

Bill No. CS/CS/HB 807, 2nd Eng.

Amendment No. Barcode 284642

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator King moved the following amendment to amendment
 12 (640544):

Senate Amendment (with title amendment)

On page 133, between lines 9 and 10,

insert:

Section 78. 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:

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

261.02 Legislative intent.--

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

(2) The Legislature declares that effectively managed

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1 areas and adequate facilities for the use of off-highway
2 vehicles are compatible with this state's overall recreation
3 plan and the underlying goal of multiple use.

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

5 (a) Existing off-highway-vehicle recreational areas,
6 facilities, and opportunities be improved and appropriately
7 expanded and be managed in a manner consistent with this
8 chapter, in particular to maintain natural resources and
9 sustained long-term use of off-highway-vehicle trails and
10 areas.

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

15 (c) Nothing contained within this act shall be
16 construed to require the construction or maintenance of
17 off-highway-vehicle recreation areas, facilities, or trails on
18 public lands where such construction or maintenance would be
19 inconsistent with the property's management objectives or land
20 management plan.

21 261.03 Definitions.--As used in this chapter, the
22 term:

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

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

31 (3) "Department" means the Department of Agriculture

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1 and Consumer Services.

2 (4) "Division" means the Division of Forestry of the
3 Department of Agriculture and Consumer Services.

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

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

13 (7) "Program" means the Off-Highway Vehicle Recreation
14 Program.

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

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

21 (10) "Trust fund" means the Incidental Trust Fund of
22 the Division of Forestry, Department of Agriculture and
23 Consumer Services.

24 261.04 Creation of the Off-Highway-Vehicle Recreation
25 Advisory Committee; members; appointment.--

26 (1) The Off-Highway-Vehicle Recreation Advisory
27 Committee is created within the Division of Forestry and
28 consists of nine members, all of whom are appointed by the
29 Commissioner of Agriculture. The appointees shall include one
30 representative of the Department of Agriculture and Consumer
31 Services, one representative of the Department of Highway

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1 Safety and Motor Vehicles, one representative of the
2 Department of Environmental Protection's Office of Greenways
3 and Trails, one representative of the Fish and Wildlife
4 Conservation Commission, one citizen with scientific expertise
5 in disciplines relating to ecology, wildlife biology, or other
6 environmental sciences, one representative of a licensed
7 off-highway-vehicle dealer, and three representatives of
8 off-highway-vehicle recreation groups. In making these
9 appointments, the commissioner shall consider the places of
10 residence of the members to ensure statewide representation.

11 (2) The term of office of each member of the advisory
12 committee is 2 years. The members first appointed shall
13 classify themselves by lot so that the terms of four members
14 expire June 30, 2003, and the terms of five members expire
15 June 30, 2004.

16 (3) In case of a vacancy on the committee, the
17 commissioner shall appoint a successor member for the
18 unexpired portion of the term.

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

21 (5) The members of the advisory committee shall serve
22 without compensation, but shall be paid travel and per diem as
23 provided in s. 112.061, while in the performance of their
24 official duties.

25 261.05 Duties and responsibilities of the
26 Off-Highway-Vehicle Recreation Advisory Committee.--

27 (1) The advisory committee shall establish policies to
28 guide the department regarding the off-highway-vehicle
29 recreational program and the system of off-highway-vehicle
30 recreation areas and trails.

31 (2) The advisory committee shall make recommendations

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1 to the department regarding off-highway-vehicle safety and
2 training and education programs in the operation of such
3 vehicles.

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

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

11 (5) The advisory committee must be fully informed
12 regarding the inventory of off-highway-vehicle access and
13 opportunities.

14 (6) The advisory committee shall meet at various times
15 and locations throughout the state to receive public comments
16 on the implementation of the program and shall take these
17 public comments into consideration when making its
18 recommendations.

19 (7) The advisory committee shall review and make
20 recommendations annually regarding the department's proposed
21 budget of expenditures from the designated off-highway-vehicle
22 funds in the trust fund, which may include providing funds to
23 match grant funds available from other sources.

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

27 (9) The advisory committee shall review grant
28 applications submitted by any governmental agency or entity,
29 or non-governmental entity, requesting moneys from the trust
30 fund to create, operate, manage, or improve
31 off-highway-vehicle recreation areas or trails within the

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1 state, protect and restore affected natural areas in the
2 system, or provide off-highway-vehicle driver education. The
3 advisory committee shall recommend to the department approval
4 or denial of such grant applications based upon criteria
5 established by the advisory committee.

6 261.06 Functions, duties, and responsibilities of the
7 department.--The following are functions, duties, and
8 responsibilities of the department through the division:

9 (1) Coordination of the planning, development,
10 conservation, and rehabilitation of state lands in and for the
11 system.

12 (2) Coordination of the management, maintenance,
13 administration, and operation of state lands in the system,
14 and the provision of law enforcement and appropriate public
15 safety activities.

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

18 (4) Implementation of the program, including the
19 ultimate approval of grant applications submitted by
20 governmental agencies or entities or non-governmental
21 entities.

22 (5) Coordination to help ensure compliance with
23 environmental laws and regulations of the program and lands in
24 the system.

25 (6) The implementation of the policies established by
26 the advisory committee.

27 (7) Provision of staff assistance to the advisory
28 committee.

29 (8) Preparation of plans for lands in, or proposed to
30 be included in, the system.

31 (9) Conducting surveys and the preparation of studies

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1 as are necessary or desirable for implementing the program.

2 (10) Recruitment and utilization of volunteers to
3 further the program.

4 (11) Rulemaking authority to implement the provisions
5 of ss. 261.01-261.10.

6 261.07 Publication and distribution of guidebook;
7 contents.--In consultation with the advisory committee, the
8 department shall publish a guidebook, including the text of
9 this chapter, other laws and regulations relating to the
10 program, and maps of areas and trails for the system. The
11 guidebook may include other public areas, trails, and
12 facilities for the use of off-highway vehicles. The guidebook
13 must include information regarding the responsibilities of
14 users of the system and must set forth pertinent laws, rules,
15 and regulations including particular provisions and other
16 information intended to prevent trespass and damage to public
17 or private property. The guidebook must be prepared at minimal
18 cost to facilitate the broadest possible distribution and must
19 be available for distribution no later than October 1, 2002.

20 261.08 Repair, maintenance, and rehabilitation of
21 areas, trails, and lands.--

22 (1) The protection of public safety, the appropriate
23 use of lands in the system, and the conservation of the
24 environment, wildlife habitats, native wildlife, and native
25 flora in the system are of the highest priority in the
26 management of the system. Accordingly, the public land
27 managing agency shall avoid or minimize adverse impacts to the
28 environment, promptly repair and continuously maintain areas
29 and trails, anticipate and prevent accelerated erosion, and
30 rehabilitate lands to the extent damaged by
31 off-highway-vehicle use in accordance with the management

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1 plans of the public land managing agency.

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

7 261.09 Contracts and agreements.--The public land
8 managing agency may contract with private persons or entities
9 and enter into cooperative agreements with other public
10 agencies for the care and maintenance of lands in the system,
11 including contracts for law enforcement services with public
12 agencies having law enforcement powers.

13 261.10 Criteria for recreation areas and
14 trails.--Publicly owned or operated off-highway-vehicle
15 recreation areas and trails shall be designated and maintained
16 for recreational travel by off-highway vehicles. These areas
17 and trails need not be generally suitable or maintained for
18 normal travel by conventional two-wheel-drive vehicles, and
19 should not be designated as recreational foot paths. State
20 off-highway-vehicle recreation areas and trails must be
21 selected and managed in accordance with this chapter.

22 261.11 Penalties.--No off-highway vehicle may be
23 operated upon the public roads, streets, or highways of this
24 state, except as otherwise permitted by the managing state or
25 federal agency. A violation of this section is a noncriminal
26 traffic infraction, punishable as provided in chapter 318.

27 261.12 Designated off-highway-vehicle funds within the
28 Incidental Trust Fund of the Division of Forestry, Department
29 of Agriculture and Consumer Services.--

30 (1) The designated off-highway-vehicle funds of the
31 trust fund shall consist of deposits from the following

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1 sources:

2 (a) Fees paid to the Department of Highway Safety and
3 Motor Vehicles for the titling and registration of off-highway
4 vehicles;

5 (b) Revenues and income from any other sources
6 required by law or as appropriated by the Legislature to be
7 deposited into the trust fund as designated
8 off-highway-vehicle funds;

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

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

13 (2) Designated off-highway-vehicle funds in the trust
14 fund shall be available for recommended allocation by the
15 Off-Highway-Vehicle Recreation Advisory Committee and the
16 Department of Agriculture and Consumer Services and upon
17 annual appropriation by the Legislature, exclusively for the
18 following:

19 (a) Implementation of the Off-Highway-Vehicle
20 Recreation Program by the Department of Agriculture and
21 Consumer Services, which includes personnel and other related
22 expenses; administrative and operating expenses; expenses
23 related to safety, training, rider-education programs,
24 management, maintenance, and rehabilitation of lands in the
25 Off-Highway-Vehicle Recreation Program's system of lands and
26 trails; and, if funds are available, acquisition of lands to
27 be included in the system and the management, maintenance, and
28 rehabilitation of such lands.

29 (b) Approved grants to governmental agencies or
30 entities or nongovernmental entities that wish to provide or
31 improve off-highway-vehicle recreation areas or trails for

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1 public use on public lands, provide environmental protection
 2 and restoration to affected natural areas in the system, or
 3 provide education in the operation of off-highway vehicles.

4 (c) Matching funds to be used to match grant funds
 5 available from other sources.

6 (3) Notwithstanding s. 216.301 and pursuant to s.
 7 216.351, any balance of designated off-highway-vehicle funds
 8 in the trust fund at the end of any fiscal year shall remain
 9 therein and shall be available for the purposes set out in
 10 this section and as otherwise provided by law.

11 Section 79. Section 316.2074, Florida Statutes, is
 12 amended to read:

13 316.2074 All-terrain vehicles.--

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

17 (2) As used in this section, the term "all-terrain
 18 vehicle" means any motorized off-highway vehicle 50 inches
 19 (1270 mm) or less in width, having a dry weight of 900 600
 20 pounds(273 kg) or less, designed to travel ~~traveling~~ on three
 21 or more low-pressure tires, ~~designed for operator use only~~
 22 ~~with no passengers,~~ having a seat or saddle designed to be
 23 straddled by the operator, and ~~having~~ handlebars for steering
 24 control, and intended for use by a single operator with no
 25 passenger.

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

30 (4) If a crash results in the death of any person or
 31 in the injury of any person which results in treatment of the

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1 person by a physician, the operator of each all-terrain
2 vehicle involved in the crash shall give notice of the crash
3 pursuant to s. 316.066.

4 (5) Except as provided in this section, an all-terrain
5 vehicle may not be operated upon the public roads, streets, or
6 highways of this state, except as otherwise permitted by the
7 managing state or federal agency.

8 (6)(5) An all-terrain vehicle having four wheels may
9 be used by police officers on public beaches designated as
10 public roadways for the purpose of enforcing the traffic laws
11 of the state. All-terrain vehicles may also be used by the
12 police to travel on public roadways within 5 miles of beach
13 access only when getting to and from the beach.

14 (7)(6) A violation of this section is a noncriminal
15 traffic infraction, punishable as a nonmoving violation as
16 provided in chapter 318.

17 Section 80. Short title.--Sections 3 through 20 of
18 this act may be cited as the "Florida Off-Highway-Vehicle
19 Titling and Registration Act."

20 Section 81. Legislative intent.--It is the
21 Legislature's intent that all off-highway vehicles purchased
22 after the effective date of this act and all off-highway
23 vehicles operated on public lands be titled and issued a
24 certificate of title to allow for easy determination of
25 ownership. It is also the Legislature's intent that all
26 off-highway vehicles that are operated on public lands be
27 registered and issued a registration decal containing a
28 registration identification number to provide funding for the
29 creation, management, and maintenance of off-highway-vehicle
30 recreation areas and trails, and their associated natural
31 resources, within the state. Finally, it is the Legislature's

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1 intent that all off-highway vehicles owned by non-Florida
2 residents shall be exempt from the titling and registration
3 requirements of this act, and that all off-highway vehicles
4 owned by governmental entities shall be exempt from the
5 titling and registration fees imposed by this act with the
6 exception of the applicable fees as set forth in this act
7 which are necessary to cover the administrative costs of the
8 department and the service fees of the county tax collectors.
9 However, all applicable laws, rules, and regulations governing
10 off-highway-vehicle use and operation established by the
11 applicable public land managing agencies shall apply to all
12 off-highway-vehicle users, including users that are
13 non-Florida residents and governmental entities.

14 Section 82. Definitions.--As used in sections 3
15 through 20, the term:

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

23 (2) "Dealer" means any person authorized by the
24 Department of Revenue to buy, sell, resell, or otherwise
25 distribute off-highway vehicles. Such person must have a valid
26 sales tax certificate of registration issued by the Department
27 of Revenue and a valid commercial or occupational license
28 required by any county, municipality, or political subdivision
29 of the state in which the person operates.

30 (3) "Department" means the Department of Highway
31 Safety and Motor Vehicles.

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

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

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

16 (7) "Owner" means a person, other than a lienholder,
17 having the property in or title to an off-highway vehicle,
18 including a person entitled to the use or possession of an
19 off-highway vehicle subject to an interest held by another
20 person, reserved or created by agreement and securing payment
21 of performance of an obligation, but the term excludes a
22 lessee under a lease not intended as security.

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

27 Section 83. Administration of off-highway-vehicle
28 titling and registration laws; records.--

29 (1) The administration of off-highway-vehicle titling
30 and registration laws in sections 3 through 20 is under the
31 Department of Highway Safety and Motor Vehicles, which shall

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1 provide for the issuing, handling, and recording of all
2 off-highway-vehicle titling and registration applications and
3 certificates, including the receipt and accounting of
4 off-highway-vehicle titling and registration fees.

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

8 Section 84. Rules, forms, and notices.--

9 (1) The department may adopt rules under section
10 120.536(1), Florida Statutes, and section 120.54, Florida
11 Statutes, which pertain to off-highway-vehicle titling and
12 registration, to implement the provisions of sections 3
13 through 20 conferring duties upon it.

14 (2) The department shall prescribe and provide
15 suitable forms for applications and other notices and forms
16 necessary to administer the provisions of sections 3 through
17 20.

18 Section 85. Certificate of title required.--

19 (1) Any off-highway vehicle that is purchased by a
20 resident of this state after the effective date of this act or
21 which is owned by a resident and is operated on the public
22 lands of this state must be titled pursuant to sections 3
23 through 20.

24 (2) A person may not sell, assign, or transfer an
25 off-highway vehicle titled by the state without delivering to
26 the purchaser or transferee a valid certificate of title with
27 an assignment on it showing the transfer of title to the
28 purchaser or transferee. A person may not purchase or
29 otherwise acquire an off-highway vehicle required to be titled
30 without obtaining a certificate of title for the vehicle in
31 his or her name. The purchaser or transferee shall, within 30

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1 days after a change in off-highway-vehicle ownership, file an
2 application for a title transfer with the county tax
3 collector. An additional \$10 fee shall be charged against a
4 purchaser or transferee who files a title transfer application
5 after the 30-day period. The county tax collector may retain
6 \$5 of the additional amount.

7 (3) A certificate of title is prima facie evidence of
8 the ownership of the off-highway vehicle and is good for the
9 life of the off-highway vehicle so long as the certificate is
10 owned or held by the legal holder. If a titled off-highway
11 vehicle is destroyed or abandoned, the owner, with the consent
12 of any recorded lienholders, shall, within 30 days after the
13 destruction or abandonment, surrender to the department all
14 title documents for cancellation.

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

20 (5)(a) There shall be a service charge of \$4.25 for
21 each application that is handled in connection with the
22 issuance, duplication, or transfer of any certificate of
23 title. There shall be a service charge of \$1.25 for each
24 application that is handled in connection with the recordation
25 or notation of a lien on an off-highway vehicle which is not
26 in connection with the purchase of such vehicle.

27 (b) The service charges specified in paragraph (a)
28 shall be collected by the department on any application
29 handled directly from its office. Otherwise, these service
30 charges shall be collected and retained by the tax collector
31 who handles the application.

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

7 Section 86. Application for and issuance of
8 certificate of title.--

9 (1) The owner of an off-highway vehicle that is
10 required to be titled must apply to the county tax collector
11 for a certificate of title. The application must include the
12 true name of the owner, the residence or business address of
13 the owner, and a complete description of the vehicle. The
14 application must be signed by the owner and must be
15 accompanied by a fee of \$29.

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

21 (3) To apply for a title upon transfer of ownership of
22 an off-highway vehicle, the new owner must surrender to the
23 department the last title document issued for that vehicle.
24 The document must be properly executed. Proper execution
25 includes the previous owner's signature and certification that
26 the off-highway vehicle to be transferred is debt-free or is
27 subject to a lien. If a lien exists, the previous owner must
28 furnish the new owner, on forms supplied by the department,
29 the names and addresses of all lienholders and the dates of
30 all liens, with a statement from each lienholder that the
31 lienholder has knowledge of and consents to the transfer of

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1 title to the new owner.

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

7 (5) If the owner submits a complete application and
8 complies with all of the other requirements of this section,
9 the department shall issue a certificate of title that states
10 that the title is for an off-highway vehicle that is not
11 suitable for highway use. After October 1, 2002, the
12 department shall also issue a copy of the guidebook prepared
13 by the Department of Agriculture and Consumer Services,
14 pursuant to s. 261.07, F.S.

15 Section 87. Duplicate certificate of title.--

16 (1) The department may issue a duplicate certificate
17 of title upon application by the person entitled to hold such
18 a certificate if the department is satisfied that the original
19 certificate has been lost, destroyed, or mutilated. A fee of
20 \$15 shall be charged for issuing a duplicate certificate.

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

29 (3) If, following the issuance of an original,
30 duplicate, or corrected certificate of title by the
31 department, the certificate is lost in transit and is not

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1 delivered to the addressee, the owner of the off-highway
2 vehicle or the holder of a lien thereon may, within 180 days
3 after the date of issuance of the title, apply to the
4 department for reissuance of the certificate of title. An
5 additional fee may not be charged for reissuance under this
6 subsection.

7 (4) The department shall implement a system to verify
8 that the application is signed by a person authorized to
9 receive a duplicate title certificate under this section if
10 the address shown on the application is different from the
11 address shown for the applicant on the records of the
12 department.

13 Section 88. Manufacturer's statement of origin to be
14 furnished.--

15 (1) Any person selling a new off-highway vehicle in
16 this state must furnish a manufacturer's statement of origin
17 to the purchaser. The statement, which must be in English or
18 accompanied by an English translation if the vehicle was
19 purchased outside the United States, must be signed and dated
20 by an authorized representative of the manufacturer, indicate
21 the complete name and address of the purchaser, include a
22 complete description of the vehicle, and contain as many
23 assignments as necessary to show title in the name of the
24 purchaser.

25 (2) It is unlawful for an off-highway-vehicle
26 manufacturer, manufacturer's representative, or dealer to
27 issue a manufacturer's certificate of origin describing an
28 off-highway vehicle with the knowledge that the description is
29 false or that the off-highway vehicle described does not
30 exist. It is unlawful for any person to obtain or attempt to
31 obtain a certificate of origin with the knowledge that the

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1 description is false or that the off-highway vehicle does not
2 exist. Any person who violates this subsection is guilty of a
3 felony of the third degree, punishable as provided in section
4 775.082, section 775.083, or section 775.084, Florida
5 Statutes.

6 Section 89. Registration required.--

7 (1) Off-highway vehicles operated on public lands of
8 this state, with the exception of off-highway vehicles owned
9 by non-Florida residents, off-highway vehicles in use for
10 specific agricultural purposes, or off-highway vehicles rented
11 for use on public beaches by concessionaires who are
12 franchised by the public entities controlling those beaches
13 must be registered within 30 days after purchase.

14 (2) Nothing in this act prohibits the owner, operator,
15 or manager of public lands containing improved and maintained
16 off-highway-vehicle recreation areas or trails from charging
17 an entrance or admission fee for the use of such lands to help
18 offset the cost of operation and maintenance of such
19 off-highway-vehicle facilities.

20 Section 90. Application for and issuance of
21 certificate of registration, registration number, and decal.--

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

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

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

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1 (2) The department shall issue a certificate of
2 registration and a registration number upon submittal of a
3 complete application and compliance with the other
4 requirements of this section. The certificate of registration
5 does not constitute a license.

6 (3) The department shall furnish with each
7 registration certificate issued a decal signifying the years
8 during which the certificate is valid and containing the
9 assigned registration number, and such decal must be affixed
10 to the rear of the off-highway vehicle.

11 Section 91. Registration period and reregistration by
12 mail.--

13 (1) An off-highway-vehicle certificate of registration
14 is valid through the owner's next birthday. If the owner's
15 birthday falls within the first 3 months after issuance of the
16 certificate of registration, the certificate is valid through
17 the owner's following birthday. However, a certificate of
18 registration may not be valid for more than 15 months.

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

22 Section 92. Change of interest and address.--

23 (1) The owner must furnish to the department notice of
24 the transfer of any whole or partial interest in an
25 off-highway vehicle registered or titled in this state or of
26 the destruction or abandonment of such vehicle within 30 days
27 thereof. The certificate expires upon such transfer,
28 destruction, or abandonment, unless the transfer of a partial
29 interest does not affect the owner's right to operate the
30 vehicle.

31 (2) Any holder of a certificate of registration must

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1 notify the department or the county tax collector within 30
2 days after a change of address to one other than the address
3 on the certificate and must furnish the department or the
4 county tax collector with the new address. The department may
5 provide by rule for the surrender of the certificate bearing
6 the former address and for its replacement with a new
7 certificate bearing the new address or for the alteration of a
8 certificate to include the new address of the holder.

9 Section 93. Duplicate registration certificate or
10 decal, service fees.--

11 (1) A duplicate off-highway-vehicle registration
12 certificate or decal to replace a lost or misplaced
13 certificate or decal may be obtained from the county tax
14 collector for \$10. A duplicate certificate or decal may not be
15 issued except upon written request of the registered owner or
16 a person authorized by the owner.

17 (2) Included in the registration fee for off-highway
18 vehicles is a \$2.50 service fee to be retained by the county
19 tax collector for each registration certificate or decal
20 issued, replaced, or renewed. The remainder of the fees
21 collected by the county tax collector shall be remitted to the
22 department.

23 (3) A mail service charge may be collected for each
24 registration or reregistration mailed by the department or any
25 tax collector. All registrations and reregistrations must be
26 mailed by first-class mail. The amount of mail service charge
27 must be the actual postage required rounded to the nearest 5
28 cents, plus a 25-cent handling charge. The mail service charge
29 is in addition to the registration fee in section 13.

30 Section 94. Disposition of fees.--The department shall
31 deposit all funds received under sections 3 through 20, less

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1 administrative costs of \$2 per title transaction and \$2 per
2 registration transaction, into the Incidental Trust Fund of
3 the Division of Forestry, Department of Agriculture and
4 Consumer Services.

5 Section 95. Refusal to issue and authority to cancel a
6 certificate of title or registration.--

7 (1) If the department finds that an applicant for an
8 off-highway-vehicle certificate of title or registration has
9 given a false statement or false or incomplete information in
10 applying for the certificate or has otherwise failed to comply
11 with the applicable provisions pertaining to the application
12 for a certificate, it may refuse to issue the certificate.

13 (2) If the department finds that an owner or dealer
14 named in an off-highway-vehicle certificate of title or
15 registration has given a false statement or false or
16 incomplete information in applying for the certificate or has
17 otherwise failed to comply with the applicable provisions
18 pertaining to the application for a certificate, it may cancel
19 the certificate.

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

25 Section 96. Crimes relating to certificates of title
26 and registration decals; penalties.--

27 (1) It is unlawful for any person to procure or
28 attempt to procure a certificate of title or duplicate
29 certificate of title to an off-highway vehicle, or to pass or
30 attempt to pass a certificate of title or duplicate
31 certificate of title to an off-highway vehicle or any

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1 assignment thereof, if such person knows or has reason to
2 believe that the vehicle has been stolen. Any person who
3 violates this subsection is guilty of a felony of the third
4 degree, punishable as provided in section 775.082, section
5 775.083, or section 775.084, Florida Statutes.

6 (2) It is unlawful for any person, knowingly and with
7 intent to defraud, to have in his or her possession, sell,
8 offer to sell, counterfeit, or supply a blank, forged,
9 fictitious, counterfeit, stolen, or fraudulently or unlawfully
10 obtained certificate of title, duplicate certificate of title,
11 registration, bill of sale, or other indicia of ownership of
12 an off-highway vehicle or to conspire to do any of the
13 foregoing. Any person who violates this subsection is guilty
14 of a felony of the third degree, punishable as provided in
15 section 775.082, section 775.083, or section 775.084, Florida
16 Statutes.

17 (3) It is unlawful:

18 (a) To alter or forge any certificate of title to an
19 off-highway vehicle or any assignment thereof or any
20 cancellation of any lien on an off-highway vehicle.

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

23 (c) To use a false or fictitious name, give a false or
24 fictitious address, or make any false statement in any
25 application or affidavit required by sections 3 through 20 or
26 in a bill of sale or sworn statement of ownership or otherwise
27 commit a fraud in any application.

28 (d) To knowingly obtain goods, services, credit, or
29 money by means of an invalid, duplicate, fictitious, forged,
30 counterfeit, stolen, or unlawfully obtained certificate of
31 title, registration, bill of sale, or other indicia of

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1 ownership of an off-highway vehicle.

2 (e) To knowingly obtain goods, services, credit, or
3 money by means of a certificate of title to an off-highway
4 vehicle which certificate is required by law to be surrendered
5 to the department. Any person who violates this subsection is
6 guilty of a felony of the third degree, punishable as provided
7 in section 775.082, section 775.083, or section 775.084,
8 Florida Statutes. A violation of this subsection with respect
9 to any off-highway vehicle makes such off-highway-vehicle
10 contraband which may be seized by a law enforcement agency and
11 forfeited under sections 932.701-932.704, Florida Statutes.

12 (4) It is unlawful for any person:

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

16 (b) To knowingly have in his or her possession a
17 forged, counterfeit, or imitation off-highway-vehicle
18 registration decal, or reproduction of a decal, unless such
19 possession has been authorized by the department.

20 (c) To barter, trade, sell, supply, agree to supply,
21 aid in supplying, or give away an off-highway-vehicle
22 registration decal or to conspire to barter, trade, sell,
23 supply, agree to supply, aid in supplying, or give away an
24 off-highway-vehicle registration decal, unless authorized by
25 the department. Any person who violates this subsection is
26 guilty of a felony of the third degree, punishable as provided
27 in section 775.082, section 775.083, or section 775.084,
28 Florida Statutes.

29 Section 97. Nonmoving traffic violations.--Any person
30 who fails to comply with any provision of sections 3 through
31 20 for which a penalty is not otherwise provided is guilty of

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1 a nonmoving traffic violation, punishable as provided in
2 section 318.18, Florida Statutes.

3 Section 98. Subsection (1) of section 375.315, Florida
4 Statutes, is amended to read:

5 375.315 Registration of off-road vehicles.--

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

11 Section 99. There is appropriated to the Department of
12 Agriculture and Consumer Services from the designated
13 off-highway-vehicle funds in the Incidental Trust Fund of the
14 Division of Forestry, Department of Agriculture and Consumer
15 Services, for fiscal year 2001-2002, one position and \$156,660
16 to carry out the provisions of this act.

17
18 (Redesignate subsequent sections.)

19
20

21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 On page 143, line 4, after the semicolon,

24

25 insert:

26 creating ch. 261, F.S.; creating the T. Mark
27 Schmidt Off-Highway-Vehicle Safety and
28 Recreation Act; providing legislative intent;
29 providing definitions; creating the T. Mark
30 Schmidt Off-Highway-Vehicle Recreation Advisory
31 Committee; providing duties and

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1 responsibilities; providing for duties and
2 responsibilities of the Department of
3 Agriculture and Consumer Services; providing
4 for rulemaking authority; providing for the
5 publication and distribution of a guidebook;
6 providing for the repair, maintenance, and
7 rehabilitation of areas, trails, and lands;
8 providing for contracts and agreements;
9 providing criteria for recreation areas and
10 trails; providing for the use of designated
11 off-highway-vehicle funds within the Incidental
12 Trust Fund of the Division of Forestry,
13 Department of Agriculture and Consumer
14 Services; amending s. 316.2074, F.S.; revising
15 the definition of the term "all-terrain
16 vehicle"; prohibiting the use of all-terrain
17 vehicles on public roadways in the state;
18 creating the Florida Off-Highway-Vehicle
19 Titling and Registration Act; providing
20 legislative intent; providing definitions;
21 providing for administration by the Department
22 of Highway Safety and Motor Vehicles; providing
23 for rules, forms, and notices; requiring
24 certificates of title; providing for
25 application for and issuance of certificates of
26 title; providing for duplicate certificates of
27 title; requiring the furnishing of a
28 manufacturer's statement of origin; requiring
29 registration; providing for application for and
30 issuance of certificate of registration,
31 registration number, and decal; providing for

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1 the registration period and for reregistration
2 by mail; providing for change of interest and
3 address; providing for duplicate registration
4 certificate and decal; providing for fees;
5 providing for disposition of fees; providing
6 for refusal to issue and authority to cancel a
7 certificate of title or registration; providing
8 for crimes relating to certificates of title
9 and registration decals; providing penalties;
10 providing for noncriminal infractions;
11 providing penalties; amending s. 375.315, F.S.,
12 relating to the registration of off-road
13 vehicles; providing an appropriation;

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