

Chapter 304

(Senate Bill 466)

AN ACT concerning

Vehicle Laws – Off-Highway Recreational Vehicles – Titling

FOR the purpose of defining “off-highway recreational vehicle”; altering the definition of “vehicle” to include off-highway recreational vehicles; requiring the owner of an off-highway recreational vehicle not purchased before a certain date to apply for a certificate of title in certain circumstances; requiring an application for a certificate of title for an off-highway recreational vehicle to be made by a certain electronic transmission; altering certain requirements relating to the electronic transmission of vehicle data to authorize transmission by a service provider instead of a licensed dealer; providing that, for purposes of determining a certain excise tax, the fair market value of a used off-highway recreational vehicle is the greater of the total purchase price or a certain amount; imposing an excise tax for each original and each subsequent certificate of title issued for an off-highway recreational vehicle for which sales and use tax is not collected at the time of purchase; providing that an off-highway recreational vehicle is not required to be inspected when ownership is transferred; providing for the construction of this Act; making this Act an emergency measure; and generally relating to off-highway recreational vehicles and titling.

BY adding to

Article – Transportation
Section 11-140.1 and 13-102(13)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation
Section 11-176, 13-102(11) and (12), 13-104(a), 13-108.1, 13-809, and 23-106
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation
Section 13-101.1 and 13-610
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation**11-140.1.**

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

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

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

(II) IS COMMONLY KNOWN AS AN ALL-TERRAIN VEHICLE;

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

(3) A SNOWMOBILE.

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

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

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

(C) THE ADMINISTRATION MAY ESTABLISH BY REGULATION OTHER REQUIREMENTS FOR OR LIMITATIONS ON THE DEFINITION OF “OFF-HIGHWAY RECREATIONAL VEHICLE”.

11-176.

(a) (1) “Vehicle” means, except as provided in subsection (b) of this section, any device in, on, or by which any individual or property is or might be transported or towed on a highway.

(2) “Vehicle” includes a low speed vehicle AND AN OFF-HIGHWAY RECREATIONAL VEHICLE.

(b) "Vehicle" does not include an electric personal assistive mobility device as defined in § 21-101(j) of this article.

13-101.1.

Except as provided in § 13-102 of this subtitle, the owner of each vehicle that is in this State and for which the Administration has not issued a certificate of title shall apply to the Administration for a certificate of title of the vehicle.

13-102.

A certificate of title is not required for:

(11) A self-propelled invalid:

(i) Wheelchair; or

(ii) Tricycle; [or]

(12) A trailer, other than a camping trailer, rated by the manufacturer as having a gross vehicle weight of 2,500 pounds or less; **OR**

(13) AN OFF-HIGHWAY RECREATIONAL VEHICLE PURCHASED BEFORE OCTOBER 1, 2010.

13-104.

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

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

13-108.1.

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

(b) The electronic system may provide for:

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

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

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

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

13-610.

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

(2) “Fleet” means 10 or more vehicles.

(3) “Qualified owner” means a person, partnership, firm, or corporation, or an individual agent of a person, partnership, firm, or corporation, authorized by the Administration to transmit electronically proper titling and registration information and fees to the Administration.

(4) “Service provider” means a dealer or title service agent licensed under Title 15 of this article or a qualified owner of a fleet.

(b) Subject to the approval of the Administration, a service provider may:

(1) Issue permanent registration plates to the transferee or renew the registration of a vehicle if the service provider has electronically transmitted the proper titling and registration information to the Administration, or an agent designated by the Administration; and

(2) Charge the transferee or the registered owner of the vehicle a fee for the actual cost to the service provider of the electronic transmission service described in item (1) of this subsection.

(c) The Administration shall adopt regulations to:

(1) Govern the electronic transmission of titling and registration information authorized under this section; and

(2) Determine the appropriate level of the fee that may be charged by service providers for the electronic transmission service.

13-809.

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

(2) "Fair market value" means:

(i) As to the sale of any new or used vehicle by a licensed dealer, the total purchase price, as certified by the dealer;

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

1. The total purchase price; or
2. \$640;

(iii) Except as provided in item (iv) of this paragraph, as to any other used vehicle that is sold by any person other than a licensed dealer:

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

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

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

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

(iv) As to a used trailer **OR OFF-HIGHWAY RECREATIONAL VEHICLE** that is sold by any person other than a licensed dealer, the greater of:

1. The total purchase price; or
2. \$320; and

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

(3) (i) Subject to subparagraph (ii) of this paragraph, "total purchase price" means the price of a vehicle agreed on by the buyer and the seller,

including any dealer processing charge, less an allowance for trade-in but with no allowance for other nonmonetary consideration.

(ii) As to a person trading in a nonleased vehicle to enter into a lease for a period of more than 180 consecutive days, “total purchase price” means the retail value of the vehicle as certified by the dealer, including any dealer processing charge, less an allowance for the trade-in of the nonleased vehicle but with no allowance for other nonmonetary consideration.

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

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

(i) For each original and each subsequent certificate of title issued in this State for a motor vehicle, A trailer, [or] A semitrailer, **OR AN OFF-HIGHWAY RECREATIONAL VEHICLE FOR WHICH SALES AND USE TAX IS NOT COLLECTED AT THE TIME OF PURCHASE**; and

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

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

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

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

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

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

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

2. If the vehicle was formerly titled and registered in another state and the present owner has paid a sales or excise tax to that state at a

rate less than that imposed by this State, then the tax imposed shall apply but at a rate measured by the difference only between the tax rate paid to the other state and the tax rate imposed by this section, if the present owner:

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

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

C. Is a Maryland resident who is a member of the military returning to Maryland from, or on, active duty and who applies for titling and registration in Maryland no more than 1 year after returning.

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

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

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

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

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

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

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

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

1. Canceled checks;

2. Money order receipts;

3. Loan documents; or

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

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

- (i) Is designed by, and obtained from, the Administration;
- (ii) Is signed by the buyer and the seller; and
- (iii) Includes a statement explaining why the vehicle was sold at the price stated in the bill of sale.

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

(f) The Administration shall adopt regulations to implement the provisions of this section.

23–106.

(a) This section does not apply to:

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

(2) Any transfer between:

- (i) Spouses;
- (ii) A parent and child; or
- (iii) Co-owners of the vehicle to be transferred when a co-owner's name is being removed from the title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2010~~ is an emergency measure, is necessary for the immediate preservation

of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 4, 2010.