

Bill No. CS for SB 480

Amendment No. Barcode 054344

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Garcia moved the following **amendment to amendment** (405274):

Senate Amendment (with title amendment)

On page 4, between lines 1 and 2,

insert:

Section 4. 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 findings and intent.--

(1) The Legislature finds that off-highway vehicles are becoming 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 and fauna.

(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 (4) Nothing contained within this chapter 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 that 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 that is
10 used off the roads or highways of this state for recreational
11 purposes and that 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 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 (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 of the Department of Agriculture and
23 Consumer Services.

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

26 (1) Effective July 1, 2003, the Off-Highway Vehicle
27 Recreation Advisory Committee is created within the Division
28 of Forestry and consists of nine members, all of whom are
29 appointed by the Commissioner of Agriculture. The appointees
30 shall include one representative of the Department of
31 Agriculture and Consumer Services, one representative of the

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

12 (2) The term of office of each member of the advisory
13 committee is 2 years. The members first appointed shall
14 classify themselves by lot so that the terms of four members
15 expire June 30, 2005, and the terms of five members expire
16 June 30, 2006.

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

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

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

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

28 (1) The advisory committee shall establish policies to
29 guide the department regarding the Off-Highway Vehicle
30 Recreation Program and the system of off-highway vehicle
31 recreation areas and trails.

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

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

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

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

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

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

25 (8) The advisory committee shall make recommendations
26 regarding all capital outlay expenditures from the trust fund
27 proposed for inclusion in the budget and shall identify
28 additional funding sources for management, enforcement,
29 education, rehabilitation, and other duties of the land
30 management agencies related to the system.

31 (9) The advisory committee shall review grant

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1 applications submitted by any governmental agency or entity or
2 nongovernmental entity requesting moneys from the trust fund
3 to create, operate, manage, or improve off-highway vehicle
4 recreation areas or trails within the state, protect and
5 restore affected natural areas in the system, or provide
6 off-highway vehicle driver education. The advisory committee
7 shall recommend to the department approval or denial of such
8 grant applications based upon criteria established by the
9 advisory committee.

10 261.06 Functions, duties, and responsibilities of the
11 department.--The following are functions, duties, and
12 responsibilities of the department through the division:

13 (1) Coordination of the planning, development,
14 conservation, and rehabilitation of state lands in and for the
15 system.

16 (2) Coordination of the management, maintenance,
17 administration, and operation of state lands in the system and
18 the provision of law enforcement and appropriate public safety
19 activities.

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

22 (4) Implementation of the program, including the
23 ultimate approval of grant applications submitted by
24 governmental agencies or entities or nongovernmental entities.

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

28 (6) Implementation of the policies established by the
29 advisory committee.

30 (7) Provision of staff assistance to the advisory
31 committee.

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

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

5 (10) Recruitment and utilization of volunteers to
6 further the program.

7 (11) Rulemaking authority to implement the provisions
8 of ss. 261.01-261.10.

9 (12) In consultation with the Department of
10 Environmental Protection, the Fish and Wildlife Conservation
11 Commission, the environmental community, and the off-highway
12 vehicle industry and user groups, review of the inventory of
13 public lands to determine the feasibility of providing public
14 access for off-highway vehicle recreation and trails. The
15 department shall provide a report to the Governor and the
16 presiding officers of the Legislature by January 1, 2003. The
17 report must include at least two appropriate locations for
18 public access for off-highway vehicle recreational use and the
19 applicable cost of providing each facility. The cost section
20 of the report shall fully explain the fiscal approach of
21 renovating, maintaining, and operating each site and include a
22 recommended fee structure to support the ongoing maintenance
23 and operation of the program. The report shall also include
24 the benefits and risks of offering each site for off-highway
25 vehicle recreational use. The recommendations contained within
26 the report shall be implemented to the extent enacted or
27 appropriated by the Legislature. This subsection shall expire
28 July 1, 2003.

29 261.07 Publication and distribution of guidebook;
30 contents.--In consultation with the advisory committee, the
31 department shall publish a guidebook that includes the text of

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1 this chapter, other laws and regulations relating to the
 2 program, and maps of areas and trails of the system. The
 3 guidebook may include other public areas, trails, and
 4 facilities for the use of off-highway vehicles. The guidebook
 5 must include information regarding the responsibilities of
 6 users of the system and must set forth pertinent laws, rules,
 7 and regulations including particular provisions and other
 8 information intended to prevent trespass and damage to public
 9 or private property. The guidebook must be prepared at minimal
 10 cost to facilitate the broadest possible distribution and must
 11 be available for distribution no later than October 1, 2003.

12 261.08 Repair, maintenance, and rehabilitation of
 13 areas, trails, and lands.--

14 (1) The protection of public safety, the appropriate
 15 use of lands in the system, and the conservation of the
 16 environment, wildlife habitats, native wildlife, and native
 17 flora and fauna in the system are of the highest priority in
 18 the management of the system. Accordingly, the public land
 19 managing agency shall avoid or minimize adverse impacts to the
 20 environment, promptly repair and continuously maintain areas
 21 and trails, anticipate and prevent accelerated erosion, and
 22 rehabilitate lands to the extent damaged by off-highway
 23 vehicle use in accordance with the management plans of the
 24 public land managing agency.

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

30 (3) The public land managing agency may regulate or
 31 prohibit, when necessary, the use of off-highway vehicles on

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1 the public lands of the state in order to prevent damage or
2 destruction to said lands.

3 261.09 Contracts and agreements.--The public land
4 managing agency may contract with private persons or entities
5 and enter into cooperative agreements with other public
6 agencies for the care and maintenance of lands in the system,
7 including contracts for law enforcement services with public
8 agencies having law enforcement powers.

9 261.10 Criteria for recreation areas and
10 trails.--Publicly owned or operated off-highway vehicle
11 recreation areas and trails shall be designated and maintained
12 for recreational travel by off-highway vehicles. These areas
13 and trails need not be generally suitable or maintained for
14 normal travel by conventional two-wheel-drive vehicles and
15 should not be designated as recreational footpaths. State
16 off-highway vehicle recreation areas and trails must be
17 selected and managed in accordance with this chapter.

18 261.11 Penalties.--No off-highway vehicle may be
19 operated upon the public roads, streets, or highways of this
20 state, except as otherwise permitted by the managing local,
21 state, or federal agency. A violation of this section is a
22 noncriminal traffic infraction, punishable as provided in
23 chapter 318.

24 261.12 Designated off-highway vehicle funds within the
25 Incidental Trust Fund of the Division of Forestry of the
26 Department of Agriculture and Consumer Services.--

27 (1) The designated off-highway vehicle funds of the
28 trust fund shall consist of deposits from the following
29 sources:

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

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1 (b) Revenues and income from any other sources
2 required by law or as appropriated by the Legislature to be
3 deposited into the trust fund as designated off-highway
4 vehicle funds.

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

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

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

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

25 (b) Approved grants to governmental agencies or
26 entities or nongovernmental entities that wish to provide or
27 improve off-highway vehicle recreation areas or trails for
28 public use on public lands, provide environmental protection
29 and restoration to affected natural areas in the system,
30 provide enforcement of applicable regulations related to the
31 system and off-highway vehicle activities, or provide

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1 education in the operation of off-highway vehicles.

2 (c) Matching funds to be used to match grant funds
 3 available from other sources.

4 (3) Notwithstanding s. 216.301 and pursuant to s.
 5 216.351, any balance of designated off-highway vehicle funds
 6 in the trust fund at the end of any fiscal year shall remain
 7 therein and shall be available for the purposes set out in
 8 this section and as otherwise provided by law.

9 Section 5. Section 316.2074, Florida Statutes, is
 10 amended to read:

11 316.2074 All-terrain vehicles.--

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

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

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

28 (4) If a crash results in the death of any person or
 29 in the injury of any person which results in treatment of the
 30 person by a physician, the operator of each all-terrain
 31 vehicle involved in the crash shall give notice of the crash

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1 pursuant to s. 316.066.

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

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

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

15 (8)(6) A violation of this section is a noncriminal
16 traffic infraction, punishable as a nonmoving violation as
17 provided in chapter 318.

18 Section 6. Short title.--Sections 3 through 15 of this
19 act may be cited as the "Florida Off-Highway Vehicle Titling
20 Act."

21 Section 7. Legislative intent.--It is the intent of
22 the Legislature that all off-highway vehicles purchased after
23 the effective date of this act and all off-highway vehicles
24 operated on public lands be titled and issued a certificate of
25 title to allow for easy determination of ownership.

26 Section 8. Definitions.--As used in sections 3 through
27 15, the term:

28 (1) "ATV" means any motorized off-highway or
29 all-terrain vehicle 50 inches or less in width, having a dry
30 weight of 900 pounds or less, designed to travel on three or
31 more low-pressure tires, having a seat designed to be

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1 straddled by the operator and handlebars for steering control,
2 and intended for use by a single operator and with no
3 passenger.

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

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

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

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

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

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

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1 person, reserved or created by agreement and securing payment
2 of performance of an obligation, but the term excludes a
3 lessee under a lease not intended as security.

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

8 Section 9. Administration of off-highway vehicle
9 titling laws; records.--

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

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

19 Section 10. Rules, forms, and notices.--

20 (1) The department may adopt rules pursuant to ss.
21 120.536(1) and 120.54, Florida Statutes, which pertain to
22 off-highway vehicle titling, in order to implement the
23 provisions of sections 3 through 15 conferring duties upon it.

24 (2) The department shall prescribe and provide
25 suitable forms for applications and other notices and forms
26 necessary to administer the provisions of sections 3 through
27 15.

28 Section 11. Certificate of title required.--

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

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1 lands of this state must be titled pursuant to sections 3
2 through 15.

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

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

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

30 (5)(a) There shall be a service charge of \$4.25 for
31 each application that is handled in connection with the

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

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

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

16 Section 12. Application for and issuance of
17 certificate of title.--

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

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

31 (3) To apply for a certificate of title upon transfer

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

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

17 (5) If the owner submits a complete application and
18 complies with all other requirements of this section, the
19 department shall issue a certificate of title that states that
20 the title is for an off-highway vehicle that is not suitable
21 for highway use. After October 1, 2003, the department shall
22 also issue a copy of the guidebook prepared by the Department
23 of Agriculture and Consumer Services pursuant to s. 261.07,
24 Florida Statutes.

25 Section 13. Duplicate certificate of title.--

26 (1) The department may issue a duplicate certificate
27 of title upon application by the person entitled to hold such
28 a certificate if the department is satisfied that the original
29 certificate has been lost, destroyed, or mutilated. A fee of
30 \$15 shall be charged for issuing a duplicate certificate.

31 (2) In addition to the fee imposed by subsection (1),

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

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

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

22 Section 14. Manufacturer's statement of origin to be
23 furnished.--

24 (1) Any person selling a new off-highway vehicle in
25 this state must furnish a manufacturer's statement of origin
26 to the purchaser. The statement, which must be in English or
27 accompanied by an English translation if the vehicle was
28 purchased outside the United States, must be signed and dated
29 by an authorized representative of the manufacturer, indicate
30 the complete name and address of the purchaser, include a
31 complete description of the vehicle, and contain as many

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1 assignments as necessary to show title in the name of the
2 purchaser.

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

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

19 Section 16. Refusal to issue and authority to cancel a
20 certificate of title.--

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

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

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1 for a certificate, it may cancel the certificate.

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

7 Section 17. Crimes relating to certificates of title;
8 penalties.--

9 (1) It is unlawful for any person to procure or
10 attempt to procure a certificate of title or duplicate
11 certificate of title to an off-highway vehicle, or to pass or
12 attempt to pass a certificate of title or duplicate
13 certificate of title to an off-highway vehicle or any
14 assignment thereof, if such person knows or has reason to
15 believe that the vehicle has been stolen. Any person who
16 violates this subsection commits a felony of the third degree,
17 punishable as provided in s. 775.082, s. 775.083, or s.
18 775.084, Florida Statutes.

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

29 (3) It is unlawful to:

30 (a) Alter or forge any certificate of title to an
31 off-highway vehicle or any assignment thereof or any

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1 cancellation of any lien on an off-highway vehicle.

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

4 (c) Use a false or fictitious name, give a false or
5 fictitious address, or make any false statement in any
6 application or affidavit required by sections 3 through 15 or
7 in a bill of sale or sworn statement of ownership or otherwise
8 commit a fraud in any application.

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

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

18
19 Any person who violates this subsection commits a felony of
20 the third degree, punishable as provided in s. 775.082, s.
21 775.083, or s. 775.084, Florida Statutes. A violation of this
22 subsection with respect to any off-highway vehicle makes such
23 off-highway vehicle contraband which may be seized by a law
24 enforcement agency and forfeited under ss. 932.701-932.704,
25 Florida Statutes.

26 Section 18. Nonmoving traffic violations.--Any person
27 who fails to comply with any provision of sections 3 through
28 14 for which a penalty is not otherwise provided commits a
29 nonmoving traffic violation, punishable as provided in s.
30 318.18, Florida Statutes.

31 Section 19. Section 375.313, Florida Statutes, is

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1 amended to read:

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

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

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

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

18 Section 20. Section 375.315, Florida Statutes, is
19 repealed.

20
21 (Redesignate subsequent sections.)

22
23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 4, line 21, after the second semicolon

27
28 insert:

29 creating ch. 261, F.S.; creating the T. Mark
30 Schmidt Off-Highway Vehicle Safety and
31 Recreation Act; providing legislative findings

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

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1 for duplicate certificates of title; requiring
2 the furnishing of a manufacturer's statement of
3 origin; providing for fees; providing for
4 disposition of fees; providing authority to
5 refuse to issue and to cancel a certificate of
6 title; providing crimes relating to
7 certificates of title; providing penalties;
8 providing noncriminal infractions; providing
9 penalties; amending s. 375.313, F.S.; deleting
10 fee collection responsibility of the Fish and
11 Wildlife Conservation Commission for
12 registration of off-road vehicles; repealing s.
13 375.315, F.S., relating to the registration of
14 off-road vehicles by the commission;
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