

DELAWARE STATUTES

TITLE 21 MOTOR VEHICLES

PART I General Provisions CHAPTER 1. DEFINITIONS § 101. Words and phrases.

For the purposes of this title, unless the context otherwise clearly indicates:

(1) "Axle load scale" means a scale having a platform adapted to determine the combined weight of all wheels on a single axle or of all wheels on a tandum or tri-axle of a vehicle.

(2) "Bicycle" shall include that certain class of vehicles which are exclusively human-powered by means of foot pedals, which the driver normally rides astride, which have not in excess of three wheels and which may be commonly known as unicycles, bicycles and tricycles. The term "bicycle" also includes a 2- or 3-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 horsepower), whose maximum speed on a paved level surface, when powered solely by such motor while ridden by an operator who weighs 170 pounds, is less than 20 miles per hour.

(3) "Business district" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

(4) "Camping trailer" includes any nonmotorized vehicular portable unit mounted on wheels and designed to provide temporary living quarters for recreational, camping or travel use. A "camping trailer" may be constructed with or without collapsible partial side walls that fold for towing by another vehicle and unfold in set-up mode, however, the trailer must weigh 5,000 pounds or less.

(5) "Certificate of origin" means the document, in the form prescribed by the Director of the Division of Motor Vehicles, issued in conformance with this chapter certifying the manufacturer's vehicle identification number and the motor number, when used, of the motor vehicle sold, the name of the manufacturer, the manufacturer's shipping weight, a general description of the body, if any, and the type and model.

(6) "Chauffeur" includes every person who is employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

(7) "Combination of vehicles" means any series of trucks, truck tractors, trailers or semitrailers connected to each other by whatever means.

(8) "Commercial vehicle" means a vehicle of a type required to be registered under this title designed, used or maintained for the transportation of persons or property for hire, compensation or profit, except taxicabs.

(9) "Competition vehicle" is a vehicle that is specifically designated by its manufacturer as being intended solely for use during a special or competition event, and which is exclusively so used.

(10) "Crane" means any self-propelled vehicle to which has been permanently mounted or attached any crane, whether or not such vehicle was originally a truck, tractor or other type of motor vehicle or was designed and built as a complete crane unit; but the word "crane," as herein defined, shall not be construed to mean any truck or other vehicle equipped with or to which has

been affixed any device used for the purpose of providing a means for towing other vehicles.

(11) "Dealer" includes every person engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers in this State and having an established place of business in this State.

(12) "Decal" means the self-adhesive sticker issued by the Department bearing the registration number assigned to an off-highway vehicle.

(13) "Department" means the Department of Transportation of this State acting directly or through its duly authorized officers and agents.

(14) "Electric personal assistive mobility device" (EPAMD) means a self-balancing, twonontandem-wheeled device designed to transport only 1 person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(15) "Electronic" or "electronically" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(16) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(17) "Essential parts" means all integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

(18) "Express highway" means a state highway especially designed for through traffic over which owners of abutting property shall have no easement or right of direct access, light or air, by reason of the fact that such property abuts such highway.

(19) "Farm equipment" means an implement that:

a. Is designed and adapted only for agricultural, horticultural or livestock raising operations; or

b. Is designed and adapted only for lifting or carrying an implement described in paragraph a. of this subdivision.

(20) "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(21) "Foreign vehicle" includes every motor vehicle, trailer or semitrailer which is brought into this State otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this State.

(22) "Highway" means the entire width between boundary lines of every way or place of whatever nature open to the use of the public as a matter of right for purposes of vehicular travel, but does not include a road or driveway upon grounds owned by private persons, colleges, universities or other institutions.

(23) "Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of 2 or more highways which join one another at an angle, whether or not 1 such highway crosses the other.

(24) "Judgment" includes any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof or upon a cause of action on an agreement of settlement for such damages.

(25) "Jurisdiction" shall mean any state, territory or federal district of the United States

or a foreign country.

(26) "License" means any license, temporary instruction permit or temporary license issued under the laws of this State pertaining to the licensing of persons to operate motor vehicles.

(27) "Local authorities" includes every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State.

(28) "Manufacturer" includes every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers or OHVs.

(29) "Metal tires" means all tires the surface of which on contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(30) "Mobile home" is a structure transportable in 1 or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or when erected on-site, is more than 400 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating and air conditioning. The structure must be constructed in accordance with construction requirements promulgated by the federal Department of Housing and Urban Development (HUD).

(31) "Moped" shall mean a pedal or nonpedal bicycle having 2 tandem wheels, either of which is 10 inches or more in maximum diameter, and having a motor characterized in that the maximum piston displacement is less than 55 cc., rated at no more than 2.7 brake horsepower and that the maximum speed does not exceed 25 miles per hour.

(32) "Motorcycle" includes every motor vehicle designed to travel on not more than 3 wheels in contact with the ground, except any such vehicle as may be included within the definition of "tractor" and excepting electric personal assistive mobility device (EPAMD).

(33) "Motorized skateboard or scooter" means any device that is designed to travel on at least 2 wheels with the deck or chassis of such device open and close to the ground, that has handlebars or a hand-controlled throttle or brake, that is designed to be stood or sat upon by the operator, and that is powered by a motor that is capable of propelling the device without human propulsion. "Motorized skateboard or scooter" shall not include any automobile or device that is included within the definitions of "moped," "motorcycle," "off-highway vehicle (OHV)," any type of "tractor," "triped," "motorized wheelchair" or "electric personal assistive mobility device (EPAMD)" set forth in this section.

(34) "Motorized wheelchair" includes any self-propelled vehicle which is incapable of a speed in excess of 8 miles per hour and which is designed for, and used by, a handicapped person.

(35) "Motor vehicle" includes every vehicle, as defined in this section, which is self-propelled, except farm tractors, electric personal assistive mobility devices and OHVs.

(36) "Multiple draft weighting" means separately weighing each end or individual element of a vehicle or combination of vehicles and adding together the results obtained.

(37) "Nonresident" means every person who is not a resident of this State.

(38) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this State pertaining to the operation by the nonresident of a motor vehicle or OHV, or the use of a motor vehicle or OHV owned by the nonresident, in this State.

(39) "Off-highway vehicle" or "OHV" means a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a motorcycle or related 2-wheel vehicle, an amphibious machine, a

ground effect air-cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. "OHV" does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law-enforcement purposes, a construction or logging vehicle used in performance of its common function, electric personal assistive mobility device or a registered aircraft. However, nothing in this chapter shall be construed to include snowmobiles.

(40) "OHV dealer" includes every person engaged in the business of buying, selling or exchanging off-highway vehicles in that portion of this State located north of the Chesapeake and Delaware Canal. Persons offering OHVs for final delivery in that portion of this State located north of the Chesapeake and Delaware Canal through direct-mail order or through a catalog-order facility, regardless of where located, are considered to be OHV dealers and subject to this chapter.

(41) "OHV operator" includes every person who is in actual physical control of an off-highway vehicle.

(42) "Operator" includes every person who is in actual physical control of a motor vehicle upon a highway, except that for the purposes of Chapter 29 of this title the term "operator" shall include a chauffeur.

(43) "Organized or special event" is any competition involving motor vehicles that is conducted under the auspices of a recognized sanctioning body or under the authority of a governmental agency having jurisdiction over the area concerned.

(44) "Overweight vehicle" means any vehicle having a gross weight, including load thereon, in excess of that permitted by law; including, but not limited to, a gross weight in excess the weight for which a valid registration has been issued.

(45) "Owner" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title.

(46) "Park trailer" is a vehicle more than 8 body feet in width that is primarily designed to provide temporary living quarters for recreation camping or seasonal use; built on a single chassis mounted on wheels which has a gross trailer area not exceeding 400 square feet in the set-up mode and is certified by the manufacturer as complying with ANSI 119.5 standard.

Comment [r1]: State Law As of May 31, 2006

(47) "Person" means any individual, partnership, corporation, joint venture or legal entity of whatever nature.

(48) "Pneumatic tires" means all tires inflated with compressed air.

(49) "Private road or driveway" includes every road or driveway not open to the use of the public for purposes of vehicular travel.

(50) "Proof of financial responsibility" means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of said proof arising out of ownership, maintenance or use of a motor vehicle in the amount of \$15,000 because of bodily injury to or death of 1 person in any 1 accident, and, subject to such limit for 1 person, in the amount of \$30,000 because of bodily injury to or death of 2 or more persons in any 1 accident and in the amount of \$10,000 because of injury to or destruction of property of others in

any 1 accident, or a combined single limit of \$40,000.

(51) "Reconstructed vehicle" means any vehicle which has been assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or makes of vehicles of various names, models and types, or which, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(52) "Recreational trailer" includes every trailer which weighs more than 5,000 pounds, is designed to provide temporary living quarters and which is built into and is an integral part of, or permanently attached to, a trailer chassis. The trailer must contain permanently installed independent life support systems which meet the ANSI/NFPA 501 C Standard, and provide at least 4 of the following facilities: Cooking facilities; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a portable water supply system, including a faucet and sink; separate 110-125 volt electrical power supply; or an LP-gas supply.

(53) "Recreational vehicle" includes every motor vehicle used for temporary human living quarters, not the residence of the owner or occupant, and used for recreational or vacation activities, including motor homes, self-propelled campers and other motor vehicles with permanently attached camper components. Recreational vehicle may also include every van which is used primarily for personal pleasure and not for commercial use, regardless of the equipment or furnishings contained within such van.

(54) "Registration" means the registration certificate or certificates and registration plates issued under the laws of this State pertaining to the registration of motor vehicles.

(55) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

(56) "Right-of-way" means the privilege of the immediate use of the highway.

(57) "Road tractor" includes every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn.

(58) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes 2 or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(59) "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

(60) "Scale" means a device used to determine or calculate weight.

(61) "School bus" means every motor vehicle which has the words "School Bus" displayed on the front and rear of the vehicle as specified under § 4362 of this title, which is painted with national school bus chrome yellow as specified under § 4363(a) of this title, which is equipped with the flashing lamps as required under § 4364 of this title, which meets the minimum size requirements of § 4363(b) of this title and which meets other regulations as required by the Department of Transportation.

(62) "Secretary" means the Secretary of Transportation of this State or the Secretary's duly authorized designee.

(63) "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle, and piling and pole trailers are to be considered to fall

within the meaning of this definition.

(64) "Single draft weighing" means weighing of the entire vehicle at 1 time by use of vehicle scales, axle load scales, wheel load weighers or any combination of these weighing devices.

(65) "Solid rubber tire" includes every tire made of rubber other than a pneumatic tire.

(66) "Special construction equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch-digging apparatus, well-boring apparatus, road construction or maintenance machinery such as asphalt spreaders, air compressors and drills, bituminous mixers, bucket loaders, tractors other than truck tractors, levelling graders, finishing machines, road rollers, scarifiers, earth-moving scrapers and carryalls, welders, power shovels and drag lines, self-propelled cranes, earth-moving equipment and construction box storage trailers (except when such trailers are used for transporting merchandise). The term does not apply to dump trucks, truck mounted transit mixers, tow trucks or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(67) "Specialized vehicle" shall mean a vehicle or motor vehicle which may be registered by the Division of Motor Vehicles, but with special restrictions as determined by the Division of Motor Vehicles.

(68) "Specially constructed vehicle" means any vehicle which has not been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

(69)a. "Special mobile equipment" means a motor vehicle that:

(1) Is not used primarily for highway transportation of people or property;

(2) Is operated or moved on a public highway or road only as an incident to its non highway use;

(3) Is used in agriculture;

(4) Is not operated at speeds greater than 30 miles per hour on the highway; and

(5) Does not travel a distance of greater than 50 miles on the highway on any 1 trip.

b. "Special mobile equipment" excludes a road construction or maintenance machine, mobile crane, ditchdigger, well driller, concrete mixer, job-site office vehicle or portable power generator.

(70) "State" includes a state, territory, organized or unorganized, or district of the United States of America, except that for the purposes of Chapter 29 of this title the term "state" shall include any province of the Dominion of Canada.

(71) "Taxicab" includes every motor vehicle, except buses, trackless trolley coaches and vehicles used on stationary rails or tracks, which is used, is intended to be used or which

has within 6 months been used on any occasion in transporting a person or persons for hire in the accommodation of the public, except any taxicab having proper current registration in another state which does not and is not intended to take on or discharge and which has not within 6 months taken on or discharged for hire in the general accommodation of the public on any occasion any person within this State.

(72) "Trackless trolley coach" includes every device for passenger transportation (commonly called an electric trackless trolley coach) equipped with tires of rubber or other resilient material, not operated on rails, propelled by electrical energy supplied through overhead wires, which device may also contain auxiliary means for self-propulsion by a motor using gasoline, oil or other similar fuel.

(73) "Trackless trolley operator" includes every person who is in actual physical control

of any trackless trolley coach upon a highway.

(74) "Trailer" includes a mobile home, park trailer, travel trailer, house trailer, office trailer, camping trailer or any vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(75) "Transporter" means every person engaged in the business of delivering vehicles of a type to be registered under this title from a manufacturing, assembling and distributing plant to a point of destination or for the purpose of weighing, testing, transporting or delivering such vehicle or for the purpose of moving said vehicles in connection with making installations thereon or improvements or repairs thereto or the repossession or foreclosure thereof.

(76) "Triped" shall mean a pedal or nonpedal cycle having 3 wheels, either of which is 10 inches or more in maximum diameter, and having a motor characterized in that the maximum piston displacement is less than 55 cc., rated at no more than 2.7 brake horsepower and that the maximum speed does not exceed 25 miles per hour.

(77) "Truck camper" includes any portable unit that is constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides, which is designed to be loaded onto and unloaded from the bed of a pickup truck.

(78) "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(79) "Used vehicle" includes every motor vehicle or OHV which has been sold, bargained, exchanged, given away or title transferred from the person who first acquired it from the manufacturer or importer, dealer or agent of the manufacturer or importer and so used as to have become what is commonly known as "secondhand" within the ordinary meaning thereof.

(80) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks and excepting electric trackless trolley coaches, electric personal assistive mobility devices and excepting OHVs.

(81) "Vehicle scale" means a scale adapted to weighing highway vehicles and possessing a platform on which all wheels of a vehicle may rest simultaneously.

(82) "Well-drilling machine" means any self-propelled vehicle to which has been permanently mounted or attached any rig or other equipment used for the purpose of drilling wells, whether or not such vehicle was originally a truck, tractor or other type of motor vehicle or was designed and built as a complete well-drilling unit.

(83) "Wheel load weigher" means a scale especially adapted to determine the weight of any single or set of wheels on a vehicle.

PART IV Miscellaneous CHAPTER 68. REGISTRATION AND CONTROL OF OFF-HIGHWAY VEHICLES § 6801. OHV registration -- Required.

(a) Except as hereinafter provided, no person shall operate any off-highway vehicle within the State unless such vehicle has been registered in accordance with this chapter. Such registration shall not permit the vehicle to be operated on any highway except as hereinafter specifically provided. No person shall sell an OHV without furnishing the buyer a bill of sale.

(b) Proof of such registration shall be available for inspection upon demand by any peace, environmental protection or law-enforcement officer; however, the operator shall be allowed 24 hours to produce the registration card before a conviction can be obtained under this chapter, such registration having been legally issued at a time prior to the operator's arrest.

(c) Snowmobiles are excluded from this chapter.

§ 6802. OHV registration -- Application; issuance.

Application for registration shall be made to the Department or their authorized agent as provided for in Chapter 21 of this title in such form and in such manner as the Department shall prescribe and shall state the name and address of every owner and be signed by at least 1 owner. Upon receipt of the application and the appropriate fee as provided in § 6803 of this title, such OHV shall be registered and a registration number decal assigned which shall be affixed to the OHV in such manner as provided in § 6805 of this title. In the event that an off-highway vehicle sought to be registered or reregistered does not, after inspection and testing, comply with the provisions respecting equipment established by this chapter or by the regulations of the Department promulgated pursuant to this chapter, the Department may deny the issuance of a registration certificate.

§ 6803. OHV registration -- Fees.

(a) The fee for registration of each off-highway vehicle, other than those registered by a dealer or manufacturer pursuant to subsection (b) of this section, shall be \$6 for 3 years. The fee for a duplicate registration certificate shall be \$2. The fee for a duplicate registration number decal shall be \$2. The fee for a transfer of registration certificate shall be \$2. All fees shall be waived for OHVs owned and used by the United States, or other state or of this State or political subdivision thereof.

(b) OHVs owned by a licensed OHV dealer, as specified in § 6809 of this title, and operated for demonstration or testing purposes are exempt from a registration fee.

§ 6804. OHV registration -- Renewal of registration.

Every owner of an off-highway vehicle shall renew the registration in such manner as the Department shall prescribe, upon payment of the same registration fees provided in § 6803 of this title.

§ 6805. OHV registration -- Procedure.

(a) Upon receipt of the required fee and an application on forms prescribed by it, the Department shall issue to the applicant a registration certificate stating the registration number, the name and address of the owner and such other information as the Department deems necessary. The Department shall also issue 1 registration number decal per OHV. Such number decal shall contain reference to the State and the registration number and shall be of such size and displayed in such manner as prescribed

by the Department. Records of the Department made or kept pursuant to this chapter shall be public records except as otherwise provided.

(b) Upon receipt of the required fee and an application form prescribed by it, the Department shall issue to the applying dealer or manufacturer 10 registration number decals with additional decals being available for a fee of \$2 per decal.

(c) If a registration certificate or decal is lost or destroyed, the owner may apply for a duplicate on forms provided for by the Department accompanied by a fee of \$2. Upon receipt of a proper application and the required fee, the Department shall issue a duplicate registration

certificate or number decal to the owner.

§ 6806. Surrender of registration certificate.

(a) The owner of an OHV shall notify the Department within 15 days if the OHV is destroyed or abandoned, stolen, sold or an interest therein transferred either wholly or in part to another person or if the owner's address no longer conforms to the address appearing on the registration certificate. The notice shall consist of a surrender of the registration certificate on which the proper information shall be noted or written notice to the Department that the registration certificate has been stolen.

(b) When surrender of the certificate is because the OHV has been destroyed or abandoned or has been stolen, the Department shall cancel the certificate and enter such fact in its records. If the surrender is because of a change of address of the owner, the new address shall be recorded by the Department and a registration certificate bearing such information shall be returned to the owner. The transferee of a vehicle registered under this chapter, within 15 days after acquiring it, shall apply to the Department for transfer to the transferee of the registration certificate issued to the OHV, giving the transferee's name, address and the number of the vehicle and pay the Department a fee of \$2. Upon receipt of the application and fee, the Department shall transfer the registration certificate issued for the OHV to the new owner. Unless the application is made and the fee paid within 15 days, the vehicle shall be deemed to be without a registration certificate and no person shall operate the OHV until a certificate is issued.

§ 6807. Out-of-state OHV registration.

The Department shall issue a 1-year registration number decal, valid for the present calendar year, to out-of-state OHVs operated by a resident of a state or county where registration is not required. The fee for this decal shall be \$6.

§ 6808. Age requirements.

No application for an original certificate of registration shall be accepted by the Department from any person under 18 years of age unless said certificate is signed by at least 1 parent or guardian of said person, stating consent to said application.

§ 6809. OHV dealer license required.

OHV dealers, as defined in § 101 of this title, shall be licensed by the Department in accordance with such rules and regulations as may be promulgated by the Secretary. A fee of \$50 shall be assessed for such license which shall be valid for 3 years. OHV dealer licenses are not transferable and may be revoked for violation of such rules and regulations as may be specified for that privilege. OHV dealers shall be required to carry personal liability insurance in an amount at least equal to that required of dealers under no-fault insurance provisions or as otherwise specified by the Department.

§ 6810. Exceptions and exemptions to OHV registration.

(a) A vehicle registered under this title, Title 23 (boats) or Title 2 (aircraft) is exempt from the registration provisions of this chapter.

(b) Registration is not required for an OHV which is operated exclusively in a special event upon a special area location of limited duration which is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(c) No registration hereunder shall be required for the following described off-highway vehicles:

(1) OHVs covered by a valid registration of another state or country and which have not been within this State for more than 15 consecutive days.

(2) OHVs being operated by a resident of a state or country which does not require off-highway vehicle registration and which have been issued a 1-year permit sticker as provided for in § 6807 of this title.

§ 6811. Vehicle identification number.

(a) Beginning not later than January 1, 1978, a manufacturer of an OHV shall stamp or permanently affix to the frame or body members of the OHV an identifying number unique to that vehicle in an easily visible location. The vehicle identification number shall be entered on the registration certificate issued by the Department to the OHV owner.

(b) Possession of an OHV with an altered, intentionally defaced or obliterated vehicle identification number is a misdemeanor, punishable by imprisonment for not less than 30 days or more than 6 months, or by a fine of not less than \$57.50 or more than \$575 or both. Justice of the Peace Courts will have jurisdiction.

§ 6812. Special vehicles.

The owner of a specially constructed or reconstructed OHV may make application, accompanied by the required fees, in such form as may be prescribed by the Department, for a special vehicle identifying number. The owner shall furnish such information as will satisfy the Department that the person is the owner, whereupon the Department shall assign a special vehicle identification number for the vehicle. The owner shall cause said number to be affixed as directed by the Department. Such special number shall be regarded as the permanent vehicle identification number of said vehicle.

§ 6813. Specific OHV dealer responsibilities for rented or leased OHVs.

(a) A dealer shall maintain in safe operating condition an OHV offered for rent or lease by the dealer. The dealer, the dealer's agents or employees shall explain the operation of the OHV being rented or leased and if the dealer, the dealer's agent or employee believes that person to whom the OHV is to be rented or leased is not competent to operate the OHV with personal safety or safety to others, the dealer shall refuse to rent or lease such OHV.

(b) The Department shall require such insurance and compliance with such additional rules and regulations regarding rental or lease of OHVs as it may deem necessary.

§ 6814. Operation of OHVs -- Upon public highways, streets, sidewalks or rights-of-way; penalties for violation.

(a) OHVs shall not be operated upon a public highway or street or sidewalk or right-of-way thereof located within this State except under the following conditions:

(1) An OHV may be pushed across or along such public way provided such OHV is in neutral or that the power train is otherwise disengaged, and further provided that such use shall be in conformance with Chapter 41 of this title.

(2) An OHV may be operated on a street or highway located within this State for a

special event of limited duration, conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction.

(b) Any person convicted of violation of any provision of subsection (a) of this section shall be fined not less than \$50 nor more than \$300 and have the OHV impounded for a period of 30 days. Impoundment of an OHV under this subsection shall be at the expense of the owner of the OHV.

§ 6815. Operation of OHVs -- Excessive rate of speed.

A person shall not operate an OHV at a rate of speed which cannot be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance.

§ 6816. Operation of OHVs -- While under the influence of intoxicating liquor or controlled substances.

A person shall not operate an OHV while under the influence of intoxicating liquor or controlled substances as defined in § 4177 of this title.

§ 6817. Operation of OHVs -- Without lights.

A person shall not operate an OHV during the period after sunset until sunrise without displaying a lighted headlight and lighted taillight.

§ 6818. Operation of OHVs -- Without brakes.

A person shall not operate an OHV unless such OHV is equipped with a brake or similar device adequate to control the movement of and to stop and to hold such OHV.

§ 6819. Operation of OHVs -- In a manner causing damage or disturbance.

(a) A person shall not operate an OHV in a manner to cause excessive damages or disturbances of the land, wildlife or vegetative resources, or endanger, disturb or annoy other persons or property. Disturbance or annoyance of other persons shall be presumed if the operator has received either verbally or in written form notice of such annoyance or disturbance from the complaining party. However, nothing in this subsection shall be construed as prohibiting the operation of OHV's at a race track designed for the lawful racing of said vehicles.

(b) The operator of the OHV shall be held liable for any damage to private property, including, but not limited to, damage to trees, shrubs or growing crops, injury to living creatures or damage through OHV operation in a manner so as to maliciously create erosive or other ecological damage to private property. However, if the operator is a minor, the parents or legal guardian of the operator shall be held personally liable for any and all damage and/or injuries, including civil or criminal liability, caused by the minor in the operation of the OHV.

(c) The owner of such private property may recover from the person responsible nominal damages of not less than the amount of damage or injury.

(a) A person shall not operate an OHV unless such OHV is equipped with a spark arrestor type muffler, in good working order and in constant operation, from which noise emission under 60% of the maximum RPM, measured at 50 feet at right angles from the vehicle

path on a constant speed pass, by measurement does not exceed 88 DBA on a sound level meter which meets the requirements of ANSI-514197, using procedure and ancillary equipment therein described. During the test procedure, the ambient sound including wind effects due to sources other than the OHV being measured shall be at least 10 DBA lower than the anticipated level of the test OHV. A vehicle subject to this chapter, manufactured or assembled after January 1, 1978, and used, sold or offered for sale in this State shall conform to the noise emission levels of this chapter unless preempted by federal E.P.A. legislation.

(b) Competition vehicles shall be exempted from this section only while in competition.

§ 6821. Operation of OHVs -- On property.

(a) A person shall not operate an OHV upon any property in either public or private ownership without the express permission of the person in control of the property or knowingly in violation of any restrictions imposed on such use by the person in control of the property.

(b) Penalties. --

(1) A person who violates subsection (a) of this section shall be subject to the following penalties:

a. For the first offense, a fine of \$100 and an impoundment of the OHV at time of conviction for up to 30 days, which may be suspended by the court.

b. For each subsequent offense, the OHV owner shall be fined \$1,000 and the OHV will be impounded for a minimum of 60 days from date of conviction. A subsequent offense, before being punishable as such, shall have been committed within 24 months after commission of the first offense.

c. Under this section, the OHV will be returned to the owner once the fine and impoundment costs have been paid by the OHV owner or, if the fine is appealed, once the owner has complied with the court's decision or the court decides the owner and/or operator is not guilty of the offense under subsection (a) of this section. The owner will not be responsible for impoundment costs if found not guilty by the court.

(2) In addition, restitution shall be made for value of damage to real or personal property which results from a violation of this section.

§ 6820. Operation of OHVs -- Without spark arrestor type muffler.

§ 6822. Operation of OHVs -- In violation of traffic controllers or traffic-control devices.

A person shall not operate an OHV in violation of instructions of any person authorized to direct, control or regulate traffic or in violation of any official traffic-control device applicable thereto.

§ 6823. Operation of OHVs -- Helmets.

A person shall not operate a 2-wheel or 3-wheel OHV unless the operator and all passengers are wearing a protective helmet on their heads, with the chin straps properly fastened, meeting American National Standards Institute (ANSI) Z-90.1, 1966-1971 specifications or specifications as may be subsequently revised by the American National Standards Institute.

§ 6824. Operation of OHVs -- By minors, incompetent persons or persons under mental or physical disabilities.

(a) A person less than 12 years of age may operate an OHV only if:

(1) The person is under the direct supervision of a person who is at least 18 years of age;

or

(2) The person is on land owned by or under the control of the person's parent or legal guardian.

(b) Persons 12 years of age and older may operate an OHV without adult supervision provided such use is in compliance with all other provisions of this chapter.

(c) A parent or legal guardian shall not permit a child under the age of 12 to operate an OHV except under the direct supervision of an adult.

(d) The owner of an OHV shall not permit:

(1) The vehicle to be operated by a person under the age of 12 except under direct adult supervision.

(2) The vehicle to be operated by a person who is incompetent to operate such vehicle because of mental or physical disability or because of being under the influence of intoxicating liquor or controlled substance as defined by § 4177 of this title.

§ 6825. Identification of persons operating OHVs upon public or private property.

Any person operating an OHV upon public or private property shall stop and give identification upon the request of the person in control of the property and shall promptly comply with such restriction as may be imposed or remove the OHV from the premises if requested to do so.

§ 6826. Safety education program.

(a) The Department shall implement a comprehensive OHV information and safety education program which shall include the preparation and dissemination of information and safety advice to the public.

(b) In implementing a program which is established pursuant to this section, the Department shall cooperate with private organizations and associations, private and public corporations, the Department of Education, state and local parks and recreation departments, local governmental units and local and county law-enforcement agencies.

§ 6827. Accidents.

(a) The operator of an OHV involved in an accident resulting in an injury to another person or in a death shall immediately report such accident by the quickest available means of communication, to a State Police officer or the local law-enforcement officer for New Castle County or the municipality wherein the accident occurred.

(b) The operator of an OHV involved in an accident resulting in damage to private property, except that of the operator, shall notify the owner of said property within 48 hours of the occurrence of such accident.

(c) Accidents resulting only in injury to the operator and/or damage to the operator's personal equipment need not be reported.

(d) The operator of an OHV involved in an accident upon either public or private property, resulting in injury to or death of any person, shall immediately stop and remain at the scene of such accident and shall render to any person injured in the accident reasonable assistance in securing medical aid or transportation for the injured person or persons.

(e) This section shall not apply to accidents involving competition vehicles damaged while engaging in special or competition events.

§ 6828. Enforcement of chapter.

Any peace, police or environmental protection officer, acting in the lawful performance of duty, shall be empowered to enforce this chapter.

§ 6829. Registration numbers or numbered decals as prima facie evidence.

In a proceeding for a violation of this chapter involving prohibited operation and conduct, the registration number or numbered decal displayed on an OHV shall constitute prima facie evidence that the owner of the vehicle was the person operating the vehicle at the time of the offense, unless the OHV committing the violation was in fact a stolen vehicle at the time of the violation.

§ 6830. Unlawful for operators of OHVs to disobey command to stop.

It shall be unlawful for any operator of an OHV to willfully disobey a signal to bring such OHV to a stop when such signal is given by hand, voice, emergency lights, siren or other visual or audible signal by a uniformed police, peace or environmental protection officer acting in the lawful performance of duty.

§ 6831. Penalty.

Any person convicted of violation of any provision of this chapter shall be fined not less than \$11.50 nor more than \$345, or have the OHV impounded for a period of 30 days or both. Such penalty shall apply unless otherwise provided for in this chapter.

§ 6832. Jurisdiction.

The Courts of the Justices of the Peace shall have jurisdiction over violations of this chapter except that the Family Court shall have jurisdiction over violations of this chapter when such violation is committed by any person under the age of 18 years of age.

§ 6833. Conflicts with other statutes.

Should any provision of this chapter conflict with other statutes, the provisions or requirements of this chapter shall apply.

§ 6834. Rules and regulations.

The Secretary of Transportation may adopt and enforce such rules and regulations concerning off-highway vehicles and designate such agencies as may be necessary to carry out this chapter, provided such rules and regulations are not contrary to this chapter.

DELAWARE ADMINISTRATIVE CODE

FISH AND WILDLIFE DIVISION

Title 7 DNREC 3000 Division of Fish and Wildlife

3900 Wildlife

8.0 General Rules and Regulations Governing Land and Waters Administered by the Division (Formerly WR-8)

8.1 Motorized Vehicles.

8.1.1 General. It shall be unlawful for any person to drive or operate a motorized vehicle upon any lands administered by the Division, except on established roads or as otherwise authorized by the Director.

8.1.2 Noise. It shall be unlawful for any person to drive or operate a motorized vehicle upon any lands administered by the Division, unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

8.1.3 Speed Limit. It shall be unlawful for any person to drive or operate a vehicle in excess of twenty (20) miles per hour when on lands administered by the Division, unless otherwise authorized by the Director.

8.1.4 Unlicensed Vehicles. It shall be unlawful for any person to drive or operate any motorized vehicle upon any lands administered by the Division, unless said vehicle is licensed for use upon public highways and roadways or the driver or operator of said vehicle has been issued a permit from the Division.

8.1.5 Parking.

8.1.5.1 It shall be unlawful for any person to park any vehicle on lands administered by the Division in such a manner as to obstruct the use of a boat ramp, roadway or trail. Any vehicle parked in such manner shall be subject to removal, and the owner of said vehicle shall bear all costs involved with such removal.

8.1.5.2 Unless otherwise authorized by the Director, it shall be unlawful for any person to park and leave unattended any vehicle or trailer in any Division parking lot, unless said lot is lawfully being used for direct access to lands or waters administered by the Division.

8.1.5.3 Unless otherwise authorized by the Director, it shall be unlawful for any person to leave any vehicle on lands administered by the Division for a period exceeding 24 hours.

STATE PARKS RULES AND REGULATIONS

DEFINITIONS

- A. "Division" shall mean the Division of Parks and Recreation of the Department of Natural Resources and Environmental Control.
- B. "Department" shall mean the Department of Natural Resources and Environmental Control.
- C. "Director" shall mean the Director of the Division of Parks and Recreation.
- D. "Secretary" shall mean the Secretary of the Department of Natural Resources and Environmental Control.
- E. "Authorized Agent" shall mean any employee of the Division or volunteer who has been delegated the authority to perform or cause to be performed, certain designated acts or functions within the scope of his duties.
- F. "State" shall mean the State of Delaware.
- G. "Resident" shall mean any person, persons or corporations owning a motor vehicle(s) duly registered by the Delaware Motor Vehicle Division of the Department of Public Safety and possessing a valid Delaware Motor Vehicle operator's license.
- H. "Permit" shall mean any written license issued by the Department permitting the performance of a specified act or acts.
- I. "Surf Fishing Vehicle Permit" means the owner's copy of the written permit and a surf fishing vehicle plate with current year validation sticker affixed.
- J. "Vessel" includes every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation.
- K. "Snowmobile" means a motor vehicle designed to travel over ice or snow supported in whole or in part by skis, belts, or cleats, or an engine-driven vehicle of a type which uses sled-type runners or skis or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military or law enforcement vehicle.
- L. "Owner" means a person who holds legal title to a vehicle, vessel or snowmobile.
- M. "Operator" means any person who is in actual in physical control of any motor vehicle, vessel, snowmobile or other means of conveyance.
- N. "Highway" means the entire width between the boundary lines of every way publicly

maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

O. "Commission" means the Commission created under Title 4, Del. C., Chapter 3, under the name of "The Delaware Alcoholic Beverage Control Commission".

P. "Alcoholic Liquor", "Alcoholic Beverages" include the 4 varieties of liquor defined in 4 Del. C., Section 101 (alcohol, spirits, wine and beer) as well as every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being and any liquid or solid containing more than 1 of the 4 varieties defined in 4 Del. C., Section 101 is considered as belonging to that variety which usually has the higher percentage of alcohol.

Q. "License" means any license, temporary instructor's permit or temporary license issued under the laws of the state pertaining to the licensing of persons to operate motor vehicles or vessels.

R. "Vending" means to: solicit or receive an order for; keep or expose for sale; deliver or value in any other way than purely gratuitously; keep with intent to sell; traffic in; or for any valuable consideration, promise or obtain, directly or indirectly, or under any pretext or by any means whatsoever, procure, or allow to be procured for any other person.

S. "Vendor" means a person who is in the act of vending as defined in these regulations.

T. "Restaurant" means any establishment, provided with special space and accommodation, where, in consideration of payment, food is habitually furnished to a park visitor, and does not include the following types of establishments defined in 4 Del. C., Section 101, tavern or taproom.

U. "Restricted Use Parking Area" means those parking areas which may be set aside and reserved for use by persons patronizing certain facilities within the park. Such areas will be signed designating type of use: i.e., Restaurant Parking, Marina Parking, etc.

V. "Drug Paraphernalia" for the purposes of this chapter shall be defined in Title 16 Delaware Code, S/S4701 (16,a-1).

W. "Motorized Vehicle" means every vehicle which is self-propelled including, but not limited to, mopeds, motorcycles, all terrain vehicles (ATV) and other two, three, three or four-wheel vehicles.

Section 8.1 -- VEHICLES

a. Vehicles operated on lands administered by the Division shall be in compliance with all State statutes, laws, rules and regulations.

(1) No person shall operate any motorized vehicle upon any lands administered by the

Division, unless said vehicle is licensed for use upon public highways and roadways.

(2) Vehicles operated on lands administered by the Division must be properly equipped with brakes, headlights, tail lights, tag light, turn signal, and horn all in good working order.

(3) Towed trailers must have an adequate towing hook-up, complete with safety chains. They must also be equipped with operating tail lights, turn signals, tag light, and be currently registered to be towed on public roads.

b. No person shall operate a motor vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle upon any lands administered by the Division, unless said person has been issued and is the holder of a valid license or permit to operate said vehicle on public highways and roadways.

(1) The license or permit shall be in the immediate possession of the licensee at all times when driving a motor vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle and he/she shall display same upon demand of Department Enforcement personnel.

c. No person shall authorize or permit a motor vehicle of any type owned by him or under his control to be driven by any person on lands administered by the Division, knowing that said person has no legal right to do so, or shall authorize or permit said vehicle to be driven in violation of any of the provisions of the said Division's Rules and Regulations.

d. The driver of a motor vehicle when on lands administered by the Division shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle, the traffic and the condition of the roadway or area.

e. Every driver shall yield preferential right-of-way at an intersection or other place indicated by stop signs or yield signs authorized and installed by the Division.

(1) Except when directed to proceed by an enforcement officer or traffic control device, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall come to a complete stop before entering the intersection.

(2) The operator of any vehicle who has come to a full stop, as provided in subsection (1) of this Regulation, shall not enter upon or across such intersection until such movement can be made in safety.

f. Specific motor vehicle speed limits on lands administered by the Division:

(1) Every driver shall observe all posted speed limits. When no special hazard exists the following speed shall be lawful, but any speed in excess of such limits shall be absolute evidence that the speed is not reasonable or prudent and that it is a violation of this Section:

25 m.p.h. -- on roads administered by the Division unless otherwise posted or stated in Regulations.

10 m.p.h. -- in parking, camping and congested areas unless otherwise posted.

g. No person shall operate a motor vehicle on lands administered by the Division in a careless or imprudent manner without due regard for road, weather and traffic conditions.

(1) The intentional accelerating of a motor vehicle causing spinning of tires or what is

commonly known as "burning rubber" on any park facility or roadway within an area administered by the Division is prohibited and shall be a violation of this Section.

h. An operator and/or passenger of a motorcycle under the age of 18 must wear a safety helmet of a type approved by the Secretary of Public Safety.

i. An operator of a motor vehicle shall not permit any person riding upon any bicycle, coaster, roller skates, sled or toy vehicle to attach same or himself to any motor vehicle being operated on lands administered by the Division.

j. No person, while on lands administered by the Division, shall ride upon any vehicle without the consent of the driver, and when any person is riding on any vehicle with the driver's consent, no part of the person's body may protrude beyond the limits of the vehicle.

k. No person shall drive or operate a motor vehicle on lands administered by the Division, unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

l. No vehicle shall be driven, moved or parked on any lands administered by the Division unless so loaded or constructed as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.

m. It shall be unlawful for any person to operate any motor vehicle or any other type of vehicle within any area administered by the Division except on such roads or areas specifically designated by the Division for such purpose.

n. No driver shall at any time drive to the left of a solid center line on a roadway when operating a vehicle on lands administered by the Division.