

By the Committee on Transportation; and Senator Garcia

306-1976A-02

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 findings  
6           and intent; providing definitions; creating the  
7           Off-Highway Vehicle Recreation Advisory  
8           Committee; providing membership, duties, and  
9           responsibilities; providing functions, duties,  
10          and 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 a penalty; providing for the  
19          use of designated off-highway vehicle funds  
20          within the Incidental Trust Fund of the  
21          Division of Forestry of the department;  
22          amending s. 316.2074, F.S.; revising the  
23          definition of the term "all-terrain vehicle";  
24          prohibiting the use of all-terrain vehicles on  
25          public roadways in the state; providing  
26          exceptions; creating the Florida Off-Highway  
27          Vehicle 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 authority to refuse to issue and to cancel a  
15 certificate of title or registration; providing  
16 crimes relating to certificates of title and  
17 registration decals; providing penalties;  
18 providing noncriminal infractions; providing  
19 penalties; amending s. 375.313, F.S.,  
20 eliminating the requirement that the Fish and  
21 Wildlife Conservation Commission collect  
22 specified registration fees for deposit in the  
23 State Game Trust Fund; repealing s. 375.315,  
24 F.S., relating to the registration of off-road  
25 vehicles; providing an appropriation; providing  
26 an effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:  
29

30 Section 1. Chapter 261, Florida Statutes, consisting  
31 of sections 261.01, 261.02, 261.03, 261.04, 261.05, 261.06,

1 261.07, 261.08, 261.09, 261.10, 261.11, and 261.12, Florida  
2 Statutes, is created to read:

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

6 261.02 Legislative findings and intent.--

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

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

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

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

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

27 (4) Nothing contained within this chapter shall be  
28 construed to require the construction or maintenance of  
29 off-highway vehicle recreation areas, facilities, or trails on  
30 public lands where such construction or maintenance would be  
31

1 inconsistent with the property's management objectives or land  
2 management plan.

3 261.03 Definitions.--As used in this chapter, the  
4 term:

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

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

13 (3) "Department" means the Department of Agriculture  
14 and Consumer Services.

15 (4) "Division" means the Division of Forestry of the  
16 Department of Agriculture and Consumer Services.

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

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

26 (7) "Program" means the Off-Highway Vehicle Recreation  
27 Program.

28 (8) "Public lands" means lands within the state that  
29 are available for public use and that are owned, operated, or  
30 managed by a federal, state, county, or municipal governmental  
31 entity.

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

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

6           261.04 Off-Highway Vehicle Recreation Advisory  
7 Committee; members; appointment.--

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

24           (2) The term of office of each member of the advisory  
25 committee is 2 years. The members first appointed shall  
26 classify themselves by lot so that the terms of four members  
27 expire June 30, 2004, and the terms of five members expire  
28 June 30, 2005.

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

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

3           (5) The members of the advisory committee shall serve  
4 without compensation, but shall be reimbursed for travel and  
5 per diem expenses as provided in s. 112.061, while in the  
6 performance of their official duties.

7           261.05 Duties and responsibilities of the Off-Highway  
8 Vehicle Recreation Advisory Committee.--

9           (1) The advisory committee shall establish policies to  
10 guide the department regarding the Off-Highway Vehicle  
11 Recreation Program and the system of off-highway vehicle  
12 recreation areas and trails.

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

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

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

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

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

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

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

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

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

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

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

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

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1           (4) Implementation of the program, including the  
2 ultimate approval of grant applications submitted by  
3 governmental agencies or entities or nongovernmental entities.

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

7           (6) Implementation of the policies established by the  
8 advisory committee.

9           (7) Provision of staff assistance to the advisory  
10 committee.

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

13           (9) Conducting surveys and the preparation of studies  
14 as are necessary or desirable for implementing the program.

15           (10) Recruitment and utilization of volunteers to  
16 further the program.

17           (11) Rulemaking authority to implement the provisions  
18 of ss. 261.01-261.10.

19           261.07 Publication and distribution of guidebook;  
20 contents.--In consultation with the advisory committee, the  
21 department shall publish a guidebook that includes the text of  
22 this chapter, other laws and regulations relating to the  
23 program, and maps of areas and trails of the system. The  
24 guidebook may include other public areas, trails, and  
25 facilities for the use of off-highway vehicles. The guidebook  
26 must include information regarding the responsibilities of  
27 users of the system and must set forth pertinent laws, rules,  
28 and regulations including particular provisions and other  
29 information intended to prevent trespass and damage to public  
30 or private property. The guidebook must be prepared at minimal  
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1 cost to facilitate the broadest possible distribution and must  
2 be available for distribution no later than October 1, 2003.

3 261.08 Repair, maintenance, and rehabilitation of  
4 areas, trails, and lands.--

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

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

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

27 261.10 Criteria for recreation areas and  
28 trails.--Publicly owned or operated off-highway vehicle  
29 recreation areas and trails shall be designated and maintained  
30 for recreational travel by off-highway vehicles. These areas  
31 and trails need not be generally suitable or maintained for

1 normal travel by conventional two-wheel-drive vehicles and  
2 should not be designated as recreational footpaths. State  
3 off-highway vehicle recreation areas and trails must be  
4 selected and managed in accordance with this chapter.

5 261.11 Penalties.--No off-highway vehicle may be  
6 operated upon the public roads, streets, or highways of this  
7 state, except as otherwise permitted by the managing state or  
8 federal agency. A violation of this section is a noncriminal  
9 traffic infraction, punishable as provided in chapter 318.

10 261.12 Designated off-highway vehicle funds within the  
11 Incidental Trust Fund of the Division of Forestry of the  
12 Department of Agriculture and Consumer Services.--

13 (1) The designated off-highway vehicle funds of the  
14 trust fund shall consist of deposits from the following  
15 sources:

16 (a) Fees paid to the Department of Highway Safety and  
17 Motor Vehicles for the titling and registration of off-highway  
18 vehicles.

19 (b) Revenues and income from any other sources  
20 required by law or as appropriated by the Legislature to be  
21 deposited into the trust fund as designated off-highway  
22 vehicle funds.

23 (c) Donations from private sources that are designated  
24 as off-highway vehicle funds.

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

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

3 (a) Implementation of the Off-Highway Vehicle  
4 Recreation Program by the Department of Agriculture and  
5 Consumer Services, which includes personnel and other related  
6 expenses; administrative and operating expenses; expenses  
7 related to safety, training, rider education programs,  
8 management, maintenance, and rehabilitation of lands in the  
9 Off-Highway Vehicle Recreation Program's system of lands and  
10 trails; and, if funds are available, acquisition of lands to  
11 be included in the system and the management, maintenance, and  
12 rehabilitation of such lands.

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

19 (c) Matching funds to be used to match grant funds  
20 available from other sources.

21 (3) Notwithstanding s. 216.301 and pursuant to s.  
22 216.351, any balance of designated off-highway vehicle funds  
23 in the trust fund at the end of any fiscal year shall remain  
24 therein and shall be available for the purposes set out in  
25 this section and as otherwise provided by law.

26 Section 2. Section 316.2074, Florida Statutes, is  
27 amended to read:

28 316.2074 All-terrain vehicles.--

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

1           (2) As used in this section, the term "all-terrain  
2 vehicle" means any motorized off-highway vehicle 50 inches  
3 ~~(1270 mm)~~ or less in width, having a dry weight of 900 ~~600~~  
4 ~~pounds(273 kg)~~ or less, designed to travel ~~traveling~~ on three  
5 or more low-pressure tires, ~~designed for operator use only~~  
6 ~~with no passengers~~, having a seat ~~or saddle~~ designed to be  
7 straddled by the operator, ~~and having~~ handlebars for steering  
8 control, and intended for use by a single operator with no  
9 passenger.

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

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

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

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

29           (7) An all-terrain vehicle having four wheels may be  
30 used by law enforcement officers on public roads within public  
31 lands while in the course and scope of their duties.

1           ~~(8)(6)~~ A violation of this section is a noncriminal  
2 traffic infraction, punishable as a nonmoving violation as  
3 provided in chapter 318.

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

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

1           Section 5. Definitions.--As used in sections 3 through  
2 20, the term:

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

10           (2) "Dealer" means any person authorized by the  
11 Department of Revenue to buy, sell, resell, or otherwise  
12 distribute off-highway vehicles. Such person must have a valid  
13 sales tax certificate of registration issued by the Department  
14 of Revenue and a valid commercial or occupational license  
15 required by any county, municipality, or political subdivision  
16 of the state in which the person operates.

17           (3) "Department" means the Department of Highway  
18 Safety and Motor Vehicles.

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

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

30           (6) "Off-highway vehicle" means any ATV or OHM that is  
31 used off the roads or highways of this state for recreational

1 purposes and that is not registered and licensed for highway  
2 use pursuant to chapter 320, Florida Statutes.

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

10 (8) "Public lands" means lands within the state that  
11 are available for public use and that are owned, operated, or  
12 managed by a federal, state, county, or municipal governmental  
13 entity.

14 Section 6. Administration of off-highway vehicle  
15 titling and registration laws; records.--

16 (1) The administration of off-highway vehicle titling  
17 and registration laws in sections 3 through 20 is under the  
18 Department of Highway Safety and Motor Vehicles, which shall  
19 provide for the issuing, handling, and recording of all  
20 off-highway vehicle titling and registration applications and  
21 certificates, including the receipt and accounting of  
22 off-highway vehicle titling and registration fees.

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

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

27 (1) The department may adopt rules pursuant to  
28 sections 120.536(1) and 120.54, Florida Statutes, which  
29 pertain to off-highway vehicle titling and registration, in  
30 order to implement the provisions of sections 3 through 20  
31 conferring duties upon it.

1           (2) The department shall prescribe and provide  
2 suitable forms for applications and other notices and forms  
3 necessary to administer the provisions of sections 3 through  
4 20.

5           Section 8. Certificate of title required.--

6           (1) Any off-highway vehicle that is purchased by a  
7 resident of this state after the effective date of this act or  
8 that is owned by a resident and is operated on the public  
9 lands of this state must be titled pursuant to sections 3  
10 through 20.

11           (2) A person may not sell, assign, or transfer an  
12 off-highway vehicle titled by the state without delivering to  
13 the purchaser or transferee a valid certificate of title with  
14 an assignment on it showing the transfer of title to the  
15 purchaser or transferee. A person may not purchase or  
16 otherwise acquire an off-highway vehicle required to be titled  
17 without obtaining a certificate of title for the vehicle in  
18 his or her name. The purchaser or transferee shall, within 30  
19 days after a change in off-highway vehicle ownership, file an  
20 application for a title transfer with the county tax  
21 collector. An additional \$10 fee shall be charged against a  
22 purchaser or transferee who files a title transfer application  
23 after the 30-day period. The county tax collector may retain  
24 \$5 of the additional amount.

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

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

8 (5)(a) There shall be a service charge of \$4.25 for  
9 each application that is handled in connection with the  
10 issuance, duplication, or transfer of any certificate of  
11 title. There shall be a service charge of \$1.25 for each  
12 application that is handled in connection with the recording  
13 or notation of a lien on an off-highway vehicle that is not in  
14 connection with the purchase of such vehicle.

15 (b) The service charges specified in paragraph (a)  
16 shall be collected by the department on any application  
17 handled directly from its office. Otherwise, these service  
18 charges shall be collected and retained by the tax collector  
19 who handles the application.

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

26 Section 9. Application for and issuance of certificate  
27 of title.--

28 (1) The owner of an off-highway vehicle that is  
29 required to be titled must apply to the county tax collector  
30 for a certificate of title. The application must include the  
31 true name of the owner, the residence or business address of

1 the owner, and a complete description of the off-highway  
2 vehicle. The application must be signed by the owner and must  
3 be accompanied by a fee of \$29.

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

9 (3) To apply for a certificate of title upon transfer  
10 of ownership of an off-highway vehicle, the new owner must  
11 surrender to the department the last title document issued for  
12 that vehicle. The document must be properly executed. Proper  
13 execution includes the previous owner's signature and  
14 certification that the off-highway vehicle to be transferred  
15 is debt-free or is subject to a lien. If a lien exists, the  
16 previous owner must furnish the new owner, on forms supplied  
17 by the department, the names and addresses of all lienholders  
18 and the dates of all liens, with a statement from each  
19 lienholder that the lienholder has knowledge of and consents  
20 to the transfer of title to the new owner.

21 (4) An application for an initial certificate of title  
22 or a title transfer must include payment of the applicable  
23 state sales tax or proof of payment of such tax, except for  
24 off-highway vehicles purchased or transferred before the  
25 effective date of this act.

26 (5) If the owner submits a complete application and  
27 complies with all other requirements of this section, the  
28 department shall issue a certificate of title that states that  
29 the title is for an off-highway vehicle that is not suitable  
30 for highway use. After October 1, 2003, the department shall  
31 also issue a copy of the guidebook prepared by the Department

1 of Agriculture and Consumer Services pursuant to section  
2 261.07, Florida Statutes.

3 Section 10. Duplicate certificate of title.--

4 (1) The department may issue a duplicate certificate  
5 of title upon application by the person entitled to hold such  
6 a certificate if the department is satisfied that the original  
7 certificate has been lost, destroyed, or mutilated. A fee of  
8 \$15 shall be charged for issuing a duplicate certificate.

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

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

25 (4) The department shall implement a system to verify  
26 that the application is signed by a person authorized to  
27 receive a duplicate certificate of title under this section if  
28 the address shown on the application is different from the  
29 address shown for the applicant on the records of the  
30 department.

31

1           Section 11. Manufacturer's statement of origin to be  
2 furnished.--

3           (1) Any person selling a new off-highway vehicle in  
4 this state must furnish a manufacturer's statement of origin  
5 to the purchaser. The statement, which must be in English or  
6 accompanied by an English translation if the vehicle was  
7 purchased outside the United States, must be signed and dated  
8 by an authorized representative of the manufacturer, indicate  
9 the complete name and address of the purchaser, include a  
10 complete description of the vehicle, and contain as many  
11 assignments as necessary to show title in the name of the  
12 purchaser.

13           (2) It is unlawful for an off-highway vehicle  
14 manufacturer, manufacturer's representative, or dealer to  
15 issue a manufacturer's certificate of origin describing an  
16 off-highway vehicle with the knowledge that the description is  
17 false or that the off-highway vehicle described does not  
18 exist. It is unlawful for any person to obtain or attempt to  
19 obtain a certificate of origin with the knowledge that the  
20 description is false or that the off-highway vehicle does not  
21 exist. Any person who violates this subsection is guilty of a  
22 felony of the third degree, punishable as provided in section  
23 775.082, section 775.083, or section 775.084, Florida  
24 Statutes.

25           Section 12. Registration required.--

26           (1) Off-highway vehicles operated on public lands of  
27 this state, with the exception of off-highway vehicles owned  
28 by non-Florida residents, off-highway vehicles in use for  
29 specific agricultural purposes, or off-highway vehicles rented  
30 for use on public beaches by concessionaires who are  
31

1 franchised by the public entities controlling those beaches,  
2 must be registered within 30 days after purchase.

3 (2) Nothing in this act prohibits the owner, operator,  
4 or manager of public lands containing improved and maintained  
5 off-highway vehicle recreation areas or trails from charging  
6 an entrance or admission fee for the use of such lands to help  
7 offset the cost of operation and maintenance of such  
8 off-highway vehicle facilities.

9 Section 13. Application for and issuance of  
10 certificate of registration, registration number, and decal.--

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

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

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

21 (2) The department shall issue a certificate of  
22 registration and a registration number upon submittal of a  
23 complete application and compliance with the other  
24 requirements of this section. The certificate of registration  
25 shall not constitute a license.

26 (3) The department shall furnish with each  
27 registration certificate issued a decal signifying the years  
28 during which the certificate is valid and containing the  
29 assigned registration number, and such decal must be affixed  
30 to the rear of the off-highway vehicle.

31

1           Section 14. Registration period and reregistration by  
2 mail.--

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

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

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

13           (1) The owner must furnish to the department notice of  
14 the transfer of any whole or partial interest in an  
15 off-highway vehicle registered or titled in this state or of  
16 the destruction or abandonment of such vehicle within 30 days  
17 thereafter. The certificate of registration expires upon such  
18 transfer, destruction, or abandonment, unless the transfer of  
19 a partial interest does not affect the owner's right to  
20 operate the vehicle.

21           (2) Any holder of a certificate of registration must  
22 notify the department or the county tax collector within 30  
23 days after a change of address to one other than the address  
24 on the certificate and must furnish the department or the  
25 county tax collector with the new address. The department may  
26 provide by rule for the surrender of the certificate of  
27 registration bearing the former address and for its  
28 replacement with a new certificate bearing the new address or  
29 for the alteration of a certificate to include the new address  
30 of the holder.

31

1           Section 16. Duplicate registration certificate or  
2 decal; service fees.--

3           (1) A duplicate off-highway vehicle registration  
4 certificate or decal to replace a lost or misplaced  
5 certificate or decal may be obtained from the county tax  
6 collector for \$10. A duplicate certificate or decal may not be  
7 issued except upon written request of the registered owner or  
8 a person authorized by the owner.

9           (2) Included in the registration fee for off-highway  
10 vehicles is a \$2.50 service fee to be retained by the county  
11 tax collector for each registration certificate or decal  
12 issued, replaced, or renewed. The remainder of the fees  
13 collected by the county tax collector shall be remitted to the  
14 department.

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

22           Section 17. Disposition of fees.--The department shall  
23 deposit all funds received under sections 3 through 20, less  
24 administrative costs of \$2 per title transaction and \$2 per  
25 registration transaction, into the Incidental Trust Fund of  
26 the Division of Forestry of the Department of Agriculture and  
27 Consumer Services.

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

30           (1) If the department finds that an applicant for an  
31 off-highway vehicle certificate of title or certificate of

1 registration has given a false statement or false or  
2 incomplete information in applying for the certificate or has  
3 otherwise failed to comply with the applicable provisions  
4 pertaining to the application for a certificate, it may refuse  
5 to issue the certificate.

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

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

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

20 (1) It is unlawful for any person to procure or  
21 attempt to procure a certificate of title or duplicate  
22 certificate of title to an off-highway vehicle, or to pass or  
23 attempt to pass a certificate of title or duplicate  
24 certificate of title to an off-highway vehicle or any  
25 assignment thereof, if such person knows or has reason to  
26 believe that the vehicle has been stolen. Any person who  
27 violates this subsection commits a felony of the third degree,  
28 punishable as provided in section 775.082, section 775.083, or  
29 section 775.084, Florida Statutes.

30 (2) It is unlawful for any person, knowingly and with  
31 intent to defraud, to have in his or her possession, sell,



1 offer to sell, counterfeit, or supply a blank, forged,  
2 fictitious, counterfeit, stolen, or fraudulently or unlawfully  
3 obtained certificate of title, duplicate certificate of title,  
4 registration, bill of sale, or other indicia of ownership of  
5 an off-highway vehicle or to conspire to do any of the  
6 foregoing. Any person who violates this subsection commits a  
7 felony of the third degree, punishable as provided in section  
8 775.082, section 775.083, or section 775.084, Florida  
9 Statutes.

10 (3) It is unlawful to:

11 (a) Alter or forge any certificate of title to an  
12 off-highway vehicle or any assignment thereof or any  
13 cancellation of any lien on an off-highway vehicle.

14 (b) Retain or use such certificate, assignment, or  
15 cancellation knowing that it has been altered or forged.

16 (c) Use a false or fictitious name, give a false or  
17 fictitious address, or make any false statement in any  
18 application or affidavit required by sections 3 through 20 or  
19 in a bill of sale or sworn statement of ownership or otherwise  
20 commit a fraud in any application.

21 (d) Knowingly obtain goods, services, credit, or money  
22 by means of an invalid, duplicate, fictitious, forged,  
23 counterfeit, stolen, or unlawfully obtained certificate of  
24 title, registration, bill of sale, or other indicia of  
25 ownership of an off-highway vehicle.

26 (e) Knowingly obtain goods, services, credit, or money  
27 by means of a certificate of title to an off-highway vehicle  
28 which certificate is required by law to be surrendered to the  
29 department.

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1 Any person who violates this subsection commits a felony of  
2 the third degree, punishable as provided in section 775.082,  
3 section 775.083, or section 775.084, Florida Statutes. A  
4 violation of this subsection with respect to any off-highway  
5 vehicle makes such off-highway vehicle contraband which may be  
6 seized by a law enforcement agency and forfeited under  
7 sections 932.701-932.704, Florida Statutes.

8 (4) It is unlawful for any person to:

9 (a) Make, alter, forge, counterfeit, or reproduce an  
10 off-highway vehicle registration decal unless authorized by  
11 the department.

12 (b) Knowingly have in his or her possession a forged,  
13 counterfeit, or imitation off-highway vehicle registration  
14 decal, or reproduction of a decal, unless such possession has  
15 been authorized by the department.

16 (c) Barter, trade, sell, supply, agree to supply, aid  
17 in supplying, or give away an off-highway vehicle registration  
18 decal, or to conspire to barter, trade, sell, supply, agree to  
19 supply, aid in supplying, or give away an off-highway vehicle  
20 registration decal, unless authorized by the department.

21  
22 Any person who violates this subsection commits a felony of  
23 the third degree, punishable as provided in section 775.082,  
24 section 775.083, or section 775.084, Florida Statutes.

25 Section 20. Nonmoving traffic violations.--Any person  
26 who fails to comply with any provision of sections 3 through  
27 19 for which a penalty is not otherwise provided commits a  
28 nonmoving traffic violation, punishable as provided in section  
29 318.18, Florida Statutes.

30 Section 21. Section 375.313, Florida Statutes, is  
31 amended to read:

1           375.313 Commission powers and duties.--The commission  
2 shall:

3           (1) Regulate or prohibit, when necessary, the use of  
4 motor vehicles on the public lands of the state in order to  
5 prevent damage or destruction to said lands.

6           ~~(2) Collect any registration fees imposed by s.  
7 375.315 and deposit said fees in the State Game Trust Fund.  
8 The revenue resulting from said registration shall be expended  
9 for the funding and administration of ss. 375.311-375.315.~~

10           (2)(3) Adopt ~~and promulgate~~ such reasonable rules as  
11 deemed necessary to administer the provisions of ss.  
12 375.311-375.314 ~~375.311-375.315~~, except that, before any such  
13 rules are adopted, the commission shall obtain the consent and  
14 agreement, in writing, of the owner, in the case of privately  
15 owned lands, or the owner or primary custodian, in the case of  
16 publicly owned lands.

17           Section 22. Section 375.315, Florida Statutes, is  
18 repealed.

19           Section 23. There is appropriated to the Department of  
20 Agriculture and Consumer Services from the designated  
21 off-highway vehicle funds in the Incidental Trust Fund of the  
22 Division of Forestry of the Department of Agriculture and  
23 Consumer Services, for fiscal year 2002-2003, one position and  
24 \$156,660 to carry out the provisions of this act.

25           Section 24. This act shall take effect October 1,  
26 2002.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2   COMMITTEE SUBSTITUTE FOR  
3   Senate Bill 1734

4 This CS creates the "T. Mark Schmidt Off-Highway-Vehicle  
5 Safety and Recreation Act," which provides for the expanded,  
6 managed use of off-highway vehicles on public lands. The CS  
7 would provide a system of state-owned off-highway-vehicle  
8 recreation areas and trails within Florida, funded through  
9 moneys generated from the titling and registering of certain  
10 off-highway vehicles. The CS provides all off-highway vehicles  
11 in the state, purchased after the effective date of this CS,  
12 or which are used on public lands must be titled, and all  
13 off-highway vehicles in the state, which are used on public  
14 lands must be registered.

15 An Off-Highway-Vehicle Recreation Advisory Committee is  
16 created within the Division of Forestry of the Department of  
17 Agriculture and Consumer Services (DACS) to:

- 18 1. Establish policies to guide DACS regarding the  
19 off-highway-vehicle recreational program and the system of  
20 off-highway-vehicle recreation areas and trails;
- 21 2. Make recommendations to DACS regarding off-highway-vehicle  
22 safety, training, and rider-education programs;
- 23 3. Review and make recommendations regarding DACS's proposed  
24 budget of expenditures from the trust fund; Make  
25 recommendations regarding all capital outlay expenditures from  
26 the trust fund; and
- 27 4. Review grant applications requesting moneys from the trust  
28 fund to create, operate, manage, or improve  
29 off-highway-vehicle recreation areas or trails within the  
30 state.

31 The CS creates the Florida Off-Highway-Vehicle Titling and  
Registration Act, which establishes rules, regulations and  
procedures governing off-highway vehicle titling and  
registration. The act also provides a fee structure to be  
administered by the Department of Highway Safety and Motor  
Vehicles (DHSMV).

The CS creates the "Florida Off-Highway-Vehicle Titling and  
Registration Act", which establishes rules, regulations and  
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