

SENATE BILL 790

R4

8lr2901

By: **Senator Forehand**

Introduced and read first time: February 5, 2008

Rules suspended

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Titling and Electronic Transmission of Certificates of Title –**
3 **Off-Highway Recreational Vehicles**

4 FOR the purpose of defining “off-highway recreational vehicle”; requiring an
5 application for a certificate of title for an off-highway recreational vehicle to be
6 made by a certain electronic transmission; altering certain requirements
7 relating to the electronic transmission of vehicle data to authorize transmission
8 by a service provider instead of a licensed dealer; providing that an off-highway
9 recreational vehicle is not required to be inspected when ownership is
10 transferred; providing that, for purposes of determining a certain excise tax, the
11 fair market value of a new or used off-highway recreational vehicle is the
12 greater of the total purchase price or a certain amount; providing for the
13 construction of this Act; and generally relating to certificates of title and
14 off-highway recreational vehicles.

15 BY adding to

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

20 BY repealing and reenacting, with amendments,

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

25 BY repealing and reenacting, without amendments,

26 Article – Transportation
27 Section 13–808

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 BY repealing and reenacting, with amendments,
4 Article – Transportation
5 Section 13–809
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2007 Supplement)
8 (As enacted by Chapter 6 of the Acts of the General Assembly of the 2007
9 Special Session)

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

12 **Article – Transportation**

13 **11–140.1.**

14 (A) **“OFF–HIGHWAY RECREATIONAL VEHICLE” MEANS A VEHICLE THAT**
15 **IS:**

16 (1) **A MOTOR–ASSISTED OR MOTOR–DRIVEN VEHICLE THAT:**

17 (I) **IS DESIGNED TO CARRY ONLY THE OPERATOR OF THE**
18 **VEHICLE ON A SEAT OR SADDLE DESIGNED TO BE STRADDLED BY THE**
19 **OPERATOR OR IS DESIGNED TO CARRY ONLY THE OPERATOR OF THE VEHICLE**
20 **AND ONE PASSENGER; AND**

21 (II) **IS COMMONLY KNOWN AS AN ALL–TERRAIN VEHICLE;**

22 (2) **A MOTORCYCLE THAT IS DESIGNED FOR OFF–HIGHWAY**
23 **OPERATION AND IS NOT ELIGIBLE FOR REGISTRATION AS A CLASS D**
24 **(MOTORCYCLE) VEHICLE UNDER THIS ARTICLE, COMMONLY KNOWN AS A DIRT**
25 **BIKE; OR**

26 (3) **A SNOWMOBILE.**

27 (B) **“OFF–HIGHWAY RECREATIONAL VEHICLE” DOES NOT INCLUDE:**

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

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

1 (c) **THE ADMINISTRATION MAY ESTABLISH BY REGULATION OTHER**
2 **REQUIREMENTS OR LIMITATIONS TO THE DEFINITION OF OFF-HIGHWAY**
3 **RECREATIONAL VEHICLES.**

4 13-101.1.

5 Except as provided in § 13-102 of this subtitle, the owner of each vehicle,
6 **INCLUDING AN OFF-HIGHWAY RECREATIONAL VEHICLE**, that is in this State and
7 for which the Administration has not issued a certificate of title shall apply to the
8 Administration for a certificate of title of the vehicle.

9 13-104.

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

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

16 13-108.1.

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

20 (b) The electronic system may provide for:

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

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

25 (c) The electronic system may provide for the electronic transmission of
26 vehicle data to and from [licensed dealers] **SERVICE PROVIDERS, AS DEFINED IN §**
27 **13-610 OF THIS TITLE.**

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

30 13-808.

31 The excise taxes imposed by this part for a vehicle shall be paid to the
32 Administration:

1 (1) Before the issuance of a certificate of title for that vehicle; or

2 (2) As to a vehicle registered under § 13–109(c) of this title without a
3 certificate of title, before the registration of that vehicle.

4 13–809.

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

6 (2) “Fair market value” means:

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

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

13 1. The total purchase price; or

14 2. \$640;

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

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

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

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

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

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

32 1. The total purchase price; or

1 2. \$320; [and]

2 (v) **IN THE CASE OF A NEW OR USED OFF-HIGHWAY**
3 **RECREATIONAL VEHICLE, THE GREATER OF:**

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

5 2. **\$320; AND**

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

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

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

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

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

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

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

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

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

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

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

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

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

9 A. Has not been a Maryland resident for more than 60
10 days; or

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

13 (ii) If the vehicle was formerly titled and registered in another
14 state and the present owner requests to transfer the vehicle in accordance with §
15 13–810(c)(1) of this subtitle, the Administration shall change or correct the names
16 contained in the certificate of title:

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

19 2. Without issuing multiple certificates of title or
20 charging additional fees.

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

23 (d) Each applicant for a certificate of title or for registration under §
24 13–109(c) of this title shall submit to the Administration:

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

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

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

30 1. Canceled checks;

31 2. Money order receipts;

32 3. Loan documents; or

33 4. A written description of the vehicle’s condition; and

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

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

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

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

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

9 23–106.

10 (a) This section does not apply to:

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

13 (2) Any transfer between:

14 (i) Spouses;

15 (ii) A parent and child; or

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

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

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

21 (5) Any transfer of a used vehicle as described in § 13–503.2 of this
22 article;

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

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

27 **(8) ANY TRANSFER OF AN OFF-HIGHWAY RECREATIONAL**
28 **VEHICLE.**

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

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

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

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

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

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
29 construed to supersede the provisions of any law of any county or political subdivision
30 of the State not relating to the titling of off-highway recreational vehicles as defined
31 in this Act.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2008.