-vehicle funds of the  
11 trust fund shall consist of deposits from the following  
12 sources:

13 (a) Fees paid to the Department of Highway Safety and  
14 Motor Vehicles for the titling and registration of off-highway  
15 vehicles;

16 (b) Revenues and income from any other sources  
17 required by law or as appropriated by the Legislature to be  
18 deposited into the trust fund as designated  
19 off-highway-vehicle funds;

20 (c) Donations from private sources that are designated  
21 as off-highway-vehicle funds;

22 (d) Interest earned on designated off-highway-vehicle  
23 funds on deposit in the trust fund.

24 (2) Designated off-highway-vehicle funds in the trust  
25 fund shall be available for recommended allocation by the  
26 Off-Highway-Vehicle Recreation Advisory Committee and the  
27 Department of Agriculture and Consumer Services and upon  
28 annual appropriation by the Legislature, exclusively for the  
29 following:

30 (a) Implementation of the Off-Highway-Vehicle  
31 Recreation Program by the Department of Agriculture and

1 Consumer Services, which includes personnel and other related  
2 expenses; administrative and operating expenses; expenses  
3 related to safety, training, rider-education programs,  
4 management, maintenance, and rehabilitation of lands in the  
5 Off-Highway-Vehicle Recreation Program's system of lands and  
6 trails; and, if funds are available, acquisition of lands to  
7 be included in the system and the management, maintenance, and  
8 rehabilitation of such lands.

9 (b) Approved grants to governmental agencies or  
10 entities or nongovernmental entities that wish to provide or  
11 improve off-highway-vehicle recreation areas or trails for  
12 public use on public lands, provide environmental protection  
13 and restoration to affected natural areas in the system, or  
14 provide education in the operation of off-highway vehicles.

15 (c) Matching funds to be used to match grant funds  
16 available from other sources.

17 (3) Notwithstanding s. 216.301 and pursuant to s.  
18 216.351, any balance of designated off-highway-vehicle funds  
19 in the trust fund at the end of any fiscal year shall remain  
20 therein and shall be available for the purposes set out in  
21 this section and as otherwise provided by law.

22 Section 2. Section 316.2074, Florida Statutes, is  
23 amended to read:

24 316.2074 All-terrain vehicles.--

25 (1) It is the intent of the Legislature, through the  
26 adoption of this section to provide safety protection for  
27 minors while operating an all-terrain vehicle in this state.

28 (2) As used in this section, the term "all-terrain  
29 vehicle" means any motorized off-highway vehicle 50 inches  
30 ~~(1270 mm)~~ or less in width, having a dry weight of 900 ~~600~~  
31 ~~pounds(273 kg)~~ or less, designed to travel ~~traveling~~ on three

1 or more low-pressure tires, ~~designed for operator use only~~  
2 ~~with no passengers,~~ having a seat ~~or saddle~~ designed to be  
3 straddled by the operator, ~~and having~~ handlebars for steering  
4 control, and intended for use by a single operator with no  
5 passenger.

6 (3) No person under 16 years of age shall operate,  
7 ride, or be otherwise propelled on an all-terrain vehicle  
8 unless the person wears a safety helmet meeting United States  
9 Department of Transportation standards and eye protection.

10 (4) If a crash results in the death of any person or  
11 in the injury of any person which results in treatment of the  
12 person by a physician, the operator of each all-terrain  
13 vehicle involved in the crash shall give notice of the crash  
14 pursuant to s. 316.066.

15 (5) Except as provided in this section, an all-terrain  
16 vehicle may not be operated upon the public roads, streets, or  
17 highways of this state.

18 (6)~~(5)~~ An all-terrain vehicle having four wheels may  
19 be used by police officers on public beaches designated as  
20 public roadways for the purpose of enforcing the traffic laws  
21 of the state. All-terrain vehicles may also be used by the  
22 police to travel on public roadways within 5 miles of beach  
23 access only when getting to and from the beach.

24 (7)~~(6)~~ A violation of this section is a noncriminal  
25 traffic infraction, punishable as a nonmoving violation as  
26 provided in chapter 318.

27 Section 3. Short title.--Sections 3 through 20 of this  
28 act may be cited as the "Florida Off-Highway-Vehicle Titling  
29 and Registration Act."

30 Section 4. Legislative intent.--It is the  
31 Legislature's intent that all off-highway vehicles purchased

1 after the effective date of this act and all off-highway  
2 vehicles operated on public lands be titled and issued a  
3 certificate of title to allow for easy determination of  
4 ownership. It is also the Legislature's intent that all  
5 off-highway vehicles that are operated on public lands be  
6 registered and issued a registration decal containing a  
7 registration identification number to provide funding for the  
8 creation, management, and maintenance of off-highway-vehicle  
9 recreation areas and trails, and their associated natural  
10 resources, within the state. Finally, it is the Legislature's  
11 intent that all off-highway vehicles owned by non-Florida  
12 residents shall be exempt from the titling and registration  
13 requirements of this act, and that all off-highway vehicles  
14 owned by governmental entities shall be exempt from the  
15 titling and registration fees imposed by this act with the  
16 exception of the applicable fees as set forth in this act  
17 which are necessary to cover the administrative costs of the  
18 department and the service fees of the county tax collectors.  
19 However, all applicable laws, rules, and regulations governing  
20 off-highway-vehicle use and operation established by the  
21 applicable public land managing agencies shall apply to all  
22 off-highway-vehicle users, including users that are  
23 non-Florida residents and governmental entities.

24 Section 5. Definitions.--As used in sections 3 through  
25 20, the term:

26 (1) "ATV" means any motorized off-highway or  
27 all-terrain vehicle 50 inches or less in width, having a dry  
28 weight of 900 pounds or less, designed to travel on three or  
29 more low-pressure tires, having a seat designed to be  
30 straddled by the operator and handlebars for steering control,  
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1 and intended for use by a single operator and with no  
2 passenger.

3 (2) "Dealer" means any person authorized by the  
4 Department of Revenue to buy, sell, resell, or otherwise  
5 distribute off-highway vehicles. Such person must have a valid  
6 sales tax certificate of registration issued by the Department  
7 of Revenue and a valid commercial or occupational license  
8 required by any county, municipality, or political subdivision  
9 of the state in which the person operates.

10 (3) "Department" means the Department of Highway  
11 Safety and Motor Vehicles.

12 (4) "Florida resident" means a person who has had a  
13 principal place of domicile in this state for a period of more  
14 than 6 consecutive months, who has registered to vote in this  
15 state, who has made a statement of domicile pursuant to  
16 section 222.17, Florida Statutes, or who has filed for  
17 homestead tax exemption on property in this state.

18 (5) "OHM" or "off-highway motorcycle" means any motor  
19 vehicle used off the roads or highways of this state which has  
20 a seat or saddle for the use of the rider and is designed to  
21 travel with not more than two wheels in contact with the  
22 ground, but excludes a tractor or a moped.

23 (6) "Off-highway vehicle" means any ATV or OHM used  
24 off the roads or highways of this state for recreational  
25 purposes which is not registered and licensed for highway use  
26 pursuant to chapter 320.

27 (7) "Owner" means a person, other than a lienholder,  
28 having the property in or title to an off-highway vehicle,  
29 including a person entitled to the use or possession of an  
30 off-highway vehicle subject to an interest held by another  
31 person, reserved or created by agreement and securing payment

1 of performance of an obligation, but the term excludes a  
2 lessee under a lease not intended as security.

3 (8) "Public lands" means lands within the state of  
4 Florida which are available for public use and which are  
5 owned, operated, or managed by a federal, state, county or  
6 municipal governmental entity.

7 Section 6. Administration of off-highway-vehicle  
8 titling and registration laws; records.--

9 (1) The administration of off-highway-vehicle titling  
10 and registration laws in sections 3 through 20 is under the  
11 Department of Highway Safety and Motor Vehicles, which shall  
12 provide for the issuing, handling, and recording of all  
13 off-highway-vehicle titling and registration applications and  
14 certificates, including the receipt and accounting of  
15 off-highway-vehicle titling and registration fees.

16 (2) The department shall keep records and perform  
17 other clerical duties pertaining to off-highway-vehicle  
18 titling and registration as required.

19 Section 7. Rules, forms, and notices.--

20 (1) The department may adopt rules under section  
21 120.536(1), Florida Statutes, and section 120.54, Florida  
22 Statutes, which pertain to off-highway-vehicle titling and  
23 registration, to implement the provisions of sections 3  
24 through 20 conferring duties upon it.

25 (2) The department shall prescribe and provide  
26 suitable forms for applications and other notices and forms  
27 necessary to administer the provisions of sections 3 through  
28 20.

29 Section 8. Certificate of title required.--

30 (1) Any off-highway vehicle that is purchased by a  
31 resident of this state after the effective date of this act or

1 which is owned by a resident and is operated on the public  
2 lands of this state must be titled pursuant to sections 3  
3 through 20.

4 (2) A person may not sell, assign, or transfer an  
5 off-highway vehicle titled by the state without delivering to  
6 the purchaser or transferee a valid certificate of title with  
7 an assignment on it showing the transfer of title to the  
8 purchaser or transferee. A person may not purchase or  
9 otherwise acquire an off-highway vehicle required to be titled  
10 without obtaining a certificate of title for the vehicle in  
11 his or her name. The purchaser or transferee shall, within 30  
12 days after a change in off-highway-vehicle ownership, file an  
13 application for a title transfer with the county tax  
14 collector. An additional \$10 fee shall be charged against a  
15 purchaser or transferee who files a title transfer application  
16 after the 30-day period. The county tax collector may retain  
17 \$5 of the additional amount.

18 (3) A certificate of title is prima facie evidence of  
19 the ownership of the off-highway vehicle and is good for the  
20 life of the off-highway vehicle so long as the certificate is  
21 owned or held by the legal holder. If a titled off-highway  
22 vehicle is destroyed or abandoned, the owner, with the consent  
23 of any recorded lienholders, shall, within 30 days after the  
24 destruction or abandonment, surrender to the department all  
25 title documents for cancellation.

26 (4) The department shall provide labeled places on the  
27 title where the seller's price shall be indicated when an  
28 off-highway vehicle is sold and where a selling dealer shall  
29 record his or her valid sales tax certificate of registration  
30 number.

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1           (5)(a) There shall be a service charge of \$4.25 for  
2 each application that is handled in connection with the  
3 issuance, duplication, or transfer of any certificate of  
4 title. There shall be a service charge of \$1.25 for each  
5 application that is handled in connection with the recordation  
6 or notation of a lien on an off-highway vehicle which is not  
7 in connection with the purchase of such vehicle.

8           (b) The service charges specified in paragraph (a)  
9 shall be collected by the department on any application  
10 handled directly from its office. Otherwise, these service  
11 charges shall be collected and retained by the tax collector  
12 who handles the application.

13           (c) In addition to the fees provided in paragraph (a),  
14 any tax collector may impose an additional service charge of  
15 not more than 50 cents on any transaction specified in  
16 paragraph (a) or on any transaction specified in section 17,  
17 subsection (2), when such transaction occurs at any tax  
18 collector's branch office.

19           Section 9. Application for and issuance of certificate  
20 of title.--

21           (1) The owner of an off-highway vehicle that is  
22 required to be titled must apply to the county tax collector  
23 for a certificate of title. The application must include the  
24 true name of the owner, the residence or business address of  
25 the owner, and a complete description of the vehicle. The  
26 application must be signed by the owner and must be  
27 accompanied by a fee of \$29.

28           (2) The owner must establish by submitting with the  
29 application an executed bill of sale, a manufacturer's  
30 statement of origin, an affidavit of ownership for off-highway  
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1 vehicles purchased before the effective date of this act, or  
2 any other document acceptable to the department.

3 (3) To apply for a title upon transfer of ownership of  
4 an off-highway vehicle, the new owner must surrender to the  
5 department the last title document issued for that vehicle.

6 The document must be properly executed. Proper execution  
7 includes the previous owner's signature and certification that  
8 the off-highway vehicle to be transferred is debt-free or is  
9 subject to a lien. If a lien exists, the previous owner must  
10 furnish the new owner, on forms supplied by the department,  
11 the names and addresses of all lienholders and the dates of  
12 all liens, with a statement from each lienholder that the  
13 lienholder has knowledge of and consents to the transfer of  
14 title to the new owner.

15 (4) An application for an initial title or a title  
16 transfer must include payment of the applicable state sales  
17 tax or proof of payment of such tax, except for off-highway  
18 vehicles purchased or transferred before the effective date of  
19 this act.

20 (5) If the owner submits a complete application and  
21 complies with all of the other requirements of this section,  
22 the department shall issue a certificate of title that states  
23 that the title is for an off-highway vehicle that is not  
24 suitable for highway use. After October 1, 2002, the  
25 department shall also issue a copy of the guidebook prepared  
26 by the Department of Agriculture and Consumer Services,  
27 pursuant to s. 261.07, F.S.

28 Section 10. Duplicate certificate of title.--

29 (1) The department may issue a duplicate certificate  
30 of title upon application by the person entitled to hold such  
31 a certificate if the department is satisfied that the original

1 certificate has been lost, destroyed, or mutilated. A fee of  
2 \$15 shall be charged for issuing a duplicate certificate.

3 (2) In addition to the fee imposed by subsection (1),  
4 a fee of \$7 shall be charged for expedited service in issuing  
5 a duplicate certificate of title. Application for such  
6 expedited service may be made by mail or in person. The  
7 department shall issue each certificate of title applied for  
8 under this subsection within 5 working days after receipt of a  
9 proper application or shall refund the additional \$7 fee upon  
10 written request by the applicant.

11 (3) If, following the issuance of an original,  
12 duplicate, or corrected certificate of title by the  
13 department, the certificate is lost in transit and is not  
14 delivered to the addressee, the owner of the off-highway  
15 vehicle or the holder of a lien thereon may, within 180 days  
16 after the date of issuance of the title, apply to the  
17 department for reissuance of the certificate of title. An  
18 additional fee may not be charged for reissuance under this  
19 subsection.

20 (4) The department shall implement a system to verify  
21 that the application is signed by a person authorized to  
22 receive a duplicate title certificate under this section if  
23 the address shown on the application is different from the  
24 address shown for the applicant on the records of the  
25 department.

26 Section 11. Manufacturer's statement of origin to be  
27 furnished.--

28 (1) Any person selling a new off-highway vehicle in  
29 this state must furnish a manufacturer's statement of origin  
30 to the purchaser. The statement, which must be in English or  
31 accompanied by an English translation if the vehicle was

1 purchased outside the United States, must be signed and dated  
2 by an authorized representative of the manufacturer, indicate  
3 the complete name and address of the purchaser, include a  
4 complete description of the vehicle, and contain as many  
5 assignments as necessary to show title in the name of the  
6 purchaser.

7 (2) It is unlawful for an off-highway-vehicle  
8 manufacturer, manufacturer's representative, or dealer to  
9 issue a manufacturer's certificate of origin describing an  
10 off-highway vehicle with the knowledge that the description is  
11 false or that the off-highway vehicle described does not  
12 exist. It is unlawful for any person to obtain or attempt to  
13 obtain a certificate of origin with the knowledge that the  
14 description is false or that the off-highway vehicle does not  
15 exist. Any person who violates this subsection is guilty of a  
16 felony of the third degree, punishable as provided in section  
17 775.082, section 775.083, or section 775.084, Florida  
18 Statutes.

19 Section 12. Registration required.--

20 (1) Off-highway vehicles operated on public lands of  
21 this state, with the exception of off-highway vehicles owned  
22 by non-Florida residents, must be registered within 30 days  
23 after purchase.

24 (2) Nothing in this act prohibits the owner, operator,  
25 or manager of public lands containing improved and maintained  
26 off-highway-vehicle recreation areas or trails from charging  
27 an entrance or admission fee for the use of such lands to help  
28 offset the cost of operation and maintenance of such  
29 off-highway-vehicle facilities.

30 Section 13. Application for and issuance of  
31 certificate of registration, registration number, and decal.--

1           (1) The owner of each off-highway vehicle that  
2 requires registration in this state must file a registration  
3 application with the county tax collector.

4           (a) The application must provide the owner's name and  
5 address, residency status, a Florida identification card  
6 number such as a driver's license number, and a complete  
7 description of the vehicle to be registered, and must be  
8 accompanied by a fee of \$25.

9           (b) Proof of ownership must be established by  
10 presenting a title for the off-highway vehicle.

11           (2) The department shall issue a certificate of  
12 registration and a registration number upon submittal of a  
13 complete application and compliance with the other  
14 requirements of this section. The certificate of registration  
15 does not constitute a license.

16           (3) The department shall furnish with each  
17 registration certificate issued a decal signifying the years  
18 during which the certificate is valid and containing the  
19 assigned registration number, and such decal must be affixed  
20 to the rear of the off-highway vehicle.

21           Section 14. Registration period and reregistration by  
22 mail.--

23           (1) An off-highway-vehicle certificate of registration  
24 is valid through the owner's next birthday. If the owner's  
25 birthday falls within the first 3 months after issuance of the  
26 certificate of registration, the certificate is valid through  
27 the owner's following birthday. However, a certificate of  
28 registration may not be valid for more than 15 months.

29           (2) The department shall provide for annual  
30 reregistration of off-highway vehicles either in person at the  
31 county tax collector's office or by mail.

1           Section 15. Change of interest and address.--

2           (1) The owner must furnish to the department notice of  
3 the transfer of any whole or partial interest in an  
4 off-highway vehicle registered or titled in this state or of  
5 the destruction or abandonment of such vehicle within 30 days  
6 thereof. The certificate expires upon such transfer,  
7 destruction, or abandonment, unless the transfer of a partial  
8 interest does not affect the owner's right to operate the  
9 vehicle.

10           (2) Any holder of a certificate of registration must  
11 notify the department or the county tax collector within 30  
12 days after a change of address to one other than the address  
13 on the certificate and must furnish the department or the  
14 county tax collector with the new address. The department may  
15 provide by rule for the surrender of the certificate bearing  
16 the former address and for its replacement with a new  
17 certificate bearing the new address or for the alteration of a  
18 certificate to include the new address of the holder.

19           Section 16. Duplicate registration certificate or  
20 decal, service fees.--

21           (1) A duplicate off-highway-vehicle registration  
22 certificate or decal to replace a lost or misplaced  
23 certificate or decal may be obtained from the county tax  
24 collector for \$10. A duplicate certificate or decal may not be  
25 issued except upon written request of the registered owner or  
26 a person authorized by the owner.

27           (2) Included in the registration fee for off-highway  
28 vehicles is a \$2.50 service fee to be retained by the county  
29 tax collector for each registration certificate or decal  
30 issued, replaced, or renewed. The remainder of the fees  
31

1 collected by the county tax collector shall be remitted to the  
2 department.

3 (3) A mail service charge may be collected for each  
4 registration or reregistration mailed by the department or any  
5 tax collector. All registrations and reregistrations must be  
6 mailed by first-class mail. The amount of mail service charge  
7 must be the actual postage required rounded to the nearest 5  
8 cents, plus a 25-cent handling charge. The mail service charge  
9 is in addition to the registration fee in section 14.

10 Section 17. Disposition of fees.--The department shall  
11 deposit all funds received under sections 3 through 20, less  
12 administrative costs of \$2 per title transaction and \$2 per  
13 registration transaction, into the Incidental Trust Fund of  
14 the Division of Forestry, Department of Agriculture and  
15 Consumer Services.

16 Section 18. Refusal to issue and authority to cancel a  
17 certificate of title or registration.--

18 (1) If the department finds that an applicant for an  
19 off-highway-vehicle certificate of title or registration has  
20 given a false statement or false or incomplete information in  
21 applying for the certificate or has otherwise failed to comply  
22 with the applicable provisions pertaining to the application  
23 for a certificate, it may refuse to issue the certificate.

24 (2) If the department finds that an owner or dealer  
25 named in an off-highway-vehicle certificate of title or  
26 registration has given a false statement or false or  
27 incomplete information in applying for the certificate or has  
28 otherwise failed to comply with the applicable provisions  
29 pertaining to the application for a certificate, it may cancel  
30 the certificate.

31

1           (3) The department may cancel any pending application  
2 or any certificate if it finds that any title or registration  
3 fee or sales tax pertaining to such registration has not been  
4 paid, unless the fee or tax is paid within a reasonable time  
5 after the department has given notice.

6           Section 19. Crimes relating to certificates of title  
7 and registration decals; penalties.--

8           (1) It is unlawful for any person to procure or  
9 attempt to procure a certificate of title or duplicate  
10 certificate of title to an off-highway vehicle, or to pass or  
11 attempt to pass a certificate of title or duplicate  
12 certificate of title to an off-highway vehicle or any  
13 assignment thereof, if such person knows or has reason to  
14 believe that the vehicle has been stolen. Any person who  
15 violates this subsection is guilty of a felony of the third  
16 degree, punishable as provided in section 775.082, section  
17 775.083, or section 775.084, Florida Statutes.

18           (2) It is unlawful for any person, knowingly and with  
19 intent to defraud, to have in his or her possession, sell,  
20 offer to sell, counterfeit, or supply a blank, forged,  
21 fictitious, counterfeit, stolen, or fraudulently or unlawfully  
22 obtained certificate of title, duplicate certificate of title,  
23 registration, bill of sale, or other indicia of ownership of  
24 an off-highway vehicle or to conspire to do any of the  
25 foregoing. Any person who violates this subsection is guilty  
26 of a felony of the third degree, punishable as provided in  
27 section 775.082, section 775.083, or section 775.084, Florida  
28 Statutes.

29           (3) It is unlawful:  
30  
31



1           (a) To alter or forge any certificate of title to an  
2 off-highway vehicle or any assignment thereof or any  
3 cancellation of any lien on an off-highway vehicle.

4           (b) To retain or use such certificate, assignment, or  
5 cancellation knowing that it has been altered or forged.

6           (c) To use a false or fictitious name, give a false or  
7 fictitious address, or make any false statement in any  
8 application or affidavit required by sections 4 through 21 or  
9 in a bill of sale or sworn statement of ownership or otherwise  
10 commit a fraud in any application.

11           (d) To knowingly obtain goods, services, credit, or  
12 money by means of an invalid, duplicate, fictitious, forged,  
13 counterfeit, stolen, or unlawfully obtained certificate of  
14 title, registration, bill of sale, or other indicia of  
15 ownership of an off-highway vehicle.

16           (e) To knowingly obtain goods, services, credit, or  
17 money by means of a certificate of title to an off-highway  
18 vehicle which certificate is required by law to be surrendered  
19 to the department. Any person who violates this subsection is  
20 guilty of a felony of the third degree, punishable as provided  
21 in section 775.082, section 775.083, or section 775.084,  
22 Florida Statutes. A violation of this subsection with respect  
23 to any off-highway vehicle makes such off-highway-vehicle  
24 contraband which may be seized by a law enforcement agency and  
25 forfeited under sections 932.701-932.704, Florida Statutes.

26           (4) It is unlawful for any person:

27           (a) To make, alter, forge, counterfeit, or reproduce  
28 an off-highway-vehicle registration decal unless authorized by  
29 the department.

30           (b) To knowingly have in his or her possession a  
31 forged, counterfeit, or imitation off-highway-vehicle

1 registration decal, or reproduction of a decal, unless such  
2 possession has been authorized by the department.

3 (c) To barter, trade, sell, supply, agree to supply,  
4 aid in supplying, or give away an off-highway-vehicle  
5 registration decal or to conspire to barter, trade, sell,  
6 supply, agree to supply, aid in supplying, or give away an  
7 off-highway-vehicle registration decal, unless authorized by  
8 the department. Any person who violates this subsection is  
9 guilty of a felony of the third degree, punishable as provided  
10 in section 775.082, section 775.083, or section 775.084,  
11 Florida Statutes.

12 Section 20. Nonmoving traffic violations.--Any person  
13 who fails to comply with any provision of sections 3 through  
14 20 for which a penalty is not otherwise provided is guilty of  
15 a nonmoving traffic violation, punishable as provided in  
16 section 318.18, Florida Statutes.

17 Section 21. Subsection (1) of section 375.315, Florida  
18 Statutes, is amended to read:

19 375.315 Registration of off-road vehicles.--

20 (1) Any off-road vehicle operated upon public lands,  
21 ~~and~~ not registered or licensed under s. 320.02 or s. 320.06,  
22 and not otherwise required to be registered pursuant to the  
23 Florida Off-Highway-Vehicle Titling and Registration Act must  
24 be registered as provided in this section.

25 Section 22. There is appropriated to the Department of  
26 Agriculture and Consumer Services from the designated  
27 off-highway-vehicle funds in the Incidental Trust Fund of the  
28 Division of Forestry, Department of Agriculture and Consumer  
29 Services, for fiscal year 2001-2002, one position and \$156,660  
30 to carry out the provisions of this act.

31

1           Section 23. This act shall take effect October 1,  
2 2001.

3  
4                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5                   COMMITTEE SUBSTITUTE FOR  
6                   CS for Senate Bill 738

7 The Committee Substitute for Committee Substitute for Senate  
8 Bill 738 is different from Committee Substitute for Senate  
9 Bill 738 in that it:

10           Changes the name of the Florida Off-Highway-Vehicle  
11           Safety and Recreation Act to the T. Mark Schmidt  
12           Off-Highway-Vehicle Safety and Recreation Act. It also  
13           changes the penalty for violation of the Florida  
14           Off-Highway-Vehicle Titling and Registration Act from a  
15           misdemeanor to a nonmoving traffic violation.

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