

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 effective July 1, 2003; providing
9 membership, duties, and responsibilities of the
10 committee; providing functions, duties, and
11 responsibilities of the Department of
12 Agriculture and Consumer Services; requiring
13 the department to review certain public lands
14 and make a report to the Governor and the
15 Legislature; providing rulemaking authority;
16 providing for the publication and distribution
17 of a guidebook; providing for the repair,
18 maintenance, and rehabilitation of areas,
19 trails, and lands; providing for contracts and
20 agreements; providing criteria for recreation
21 areas and trails; providing a penalty;
22 providing for the use of designated off-highway
23 vehicle funds within the Incidental Trust Fund
24 of the Division of Forestry of the department;
25 amending s. 316.2074, F.S.; revising the
26 definition of the term "all-terrain vehicle";
27 prohibiting the use of all-terrain vehicles on
28 public roadways in the state; providing
29 exceptions; creating the Florida Off-Highway
30 Vehicle Titling Act; providing legislative
31 intent; providing definitions; providing for

1 administration by the Department of Highway
2 Safety and Motor Vehicles; providing for rules,
3 forms, and notices; requiring certificates of
4 title; providing for application for and
5 issuance of certificates of title; providing
6 for duplicate certificates of title; requiring
7 the furnishing of a manufacturer's statement of
8 origin; providing for fees; providing for
9 disposition of fees; providing authority to
10 refuse to issue and to cancel a certificate of
11 title; providing crimes relating to
12 certificates of title; providing penalties;
13 providing noncriminal infractions; providing
14 penalties; amending s. 375.313, F.S.; deleting
15 fee collection responsibility of the Fish and
16 Wildlife Conservation Commission for
17 registration of off-road vehicles; repealing s.
18 375.315, F.S., relating to the registration of
19 off-road vehicles by the commission; providing
20 an effective date.

21

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

23

24 Section 1. Chapter 261, Florida Statutes, consisting
25 of sections 261.01, 261.02, 261.03, 261.04, 261.05, 261.06,
26 261.07, 261.08, 261.09, 261.10, 261.11, and 261.12, Florida
27 Statutes, is created to read:

28 261.01 Short title.--This chapter may be cited as the

29 "T. Mark Schmidt Off-Highway Vehicle Safety and Recreation

30 Act."

31 261.02 Legislative findings and intent.--

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

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

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

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

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

21 (4) Nothing contained within this chapter shall be
22 construed to require the construction or maintenance of
23 off-highway vehicle recreation areas, facilities, or trails on
24 public lands where such construction or maintenance would be
25 inconsistent with the property's management objectives or land
26 management plan.

27 261.03 Definitions.--As used in this chapter, the
28 term:

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

31

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

7 (3) "Department" means the Department of Agriculture
8 and Consumer Services.

9 (4) "Division" means the Division of Forestry of the
10 Department of Agriculture and Consumer Services.

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

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

20 (7) "Program" means the Off-Highway Vehicle Recreation
21 Program.

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

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

28 (10) "Trust fund" means the Incidental Trust Fund of
29 the Division of Forestry of the Department of Agriculture and
30 Consumer Services.

31

1 261.04 Off-Highway Vehicle Recreation Advisory

2 Committee; members; appointment.--

3 (1) Effective July 1, 2003, the Off-Highway Vehicle
4 Recreation Advisory Committee is created within the Division
5 of Forestry and consists of nine members, all of whom are
6 appointed by the Commissioner of Agriculture. The appointees
7 shall include one representative of the Department of
8 Agriculture and Consumer Services, one representative of the
9 Department of Highway Safety and Motor Vehicles, one
10 representative of the Department of Environmental Protection's
11 Office of Greenways and Trails, one representative of the Fish
12 and Wildlife Conservation Commission, one citizen with
13 scientific expertise in disciplines relating to ecology,
14 wildlife biology, or other environmental sciences, one
15 representative of a licensed off-highway vehicle dealer, and
16 three representatives of off-highway vehicle recreation
17 groups. In making these appointments, the commissioner shall
18 consider the places of residence of the members to ensure
19 statewide representation.

20 (2) The term of office of each member of the advisory
21 committee is 2 years. The members first appointed shall
22 classify themselves by lot so that the terms of four members
23 expire June 30, 2005, and the terms of five members expire
24 June 30, 2006.

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

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

30 (5) The members of the advisory committee shall serve
31 without compensation, but shall be reimbursed for travel and

1 per diem expenses as provided in s. 112.061, while in the
2 performance of their official duties.

3 261.05 Duties and responsibilities of the Off-Highway
4 Vehicle Recreation Advisory Committee.--

5 (1) The advisory committee shall establish policies to
6 guide the department regarding the Off-Highway Vehicle
7 Recreation Program and the system of off-highway vehicle
8 recreation areas and trails.

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

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

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

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

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

28 (7) The advisory committee shall review and make
29 recommendations annually regarding the department's proposed
30 budget of expenditures from the designated off-highway vehicle
31

1 funds in the trust fund, which may include providing funds to
2 match grant funds available from other sources.

3 (8) The advisory committee shall make recommendations
4 regarding all capital outlay expenditures from the trust fund
5 proposed for inclusion in the budget and shall identify
6 additional funding sources for management, enforcement,
7 education, rehabilitation, and other duties of the land
8 management agencies related to the system.

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.

31

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 (12) In consultation with the Department of
20 Environmental Protection, the Fish and Wildlife Conservation
21 Commission, the environmental community, and the off-highway
22 vehicle industry and user groups, review of the inventory of
23 public lands to determine the feasibility of providing public
24 access for off-highway vehicle recreation and trails. The
25 department shall provide a report to the Governor and the
26 presiding officers of the Legislature by January 1, 2003. The
27 report must include at least two appropriate locations for
28 public access for off-highway vehicle recreational use and the
29 applicable cost of providing each facility. The cost section
30 of the report shall fully explain the fiscal approach of
31 renovating, maintaining, and operating each site and include a

1 recommended fee structure to support the ongoing maintenance
2 and operation of the program. The report shall also include
3 the benefits and risks of offering each site for off-highway
4 vehicle recreational use. The recommendations contained within
5 the report shall be implemented to the extent enacted or
6 appropriated by the Legislature. This subsection shall expire
7 July 1, 2003.

8 261.07 Publication and distribution of guidebook;
9 contents.--In consultation with the advisory committee, the
10 department shall publish a guidebook that includes the text of
11 this chapter, other laws and regulations relating to the
12 program, and maps of areas and trails of the system. The
13 guidebook may include other public areas, trails, and
14 facilities for the use of off-highway vehicles. The guidebook
15 must include information regarding the responsibilities of
16 users of the system and must set forth pertinent laws, rules,
17 and regulations including particular provisions and other
18 information intended to prevent trespass and damage to public
19 or private property. The guidebook must be prepared at minimal
20 cost to facilitate the broadest possible distribution and must
21 be available for distribution no later than October 1, 2003.

22 261.08 Repair, maintenance, and rehabilitation of
23 areas, trails, and lands.--

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

1 rehabilitate lands to the extent damaged by off-highway
2 vehicle use in accordance with the management plans of the
3 public land managing agency.

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

9 (3) The public land managing agency may regulate or
10 prohibit, when necessary, the use of off-highway vehicles on
11 the public lands of the state in order to prevent damage or
12 destruction to said lands.

13 261.09 Contracts and agreements.--The public land
14 managing agency may contract with private persons or entities
15 and enter into cooperative agreements with other public
16 agencies for the care and maintenance of lands in the system,
17 including contracts for law enforcement services with public
18 agencies having law enforcement powers.

19 261.10 Criteria for recreation areas and
20 trails.--Publicly owned or operated off-highway vehicle
21 recreation areas and trails shall be designated and maintained
22 for recreational travel by off-highway vehicles. These areas
23 and trails need not be generally suitable or maintained for
24 normal travel by conventional two-wheel-drive vehicles and
25 should not be designated as recreational footpaths. State
26 off-highway vehicle recreation areas and trails must be
27 selected and managed in accordance with this chapter.

28 261.11 Penalties.--No off-highway vehicle may be
29 operated upon the public roads, streets, or highways of this
30 state, except as otherwise permitted by the managing local,
31 state, or federal agency. A violation of this section is a

1 noncriminal traffic infraction, punishable as provided in
2 chapter 318.

3 261.12 Designated off-highway vehicle funds within the
4 Incidental Trust Fund of the Division of Forestry of the
5 Department of Agriculture and Consumer Services.--

6 (1) The designated off-highway vehicle funds of the
7 trust fund shall consist of deposits from the following
8 sources:

9 (a) Fees paid to the Department of Highway Safety and
10 Motor Vehicles for the titling of off-highway vehicles.

11 (b) Revenues and income from any other sources
12 required by law or as appropriated by the Legislature to be
13 deposited into the trust fund as designated off-highway
14 vehicle funds.

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

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

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

25 (a) Implementation of the Off-Highway Vehicle
26 Recreation Program by the Department of Agriculture and
27 Consumer Services, which includes personnel and other related
28 expenses; administrative and operating expenses; expenses
29 related to safety, training, rider education programs,
30 management, maintenance, and rehabilitation of lands in the
31 Off-Highway Vehicle Recreation Program's system of lands and

1 trails; and, if funds are available, acquisition of lands to
2 be included in the system and the management, maintenance, and
3 rehabilitation of such lands.

4 (b) Approved grants to governmental agencies or
5 entities or nongovernmental entities that wish to provide or
6 improve off-highway vehicle recreation areas or trails for
7 public use on public lands, provide environmental protection
8 and restoration to affected natural areas in the system,
9 provide enforcement of applicable regulations related to the
10 system and off-highway vehicle activities, or provide
11 education in the operation of off-highway vehicles.

12 (c) Matching funds to be used to match grant funds
13 available from other sources.

14 (3) Notwithstanding s. 216.301 and pursuant to s.
15 216.351, any balance of designated off-highway vehicle funds
16 in the trust fund at the end of any fiscal year shall remain
17 therein and shall be available for the purposes set out in
18 this section and as otherwise provided by law.

19 Section 2. Section 316.2074, Florida Statutes, is
20 amended to read:

21 316.2074 All-terrain vehicles.--

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

25 (2) As used in this section, the term "all-terrain
26 vehicle" means any motorized off-highway vehicle 50 inches
27 ~~(1270 mm)~~ or less in width, having a dry weight of 900 ~~600~~
28 pounds(273 kg) or less, designed to travel ~~traveling~~ on three
29 or more low-pressure tires, ~~designed for operator use only~~
30 ~~with no passengers,~~ having a seat or saddle designed to be
31 straddled by the operator, ~~and having~~ handlebars for steering

1 control, and intended for use by a single operator with no
2 passenger.

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

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

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

16 (6)~~(5)~~ An all-terrain vehicle having four wheels may
17 be used by police officers on public beaches designated as
18 public roadways for the purpose of enforcing the traffic laws
19 of the state. All-terrain vehicles may also be used by the
20 police to travel on public roadways within 5 miles of beach
21 access only when getting to and from the beach.

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

25 (8)~~(6)~~ A violation of this section is a noncriminal
26 traffic infraction, punishable as a nonmoving violation as
27 provided in chapter 318.

28 Section 3. Short title.--Sections 3 through 15 of this
29 act may be cited as the "Florida Off-Highway Vehicle Titling
30 Act."

31

1 Section 4. Legislative intent.--It is the intent of
2 the Legislature that all off-highway vehicles purchased after
3 the effective date of this act and all off-highway vehicles
4 operated on public lands be titled and issued a certificate of
5 title to allow for easy determination of ownership.

6 Section 5. Definitions.--As used in sections 3 through
7 15, the term:

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

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

22 (3) "Department" means the Department of Highway
23 Safety and Motor Vehicles.

24 (4) "Florida resident" means a person who has had a
25 principal place of domicile in this state for a period of more
26 than 6 consecutive months, who has registered to vote in this
27 state, who has made a statement of domicile pursuant to s.
28 222.17, Florida Statutes, or who has filed for homestead tax
29 exemption on property in this state.

30 (5) "OHM" or "off-highway motorcycle" means any motor
31 vehicle used off the roads or highways of this state that has

1 a seat or saddle for the use of the rider and is designed to
2 travel with not more than two wheels in contact with the
3 ground, but excludes a tractor or a moped.

4 (6) "Off-highway vehicle" means any ATV or OHM that is
5 used off the roads or highways of this state for recreational
6 purposes and that is not registered and licensed for highway
7 use pursuant to chapter 320.

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

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

19 Section 6. Administration of off-highway vehicle
20 titling laws; records.--

21 (1) The administration of off-highway vehicle titling
22 laws in sections 3 through 15 is under the Department of
23 Highway Safety and Motor Vehicles, which shall provide for the
24 issuing, handling, and recording of all off-highway vehicle
25 titling applications and certificates, including the receipt
26 and accounting of off-highway vehicle titling fees.

27 (2) The department shall keep records and perform
28 other clerical duties pertaining to off-highway vehicle
29 titling as required.

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

31

1 (1) The department may adopt rules pursuant to ss.
2 120.536(1) and 120.54, Florida Statutes, which pertain to
3 off-highway vehicle titling, in order to implement the
4 provisions of sections 3 through 15 conferring duties upon it.

5 (2) The department shall prescribe and provide
6 suitable forms for applications and other notices and forms
7 necessary to administer the provisions of sections 3 through
8 15.

9 Section 8. Certificate of title required.--

10 (1) Any off-highway vehicle that is purchased by a
11 resident of this state after the effective date of this act or
12 that is owned by a resident and is operated on the public
13 lands of this state must be titled pursuant to sections 3
14 through 15.

15 (2) A person may not sell, assign, or transfer an
16 off-highway vehicle titled by the state without delivering to
17 the purchaser or transferee a valid certificate of title with
18 an assignment on it showing the transfer of title to the
19 purchaser or transferee. A person may not purchase or
20 otherwise acquire an off-highway vehicle required to be titled
21 without obtaining a certificate of title for the vehicle in
22 his or her name. The purchaser or transferee shall, within 30
23 days after a change in off-highway vehicle ownership, file an
24 application for a title transfer with the county tax
25 collector. An additional \$10 fee shall be charged against a
26 purchaser or transferee who files a title transfer application
27 after the 30-day period. The county tax collector may retain
28 \$5 of the additional amount.

29 (3) A certificate of title is prima facie evidence of
30 the ownership of the off-highway vehicle and is good for the
31 life of the off-highway vehicle so long as the certificate is

1 owned or held by the legal holder. If a titled off-highway
2 vehicle is destroyed or abandoned, the owner, with the consent
3 of any recorded lienholders, shall, within 30 days after the
4 destruction or abandonment, surrender to the department all
5 title documents for cancellation.

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

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

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

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

28 Section 9. Application for and issuance of certificate
29 of title.--

30 (1) The owner of an off-highway vehicle that is
31 required to be titled must apply to the county tax collector

1 for a certificate of title. The application must include the
2 true name of the owner, the residence or business address of
3 the owner, and a complete description of the off-highway
4 vehicle. The application must be signed by the owner and must
5 be accompanied by a fee of \$29.

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

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

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

29 (5) If the owner submits a complete application and
30 complies with all other requirements of this section, the
31 department shall issue a certificate of title that states that

1 the title is for an off-highway vehicle that is not suitable
2 for highway use. After October 1, 2003, the department shall
3 also issue a copy of the guidebook prepared by the Department
4 of Agriculture and Consumer Services pursuant to s. 261.07,
5 Florida Statutes.

6 Section 10. Duplicate certificate of title.--

7 (1) The department may issue a duplicate certificate
8 of title upon application by the person entitled to hold such
9 a certificate if the department is satisfied that the original
10 certificate has been lost, destroyed, or mutilated. A fee of
11 \$15 shall be charged for issuing a duplicate certificate.

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

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

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

1 address shown for the applicant on the records of the
2 department.

3 Section 11. Manufacturer's statement of origin to be
4 furnished.--

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

15 (2) It is unlawful for an off-highway vehicle
16 manufacturer, manufacturer's representative, or dealer to
17 issue a manufacturer's certificate of origin describing an
18 off-highway vehicle with the knowledge that the description is
19 false or that the off-highway vehicle described does not
20 exist. It is unlawful for any person to obtain or attempt to
21 obtain a certificate of origin with the knowledge that the
22 description is false or that the off-highway vehicle does not
23 exist. Any person who violates this subsection commits a
24 felony of the third degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084, Florida Statutes.

26 Section 12. Disposition of fees.--The department shall
27 deposit all funds received under sections 3 through 15, less
28 administrative costs of \$2 per title transaction, into the
29 Incidental Trust Fund of the Division of Forestry of the
30 Department of Agriculture and Consumer Services.

31

1 Section 13. Refusal to issue and authority to cancel a
2 certificate of title.--

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

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

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

20 Section 14. Crimes relating to certificates of title;
21 penalties.--

22 (1) It is unlawful for any person to procure or
23 attempt to procure a certificate of title or duplicate
24 certificate of title to an off-highway vehicle, or to pass or
25 attempt to pass a certificate of title or duplicate
26 certificate of title to an off-highway vehicle or any
27 assignment thereof, if such person knows or has reason to
28 believe that the vehicle has been stolen. Any person who
29 violates this subsection commits a felony of the third degree,
30 punishable as provided in s. 775.082, s. 775.083, or s.
31 775.084, Florida Statutes.

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

11 (3) It is unlawful to:

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

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

17 (c) Use a false or fictitious name, give a false or
18 fictitious address, or make any false statement in any
19 application or affidavit required by sections 3 through 15 or
20 in a bill of sale or sworn statement of ownership or otherwise
21 commit a fraud in any application.

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

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

31

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

8 Section 15. Nonmoving traffic violations.--Any person
9 who fails to comply with any provision of sections 3 through
10 14 for which a penalty is not otherwise provided commits a
11 nonmoving traffic violation, punishable as provided in s.
12 318.18, Florida Statutes.

13 Section 16. Section 375.313, Florida Statutes, is
14 amended to read:

15 375.313 Commission powers and duties.--The commission
16 shall:

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

20 ~~(2) Collect any registration fees imposed by s.~~
21 ~~375.315 and deposit said fees in the State Game Trust Fund.~~
22 ~~The revenue resulting from said registration shall be expended~~
23 ~~for the funding and administration of ss. 375.311-375.315.~~

24 (2)(3) Adopt and promulgate such reasonable rules as
25 deemed necessary to administer the provisions of ss.
26 375.311-375.315, except that, before any such rules are
27 adopted, the commission shall obtain the consent and
28 agreement, in writing, of the owner, in the case of privately
29 owned lands, or the owner or primary custodian, in the case of
30 publicly owned lands.

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1 Section 17. Section 375.315, Florida Statutes, is
2 repealed.

3 Section 18. This act shall take effect October 1,
4 2002.

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