MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Clark

To: Transportation; Ways and Means

HOUSE BILL NO. 263

AN ACT TO ALLOW ALL-TERRAIN VEHICLES TO OBTAIN A CERTIFICATE OF NUMBER; TO REQUIRE ALL ALL-TERRAIN VEHICLES USED ON PUBLIC LANDS TO OBTAIN A CERTIFICATE OF NUMBER; TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO ISSUE THE CERTIFICATES; TO PROVIDE THAT THE CERTIFICATE OF NUMBER SHALL BE PLACED ON THE ALL-TERRAIN VEHICLES; TO PROVIDE A PENALTY FOR VIOLATIONS; TO AMEND SECTION 49-5-21, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Sections 1 through 13 of this act shall be known, and may be cited as the "Mississippi All-Terrain/Off-Road Vehicle Numbering Act."

SECTION 2. As used in Sections 1 through 13 of this act, unless the context clearly indicates otherwise:

(a) "ATV/ORV" means any all-terrain or off-road vehicle of a kind and type used for hunting, off-road recreation, or other vehicular travel over unimproved lands or trails as well as semi-improved roads. The term includes, but is not limited to, four-wheelers designed to be operated by one (1) rider astride the vehicle using handlebar steering and any additional conventional conveyances featuring a standard steering column and seating for

one or more persons sitting in tandem, including, but not limited to, golf carts modified for off-road use. The commission shall have the authority to expand the scope of this definition by rule or regulation to include any additional conveyance that it deems to be an ATV/ORV and properly subject to the provisions of Sections 1 through 13 of this act.

(b) "Certificate of number" means the number issued by the Department of Wildlife, Fisheries and Parks, after proper application, certifying the ownership of the ATV/ORV to be true and proper.

(c) "Commission" means the Mississippi Commission on Wildlife, Fisheries and Parks.

(d) "Department" means the Mississippi Department of Wildlife, Fisheries and Parks.

(e) "Operate" means to drive, steer or otherwise use an ATV/ORV.

(f) "Operator" means the person who drives, steers or who has charge of the operation or use of an ATV/ORV.

(g) "Owner" means the person who claims lawful possession of an ATV/ORV by virtue of legal title or equitable interest therein which entitles him to such possession.

(h) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(i) "Numbered ATV/ORV" means any ATV/ORV that has been issued a valid certificate of number by the Department of Wildlife, Fisheries and Parks.

(j) "Un-numbered ATV/ORV" means any ATV/ORV which has not been issued a valid certificate of number by the Mississippi Department of Wildlife, Fisheries and Parks, or in the case of an ATV/ORV coming from outside of the State of Mississippi, has not been issued a similar certification of ownership by the jurisdiction from which the ATV/ORV came.

SECTION 3. (1) The Legislature finds that, as a matter of public policy, it is necessary that a system of numbering and certifying the ownership of certain all-terrain and off-road vehicles be developed and implemented. To that end, the Mississippi Commission on Wildlife, Fisheries and Parks shall develop and implement a system of certified numbering of all-terrain and off-road vehicles.

(2) The commission is authorized to promulgate rules and regulations for the numbering of all-terrain and off-road vehicles.

(3) The commission is authorized to set and collect fees for issuing certificates of number for all-terrain and off-road vehicles, not to exceed Ten Dollars ($10.00) per certificate.

SECTION 4. (1) Every ATV/ORV owned and operated within the boundaries of the State of Mississippi may be numbered in accordance with Sections 1 through 13 of this act.

(2) Every ATV/ORV operated on public lands of the State of Mississippi or any political subdivision thereof shall be numbered in accordance with Sections 1 through 13 of this act, except:

(a) A foreign ATV/ORV temporarily within the State of Mississippi, as long as the ATV/ORV has supporting ownership documents, or is titled to the person in possession of the ATV/ORV if the state of origin of that ATV/ORV requires titling;

(b) A public ATV/ORV of the United States of America;

(c) A state, county or municipal ATV/ORV used solely for official business and displaying proper visual identification and/or inventory control markings on the ATV/ORV;

(d) An undocumented ATV/ORV used exclusively for racing as long as accompanied with supporting documentation of ownership or title;

(e) An undocumented ATV/ORV operating under a valid temporary certificate of number; and

(f) An ATV/ORV that has a number in full force and effect awarded according to the laws of the jurisdiction from which the ATV/ORV originated under an approved numbering system of that state, provided that the ATV/ORV shall not have been within this state for more than sixty (60) days.

(3) Nothing in this section shall prohibit the numbering of any undocumented ATV/ORV upon the request of the owner.

SECTION 5. The owner of any ATV/ORV required to be numbered under Sections 1 through 13 of this act shall apply to the

commission for a certificate of number within ten (10) days from the date of acquisition of the ATV/ORV, on forms provided by the commission or the department. The application for a number shall include, but is not limited to, the following:

(a) Name and address of the owner;

(b) Date of birth of the owner;

(c) Social security number or driver's license number of the owner;

(d) Present citizenship of the owner (county, state, country);

(e) County in which the ATV/ORV will principally be used;

(f) Manufacturer of the ATV/ORV and year built, if known;

(g) Manufacturer's serial number or other identification number associated with the ATV/ORV;

(h) Type of fuel or propulsion (gas, diesel or electric) used by the ATV/ORV;

(i) Statement as to the primary use for which the ATV/ORV is intended (pleasure/outdoor recreation, hunting, farm work, commercial or other);

(j) Certification of ownership of the ATV/ORV by the applicant;

(k) Signature of the owner;

(l) Receipt, sales or otherwise, that shows whether or not a sales or use tax was paid at the time of the purchase of the ATV/ORV. If the ATV/ORV was purchased outside the State of Mississippi, and the tax for the privilege of using or consuming tangible personal property imposed by Section 27-67-5 was not paid at the time the ATV/ORV was acquired, then the owner shall be required to pay the tax as provided by the Mississippi Use Tax Law before a certificate of number can be issued; and

(m) Name of any lienholders.

SECTION 6. (1) The certificate of number shall include, at a minimum, the following information:

(a) Name and address of the owner;

(b) Date of birth of the owner;

(c) Present citizenship of the owner (county, state, country);

(d) County in which the ATV/ORV will principally be used;

(e) Manufacturer of the ATV/ORV, model number or name, and year built;

(f) Manufacturer's serial number or other identification number associated with the ATV/ORV;

(g) Type of fuel or propulsion (gas, diesel or electric) used by the ATV/ORV;

(h) Statement as to the primary use for which the ATV/ORV is intended (pleasure/outdoor recreation, hunting, farm work, commercial or other);

(i) Certification of ownership of the ATV/ORV by the applicant;

(j) Name of lienholders, if applicable;

(k) Signature of the owner;

(l) Number awarded to ATV/ORV;

(m) Expiration date of certificate; and

(n) Notice to the owner that he shall report, within fifteen (15) days, any changes of ownership or address, and destruction or abandonment of ATV/ORV.

(2) The commission shall ensure that the forms required by this section are available at various district offices, ATV/ORV companies or dealerships, with law enforcement officers, and at any other places for the purpose of making the forms accessible to ATV/ORV owners or purchasers. The commission shall award certificates of number and shall keep current a consolidated record of all certificates of numbers awarded, and renewals of numbers.

(3) Upon request, information on ownership and identity of a numbered ATV/ORV shall be made available to federal, state and local officials for any enforcement or assistance programs. The records pertaining to the numbering of any undocumented ATV/ORV under Sections 1 through 13 of this act are considered to be

public records. Information not exempt from release under other authority, based on the records, may be released upon oral or written inquiry, subject only to reasonable restrictions necessary to carry on the business of the office. The commission may permit excerpts to be made or the copying or reproduction thereof by a private individual or concern. The fees and charges for copying, certifying or searching of records for information shall be assessed in accordance with usual fees allowed for those services.

SECTION 7. (1) An application for renewal of a certificate of number shall be made by the owner on an application which must be received by the commission within ninety (90) days before the expiration date on the certificate of number. The same number will be issued upon renewal. If a certificate of number is lost or destroyed, the owner, within fifteen (15) days, shall notify the commission's office. The notification shall be in writing, describe the circumstances of the loss or destruction and be accompanied by the fee prescribed in Section 3 of this act. The certificate of number issued as a result of the report will replace the certificate that was lost or destroyed.

(2) The commission shall mail notice of expiration of numbers, together with an application for renewal of number, to each registered ATV/ORV owner not less than sixty (60) days before the expiration date. The commission shall verify annually an updated list of all numbers in effect and those numbers not renewed.

SECTION 8. The certified statement of ownership on the application for the award of a number shall constitute prima facie evidence of proof of ownership. Liens of all kinds, including reservations or transfers of title to secure debts or claims, will be disregarded in determining ownership under Sections 1 through 13 of this act. A lienholder who acquires possession and title by virtue of default in the terms of the lien instrument, or any other person who acquires ownership through any such action of a lienholder, may apply for a number and shall attach to the application a signed statement explaining the facts in detail.

In addition to any other provision of this act, a bill of sale or receipt from any entity in the business of selling the ATV/ORV, that clearly shows the person claiming ownership to be the purchaser of that ATV/ORV, shall be further evidence of ownership of the ATV/ORV.

SECTION 9. (1) The commission is authorized to research and develop a method of affixing a number to an ATV/ORV. Any method adopted must provide for secure attachment that does not interfere with the operation of the ATV/ORV, but remains plainly visible to any person and can be readily identified and read through casual observation and without removing any part of the ATV/ORV. The number awarded shall be affixed to the ATV/ORV for which it was issued. The numbers shall read from left to right and shall be in block characters of good proportion. The numbers shall be of a color or material which will contrast with the color of the

background and must be maintained as to be clearly visible and legible. No other number shall be carried on the ATV/ORV.

(2) Alteration, mutilation, removal, defacement or destruction of any number awarded and affixed to any ATV/ORV under Sections 1 through 13 of this act shall be a Class I violation as prescribed in Section 49-7-141. Any person convicted of altering, mutilating, removing, defacing or destroying a number awarded and affixed according to Sections 1 through 13 of this act shall be punished according to the provisions of Section 49-7-141.

SECTION 10. Certificates of number may be cancelled or voided under the following circumstances:

(a) Surrender of certificate for cancellation;

(b) Issuance of a new number for the same ATV/ORV;

(c) False or fraudulent certification in an application for a number; or

(d) Willful mutilation, defacing, or altering of a number.

SECTION 11. (1) The fees authorized under Section 3 of this act shall be charged when the owner of an ATV/ORV makes application for a certificate of number. The ATV/ORV owner shall request that the Department of Wildlife, Fisheries and Parks perform an inspection of an ATV/ORV for the purpose of awarding or replacing a number.

(2) All fees for numbers and renewal of numbers shall be payable to the Mississippi Department of Wildlife, Fisheries and

Parks and shall be deposited in the Fisheries and Wildlife Fund created in Section 49-5-21.

SECTION 12. Section 49-5-21, Mississippi Code of 1972, is amended as follows:

49-5-21. (1) The department shall transfer all funds under its control into a special fund in the State Treasury to be segregated and known as the "Fisheries and Wildlife Fund," which fund can only be expended as authorized by the Legislature for the purposes for which the department was created. All funds derived from the sale of licenses, fees, fines and other revenues received by the department as provided by law, shall be deposited in the Fisheries and Wildlife Fund. The interest obtained thereon from any investment or deposit made pursuant to Section 27-105-33, Mississippi Code of 1972, shall be credited by the State Treasurer to the Fisheries and Wildlife Fund and shall not be paid into the General Fund of Mississippi.

(2) (a) (i) The department may expend such sums as are authorized by the Legislature from the Fisheries and Wildlife Fund for paying salaries of its employees, operating and maintaining equipment and for any other purpose the department is authorized to expend funds by law, which amount shall be available for expenditure.

(ii) The money herein authorized shall be paid by the State Treasurer out of the Fisheries and Wildlife Fund on warrants issued by the Executive Director of the Department of

Finance and Administration upon requisition signed by the Executive Director of the Mississippi Department of Wildlife, Fisheries and Parks.

(b) The monies deposited under Section 11 of this act shall be used to defray all administrative costs of the ATV/ORV numbering division of the department and to improve the law enforcement capability of the department in the State of Mississippi and as may be budgeted by the department for the purpose of paying the costs of the administration of Sections 1 through 13 of this act. Unexpended amounts of the monies deposited under Section 11 of this act remaining in the fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(3) The department shall prepare and submit annually to the Legislature a budget for its proposed operation. The budget required shall reflect all anticipated revenues from all sources, including all grants and matching funds, together with all proposed expenditures. The budget shall be prepared in the same manner as is now required of other departments of this state. The department shall be subject to budgetary control and audit in the same manner as is provided by law for other departments and agencies. Nothing in this section shall be construed as requiring legislative appropriation of such Fisheries and Wildlife Fund, but it is intended that expenditure of such funds shall be under

authority of the budget approved as herein provided and as authorized by the Legislature.

SECTION 13. This act shall take effect and be in force from and after July 1, 2021.