

**OFF-HIGHWAY VEHICLE AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Brent H. Goodfellow**

Ralph Becker

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**LONG TITLE**

**General Description:**

This bill modifies the Motor Vehicles Code, the Judicial Code, and the School and Institutional Trust Lands Management Act to amend off-highway vehicle provisions.

**Highlighted Provisions:**

This bill:

- ▶ increases maximum fees for off-highway vehicle registrations, duplicate certificates, and duplicate stickers;
- ▶ provides that a portion of the annual off-highway vehicle registration fee is deposited in the Lands Grant Management Fund for use by the Utah School and Institutional Trust Lands Administration for costs associated with off-highway vehicle use on trust lands;
- ▶ repeals the provision that the supervision, safety certificate, or motorcycle license provisions only apply to Utah residents;
- ▶ provides that an off-highway vehicle safety instructor may not have a conviction for a sexual offense against a minor or violent crime against a minor;
- ▶ requires district courts and justice courts to allocate a portion of a fine for a violation of the off-highway vehicle provisions to the Division of Parks and Recreation;
- ▶ repeals the Board of Parks and Recreation rulemaking provisions relating to registration; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect July 1, 2004.

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

**41-22-8**, as last amended by Chapter 163, Laws of Utah 1987

**41-22-19**, as last amended by Chapter 212, Laws of Utah 2003

**41-22-30**, as last amended by Chapter 148, Laws of Utah 2002

**41-22-32**, as enacted by Chapter 163, Laws of Utah 1987

**53C-3-101**, as last amended by Chapter 72, Laws of Utah 1997

**78-3-14.5**, as last amended by Chapter 270, Laws of Utah 1998

**78-5-116**, as last amended by Chapter 270, Laws of Utah 1998

REPEALS:

**41-22-5**, as last amended by Chapter 317, Laws of Utah 2003

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **41-22-8** is amended to read:

**41-22-8. Registration fees.**

The board shall establish the fees which shall be paid in accordance with this chapter, subject to the following:

- (1) The fee for each registration may not exceed [~~\$10~~] \$17.
- (2) The fee for each duplicate certificate of registration may not exceed [~~\$2~~] \$3.
- (3) The fee for each duplicate numbered [~~stickers~~] sticker may not exceed [~~\$4~~] \$5.
- (4) [~~No~~] A fee may not be charged for an off-highway [~~vehicles which are~~] vehicle owned

and operated by the United States Government, this state, or its political subdivisions.

Section 2. Section **41-22-19** is amended to read:

**41-22-19. Deposit of fees and related moneys in Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching**

**funds.**

(1) Except as provided under Subsection (3) and Sections 41-22-34 and 41-22-36, all registration fees and related moneys collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue in the Off-highway Vehicle Account in the General Fund less the costs of collecting off-highway vehicle registration fees by the Motor Vehicle Division. The balance of the monies may be used by the division as follows:

(a) for the construction, improvement, operation, or maintenance of publicly owned or administered off-highway vehicle facilities;

(b) for the mitigation of impacts associated with off-highway vehicle use;

~~[(b)]~~ (c) as grants or as matching funds with any federal agency, state agency, political subdivision of the state, or organized user group for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities including public access facilities;

~~[(c)]~~ (d) for the administration and enforcement of the provisions of this chapter; and

~~[(d)]~~ (e) for the education of off-highway vehicle users.

(2) All agencies or political subdivisions requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each nonresident user fee collected under Subsection 41-22-35(2) shall be deposited in the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the monies deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) Any unused balance of the monies deposited under Subsection (3)(a) exceeding

\$350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

Section 3. Section **41-22-30** is amended to read:

**41-22-30. Supervision, safety certificate, or driver license required -- Penalty.**

(1) A person may not operate and an owner may not give that person permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state unless the person:

(a) is under the direct supervision of a certified off-highway vehicle safety instructor during a scheduled safety training course;

(b) has in his possession the appropriate safety certificate issued or approved by the division; or

(c) has in his immediate possession a valid motor vehicle operator's license, as provided in Title 53, Chapter 3, Uniform Driver License Act.

(2) (a) Any person convicted of a violation of this section is guilty of an infraction and shall be fined not more than \$50 per offense.

(b) It is a defense to a charge under this section, if the person charged produces in court a license or an appropriate safety certificate that was:

(i) valid at the time of the citation or arrest; and

(ii) issued to the person operating the off-highway vehicle.

(3) The requirements of this section [~~-(a) apply only to Utah residents; and (b)~~] do not apply to an operator of an all-terrain type I vehicle with a properly displayed and current off-highway implement of husbandry sticker.

Section 4. Section **41-22-32** is amended to read:

**41-22-32. Certification of safety instructors.**

(1) The division may certify certain qualified persons as off-highway vehicle safety instructors. [~~These instructors~~] An instructor certified by the division may act in behalf of the division as [~~agents~~] an agent in:

(a) conducting off-highway vehicle safety classes and examinations; and

(b) issuing safety certificates. [~~To be~~]

(2) A certified[;] off-highway vehicle safety [~~instructors~~] instructor shall:

~~[(1)]~~ (a) successfully complete an off-highway vehicle safety instructor program for the type of vehicle instruction to be given through a program;

(i) of the division; or [~~through a program~~]

(ii) recognized by the division which is conducted by an off-highway vehicle safety organization;

~~[(2)]~~ (b) be at least 18 years of age and hold a valid motor vehicle operator's license; [~~and~~]

~~[(3)]~~ (c) have no convictions as defined in Subsection 41-6-44(1) for driving under the influence of alcohol or drugs during the previous five years[;] and

(d) have no convictions for a sexual offense against a minor or a violent crime against a minor.

Section 5. Section **53C-3-101** is amended to read:

**53C-3-101. Land Grant Management Fund -- Contents -- Use of monies.**

(1) (a) There is created an enterprise fund known as the Land Grant Management Fund.

(b) This fund shall consist of:

(i) all revenues derived from trust lands except revenues from the sale of those lands;

(ii) all interest earned by the fund; [~~and~~]

(iii) all revenues deposited in the fund in accordance with Subsection 41-22-19(3); and

~~[(iii)]~~ (iv) all revenues obtained from other activities of the director or administration.

(2) The director may expend monies;

(a) from the Land Grant Management Fund in accordance with the approved budget for the support of director and administration activities[;] and

(b) deposited in the fund in accordance with Subsection 41-22-19(3) as necessary to fulfill the purposes of Section 41-22-19(3)(b).

(3) [~~Any~~] Except for revenues deposited under Subsection (1)(b)(iii), any amount in excess of that required to fund the budget shall be distributed to the various trust beneficiaries as

of June 30 of each calendar year, and at other times determined by the director, in shares equal to the portion of total Land Grant Management Fund revenues obtained from each beneficiary's land during the accounting period.

(4) Money from the lease or rental of school trust lands or from the use, sale, or lease of resources on school trust lands, all sums paid for fees, including grazing fees, and all forfeitures or penalties received in connection with those transactions shall be deposited in the Permanent State School Fund.

(5) Money from the lease or rental of lands acquired by the state for the benefit of an institution named in Sections 7, 8, and 12 of the Utah Enabling Act, or from the use, sale, or lease of renewable or nonrenewable resources on those lands, and all forfeitures or penalties received in connection with those transactions, shall be distributed to the institution.

(6) ~~[Any]~~ Except for revenues deposited under Subsection (1)(b)(iii), any remaining monies, including interest earned on the account, shall be distributed in pro rata shares to the various beneficiaries.

Section 6. Section **78-3-14.5** is amended to read:

**78-3-14.5. Allocation of district court fees and forfeitures.**

(1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.

(2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the government which prosecutes or which would prosecute the violation.

(3) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of Utah, ~~[or]~~ Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.

(a) For violations of Title 23, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

(b) For violations of Title 41, Chapter 22, or Title 73, Chapter 18, the state treasurer shall

allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.

(4) Fines and forfeitures collected for violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, shall be paid to the state treasurer for deposit in the B and C road account. Fees established by the Judicial Council shall be deposited in the state General Fund. Money deposited in the class B and C road account is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.

(5) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.

(6) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.

(7) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 7. Section **78-5-116** is amended to read:

**78-5-116. Disposition of fines.**

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, one-half to the treasurer of the local government responsible for the court and one-half to the treasurer of the local government which prosecutes or which would prosecute the violation.

(2) (a) For violation of Title 23, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(3) The surcharge established by Section 63-63a-1 shall be paid to the state treasurer.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and

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## **Enrolled Copy**

overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and distributed to the class B and C road account.

(5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.

### **Section 8. Repealer.**

This bill repeals:

Section **41-22-5, Rules of board relating to registration.**

### **Section 9. Effective date.**

This bill takes effect July 1, 2004.

### **Section 10. Coordinating H.B. 220 with H.B. 51.**

If this H.B. 220 and H.B. 51, Nonresident User Fee For Off-highway Vehicle Users, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication shall change Subsection 41-22-19(3)(a) to read as follows:

"(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be deposited in the Land Grant Management Fund created under Section 53C-3-101."