

HOUSE BILL 1195

R4

8lr2831

By: **Delegates Taylor, Ali, Glenn, Rice, and V. Turner**

Introduced and read first time: February 8, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Off-Highway Recreational Vehicles – Titling**

3 FOR the purpose of defining off-highway recreational vehicle; authorizing the Motor
4 Vehicle Administration to alter the definition of off-highway recreational
5 vehicle; requiring an owner of an off-highway recreational vehicle purchased
6 after a certain date to apply to the Administration for a certificate of title of the
7 vehicle under certain circumstances; establishing that an application for
8 certificate of title for an off-highway recreational vehicle shall be made by
9 electronic transmission in a certain manner; providing that a certain electronic
10 system may provide for the electronic transmission of vehicle data to and from
11 certain service providers; defining fair market value as to off-highway
12 recreational vehicles for the purpose of determining the amount of the vehicle
13 excise tax; providing that a transfer of an off-highway recreational vehicle is
14 not subject to certain safety inspection requirements; and generally relating to
15 off-highway recreational vehicles.

16 BY adding to

17 Article – Transportation
18 Section 11-140.1
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2007 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Transportation
23 Section 13-101.1, 13-104(a), 13-108.1, and 23-106
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2007 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Transportation
28 Section 13-809

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2006 Replacement Volume and 2007 Supplement)
3 (As enacted by Chapter 3 of the Acts of the General Assembly of the 2007
4 Special Session)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Transportation**

8 **11-140.1.**

9 (A) **“OFF-HIGHWAY RECREATIONAL VEHICLE” MEANS A VEHICLE THAT**
10 **IS:**

11 (1) **A MOTOR-ASSISTED OR MOTOR-DRIVEN VEHICLE THAT:**

12 (i) **1. IS DESIGNED TO CARRY ONLY THE OPERATOR OF**
13 **THE VEHICLE ON A SEAT OR SADDLE DESIGNED TO BE STRADDLED BY THE**
14 **OPERATOR; OR**

15 **2. IS DESIGNED TO CARRY ONLY THE OPERATOR OF**
16 **THE VEHICLE AND ONE PASSENGER; AND**

17 (ii) **IS COMMONLY KNOWN AS AN ALL-TERRAIN VEHICLE;**

18 (2) **A MOTORCYCLE, COMMONLY KNOWN AS A DIRT BIKE, THAT IS**
19 **DESIGNED FOR OFF-HIGHWAY OPERATION AND IS NOT ELIGIBLE FOR**
20 **REGISTRATION AS A CLASS D (MOTORCYCLE) VEHICLE UNDER THIS ARTICLE;**
21 **OR**

22 (3) **A SNOWMOBILE.**

23 (B) **“OFF-HIGHWAY RECREATIONAL VEHICLE” DOES NOT INCLUDE:**

24 (1) **A FARM VEHICLE AS DEFINED IN § 13-911 OF THIS ARTICLE**
25 **WHEN USED EXCLUSIVELY ON FARM PROPERTY BY A FARMER; OR**

26 (2) **ANY VEHICLE WHEN USED ON RESIDENTIAL PROPERTY FOR**
27 **THE PURPOSE OF LANDSCAPING, GARDENING, OR LAWN CARE.**

28 (C) **THE ADMINISTRATION MAY ESTABLISH BY REGULATION OTHER**
29 **REQUIREMENTS FOR OR LIMITATIONS ON THE DEFINITION OF OFF-HIGHWAY**
30 **RECREATIONAL VEHICLE.**

1 13-101.1.

2 Except as provided in § 13-102 of this subtitle, the owner of each vehicle,
3 **INCLUDING AN OFF-HIGHWAY RECREATIONAL VEHICLE PURCHASED ON OR**
4 **AFTER OCTOBER 1, 2008**, that is in this State and for which the Administration has
5 not issued a certificate of title shall apply to the Administration for a certificate of title
6 of the vehicle.

7 13-104.

8 (a) (1) The application for a certificate of title of a vehicle shall be made
9 by the owner of the vehicle on the form that the Administration requires.

10 (2) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE,**
11 **AN APPLICATION FOR A CERTIFICATE OF TITLE FOR AN OFF-HIGHWAY**
12 **RECREATIONAL VEHICLE SHALL BE MADE BY ELECTRONIC TRANSMISSION**
13 **UNDER § 13-610 OF THIS TITLE.**

14 13-108.1.

15 (a) Notwithstanding any other provision of this title, the Administration may
16 develop and implement an electronic system for the issuance of certificates of title and
17 the recording and releasing of security interests.

18 (b) The electronic system may provide for:

19 (1) Recording titling and registration data without the issuance of a
20 certificate of title; and

21 (2) Recording and releasing liens without the issuance of a security
22 interest filing.

23 (c) The electronic system may provide for the electronic transmission of
24 vehicle data to and from [licensed dealers] **SERVICE PROVIDERS, AS DEFINED IN §**
25 **16-610 OF THIS TITLE.**

26 (d) The Administration shall adopt regulations to govern the electronic
27 transmission of titling and registration information authorized under this section.

28 13-809.

29 (a) (1) In this section the following words have the meanings indicated.

30 (2) "Fair market value" means:

1 (i) [As] **EXCEPT AS PROVIDED IN ITEM (V) OF THIS**
2 **PARAGRAPH, AS** to the sale of any new or used vehicle by a licensed dealer, the total
3 purchase price, as certified by the dealer;

4 (ii) Except as provided in [item (iv)] **ITEMS (IV) AND (V)** of this
5 paragraph, as to a used vehicle that is sold by any person other than a licensed dealer
6 and that has a designated model year that is 7 years old or older, the greater of:

7 1. The total purchase price; or

8 2. \$640;

9 (iii) Except as provided in [item (iv)] **ITEMS (IV) AND (V)** of this
10 paragraph, as to any other used vehicle that is sold by any person other than a
11 licensed dealer:

12 1. The total purchase price, if the total purchase price is
13 less than \$500 below the retail value of the vehicle as shown in a national publication
14 of used car values adopted for use by the Department; or

15 2. If the total purchase price is \$500 or more below the
16 retail value of the vehicle as shown in a national publication of used car values
17 adopted for use by the Department:

18 A. The total purchase price, if verified to the satisfaction
19 of the Administration by a notarized bill of sale submitted in accordance with
20 subsection (d)(2) of this section; or

21 B. The valuation shown in the national publication of
22 used car values, if the Administration finds that the documentation submitted under
23 subsection (d)(2) of this section fails to verify the total purchase price;

24 (iv) As to a used trailer that is sold by any person other than a
25 licensed dealer, the greater of:

26 1. The total purchase price; or

27 2. \$320; [and]

28 (v) **AS TO A NEW OR USED OFF-HIGHWAY RECREATIONAL**
29 **VEHICLE, THE GREATER OF:**

30 1. **THE TOTAL PURCHASE PRICE; OR**

31 2. **\$320; AND**

1 (VI) In any other case, the valuation shown in a national
2 publication of used car values adopted for use by the Department.

3 (3) “Total purchase price” means the price of a vehicle agreed on by
4 the buyer and the seller, including any dealer processing charge, less an allowance for
5 trade-in but with no allowance for other nonmonetary consideration.

6 (4) “Trailer” has the meaning stated in § 11–169 of this article.

7 (b) (1) Except as otherwise provided in this part, in addition to any other
8 charge required by the Maryland Vehicle Law, an excise tax is imposed:

9 (i) For each original and each subsequent certificate of title
10 issued in this State for a motor vehicle, trailer, or semitrailer; and

11 (ii) Except as provided in paragraph (2) of this subsection, for
12 each motor vehicle, trailer, or semitrailer that is in interstate operation and registered
13 under § 13–109(c) or (d) of this title without a certificate of title.

14 (2) (i) An excise tax of \$50 is imposed for the registration of a
15 trailer exempt from the titling requirement under § 13–102(12) of this title.

16 (ii) In a case where the fair market value as defined in
17 subsection (a)(2)(iii)2A of this section applies, the excise tax imposed under this part
18 may not be less than \$32.

19 (3) A political subdivision of the State may not impose a sales tax, a
20 use tax, or excise tax on the issuance of a motor vehicle certificate of title.

21 (c) (1) Except as provided in subsection (b)(2) of this section, the tax
22 imposed by this section is 6 percent of the fair market value of the vehicle.

23 (2) If the vehicle formerly was a vehicle exempt from the tax imposed
24 by this section, the tax shall be reduced by any amount previously paid by the present
25 owner as a sales and use tax on the vehicle under Title 11 of the Tax – General Article.

26 (3) (i) 1. In this subparagraph, “military” includes the
27 Commissioned Corps of the Public Health Service, the National Oceanic and
28 Atmospheric Administration, or the Coast and Geodetic Survey.

29 2. If the vehicle was formerly titled and registered in
30 another state and the present owner has paid a sales or excise tax to that state at a
31 rate less than that imposed by this State, then the tax imposed shall apply but at a
32 rate measured by the difference only between the tax rate paid to the other state and
33 the tax rate imposed by this section, if the present owner:

34 A. Has not been a Maryland resident for more than 60
35 days; or

1 B. Is a member of the military on active duty and has not
2 been a Maryland resident for more than 1 year.

3 (ii) If the vehicle was formerly titled and registered in another
4 state and the present owner requests to transfer the vehicle in accordance with §
5 13–810(c)(1) of this subtitle, the Administration shall change or correct the names
6 contained in the certificate of title:

7 1. At the time the excise tax that is credited or imposed
8 under this section is paid and a new title is issued; and

9 2. Without issuing multiple certificates of title or
10 charging additional fees.

11 (iii) Except as provided in subsection (b)(2) of this section, the
12 minimum tax imposed under this section shall be \$100.

13 (d) Each applicant for a certificate of title or for registration under §
14 13–109(c) of this title shall submit to the Administration:

15 (1) The information that the Administration considers necessary as to:

16 (i) The time of purchase of the vehicle; and

17 (ii) The purchase price and other information relating to the
18 determination of the fair market value of the vehicle which may include, but is not
19 limited to:

20 1. Canceled checks;

21 2. Money order receipts;

22 3. Loan documents; or

23 4. A written description of the vehicle's condition; and

24 (2) If the excise tax is based on the total purchase price of the vehicle
25 as provided in subsection (a)(2)(iii)2A of this section, a notarized bill of sale that:

26 (i) Is designed by, and obtained from, the Administration;

27 (ii) Is signed by the buyer and the seller; and

28 (iii) Includes a statement explaining why the vehicle was sold at
29 the price stated in the bill of sale.

1 (e) Any person who fails to pay the excise tax as required in this section is
2 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

3 23-106.

4 (a) This section does not apply to:

5 (1) Any transfer of a used vehicle to any licensed dealer or to any
6 foreign dealer;

7 (2) Any transfer between:

8 (i) Spouses;

9 (ii) A parent and child; or

10 (iii) Co-owners of the vehicle to be transferred when a
11 co-owner's name is being removed from the title;

12 (3) Any transfer of a used vehicle that is not to be both titled and
13 registered in this State;

14 (4) Any transfer of a used vehicle among any agencies of the State;

15 (5) Any transfer of a used vehicle as described in § 13-503.2 of this
16 article;

17 (6) Any transfer of a used vehicle into a written inter vivos trust in
18 which the transferor is the primary beneficiary; [or]

19 (7) Any transfer of a used island vehicle, as defined in § 13-935 of this
20 article, registered, or to be registered, as a Class K (farm area/island) vehicle; **OR**

21 **(8) ANY TRANSFER OF AN OFF-HIGHWAY RECREATIONAL**
22 **VEHICLE.**

23 (b) (1) Except as provided in paragraph (4) of this subsection, if any
24 licensed dealer that also is an inspection station transfers any used vehicle, it shall:

25 (i) Prepare and attach an inspection certificate to a window of
26 the vehicle; or

27 (ii) Have an inspection certificate prepared and attached to a
28 window of the vehicle by another inspection station.

1 (2) Except as provided in paragraphs (4) and (5) of this subsection, if
2 any other person transfers a used vehicle, the person shall obtain an inspection
3 certificate from an inspection station. The inspection certificate shall be issued
4 without charge and attached to a window of the vehicle.

5 (3) If a used vehicle is transferred other than by voluntary transfer or
6 is transferred by a political subdivision of the State after that subdivision obtains the
7 vehicle by proceedings pursuant to Title 12 of the Criminal Procedure Article, the
8 transferee shall obtain the inspection certificate from an authorized inspection station.
9 The inspection certificate shall be issued without charge and attached to a window of
10 the vehicle.

11 (4) In the case of a transfer of any used vehicle registered, or to be
12 registered, as a Class E (truck) exceeding three-fourths ton manufacturer's rated
13 capacity, Class F (tractor), Class G (freight trailer or semitrailer), or Class G (dump
14 service semitrailer) vehicle, the transferor or the transferee of the vehicle may obtain
15 the required inspection certificate.

16 (5) In the case of a transfer of any used vehicle registered or to be
17 registered, that is sold for dismantling or rebuilding purposes, the transferor or the
18 transferee of the vehicle may obtain the required inspection certificate.

19 (6) On applying for a certificate of title of the vehicle, the transferee
20 shall remove the inspection certificate from the vehicle and present it to the
21 Administration.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2008.