

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2665

By: Roan

AS INTRODUCED

An Act relating to motor vehicles; creating the Oklahoma All-terrain Vehicle Registration Act; defining terms; specifying applicability of act; providing for administration of act; authorizing promulgation of rules; providing exemptions; specifying licensing requirements; requiring confidentiality; requiring titling; requiring dealer license; providing procedures for license and renewal; specifying unlawful acts; providing penalty; providing procedures for transfer of title; providing procedures for security interests; specifying title fees; detailing registration information; providing certain Armed Forces exemption; providing schedule for fee collection; providing for notification of current owners; setting registration fees and exempting certain all-terrain vehicles; specifying penalty for late registration; providing penalties and procedures for unregistered all-terrain vehicles; apportioning registration fees; allowing denial of registration on certain ground; specifying unlawful acts; providing penalty; providing requirements for dealer license; specifying dealer license fees; providing for testing permits; providing requirements of dealer agreement; amending 47 O.S. 2001, Section 562, as amended by Section 11, Chapter 284, O.S.L. 2005 (47 O.S. Supp. 2005, Section 562), which relates to motor vehicles; modifying definitions; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 42 of this act shall be known and may be cited as the "Oklahoma All-terrain Vehicle Registration Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma All-terrain Vehicle Registration Act:

1. "Certificate of registration" means a document which is legal proof of registration of an all-terrain vehicle;

2. "Certificate of title" means a document which is proof of legal ownership of an all-terrain vehicle;

3. "Commission" means:

a. the Oklahoma Tax Commission, or

b. the equivalent all-terrain vehicle registration and licensing agency of a federally recognized Indian tribe in this state;

4. "Dealer" means any person engaged in the business of selling, trading, renting with option to purchase, or attempting to negotiate or negotiating sales or exchanges of interests in new or used all-terrain vehicles, or new and used all-terrain vehicles, or any combination thereof;

5. "Dealer agreement" means the agreement, authorization or written contract between a manufacturer and distributor and a new all-terrain vehicle dealer which purports to establish the legal rights and obligations of the parties to the agreement, authorization or written contract with regard to the purchase and sale of new all-terrain vehicles;

6. "Designated successor" means one or more persons nominated by the new all-terrain vehicle dealer, in a written document filed by the dealer with the manufacturer or distributor at the time the dealer agreement is executed, to succeed the dealer in the event of the death or incapacity of the dealer. If a designated successor is not able to succeed the new all-terrain vehicle dealer because of the death or legal incapacity of the designated successor, the dealer shall execute a new document nominating a designated successor within sixty (60) calendar days after the date of the death or incapacity;

7. "Distributor" means a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new

all-terrain vehicle to a new all-terrain vehicle dealer or who maintains a factory representative, resident or nonresident, or who controls a person, resident or nonresident, who in whole or in part offers for sale, sells, or distributes a new all-terrain vehicle to a new all-terrain vehicle dealer;

8. "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes a factory branch is maintained;

9. "Distributor representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a distributor or distributor branch of all-terrain vehicles, for the purpose of making or promoting the sale of their all-terrain vehicles, or for supervising or contacting their dealers or prospective dealers;

10. "Factory branch" means a branch office maintained by a person, firm, association, corporation or trust who manufactures or assembles all-terrain vehicles for the sale of all-terrain vehicles to distributors, or for the sale of all-terrain vehicles to dealers, or for directing or supervising, in whole or in part, its representatives;

11. "Factory representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a manufacturer of all-terrain vehicles or by a factory branch, for the purpose of making or promoting the sale of their all-terrain vehicles, or for supervising or contacting their dealers or prospective dealers;

12. "Manufacturer" means a person who manufactures or assembles new all-terrain vehicles, or a distributor, factory branch, or factory representative;

13. "New all-terrain vehicle dealer" means a person who holds a dealer agreement granted by a manufacturer or distributor for the sale of the all-terrain vehicles of the manufacturer or distributor,

who is engaged in the business of purchasing, selling, exchanging, or dealing in new all-terrain vehicles, and who has an established place of business;

14. "Owner" means a person, other than a lienholder, having a property interest in, or title to, an all-terrain vehicle. The term includes a person entitled to the use or possession of an all-terrain vehicle subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

15. "Person" means a natural person, partnership, corporation, association, trust, estate or other legal entity;

16. "Proposed new all-terrain vehicle dealer" means a person who has an application pending for a new dealer agreement with a manufacturer or distributor. "Proposed new all-terrain vehicle dealer" does not include a person whose dealer agreement is being renewed or continued;

17. "Purchase date" means the purchase date on a bill of sale or the date of complete assignment of title by the current owner;

18. "State" means the State of Oklahoma; and

19. "State of principal use" means the state where the all-terrain vehicle is used, is to be used, or remains for any period in excess of sixty (60) calendar days.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as otherwise provided in Sections 5 and 22 of this act, every all-terrain vehicle in this state, irrespective of whether used in this state, is required to be titled within thirty (30) calendar days from the purchase date or from the date the owner becomes a resident of this state and annually registered under the provisions of the Oklahoma All-terrain Vehicle Registration Act.

The owner of any such all-terrain vehicle shall file an application as required by the Oklahoma All-terrain Vehicle Registration Act with the Oklahoma Tax Commission for a certificate of title, a number, and for the annual registration for such all-terrain vehicle on forms prescribed and furnished by the Commission.

2. The provisions of this subsection shall not apply to new all-terrain vehicles in the inventory or stock of licensed dealers for resale, which new all-terrain vehicles shall be subject to ad valorem taxation.

3. Said provisions shall apply to and cover all used all-terrain vehicles in the possession and inventory of a dealer except as provided for in Section 33 of this act.

B. Any person engaged in the business of selling, trading, renting with option to purchase, or attempting to negotiate or negotiating sales or exchanges of interests in new or used all-terrain vehicles, or new and used all-terrain vehicles, or any combination thereof shall be licensed pursuant to Section 29 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It shall be the duty of the Oklahoma Tax Commission, and the Commission is hereby granted authority and jurisdiction, to administer the Oklahoma All-terrain Vehicle Registration Act, with the aid of its motor license agents and all duly authorized peace officers of this state.

B. The Commission is hereby authorized to promulgate all necessary rules and prepare forms and records to enact and enforce the provisions of the Oklahoma All-terrain Vehicle Registration Act.

C. All duly authorized peace officers of this state are hereby granted authority and jurisdiction to enforce the provisions of, and

any rules pertaining to, the Oklahoma All-terrain Vehicle Registration Act within their jurisdiction.

D. The Commission shall have the authority in cases of dispute to determine the factory-delivered price of any all-terrain vehicle.

E. The Commission shall periodically cause to be prepared and shall distribute to each authorized motor license agent a manual of procedure containing instructions, directions and guidelines to be followed by all motor license agents in the performance of their duties regarding all-terrain vehicles.

F. All rules promulgated pursuant to the provisions of this act shall comply with Article 1 of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes. In addition to other filing requirements of law, such rules shall be filed with the Commissioner of Public Safety.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. An all-terrain vehicle shall not be required to be titled and registered pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration Act, if:

1. Such all-terrain vehicle is owned by the United States, a state other than the State of Oklahoma, any agency thereof, or any subdivision of the state; provided, however, if such all-terrain vehicle is used for recreational or rental purposes in this state, said all-terrain vehicle shall be registered and numbered in accordance with this act;

2. Such all-terrain vehicle is owned by a visiting nonresident and is currently registered in another state. Provided, that if any such all-terrain vehicle remains in Oklahoma in excess of sixty (60) calendar days, such all-terrain vehicle shall be registered pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration

Act and the registration fees due thereon from the date of entry into Oklahoma must be paid;

3. Such all-terrain vehicle is from a country other than the United States provided such all-terrain vehicle does not remain in Oklahoma in excess of sixty (60) calendar days; or

4. Such all-terrain vehicle is used exclusively and solely for racing purposes.

B. All all-terrain vehicles which are owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which, under the law, would be exempt from direct ad valorem taxation, shall be titled and registered pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration Act. Provided, all all-terrain vehicles titled and registered to the Department of Public Safety shall be exempt from all registration fees.

C. All other all-terrain vehicles shall be titled and registered pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission is hereby authorized and directed to utilize its motor license agents appointed under the Oklahoma Vehicle License and Registration Laws in the administration of the Oklahoma All-terrain Vehicle Registration Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, all information contained in the certificate of title or the registration of any all-terrain vehicle shall be confidential and privileged, subject only to disclosure to the following:

1. Any duly authorized peace officer of this state in the regular course of the duties of the peace officer;

2. Any official person or body of any other state or of the United States, when required in their governmental functions;

3. Any person or firm, when the Oklahoma Tax Commission is satisfied the request for information is reasonable and is related primarily to safety;

4. Any filer of a mechanics, storage or abandoned all-terrain vehicle possessory lien under the applicable provisions of Sections 91 through 200 of Title 42, Section 908 of Title 47 or Section 4217.4 of Title 63 of the Oklahoma Statutes, when such information is required to fulfill the notification requirements contained therein;

5. Any all-terrain vehicle manufacturer or an authorized representative thereof in connection with matters of all-terrain vehicle safety and theft, all-terrain vehicle emissions, all-terrain vehicle product alterations, recalls or advisories, performance monitoring of all-terrain vehicle parts and dealers, all-terrain vehicle market research activities, including survey research, and removal of nonowner records from the original owner records of all-terrain vehicle manufacturers. The confidentiality of the information shall be protected, as set out above, and used only for the purpose stated; provided, further, that the Commission shall be authorized to review the use of and the measures employed to safeguard the information; and provided, further, that the manufacturer or representative shall bear the cost incurred by the Commission in the production of the information requested. If the confidentiality provisions, pursuant to this section, are violated, the provisions of subsection D of Section 205 of Title 68 of the Oklahoma Statutes shall apply and the privilege of obtaining information shall be terminated. Any manufacturer or representative violating the provisions of this section, upon conviction, shall be



punishable by a fine not to exceed Fifty Thousand Dollars (\$50,000.00); and

6. Any person compiling and publishing all-terrain vehicle statistics, provided that such statistics do not disclose the names or addresses of individuals. Such information shall be provided upon payment of a fee as determined by the Commission.

B. The Commission or a motor license agent may furnish the holder of a security interest in a specific all-terrain vehicle upon payment of the fee specified by Section 13 of this act, a copy or certified copy of the certificate of title or registration information for such all-terrain vehicle.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in Section 5 of this act, the owner of every all-terrain vehicle in this state shall possess a certificate of title as proof of ownership of such all-terrain vehicle. Application for a certificate of title, whether an original or duplicate, may be made to the Oklahoma Tax Commission or any motor license agent. When application is made with a motor license agent, the application information shall be transmitted either electronically or by mail to the Commission by the motor license agent. If the application information is transmitted electronically, the motor license agent shall forward the required application along with evidence of ownership, where required, by mail. Where the transmission of application information cannot be performed electronically, the Commission is authorized to provide postage-paid envelopes to motor license agents for the purpose of mailing the application along with evidence of ownership, where required. The Commission shall, upon receipt of proper application information, issue an Oklahoma certificate of title. Such certificates may be mailed to the applicant. Upon issuance of a

certificate of title, the Commission shall provide the appropriate motor license agent with confirmation of such issuance.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The application for a certificate of title and registration for an all-terrain vehicle shall be upon a form furnished by the Oklahoma Tax Commission and shall contain:

1. A full description of the all-terrain vehicle;
2. The serial and model number of the vehicle or other identification number;
3. The date on which first sold by the manufacturer or dealer to the owner;
4. Any distinguishing marks;
5. A statement of the source of title of the applicant;
6. Any security interest upon said all-terrain vehicle; and
7. Such other information as the Commission may require.

Every original or duplicate certificate of title and registration for an all-terrain vehicle shall contain all items listed in this subsection.

B. To obtain an original certificate of title for an all-terrain vehicle that is being registered for the first time in this state or for an all-terrain vehicle that has not been previously registered in any other state, the applicant shall be required to deliver, as evidence of ownership, a certificate of origin of the manufacturer or at the discretion of the Commission a copy of the certificate of origin of the manufacturer properly assigned by the manufacturer, distributor, or dealer licensed in this or any other state shown thereon to be the last transferee to the applicant upon a form to be prescribed and approved by the Commission. A certificate of origin of the manufacturer shall contain:

1. The serial or other identification number of the vehicle;

2. Date on which first sold by the manufacturer to the dealer;

3. Any distinguishing marks including model and the year same was made;

4. A statement of any security interests upon said all-terrain vehicle; and

5. Such other information as the Commission may require.

C. In the absence of a serial or other identification number from the dealer or manufacturer, the Commission may assign such identifying number to the all-terrain vehicle, which shall be permanently stamped, burned or pressed into or attached onto such all-terrain vehicle.

D. Every dealer selling new or used all-terrain vehicles and every individual not licensed as a dealer who sells a new or used all-terrain vehicle shall verify the serial number is the same as the number on the current registration of the all-terrain vehicle. The seller of the all-terrain vehicle shall sign a notarized affidavit, under penalty of perjury, affirming the numbers are the same.

E. 1. Before a homemade all-terrain vehicle is issued an identification number from the Commission, the all-terrain vehicle shall be inspected by a commissioned officer of the Oklahoma Highway Patrol Division of the Department of Public Safety or by any other employee of the Department or any other law enforcement officer of the state as the Commissioner of Public Safety may designate, pursuant to the rules promulgated by the Commissioner of Public Safety. For the purposes of this act, "homemade all-terrain vehicle" means any all-terrain vehicle not allotted a serial number by a manufacturer, and specifically excludes any all-terrain vehicle upon which the serial number has been covered, altered, defaced, destroyed, or removed.

2. The Department of Public Safety is hereby granted authority and jurisdiction, pursuant to Article 1 of the Administrative

Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, to promulgate, administer and enforce all rules deemed necessary to implement the provisions of this section.

3. The Department of Public Safety shall prescribe all forms deemed necessary to implement the provisions of this section.

F. It shall be unlawful to:

1. Improperly display or fail to display a serial number of the all-terrain vehicle; or

2. Operate or possess an all-terrain vehicle on which the serial number has been removed.

G. When registering in this state an all-terrain vehicle which was titled in another state and which title contains the name of a secured party on the face of the other state certificate of title, the Commission or the motor license agent shall complete a lien entry form as prescribed by said Commission. A statement of the lien or encumbrance shall be included on the Oklahoma certificate of title and the lien or encumbrance shall be deemed continuously perfected as though it had been perfected pursuant to Section 12 of this act. For completing the lien entry form and recording the security interest on the certificate of title, the Commission or the motor license agent shall collect a fee of Three Dollars (\$3.00) which shall be in addition to other fees provided by the Oklahoma All-terrain Vehicle Registration Act.

H. Upon payment of all fees and taxes, a certificate of title and a certificate of registration shall be delivered to the applicant.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.10 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. 1. The Department of Public Safety shall promulgate rules specifying the location and manner in which serial numbers for all-terrain vehicles shall be affixed. In promulgating such rules, the

Department shall consider the existence of voluntary industry standards, the current state of technology and the overall process of reducing all-terrain vehicle thefts in this state.

2. Any all-terrain vehicle manufactured on or after October 1, 1985, which is for sale in this state shall comply with the rules promulgated pursuant to this section.

3. Any person, firm or corporation which sells or offers to sell any all-terrain vehicle manufactured on or after October 1, 1985, which does not comply with this subsection shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of up to Five Hundred Dollars (\$500.00), imprisonment in the county jail for a period of up to one (1) year, or both such fine and imprisonment.

B. 1. It is unlawful for any person to knowingly possess any all-terrain vehicle part upon which the serial number required by subsection A of this section has been removed, erased, defaced or otherwise altered to prevent identification.

2. It is unlawful for any person to knowingly possess, manufacture, sell or exchange, offer to sell or exchange, aid in sale or exchange, supply in blank, authorize or direct, give away, or to conspire to or attempt to commit any of the previously mentioned acts, any counterfeit all-terrain vehicle serial number plate or decal of the manufacturer, used for the purpose of identification of any all-terrain vehicle.

3. Any person violating any provision of this subsection shall be, upon conviction, guilty of a felony.

C. If any serial number required by this section to identify ownership of an all-terrain vehicle does not exist or has been removed, erased, defaced or otherwise altered to prevent identification, and the true identity cannot be determined, the all-terrain vehicle may be seized by any peace officer in this state and shall be subject to forfeiture pursuant to the procedures

established for the law enforcement agency by which the seizing officer is employed. Such all-terrain vehicle may not be sold or used in this state unless and until the Department of Public Safety is directed by the Oklahoma Tax Commission to issue to the all-terrain vehicle a replacement identifying number which shall be affixed to the motor or part and shall thereafter be used for identification purposes of the all-terrain vehicle.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.11 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. In the event of the sale or transfer of the ownership of an all-terrain vehicle for which a certificate of title has been issued, the holder of such certificate shall endorse on the back of same a complete assignment thereof with warranty of title in form printed thereon with a statement of all liens or encumbrances on said all-terrain vehicle sworn to before a notary public or some other person authorized by law to take acknowledgments, and deliver same to the purchaser or transferee at the time of delivery to the purchaser of such all-terrain vehicle. The purchaser or transferee, unless such person is a bona fide dealer licensed by the State of Oklahoma, shall, within thirty (30) calendar days from the time of delivery to him of such all-terrain vehicle, present the assigned certificate of title to the Oklahoma Tax Commission, or one of its motor license agents, accompanied by the fee required pursuant to Section 13 of this act, together with any excise tax or registration fee that may be due, whereupon a new certificate of title, shall be issued to the assignee.

B. A licensed dealer shall, on selling or otherwise disposing of an all-terrain vehicle, execute and deliver to the purchaser thereof the certificate of title properly and completely reassigned.

C. Said certificate, when so assigned and returned to the Commission, together with any subsequent assignment or reissue

thereof, shall be appropriately filed and indexed so that at all times it will be possible to trace title to the all-terrain vehicle designated therein. Provided, when the ownership of any all-terrain vehicle shall pass by operation of law, the person owning such all-terrain vehicle may, upon furnishing satisfactory proof to the Commission of such ownership, procure a title to said all-terrain vehicle, regardless of whether a certificate of title has ever been issued. Provided, however, all homemade all-terrain vehicles shall first comply with the provisions of subsection D of Section 9 of this act.

D. The dealer shall execute and deliver to the purchaser bills of sale for all new all-terrain vehicles sold by the dealer. On presentation of a bill of sale by a dealer for a new all-terrain vehicle sold in this state, accompanied by any fee required by Section 13 of this act and any excise tax that may be due, a certificate of title shall be issued.

E. Upon proper proof of a lost certificate of title being made to the Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by Section 13 of this act, a duplicate certificate of title shall be issued to said applicant.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.12 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. 1. Except for a security interest in all-terrain vehicles held by a dealer for sale or lease, a security interest, as defined in paragraph (35) of Section 1-201 of Title 12A of the Oklahoma Statutes, in an all-terrain vehicle as to which a certificate of title may be properly issued by the Oklahoma Tax Commission shall be perfected only when a lien entry form prescribed by the Commission, and the existing certificate of title, if any, or application for a certificate of title and certificate of origin of the manufacturer

or other identification number containing the name and address of the secured party and the date of the security agreement and the required fee are delivered to the Commission or to a motor license agent. The filing and duration of perfection of a security interest, pursuant to the provisions of Title 12A of the Oklahoma Statutes, including, but not limited to, Section 1-9-311 of Title 12A of the Oklahoma Statutes, shall not be applicable to perfection of security interests in all-terrain vehicles as to which a certificate of title may be properly issued by the Commission, except as to all-terrain vehicles held by a dealer for sale or lease and except as provided in subsection D of this section. In all other respects Title 12A of the Oklahoma Statutes shall be applicable to such security interests in all-terrain vehicles as to which a certificate of title may be properly issued by the Commission.

2. Whenever a person creates a security interest in an all-terrain vehicle, such person shall surrender to the secured party the certificate of title or the signed application for a new certificate of title, on the form prescribed by the Commission, and the certificate of origin of the manufacturer or other identification number. The secured party shall deliver the lien entry form and the required lien filing fee within twenty-five (25) calendar days as provided hereafter with certificate of title or the application for certificate of title, and the certificate of origin of the manufacturer or other identification number to the Commission or to a motor license agent. Perfection of the security interest shall begin from the date of the delivery to the Commission or to a motor license agent of:

- a. the lien entry form,
- b. the lien filing fee, and



- c. the certificate of title or application for certificate of title and the certificate of origin of the manufacturer or other identification number.

When an all-terrain vehicle title is presented to a motor license agent for transfer or registration and the documents reflect a lienholder, the motor license agent shall perfect the lien as provided for in subsection G of Section 1105 of Title 47 of the Oklahoma Statutes.

3. Upon the receipt of the lien entry form and the required fees with either the certificate of title or an application for certificate of title and certificate of origin of the manufacturer or other identification number, a motor license agent shall, by placement of a clearly distinguishing mark, record the date and number shown in a conspicuous place, on each of these instruments.

4. The certificate of title or the application for certificate of title and certificate of origin of the manufacturer or other identification number with the record of the date of receipt clearly marked thereon shall be returned to the debtor together with a notice that the debtor is required to register and pay all additional fees and taxes due within thirty (30) calendar days from the date of purchase of said all-terrain vehicle.

5. Any person creating a security interest in an all-terrain vehicle that has been previously registered in the name of the debtor and on which all taxes due the state have been paid shall surrender the certificate of ownership to the secured party. The secured party shall have the duty to record the security interest as provided in this section and shall, at the same time, obtain a new certificate of title which shall show the secured interest on the face of such certificate of title.

6. The lien entry form with the date and assigned number thereof clearly marked thereon shall be returned to the secured party. If the lien entry form is received and authenticated, as

herein provided, by a motor license agent, such agent shall make a report thereof to the Commission upon the forms and in the manner as may be prescribed by the Commission.

7. The Commission shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on such all-terrain vehicle.

B. 1. A secured party shall, within seven (7) business days after the satisfaction of such security interest, furnish directly or by mail a release of a security interest to the Commission and mail a copy thereof to the last-known address of the debtor. If the security interest has been satisfied by payment from a licensed used all-terrain vehicle dealer to whom the used all-terrain vehicle has been transferred, the secured party shall also, within seven (7) business days after such satisfaction, mail a certified copy of copy number one of the release of security interest to such dealer. If the secured party fails to furnish such release as herein required, the secured party shall be liable to the debtor for a penalty of One Hundred Dollars (\$100.00) and, in addition, any loss caused to the debtor by such failure.

2. Upon release of a security interest the owner may obtain a new certificate of title omitting reference to the security interest, by submitting to the Commission or to a motor license agent:

- a. a release signed by the secured party, an application for new certificate of title and the proper fees, or
- b. by submitting to the Commission or the motor license agent an affidavit, supported by such documentation as the Commission may require, by the owner on a form prescribed by the Commission stating that the security interest has been satisfied and stating the reasons

why a release cannot be obtained, an application for a new certificate of title and the proper fees.

Upon receiving such affidavit that the security interest has been satisfied, the Commission shall issue a new certificate of title eliminating the satisfied security interest and the name and address of the secured parties who have been paid and satisfied. The Commission shall accept a release of a security interest in any form that identifies the debtor, the secured party, and the all-terrain vehicle and contains the signature of the secured party. The Commission shall not require any particular form for the release of a security interest.

The words "security interest" when used in the Oklahoma All-terrain Vehicle Registration Act do not include liens dependent upon possession.

C. The Commission shall file and index certificates of title so that at all times it will be possible to trace a certificate of title to the all-terrain vehicle designated therein, identify the lien entry form, and the names and addresses of secured parties, or their assignees, so that all or any part of such information may be made readily available to those who make legitimate inquiry of the Commission as to the existence or nonexistence of security interest in the all-terrain vehicle.

D. 1. Any security interest in an all-terrain vehicle properly perfected prior to January 1, 1990, may be continued as to its effectiveness or duration as provided by Section 1-9-515 of Title 12A of the Oklahoma Statutes, or may be terminated, assigned or released as provided by Sections 1-9-513 and 1-9-514 of Title 12A of the Oklahoma Statutes, as fully as if this section had not been enacted, or, at the option of the secured party, may also be perfected under this section, and, if so perfected, the time of perfection under this section shall be the date said security interest was originally perfected under the prior law.

2. Upon request of the secured party, the debtor or any other holder of the certificate of title shall surrender said certificate of title to the secured party and shall do such other acts as may be required to perfect said security interest under this section.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.13 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The charge for each certificate of title for any all-terrain vehicle issued shall be Two Dollars and twenty-five cents (\$2.25), which charge shall be in addition to any excise taxes or fees imposed by law for such all-terrain vehicle. One Dollar (\$1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

B. The charge for a duplicate certificate of title shall be Two Dollars and twenty-five cents (\$2.25) which charge shall be in addition to any other fees imposed by this section for any such all-terrain vehicle. One Dollar (\$1.00) of such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

C. For each security interest recorded on a certificate of title, or certificate of origin of the manufacturer or other identification number, such person shall pay a fee of Eight Dollars (\$8.00), which shall be in addition to other fees provided for in this section.

D. 1. When an application for a new certificate of title or duplicate certificate of title for an all-terrain vehicle is made to the Oklahoma Tax Commission or one of its motor license agents, an application fee in the amount of One Dollar and twenty-five cents (\$1.25) for the issuance of such certificate of title shall be charged and collected.

2. For recording a security interest on a certificate of title or certificate of origin of the manufacturer or other identification

number, the Commission or a motor license agent shall charge Two Dollars (\$2.00) for each security interest so recorded.

E. 1. The charge for a copy of certificate of title information is One Dollar (\$1.00) for each instrument.

2. The charge for a certified copy of certificate of title information is Two Dollars (\$2.00) for each instrument.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.14 of Title 47, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided by Sections 5 and 22 of this act, every owner of an all-terrain vehicle possessing a certificate of title shall make an application for the registration of such all-terrain vehicle with the Oklahoma Tax Commission or with a motor license agent within thirty (30) calendar days from the purchase date, or from the expiration of registration, or from the date the owner becomes a resident of this state. The application shall contain such information as shall be required by the Commission pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration Act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.15 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Every owner of an all-terrain vehicle, when making application for registration, shall furnish the following information:

1. A full description of the all-terrain vehicle including the serial, model, or other identification number from the manufacturer, the factory-delivered price of the manufacturer, and the total delivered price of said all-terrain vehicle;

2. The correct name and address, the name of the city, county and state in which the person in whose name the all-terrain vehicle is to be registered resides;

3. The county of location of the all-terrain vehicle; and  
4. Such other information as may be prescribed by the Oklahoma Tax Commission.

B. Upon the filing of a registration application for an all-terrain vehicle and the payment of the fees provided for in the Oklahoma All-terrain Vehicle Registration Act, the Commission shall issue the owner of the all-terrain vehicle a certificate of registration.

C. The current certificate of registration shall be legible and available for inspection at all times.

D. On all new and used all-terrain vehicles, prior to receipt of the certificate of registration, the bill of sale of the dealer shall be available for inspection at all times for the first thirty (30) calendar days from the date of purchase. Thereafter, prior to receipt of the certificate of registration, the official registration receipt from the Commission or a motor license agent shall be available for inspection at all times.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.16 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any all-terrain vehicle in this state which is not registered and licensed for the current year in the state of residence or domicile of any person who is a member of the Armed Forces of the United States or the spouse of such member owning an all-terrain vehicle must be registered as provided by the Oklahoma All-terrain Vehicle Registration Act, except that any such all-terrain vehicle which has been licensed in some other state by such member or spouse of such member while stationed in said other state may be operated in this state for the remainder of the year or period for which it is licensed. If the all-terrain vehicle currently is registered with the Armed Forces of the United States rather than being registered in a state and the member is

transferred to a duty station within this state pursuant to military orders, the member or spouse of such member owning the all-terrain vehicle shall not be required to register the all-terrain vehicle in this state for a period of thirty (30) days after the date the member is required to report for duty by said military.

B. Any person who is a member of the Armed Forces of the United States who is a resident of this state and who is stationed in this state or spouse of such person may make application for a certificate of registration pursuant to the provisions of this section.

C. Any person who is a member of the Armed Forces of the United States, or spouse applying for a registration of any such all-terrain vehicle shall submit an appropriate statement, to be attached to the all-terrain vehicle registration application, showing the following: A description of the all-terrain vehicle owned by applicant; the state and address of the legal residence or domicile of the applicant; that applicant or spouse of the applicant is on active duty in the Armed Forces of the United States assigned or stationed at a named location in compliance with official military orders. The statement shall be signed by the applicant and certified to by a proper officer of the organization to which applicant is assigned for duty, or, where the applicant is the spouse of such member serving in a foreign country, the statement shall be signed by said spouse under the penalties of perjury.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.17 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. 1. The registration fees herein levied upon all-terrain vehicles located within this state shall be due on the first day of July each year and shall become delinquent on the first day of August thereafter.

2. Any person owning an all-terrain vehicle subject to the provisions of this subsection and failing or refusing to file application for the registration of such all-terrain vehicle and to pay the annual registration fee as provided by the Oklahoma All-terrain Vehicle Registration Act, on or before the 31st day of July each year, shall be deemed delinquent.

B. On the registration of new all-terrain vehicles purchased in this state and on new or used all-terrain vehicles used in this state or brought into this state between July 1 and September 30, inclusive, of any year the payment of the full annual registration and license fee shall be collected; and between October 1 and December 31, inclusive, of any year the payment of three-fourths ( $3/4$ ) of the annual registration and license fee shall be collected; and between January 1 and March 31, inclusive, of any year the payment of one-half ( $1/2$ ) of the annual registration and license fee shall be collected; and between April 1 and June 30, inclusive, of any year the payment of one-fourth ( $1/4$ ) of the annual registration and license fee shall be collected.

C. Any person registering an all-terrain vehicle under the provisions of the Oklahoma All-terrain Vehicle Registration Act may elect to have the all-terrain vehicle registered for a three-year period. If a person elects to register the all-terrain vehicle for a three-year period, the person shall pay ninety percent (90%) of the registration fees that the person would have otherwise paid if the person had registered the all-terrain vehicle on an annual basis over the three-year period. If a person is registering an all-terrain vehicle pursuant to the provisions of subsection B of this section and elects to register the all-terrain vehicle for a three-year period, the partial year registration shall count as one of the three (3) years of registration. The motor license agent registering the all-terrain vehicle for a three-year period shall receive one hundred percent (100%) of the fees the motor license



agent would have otherwise received pursuant to subsection B of Section 1141.1 of Title 47 of the Oklahoma Statutes if the all-terrain vehicle had been registered on an annual basis over the three-year period.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.18 of Title 47, unless there is created a duplication in numbering, reads as follows:

Beginning January 1, 2007, the Oklahoma Tax Commission shall notify through the mail all persons within the state who have previous all-terrain vehicle registrations on record of the period for registration that are due to be registered in July of that year. Such notice shall contain all necessary information for such registration including a breakdown of all charges to be paid by the owner. The breakdown of the charges to be paid by the owner shall include the charges an owner would pay to register the all-terrain vehicle for a one-year period and the charges an owner would pay to register the all-terrain vehicle for a three-year period. The notice shall also contain instructions as to the procedure for renewal upon presentation to a motor license agent or by return mail to the state office of the Commission. On the back of such registration notice form there shall be an explanation of the apportionment of all fees and penalties collected and their disposition. Such explanation shall include information as to all charges and fees included in the total fee or incident to the registration of an all-terrain vehicle. If the owner chooses the option of receiving these services through the mail, either from the Commission or a motor license agent, the owner shall be instructed to pay the final total listed for the period of registration chosen by the owner. The cost of mailing shall be One Dollar (\$1.00) for titles or other forms or devices required by the Oklahoma All-terrain Vehicle Registration Act. Provided, that the Commission may adjust any mailing costs as deemed appropriate to allow for

increased or additional fees charged by the United States Postal Service.

Failure by any applicant to receive notification of renewal as provided by this section shall not excuse the applicant from properly obtaining any registration at the proper time by presenting proof of ownership to the state office of the Commission or to a motor license agent.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.19 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The application required for the initial and subsequent registration of an all-terrain vehicle shall be accompanied by payment of the following fees:

1. Where the factory-delivered price of the manufacturer, or in the absence of such price being published in a recognized publication for the use of all-terrain vehicle dealers and/or for purposes of insurance and financing firms, where the provable original or new cost of all materials, is One Hundred Fifty Dollars (\$150.00) or less, the registration and license fee for the first and for each succeeding annual registration shall be One Dollar (\$1.00);

2. Where the factory-delivered price of the manufacturer, or in the absence of such price being published as provided in paragraph 1 of this subsection, where the value of such all-terrain vehicle is determined and fixed as above required and is in excess of One Hundred Fifty Dollars (\$150.00), there shall be added to the fee of One Dollar (\$1.00), the sum of One Dollar (\$1.00) for each One Hundred Dollars (\$100.00) or any fraction thereof, in excess of One Hundred Fifty Dollars (\$150.00) provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

3. After the first registration in this state under the Oklahoma All-terrain Vehicle Registration Act of any new all-terrain

vehicle under paragraph 2 of this subsection, the registration for the second year shall be ninety percent (90%) of the fee computed and assessed hereunder for the first year, and thereafter such fee shall be computed and assessed at ninety percent (90%) of the fee of the previous year and shall be so computed and assessed for the next nine (9) successive years provided such fee shall not exceed One Hundred Fifty Dollars (\$150.00);

4. The initial and subsequent registration fee for any all-terrain vehicle which is a part of a fleet for which a rental fee and sales tax are collected shall be Forty Dollars (\$40.00) in lieu of the fees required by paragraphs 1 through 3 of this subsection. For the purpose of this paragraph, "fleet" means twenty or more all-terrain vehicles operated by a business organization from a single location. The fee provided for in this paragraph may be reduced annually to zero until the total reduction equals the difference between the sum of the fees paid pursuant to paragraphs 1 through 3 of this subsection for the two registration years preceding January 1, 1990, and the fee provided for in this paragraph;

5. For any all-terrain vehicle owned and numbered, registered or licensed prior to January 1, 1990, in this or any other state, or in the absence of such registration upon proof of the year, model and age of same, the registration fee shall be computed and assessed at the rate hereinabove provided for a new all-terrain vehicle based on the value thereof determined as provided in this subsection, but reduced as though same had been registered for each prior year of its existence. Except as provided in paragraph 1 of this subsection, the registration fee for the eleventh year computed in accordance with the provisions of this subsection shall be the amount of the fee to be assessed for such eleventh year and shall be the minimum annual registration fee for such all-terrain vehicle for any subsequent year; and

6. The initial and subsequent registration fee for any all-terrain vehicle which is not being used in a trade or business or for any commercial purpose and is owned by:

- a. a nonresident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- b. a resident member of the Armed Forces of the United States assigned to duty in this state in compliance with official military or naval orders,
- c. the spouse, who resides in Oklahoma, of a resident or nonresident member of the Armed Forces of the United States serving in a foreign country, or
- d. any Oklahoma resident who is stationed out of state due to an official assignment of the Armed Forces of the United States,

shall be the lesser of either a registration fee of Fifteen Dollars (\$15.00) or the fee computed and assessed for all-terrain vehicles of similar age and model pursuant to this section.

B. As used in this section, the term "factory-delivered price of the manufacturer" shall represent the recommended retail selling price and shall not mean the wholesale price to a dealer.

C. The Oklahoma Tax Commission shall assess the registration fees and penalties for the year or years an all-terrain vehicle was not registered as provided in the Oklahoma All-terrain Vehicle Registration Act. For all-terrain vehicles not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

D. Upon each all-terrain vehicle repossessed by a mortgagee, a fee of Forty-six Dollars (\$46.00) shall be assessed. This fee shall be in lieu of any applicable all-terrain vehicle excise tax and registration fees. Each motor license agent accepting applications for certificates of title for such all-terrain vehicle shall receive

Seven Dollars (\$7.00) to be deducted from the license fee specified in this subsection for each application accepted.

E. All all-terrain vehicles owned by the State of Oklahoma, its agencies or departments, or political subdivisions thereof, or which under the law would be exempt from direct ad valorem taxation, shall be registered pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration Act for an annual fee of Two Dollars and twenty-five cents (\$2.25) irrespective of whether registered by a motor license agent or the Commission.

F. All all-terrain vehicles owned by Boy Scouts of America, Girl Scouts of the U.S.A., and the Campfire Boys and Girls, devoted exclusively to youth programs emphasizing physical fitness, character development and citizenship training, are hereby exempt from the payment of registration fees required by this section. Provided, all of such all-terrain vehicles shall be registered and shall otherwise comply with the provisions of the Oklahoma All-terrain Vehicle Registration Act.

G. A credit shall be allowed with respect to the fee for registration of any new all-terrain vehicle, when such new all-terrain vehicle is a replacement for:

1. A new original all-terrain vehicle which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original all-terrain vehicle as certified by a police report or other documentation as required by the Commission; or

2. A defective new original all-terrain vehicle returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original all-terrain vehicle as certified by the manufacturer. Such credit shall be in the amount of the fee for registration which was paid for the new original all-terrain vehicle and shall be applied to the registration fee for the replacement all-terrain vehicle. In no event will said credit be refunded.

H. Upon proper proof of a lost certificate of registration being made to the Commission or one of its motor license agents, accompanied by an application therefor and payment of the fees required by the Oklahoma All-terrain Vehicle Registration Act, a duplicate certificate of registration shall be issued to the applicant. The charge for such duplicate certificate of registration shall be Two Dollars and twenty-five cents (\$2.25), which charge shall be in addition to any other fees imposed by Section 20 of this act for any such all-terrain vehicle.

I. In addition to any other fees levied by the Oklahoma All-terrain Vehicle Registration Act, there is levied and there shall be paid to the Commission, for each year an all-terrain vehicle is registered, a fee of One Dollar (\$1.00) for each all-terrain vehicle for which a registration or license fee is required pursuant to the provisions of this section. The fee shall accrue and shall be collected upon each all-terrain vehicle under the same circumstances and shall be payable in the same manner and times as apply to all-terrain vehicle licenses and registrations under the provisions of the Oklahoma All-terrain Vehicle Registration Act; provided, the fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

Monies collected pursuant to this subsection shall be apportioned by the Commission to the State Treasurer for deposit in the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of Title 63 of the Oklahoma Statutes.

The collection and payment of the fee shall be a prerequisite to license or registration of any all-terrain vehicle.

J. If an all-terrain vehicle is donated to a nonprofit charitable organization, the nonprofit charitable organization shall be exempt from paying any current or past due registration fees, excise tax, transfer fees, and penalties and interest; provided, subsequent to such donation, if the person, entity or party acting

on behalf of another person who donated the all-terrain vehicle, purchases the same all-terrain vehicle from the nonprofit charitable organization receiving the original donation, such person, entity or party acting on behalf of another shall be liable for all current and past-due registration fees, excise tax, transfer fees, and penalties and interest on such vehicle.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.20 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. In addition to the registration fees required by Section 19 of this act, when any such application for registration is made directly to the Oklahoma Tax Commission or to any motor vehicle agent, a fee of One Dollar and twenty-five cents (\$1.25) for each year the all-terrain vehicle is registered shall be collected and apportioned as provided by the provisions of the Oklahoma All-terrain Vehicle Registration Act.

B. 1. The charge for a copy of certificate of registration information is One Dollar (\$1.00) for each instrument.

2. The charge for a certified copy of certificate of registration information is Two Dollars (\$2.00) for each instrument.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.21 of Title 47, unless there is created a duplication in numbering, reads as follows:

The registration fees herein imposed upon all-terrain vehicles shall be for the purpose of reimbursing and providing funds for general governmental functions of the state, and when paid in full such fees shall be in lieu of all ad valorem taxes, general or local, to which such all-terrain vehicle may be subject as personal property under the laws of this state.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.22 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. In the event a new all-terrain vehicle is not registered within thirty (30) calendar days from the date purchased in this state by a resident of this state, the penalty shall be Twenty-five Dollars (\$25.00); provided, that in no event shall the penalty exceed an amount equal to the registration fee. The rate of the registration fee shall be fixed and determined by the date of the sale by the dealer of said new all-terrain vehicle to the purchaser.

B. If a new or used all-terrain vehicle is brought into Oklahoma by a resident of this state and is not registered within thirty (30) calendar days from the date such all-terrain vehicle enters the state as required by the Oklahoma All-terrain Vehicle Registration Act, the penalty shall be Twenty-five Dollars (\$25.00); provided, that in no event shall the penalty exceed an amount equal to the registration fee.

C. If an all-terrain vehicle is purchased or is brought into Oklahoma by a nonresident of this state and such all-terrain vehicle remains over sixty (60) calendar days and is not registered as required by the Oklahoma All-terrain Vehicle Registration Act, the penalty shall be Twenty-five Dollars (\$25.00).

D. Any person in this state owning an all-terrain vehicle subject to the provisions of this subsection and failing or refusing to file application for the registration of such all-terrain vehicle and to pay the registration fee as required by the Oklahoma All-terrain Vehicle Registration Act, within one (1) month after the expiration date, shall be deemed delinquent and there shall be added a penalty of twenty-five cents (\$0.25) per day on the registration fee for each day such registration is delinquent. The penalty for failure to register shall accrue for a three-month calendar period. Thereafter, the penalty shall be Twenty-five Dollars (\$25.00); provided, that in no event shall the penalty exceed an amount equal to the registration fee.



E. The failure to register any all-terrain vehicle as required by the Oklahoma All-terrain Vehicle Registration Act shall, in addition to penalties, subject such all-terrain vehicle to the seizure provisions as provided in the Oklahoma Vehicle License and Registration Act.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.23 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. When, at the time of titling and registration of any all-terrain vehicle, payment is made by check for fees and taxes and the check is not paid by the bank on which drawn for any reason, such certificate of title or registration and other such instruments issued at the time of titling or registration of such all-terrain vehicle shall be canceled immediately, without notice, by the Oklahoma Tax Commission or motor license agent who issued such title or registration certificate. In all such cases the title or registration certificate, number, receipt, and any other official document issued at the time of the acceptance of such check shall be null and void and returned to the issuer.

B. The motor license agent shall transmit all documents and the dishonored check to the Commission for credit to the account of the motor license agent. The Commission may enter into a contract for the collection of dishonored checks and canceled instruments.

C. In all such cases, such all-terrain vehicles shall be subject to the fees and penalties provided in the Oklahoma All-terrain Vehicle Registration Act as though no attempt to register the vehicle had been made and a further penalty of Twenty-five Dollars (\$25.00) shall be assessed.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.24 of Title 47, unless there is created a duplication in numbering, reads as follows:

At any time that a mortgagee repossesses an all-terrain vehicle on which the registration has become delinquent as of the date of such repossession, the mortgagee shall not be required, as a condition for registration of said all-terrain vehicle, to pay any of the penalties which had accrued as of the date of such repossession otherwise prescribed in the Oklahoma All-terrain Vehicle Registration Act. Provided, that said penalties shall not be waived unless such all-terrain vehicle is registered by the mortgagee within five (5) days after it is repossessed. Provided further, that if the mortgagor or spouse becomes the owner of the all-terrain vehicle within ninety (90) days from the date of repossession, the penalty shall reattach and be paid when application is made for the new title.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.25 of Title 47, unless there is created a duplication in numbering, reads as follows:

All title and registration fees and penalties levied by the terms and provisions of the Oklahoma All-terrain Vehicle Registration Act shall become and remain a first lien upon any all-terrain vehicle on which said fees, taxes and penalty are due and unpaid. Said lien shall be prior, superior and paramount to all other liens of whatsoever kind or character.

After the thirtieth day after such title and registration fees become delinquent, it shall be the duty of the Oklahoma Tax Commission or the Department of Public Safety, its designated officers or employees, and of sheriffs and all other duly authorized peace officers of this state, to seize and take into custody every all-terrain vehicle required to be titled and registered pursuant to the Oklahoma All-terrain Vehicle Registration Act but which is not so registered by the owner thereof, and such all-terrain vehicle shall not be released to the owner thereof until it is duly registered and the fee due thereon paid in full, together with any

penalty provided by law, plus the cost of seizure, including a reasonable cost of taking such all-terrain vehicle into custody and storing it. In the event the owner or possessor of any such all-terrain vehicle seized, as provided by law, shall fail to pay the registration fee and penalty due thereon, together with said costs of seizure and storage, said officer shall proceed to foreclose the lien thereon by selling such all-terrain vehicle following the procedure for foreclosure of liens on personal property prescribed in Section 91 of Title 42 of the Oklahoma Statutes.

The provisions of the Uniform Tax Procedure Code under Title 68 of the Oklahoma Statutes providing procedures and remedies with respect to all state taxes shall also be available for the enforcement of the provisions of the Oklahoma All-terrain Vehicle Registration Act.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.26 of Title 47, unless there is created a duplication in numbering, reads as follows:

All titling and registration fees, taxes and penalties collected by the Oklahoma Tax Commission pursuant to the provisions of Sections 13 and 19 of this act shall be apportioned as provided in Section 1104 of Title 47 of the Oklahoma Statutes.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.27 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. If the Oklahoma Tax Commission shall determine at any time that an applicant for a certificate of title of or registration for an all-terrain vehicle is not entitled thereto, it may refuse to issue such certificate or to register such all-terrain vehicle. The Commission may for a similar reason, after ten (10) calendar days' notice and a hearing, revoke the certificate of title and registration already acquired. Said notice may be served in person or by registered mail.

B. In addition, in every case where an all-terrain vehicle has been titled or registered upon an application containing any false statement of a fact required in this section to be shown in an application for the title or registration thereof, the Commission shall give written notice of at least ten (10) calendar days to the owner of the all-terrain vehicle and shall require the owner to appear before it for the purpose of showing cause why said title or registration should not be canceled. Unless satisfactory explanation is given by the owner concerning such false statement, the Commission shall cancel the title or registration. The owner of the all-terrain vehicle shall then be required to immediately retitle or reregister the all-terrain vehicle and pay the required fees. The owner shall not be entitled to refund or credit for the fees paid for titling and registration of the all-terrain vehicle made under the application which contained any false statement of fact.

C. The Commission shall insert in said application forms appropriate notice to the applicant that any false statement of a fact required to be shown in such application for title or registration subjects the applicant to prosecution.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.28 of Title 47, unless there is created a duplication in numbering, reads as follows

A. It shall be unlawful for any person to:

1. Lend or to sell to, or knowingly permit the use of by one not entitled thereto, any certificate of title or registration issued to or in the custody of the person so lending or permitting the use thereof;

2. Alter or in any manner change a certificate of title or registration certificate issued under the laws of this or any other state;

3. Procure from another state or country or display upon any all-terrain vehicle owned by the person within this state, except as otherwise provided by the Oklahoma All-terrain Vehicle Registration Act, any number issued by any state or country other than this state, unless there shall be displayed upon such all-terrain vehicle at all times the permanent number assigned to it by the Oklahoma Tax Commission;

4. Buy, sell or dispose of, or have in the possession of the person for sale, use or storage, any secondhand or used all-terrain vehicle on which the registration fee has not been paid, as required by law, and on which all-terrain vehicle said person neglects, fails or refuses to display at all times the permanent number assigned to it;

5. Register an all-terrain vehicle on an assigned certificate of title. This particular paragraph shall be applicable to all persons except bona fide dealers who are holders of current and valid dealers licenses;

6. Operate an all-terrain vehicle after the registration deadline for that all-terrain vehicle without a proper title and registration, as prescribed by the Oklahoma All-terrain Vehicle Registration Act, for the current year;

7. Release a certificate of title or excise tax receipt to any unauthorized person or source, including any dealer. Violation of this paragraph shall constitute sufficient grounds for discharge of a motor license agent by the Commission;

8. Alter or in any manner change a permanent number issued for an all-terrain vehicle under the laws of this state or any other state; or

9. Offer for sale any used all-terrain vehicle if the all-terrain vehicle:

- a. is not currently registered, if required,
- b. has had the serial number removed,

- c. has a serial number which does not match the number listed on the current title or registration, or
- d. appears, is suspected, or is known to be stolen.

Anyone violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed Fifty Dollars (\$50.00) for each such violation.

B. Any owner who knowingly makes or causes to be made any false statement of a fact required in this section to be shown in an application for the title or registration of one or more all-terrain vehicles shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00), or shall be imprisoned in the county jail for not more than one (1) year, or both such fine and imprisonment.

C. A violation of this section and any of the provisions of Sections 2 through 42 of this act where a specific penalty has not been imposed shall constitute a misdemeanor and upon conviction thereof the person having violated it shall be fined not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00).

D. In addition thereto, it is specifically provided that any person stating or giving or causing to be stated or given any false information as to the location of any all-terrain vehicle shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed one (1) year, or by both such fine and imprisonment.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.29 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to engage in the business of selling, or to serve in the capacity of, or act as a dealer of new or used all-terrain vehicles in this state without

first obtaining a license therefor as provided for by the Oklahoma All-terrain Vehicle Registration Act. Any person having more than one location where such business is carried on or conducted shall be required to obtain and hold a current license for each such location.

B. 1. Dealer licenses issued pursuant to this section shall be issued only to persons that prove to the satisfaction of the Oklahoma Tax Commission that they are clearly recognizable as bona fide dealers. Proof of bona fide dealer status shall include, but need not be limited to, the following:

- a. maintenance of a display area capable of regularly displaying at least three all-terrain vehicles, or a minimum of one thousand two hundred (1,200) square feet, indoors or outdoors,
- b. annual sales of substantial numbers of new or used all-terrain vehicles. "Substantial sales" normally means sale of five or more all-terrain vehicles unless the applicant can show unusual circumstances justifying lesser sales,
- c. consistent identification of the business as a dealer or mercantile establishment in advertising, signs, telephone book listings, and the like. The dealership must be clearly identifiable as such by any person who visits or deals with it,
- d. location of dealership in areas where zoning permits such sales and commercial operations,
- e. regular hours of operation from May 1 to September 1, inclusive, at least five (5) days per week, and
- f. a picture, upon application for a new license, of the business location which includes the selling lot and the office and business sign.

2. The Commission shall issue a license to sell new all-terrain vehicles only to those persons having a dealer agreement to sell new all-terrain vehicles in this state.

C. 1. Applications for licenses required to be obtained pursuant to the provisions of this section shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant to receive the license requested. The Commission shall require in such application, or otherwise, information relating to:

- a. the financial standing of the applicant,
- b. the business integrity of the applicant,
- c. whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation or business for which a license or licenses have been requested,
- d. whether the applicant is able to properly conduct the business for which a license or licenses have been requested, and
- e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

All such applications for license or licenses shall be accompanied by the appropriate fee or fees therefor in accordance with the schedule set out in Section 30 of this act.

2. In the event any such application is denied and the license for which requested is not issued, the entire license fee shall be returned to the applicant.

3. All licenses issued under the provisions of the Oklahoma All-terrain Vehicle Registration Act shall expire on December 31



following the date of issue and shall be nontransferable. All applications for renewal of a license issued pursuant to the provisions of this section shall be submitted by December 1 of each year, and such license will be issued by January 1. If applications have not been made for renewal of licenses by December 31 of each year it shall be illegal for any person to sell or to serve in the capacity or act as a dealer. If after January 31 of each year the license has not been renewed or the renewal paid, then such licensee shall be required to apply for a license as a new applicant. Motor vehicle license agents will be notified not to accept such titles of the dealer until such time as licenses have been issued by the Commission. Provided, however, such dealers may transfer titles to all-terrain vehicles purchased for resale prior to the expiration of their license. Such dealer shall provide the purchaser with a copy of the invoice showing purchase of the all-terrain vehicle prior to the expiration of the license of the dealer. Such transfers shall only be allowed within two (2) years of the license expiration.

D. Application for a dealer license must show that such dealer has not violated any of the provisions of this section.

E. The Commission may require every person licensed as a dealer, pursuant to the provisions of this subsection, to make a report to the Commission within a period of seven (7) days after the transfer by such person of the legal ownership of every all-terrain vehicle upon a form prescribed and furnished by the Commission, showing the name and address of the purchaser, a description of the all-terrain vehicle including, but not limited to, the make, model, year made, permanent vehicle number, the date of the transfer and such other information as the Commission may require, and containing a certificate signed by the seller that the purchaser was given notice at the time of the sale or transfer that the purchaser is required by law to obtain a certificate of title for such all-terrain vehicle from the Commission within thirty (30) calendar days

after such sale or transfer. The Commission may cancel or suspend, in the manner provided by law, the license of any person licensed as a dealer pursuant to the provisions of this section who fails or refuses to comply with the provisions of this section. Dealers failing to comply with provisions of this section shall be responsible for all taxes due on such sales or on such all-terrain vehicles.

F. The license of each dealer shall be posted in a conspicuous place in the place or places of business of the dealer.

G. 1. A new dealer license authorizes a dealer to transfer, purchase and sell new and used all-terrain vehicles.

2. A used dealer license authorizes a dealer to transfer, purchase and sell used all-terrain vehicles.

3. A new dealer license or a used dealer license authorizes a dealer to transfer and assign titles and purchase new and used all-terrain vehicles without paying excise tax.

H. Any dealer agreement executed or renewed on and after the effective date of this act shall comply with the provisions of the Oklahoma All-terrain Vehicle Registration Act.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.30 of Title 47, unless there is created a duplication in numbering, reads as follows:

The schedule of license fees to be charged and received by the Oklahoma Tax Commission for the licenses issued pursuant to Section 29 of this act shall be as follows:

1. For the license issued initially to each dealer of new all-terrain vehicles, the fee shall be Two Hundred Dollars (\$200.00) per location licensed. In addition to the license fee, a fee of Ten Dollars (\$10.00) per dealer agreement for each such all-terrain vehicle sold at each location licensed shall be charged. The annual renewal fee shall be One Hundred Dollars (\$100.00) per location per year. Any changes in the make of all-terrain vehicles sold at any

location licensed shall be specified in the renewal application. A fee of Ten Dollars (\$10.00) per location shall be charged for such additional dealer agreement for each such all-terrain vehicle sold; and

2. For the license issued initially to each dealer of used all-terrain vehicles, the fee shall be Fifty Dollars (\$50.00) per each location licensed with an annual renewal fee of Fifty Dollars (\$50.00) per location per year.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.31 of Title 47, unless there is created a duplication in numbering, reads as follows:

Upon application, there shall be assigned and issued up to ten testing permits to manufacturers of new all-terrain vehicles. Such permits shall be displayed upon each all-terrain vehicle owned by the manufacturer when the all-terrain vehicle is driven or tested in this state. No such testing permit shall be used upon any new all-terrain vehicle which is for private use or for hire.

The testing permit shall be provided at a cost of Five Dollars (\$5.00) each and shall expire on December 31 of each year.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.32 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Upon issuance of a license to sell new all-terrain vehicles, there shall be assigned and issued to such dealer three demonstration permits for all-terrain vehicles. Such permits shall be displayed upon each all-terrain vehicle owned by the dealer when the all-terrain vehicle is driven or displayed. No such demonstration permit issued to any dealer shall be used or displayed upon any secondhand or used all-terrain vehicle, or upon any new all-terrain vehicle which is for private use, or for hire. Any dealer or agent thereof for purposes of demonstrating an all-terrain vehicle for a sale, or any other person, with consent of the dealer,

while contemplating purchase, may operate a new all-terrain vehicle with the demonstration permit affixed so long as this intent is limited to a consecutive seventy-two-hour period, or a weekend. For the purposes of this subsection, "driven or displayed in this state" does not include the use of an all-terrain vehicle for participation in a contest.

B. Each dealer of new and used all-terrain vehicles, shall keep a record of the purchase and sale of each all-terrain vehicle he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the all-terrain vehicle purchased or sold, and such other information as the Oklahoma Tax Commission may prescribe.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.33 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. When a registration expires on a used all-terrain vehicle while in the possession of a dealer, the dealer shall affix a demonstration permit to such all-terrain vehicle whenever the all-terrain vehicle is used for demonstration.

B. Upon the purchase or transfer of ownership of an out-of-state used all-terrain vehicle by a dealer, or the purchase or transfer of ownership of an all-terrain vehicle which does not have a certificate of title or a certificate of registration, the dealer shall make application for an Oklahoma certificate of title pursuant to the Oklahoma All-terrain Vehicle Registration Act. Upon receipt of the Oklahoma certificate of title, the dealer shall follow the procedure as set forth in subsection A of this section. Provided, nothing in this act shall be construed as requiring a dealer to register an all-terrain vehicle purchased in another state which will not be operated or sold in this state.

C. Upon sale or transfer of ownership of the used all-terrain vehicle, the dealer shall place upon the reassignment portion of the

certificate of title a tax stamp issued by the county treasurer of the county in which the dealer has his primary place of business. The tax stamp shall be issued upon payment of a fee of Three Dollars and fifty cents (\$3.50) and shall be in lieu of the ad valorem tax of the dealer on the inventories of used all-terrain vehicles but shall not relieve any other property of the dealer from ad valorem taxation.

D. Upon sale of a used all-terrain vehicle to another licensed dealer, the selling dealer shall place the tax stamp required in subsection C of this section upon the certificate of title.

E. The purchaser of every used all-terrain vehicle, except as otherwise provided by law, shall obtain registration and title for the all-terrain vehicle within thirty (30) calendar days from the date of purchase of same.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.34 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The following are the subjects that shall be covered by a dealer agreement:

1. Length of term of dealer agreement;
2. Performance and marketing standards;
3. Notice provisions relative to termination, cancellation, or nonrenewal of a dealer agreement;
4. The respective obligations of the parties relative to preparation and delivery of the product and warranty service;
5. The respective obligations of the parties upon termination, cancellation, or nonrenewal of the dealer agreement relative to the disposal of inventory and equipment, furnishings, special tools, and signs required by the manufacturer or distributor and acquired within the two (2) years last preceding such termination, cancellation, or nonrenewal; and

6. Process and procedure for the resolution of disputes between the parties.

B. No manufacturer shall enter into a dealer agreement with a dealer for the same product line regardless of brand name within a fifteen-mile radius of an existing dealer of the same product line regardless of brand name, provided any dealer agreements in existence on June 3, 1989, may be extended or reissued.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.35 of Title 47, unless there is created a duplication in numbering, reads as follows:

In the event that a dealer seeks to establish a new all-terrain vehicle dealership or relocate an existing all-terrain vehicle dealership within or into a relevant market area where the same product line is then represented, the dealer shall notify the Oklahoma Tax Commission and each new all-terrain vehicle dealer of such product line in the relevant market area of the intention to establish or relocate a dealership within or into that market area. The relevant market area is the area within a radius of fifteen (15) miles of the site of the proposed new all-terrain vehicle dealership. Within fifteen (15) days of receiving such notice such new all-terrain vehicle dealer may file with the Commission a protest to the establishing or relocating of the proposed new all-terrain vehicle dealership. When such a protest is filed, the Commission shall inform the dealer that a timely protest has been filed, and that the dealer shall not establish or relocate the proposed new all-terrain vehicle dealership until the Commission has held a hearing, nor thereafter, if the Commission has determined that there is good cause for not permitting such new all-terrain vehicle dealership. The manufacturer or factory representative of the same product line may obtain a waiver of protest from each new all-terrain vehicle dealer of the same product line within that relevant market area. If a waiver of protest from each dealer

within the relevant market area is not attached to the application for the new dealer seeking to establish, the Commission shall render a final decision no later than sixty (60) days after the receipt by the Commission of the notice of protest. In any hearing held pursuant to this section on additional dealerships or relocation of dealerships the new dealer or existing dealer relocating shall have the burden of proof. For the purposes of this section, the reopening in a relevant market area of a new all-terrain vehicle dealership that has not been in operation for two (2) years or more shall be deemed the establishment of a new all-terrain vehicle dealership. For the purpose of this section, the designation of an additional location in an existing dealership agreement shall be deemed to be the establishment of a new all-terrain vehicle dealership.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.36 of Title 47, unless there is created a duplication in numbering, reads as follows:

In determining whether good cause has been established for not entering into or relocating an additional dealership for the same product line, the Oklahoma Tax Commission shall take into consideration the existing circumstances including, but not limited to:

1. Permanency of the investment of the proposed dealership;
2. Effect on the retail new all-terrain vehicle business and the consuming public in the relevant market area;
3. Whether it is injurious to the public welfare for an additional new all-terrain vehicle dealership to be established;
4. Whether the new all-terrain vehicle dealers of the same line-make in that relevant market area are providing adequate competition and convenient consumer care for the new all-terrain vehicle and service facilities, equipment, supply of new all-terrain vehicle parts, and qualified service personnel; and

5. Whether the establishment of an additional new all-terrain vehicle dealership would increase competition, and therefore be in the public interest.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.37 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A designated successor of a deceased or incapacitated new all-terrain vehicle dealer may succeed the dealer in the ownership or operation of the dealership under the existing dealer agreement, if the designated successor gives the manufacturer or distributor written notice of his intention to succeed to the dealership within sixty (60) days after the death of the dealer or incapacity and agrees to be bound by all of the terms and conditions of the dealer agreement. A manufacturer or distributor may refuse to honor the existing dealer agreement with the designated successor for good cause or criteria agreed to in the existing dealer agreement, and may require the designated successor to supply personal and financial data necessary to determine whether the existing dealer agreement should be honored.

B. Within sixty (60) days after receiving the notice of the designated intent of the successor to succeed the dealer in the ownership and operation of the dealership or within sixty (60) days after receiving the requested personal and financial data, whichever last occurs, if a manufacturer or distributor believes that good cause or other criteria exists for refusing to honor the succession, the manufacturer or distributor may serve upon the designated successor notice of its refusal to approve the succession.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.38 of Title 47, unless there is created a duplication in numbering, reads as follows:

After the termination of the dealer agreement by the manufacturer, the manufacturer shall continue to sell parts to the



dealer in order that the dealer may continue to service any of the products of the manufacturer which the dealer may have sold to customers prior to termination for a period not to exceed eighteen (18) months from the date of termination.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.39 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission may deny an application for a license, or revoke or suspend a license or impose a fine not to exceed Five Hundred Dollars (\$500.00) against a dealer for each day that any provision of this section or Sections 29 through 38 of this act is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for any license pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration Act;
2. For any material misstatement made by an applicant in any application for any license pursuant to the provisions of the Oklahoma All-terrain Vehicle Registration Act;
3. For any failure to comply with any provision of the Oklahoma All-terrain Vehicle Registration Act or any rule promulgated by the Commission under authority vested in it by the Oklahoma All-terrain Vehicle Registration Act;
4. A change of condition after license is granted resulting in failure to maintain the qualifications for license;
5. Being a dealer who:
  - a. has required a purchaser of a new all-terrain vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser and installed by the dealer,
  - b. uses any false or misleading advertising in connection with his business as such a dealer,

- c. has committed any unlawful act which resulted in the revocation of any similar license in another state,
- d. has failed or refused to perform any written agreement with any retail buyer involving the sale of all-terrain vehicles,
- e. has been convicted of a crime involving moral turpitude,
- f. has committed a fraudulent act in selling, purchasing, or otherwise dealing in all-terrain vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of an all-terrain vehicle or any interest therein including an option to purchase such all-terrain vehicle, or
- g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

6. Being a dealer who does not have an established place of business;

7. Being a new all-terrain vehicle dealer who:

- a. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more all-terrain vehicles at the same time, and which is equipped with such parts, tools and equipment as may be requisite for the servicing of all-terrain vehicles in such a manner as to make them comply with the safety laws of this state and to properly fulfill the warranty obligations of the dealer or manufacturer. Provided, that the provisions of this subparagraph shall not apply to mercantile establishments engaged in the selling of all-terrain vehicles if such all-terrain vehicle

business does not constitute more than ten percent (10%) of the business of such establishment,

- b. does not hold a dealer agreement in effect with a manufacturer or distributor of new all-terrain vehicles for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such all-terrain vehicles sold to purchasers and to perform any authorized post-sale work pursuant to the warranty of the manufacturer or distributor, or
- c. does not properly service a new all-terrain vehicle before delivery of same to the original purchaser thereof.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.40 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission may deny any application for license, or suspend or revoke a license issued or impose a fine, only after a hearing of which the applicant, or licensee affected, shall be given at least ten (10) days' written notice specifying the reason for denying the applicant a license, or, in the case of a revocation or suspension or imposition of a fine, the offenses of which the licensee is charged. Such notices may be served as provided by law for the service of notices, or by mailing a copy by registered mail to the last-known residence or business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the Commission may prescribe and the aforementioned notice shall further specify the time and place. The Commission shall have the power to compel the production of all records, papers and other documents which may be deemed relevant to the proceeding bearing upon the complaints. The Commission shall have the power to subpoena and bring before it any person, or take

testimony of any such person by deposition, with the same fees and mileage and in the same manner as prescribed in proceedings before courts of the state in civil cases. Any party to such hearing shall have the right to the attendance of witnesses in his behalf upon designating to the Commission the person or persons sought to be subpoenaed.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.41 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission is hereby authorized, without cost, bond or deposit, to institute injunctive actions in courts of competent jurisdiction, in the name of the State of Oklahoma on the relation of said Commission, to enforce the provisions of Sections 29 through 40 of this act. Any licensee or other person who violates or threatens to violate any provision of Sections 29 through 40 of this act or rule or regulation enacted thereunder or order of the Commission may be enjoined from so doing.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1180.42 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission shall issue permits for displays and sales of new all-terrain vehicles which are held off the premises of a licensed dealer thereof as follows:

1. A promotion by an individual new all-terrain vehicle dealer which is held off the premises of such dealer and at which sales activities are conducted may be held only under the following conditions:

- a. the dealer participates in an advertised all-terrain vehicle show in which at least two other all-terrain vehicle dealers are participating,
- b. application for a permit for a sales promotion by an individual dealer shall be made to the Commission at

- least seven (7) calendar days prior to such promotion, and such permit shall be issued by the Commission upon payment of a fee of Fifty Dollars (\$50.00) per event,
- c. the permit shall be valid for a period not to exceed fourteen (14) consecutive days, and
  - d. the Commission shall not issue a permit to a dealer if he has obtained a permit within the past forty-five (45) calendar days for the same location;

2. A dealer may not be denied a permit on the grounds that the sales promotion is to be held within the relevant market area of another dealer of the same product line;

3. A dealer who fails to obtain such a permit shall be subject to the penalties and fines provided for in Section 4041 of Title 63 of the Oklahoma Statutes.

Provided, a permit shall not be required pursuant to the provisions of this section for a display or sale of new all-terrain vehicles which is held off the premises of a licensed dealer if the display or sale is held within a twenty-five-mile radius of the location of the dealership; and

4. Prior to the completion of a sale at an off-premises location, the dealer shall be required to disclose in writing to any person purchasing a new all-terrain vehicle the following information:

- a. that location of the dealership making the sale, and
- b. that other dealers may not be willing to do repair or warranty work on all-terrain vehicles not purchased at their dealership.

Any salesperson working at an off-premises location shall not wear any identification or clothing indicating an affiliation with another retailer.

SECTION 43. AMENDATORY 47 O.S. 2001, Section 562, as amended by Section 11, Chapter 284, O.S.L. 2005 (47 O.S. Supp. 2005, Section 562), is amended to read as follows:

Section 562. The following words, terms and phrases, when used in Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Motor vehicle" means any motor-driven vehicle required to be registered under the Oklahoma Vehicle License and Registration Act ~~and beginning November 1, 2005, all terrain vehicles and motorcycles used exclusively off-roads and highways;~~

2. "New motor vehicle dealer" means any person, firm, association, corporation or trust not excluded by this paragraph who sells, offers for sale, advertises to sell, leases or displays new, unused or remanufactured motor vehicles and holds a bona fide contract or franchise in effect with a manufacturer, remanufacturer or distributor authorized by the manufacturer or remanufacturer to make predelivery preparation of such vehicles sold to purchasers and to perform post-sale work pursuant to the ~~manufacturer's, remanufacturer's or distributor's~~ warranty of the manufacturer, remanufacturer or distributor. As used herein, "authorized predelivery preparation" means the rendition by the dealer of services and safety adjustments on each new, unused or remanufactured motor vehicle in accordance with the procedure and safety standards required by the manufacturer or remanufacturer of the vehicle to be made before its delivery to the purchaser. "Performance of authorized post-sale work pursuant to the warranty", as used herein, means the rendition of services which are required by the terms of the warranty that stands extended to the vehicle at the time of its sale and are to be made in accordance with the safety standards prescribed by the manufacturer or remanufacturer.

The term includes premises or facilities at which a person engages only in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise and motor vehicle manufacturer's or remanufacturer's warranty. However, the term shall not include premises or facilities at which a new motor vehicle dealer or dealers within the area of responsibility of such dealer or dealers as defined in the manufacturer's or remanufacturer's franchise agreement of such dealer or dealers performs motor vehicle repairs pursuant to the terms of a franchise and motor vehicle manufacturer's or remanufacturer's warranty. For the purpose of Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title, the terms "new motor vehicle dealer" and "new motor vehicle dealership" shall be synonymous. The term "new motor vehicle dealer" does not include:

- a. receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment or order of any court,
- b. public officers while performing or in operation of their duties, or
- c. employees of persons, corporations or associations enumerated in subparagraph a of this paragraph when engaged in the specific performance of their duties as such employees;

3. "Motor vehicle salesperson" means any person who, for gain or compensation of any kind, either directly or indirectly, regularly or occasionally, by any form of agreement or arrangement, sells or negotiates for the sale of any new or unused motor vehicle for any new, unused or remanufactured motor vehicle dealer to any one or more third parties;

4. "Commission" means the Oklahoma Motor Vehicle Commission;

5. "Manufacturer" means any person, firm, association, corporation or trust, resident or nonresident, who manufactures or

assembles new and unused motor vehicles or who engages in the fabrication or assembly of motorized vehicles of a type required to be registered in the State of Oklahoma;

6. "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who, being authorized by the original manufacturer, in whole or in part sells or distributes new and unused motor vehicles to motor vehicle dealers, or who maintains distributor representatives;

7. "Factory branch" means any branch office maintained by a person, firm, association, corporation or trust who manufactures or assembles motor vehicles for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives;

8. "Distributor branch" means any branch office similarly maintained by a distributor for the same purposes a factory branch is maintained;

9. "Factory representative" means any officer or agent engaged as a representative of a manufacturer of motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers;

10. "Distributor representative" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a distributor or distributor branch of motor vehicles, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers;

11. "Franchise" means any contract or agreement between a motor vehicle dealer and a manufacturer of a new motor vehicle or its distributor or factory branch by which the dealer is authorized to



engage in the business of selling any specified make or makes of new motor vehicles;

12. "New or unused motor vehicle" means a vehicle which is in the possession of the manufacturer or distributor or has been sold only to the holder of a valid selling agreement, franchise or contract, granted by the manufacturer or distributor for the sale of that make of new vehicle so long as the manufacturer's statement of origin has not been assigned to anyone other than a licensed franchised new motor vehicle dealer of the same line-make;

13. "Area of responsibility" means the geographical area, as designated by the manufacturer, factory branch, factory representative, distributor, distributor branch or distributor representative, in which the new motor vehicle dealer is held responsible for the promotion and development of sales and rendering of service for the make of motor vehicle for which the motor vehicle dealer holds a franchise or selling agreement;

14. "Off premises" means at a location other than the address designated on the new motor vehicle dealer's license;

15. "Sponsoring entity" means any person, firm, association, corporation or trust which has control, either permanently or temporarily, over the real property upon which the off-premise sale or display is conducted;

16. "Remanufactured vehicle" means a motor vehicle which has been assembled by a vehicle remanufacturer using a new body and which may include original, reconditioned or remanufactured parts, and which is not a salvage, rebuilt or junked vehicle as defined by paragraphs 1, 2 and 5, respectively, of subsection A of Section 1105 of this title;

17. "Vehicle remanufacturer" means a commercial entity which assembles remanufactured vehicles;

18. "Product" means new motor vehicles and new motor vehicle parts;

19. "Service" means motor vehicle warranty repairs including both parts and labor;

20. "Lead" means a consumer contact in response to a factory program designed to generate interest in purchasing or leasing a new motor vehicle;

21. "Sell or sale" means to sell or lease; and

22. "Factory" means a manufacturer, distributor, factory branch, distributor branch, factory representative or distributor representative, which manufactures or distributes vehicle products.

SECTION 44. This act shall become effective January 1, 2007.

50-2-9081          CJB          01/16/06