

By: Representative Clark

To: Ways and Means;
Wildlife, Fisheries and Parks

HOUSE BILL NO. 45

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

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

9 **SECTION 1.** Sections 1 through 13 of this act may be cited as
10 the "Mississippi All-Terrain/Off-Road Vehicle Numbering Act of
11 2012."

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

14 (a) "ATV/ORV" means any all-terrain or off-road vehicle
15 of a kind and type used for hunting, off-road recreation, or other
16 vehicular travel over unimproved lands or trails as well as
17 semi-improved roads. The term includes, but is not limited to,
18 four-wheelers designed to be operated by one (1) rider astride the
19 vehicle using handlebar steering and any additional conventional
20 conveyances featuring a standard steering column and seating for
21 one or more persons sitting in tandem, including, but not limited
22 to, golf carts modified for off-road use. The commission shall
23 have the authority to expand the scope of this definition by rule
24 or regulation to include any additional conveyance that it deems
25 to be an ATV/ORV and properly subject to the provisions of
26 Sections 1 through 13 of this act.

27 (b) "Certificate of number" means the number issued by
28 the Department of Wildlife, Fisheries and Parks, after proper



29 application, certifying the ownership of the ATV/ORV to be true
30 and proper.

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

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

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

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

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

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

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

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

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



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

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

66 **SECTION 4.** (1) Every ATV/ORV owned and operated within the
67 boundaries of the State of Mississippi shall be numbered in
68 accordance with Sections 1 through 13 of this act, except:

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

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

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

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

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

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

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

89 **SECTION 5.** The owner of any ATV/ORV required to be numbered
90 under Sections 1 through 13 of this act shall apply to the
91 commission for a certificate of number within ten (10) days from
92 the date of acquisition of the ATV/ORV, on forms provided by the



93 commission or the department. The application for a number shall
94 include, but is not limited to, the following:

95 (a) Name and address of the owner;

96 (b) Date of birth of the owner;

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

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

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

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

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

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

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

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

114 (k) Signature of the owner;

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

123 (m) Name of any lienholders.

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



126 (a) Name and address of the owner;
127 (b) Date of birth of the owner;
128 (c) Present citizenship of the owner (county, state,
129 country);
130 (d) County in which the ATV/ORV will principally be
131 used;
132 (e) Manufacturer of the ATV/ORV, model number or name,
133 and year built;
134 (f) Manufacturer's serial number or other
135 identification number associated with the ATV/ORV;
136 (g) Type of fuel or propulsion (gas, diesel or
137 electric) used by the ATV/ORV;
138 (h) Statement as to the primary use for which the
139 ATV/ORV is intended (pleasure/outdoor recreation, hunting, farm
140 work, commercial or other);
141 (i) Certification of ownership of the ATV/ORV by the
142 applicant;
143 (j) Name of lienholders, if applicable;
144 (k) Signature of the owner;
145 (l) Number awarded to ATV/ORV;
146 (m) Expiration date of certificate; and
147 (n) Notice to the owner that he shall report, within
148 fifteen (15) days, any changes of ownership or address, and
149 destruction or abandonment of ATV/ORV.
150 (2) The commission shall ensure that the forms required by
151 this section are available at various district offices, ATV/ORV
152 companies or dealerships, with law enforcement officers, and at
153 any other places for the purpose of making the forms accessible to
154 ATV/ORV owners or purchasers. The commission shall award
155 certificates of number and shall keep current a consolidated
156 record of all certificates of numbers awarded, and renewals of
157 numbers.



158 (3) Upon request, information on ownership and identity of a
159 numbered ATV/ORV shall be made available to federal, state and
160 local officials for any enforcement or assistance programs. The
161 records pertaining to the numbering of any undocumented ATV/ORV
162 under Sections 1 through 13 of this act are considered to be
163 public records. Information not exempt from release under other
164 authority, based on the records, may be released upon oral or
165 written inquiry, subject only to reasonable restrictions necessary
166 to carry on the business of the office. The commission may permit
167 excerpts to be made or the copying or reproduction thereof by a
168 private individual or concern. The fees and charges for copying,
169 certifying or searching of records for information shall be
170 assessed in accordance with usual fees allowed for those services.

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

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

188 **SECTION 8.** The certified statement of ownership on the
189 application for the award of a number shall constitute prima facie
190 evidence of proof of ownership. Liens of all kinds, including



191 reservations or transfers of title to secure debts or claims, will
192 be disregarded in determining ownership under Sections 1 through
193 13 of this act. A lienholder who acquires possession and title by
194 virtue of default in the terms of the lien instrument, or any
195 other person who acquires ownership through any such action of a
196 lienholder, may apply for a number and shall attach to the
197 application a signed statement explaining the facts in detail.

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

203 **SECTION 9.** (1) The commission is authorized to research and
204 develop a method of affixing a number to an ATV/ORV. Any method
205 adopted must provide for secure attachment that does not interfere
206 with the operation of the ATV/ORV, but remains plainly visible to
207 any person and can be readily identified and read through casual
208 observation and without removing any part of the ATV/ORV. The
209 number awarded shall be affixed to the ATV/ORV for which it was
210 issued. The numbers shall read from left to right and shall be in
211 block characters of good proportion. The numbers shall be of a
212 color or material which will contrast with the color of the
213 background and must be maintained as to be clearly visible and
214 legible. No other number shall be carried on the ATV/ORV.

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

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



- 224 (a) Surrender of certificate for cancellation;
225 (b) Issuance of a new number for the same ATV/ORV;
226 (c) False or fraudulent certification in an application
227 for a number; or
228 (d) Willful mutilation, defacing, or altering of a
229 number.

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

236 (2) All fees for numbers and renewal of numbers shall be
237 payable to the Mississippi Department of Wildlife, Fisheries and
238 Parks and shall be deposited in the Fisheries and Wildlife Fund
239 created in Section 49-5-21.

240 **SECTION 12.** No person shall remove, change or in any manner
241 mutilate or deface any number awarded an ATV/ORV, or any motor
242 number or other stamped, cast, or forged numbers or letters or
243 other marks upon any ATV/ORV, or assist in so doing, or, having
244 knowledge of such change, fail to report the change to the
245 Department of Wildlife, Fisheries and Parks. Any person or owner,
246 being in possession of an ATV/ORV, shall examine the ATV/ORV and
247 report such changes to the Department of Wildlife, Fisheries and
248 Parks.

249 No person shall buy, sell or possess an ATV/ORV on which any
250 awarded number or identification number has been removed, changed,
251 mutilated or defaced. It shall be the duty of any person buying,
252 or any lienholder financing, an ATV/ORV, to inspect the ATV/ORV
253 prior to its purchase or creation of a lien thereon, to ensure
254 that it is in compliance with this section.

255 **SECTION 13.** Any ATV/ORV that has numbers or identification
256 numbers or marks which have been removed, changed, mutilated or



257 defaced contrary to Sections 1 through 13 of this act is subject
258 to forfeiture, and may be seized by any conservation officer or
259 enforcement officer of the Department of Wildlife, Fisheries and
260 Parks, or other officer of the law including any sheriff or deputy
261 sheriff. Upon the seizure of the property, forfeiture proceedings
262 shall be instituted according to Sections 49-7-251 through
263 49-7-257; however, any property which has previously been
264 registered, numbered or titled within the State of Mississippi is
265 not subject to forfeiture if the application for a certificate of
266 number, registration or title contained no false or fraudulent
267 information, or if the property seized has a value less than One
268 Thousand Dollars (\$1,000.00).

269 **SECTION 14.** Section 49-5-21, Mississippi Code of 1972, is
270 amended as follows:

271 49-5-21. (1) The department shall transfer all funds under
272 its control into a special fund in the State Treasury to be
273 segregated and known as the "Fisheries and Wildlife Fund," which
274 fund can only be expended as authorized by the Legislature for the
275 purposes for which the department was created. All funds derived
276 from the sale of licenses, fees, fines and other revenues received
277 by the department as provided by law, shall be deposited in the
278 Fisheries and Wildlife Fund. The interest obtained thereon from
279 any investment or deposit made pursuant to Section 27-105-33,
280 Mississippi Code of 1972, shall be credited by the State Treasurer
281 to the Fisheries and Wildlife Fund and shall not be paid into the
282 General Fund of Mississippi.

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



289 (ii) The money herein authorized shall be paid by
290 the State Treasurer out of the Fisheries and Wildlife Fund on
291 warrants issued by the Executive Director of the Department of
292 Finance and Administration upon requisition signed by the
293 Executive Director of the Mississippi Department of Wildlife,
294 Fisheries and Parks.

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

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

319 **SECTION 15.** This act shall take effect and be in force from
320 and after July 1, 2012.

