

1 **ILLEGAL USE OF MOTOR VEHICLES**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael E. Noel**

5 Senate Sponsor: Stephen H. Urquhart

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Motor Vehicles Code by amending provisions relating to illegal  
10 motor vehicle use on public and private land.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides definitions;
- 14 ▶ provides that a person may not tear down, mutilate, deface, or destroy:
  - 15 • a sign, signboard, or other notice that regulates off-highway vehicle use; or
  - 16 • a fence, gate, or other enclosure;
- 17 ▶ provides that a person may not operate or give another person permission to operate  
18 a motor vehicle cross-country on any public land not designated for that use by the  
19 controlling agency;
- 20 ▶ provides penalties and sentencing provisions for violating the prohibition on  
21 operating a motor vehicle cross-country on public land;
- 22 ▶ provides that a person is guilty of enhanced penalties for unlawful use of a motor  
23 vehicle cross-country on public land or a motor vehicle on private land if:
  - 24 • the person violates certain restrictions on the use of a motor vehicle  
25 cross-country on public land or a motor vehicle on private land; and
  - 26 • the person has previously been convicted of the restrictions on use of a  
27 motor vehicle cross-country on public land or a motor vehicle on private  
28 land or knowingly, intentionally, or recklessly causes certain damage or  
29 harasses wildlife or livestock;

- 30           ▶ provides penalties and sentencing provisions for an aggravated unlawful use of a
- 31 motor vehicle on public or private land conviction;
- 32           ▶ provides certain exceptions to the motor vehicle use restrictions; and
- 33           ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35           None

36 **Other Special Clauses:**

37           None

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40           **41-22-2**, as last amended by Laws of Utah 2008, Chapters 36 and 94
- 41           **41-22-12**, as last amended by Laws of Utah 2007, Chapter 136
- 42           **41-22-12.5**, as last amended by Laws of Utah 1989, Chapter 21

43 ENACTS:

- 44           **41-22-12.2**, Utah Code Annotated 1953
- 45           **41-22-12.7**, Utah Code Annotated 1953
- 46           **41-22-12.8**, Utah Code Annotated 1953



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

49           Section 1. Section **41-22-2** is amended to read:

50           **41-22-2. Definitions.**

51           As used in this chapter:

- 52           (1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed
- 53 by the Board of Parks and Recreation.
- 54           (2) "All-terrain type I vehicle" means any motor vehicle 50 inches or less in width,
- 55 having an unladen dry weight of 800 pounds or less, traveling on three or more low pressure
- 56 tires, having a seat designed to be straddled by the operator, and designed for or capable of
- 57 travel over unimproved terrain.

58 (3) (a) "All-terrain type II vehicle" means any other motor vehicle, not defined in  
59 Subsection (2), [~~(9)~~] (10), or [~~(20)~~] (21), designed for or capable of travel over unimproved  
60 terrain.

61 (b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to  
62 carry a disabled person, any vehicle not specifically designed for recreational use, or farm  
63 tractors as defined under Section 41-1a-102.

64 (4) "Board" means the Board of Parks and Recreation.

65 (5) "Cross-country" means across natural terrain and off an existing highway, road,  
66 route, or trail.

67 [~~(5)~~] (6) "Dealer" means a person engaged in the business of selling off-highway  
68 vehicles at wholesale or retail.

69 [~~(6)~~] (7) "Division" means the Division of Parks and Recreation.

70 [~~(7)~~] (8) "Low pressure tire" means any pneumatic tire six inches or more in width  
71 designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating  
72 pressure of ten pounds per square inch or less as recommended by the vehicle manufacturer.

73 [~~(8)~~] (9) "Manufacturer" means a person engaged in the business of manufacturing  
74 off-highway vehicles.

75 [~~(9)~~] (10) "Motorcycle" means every motor vehicle having a saddle for the use of the  
76 operator and designed to travel on not more than two tires.

77 [~~(10)~~] (11) (a) "Motor vehicle" means every vehicle which is self-propelled.

78 (b) "Motor vehicle" includes an off-highway vehicle.

79 [~~(11)~~] (12) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle,  
80 all-terrain type II vehicle, or motorcycle.

81 [~~(12)~~] (13) "Off-highway implement of husbandry" means every all-terrain type I  
82 vehicle, motorcycle, or snowmobile that is used by the owner or his agent for agricultural  
83 operations.

84 [~~(13)~~] (14) "Operate" means to control the movement of or otherwise use an  
85 off-highway vehicle.

86           ~~[(14)]~~ (15) "Operator" means the person who is in actual physical control of an  
87 off-highway vehicle.

88           ~~[(15)]~~ (16) "Organized user group" means an off-highway vehicle organization  
89 incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised  
90 Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle  
91 recreation.

92           ~~[(16)]~~ (17) "Owner" means a person, other than a person with a security interest,  
93 having a property interest or title to an off-highway vehicle and entitled to the use and  
94 possession of that vehicle.

95           ~~[(17)]~~ (18) "Public land" means land owned or administered by any federal or state  
96 agency or any political subdivision of the state.

97           ~~[(18)]~~ (19) "Register" means the act of assigning a registration number to an  
98 off-highway vehicle.

99           ~~[(19)]~~ (20) "Roadway" is used as defined in Section 41-6a-102.

100           ~~[(20)]~~ (21) "Snowmobile" means any motor vehicle designed for travel on snow or ice  
101 and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure  
102 tires.

103           ~~[(21)]~~ (22) "Street or highway" means the entire width between boundary lines of  
104 every way or place of whatever nature, when any part of it is open to the use of the public for  
105 vehicular travel.

106           ~~[(22)]~~ (23) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same  
107 meaning as defined in Section 41-6a-102.

108           Section 2. Section **41-22-12** is amended to read:

109           **41-22-12. Restrictions on use of public lands.**

110           (1) Except as provided in Section 63-11-17, federal agencies are encouraged and  
111 agencies of the state and its subdivisions shall pursue opportunities to open public land to  
112 responsible off-highway vehicle use and cross-country motor vehicle travel.

113           ~~[(2) A person may not operate and an owner of an off-highway vehicle may not give~~

114 another person permission to operate an off-highway vehicle on any public land which is  
115 closed to off-highway vehicles.]

116 (2) A person may not tear down, mutilate, deface, or destroy:

117 (a) a sign, signboard, or other notice that prohibits or regulates the use of an  
118 off-highway vehicle on public land; or

119 (b) a fence or other enclosure or a gate or bars belonging to the fence or other  
120 enclosure.

121 Section 3. Section **41-22-12.2** is enacted to read:

122 **41-22-12.2. Unlawful cross-country motor vehicle travel on public land.**

123 (1) A person may not operate and an owner of a motor vehicle may not give another  
124 person permission to operate a motor vehicle cross-country on any public land not designated  
125 for that use by the controlling agency.

126 (2) A person who violates this section is guilty of a class C misdemeanor.

127 (3) As part of any sentence for a conviction of a violation of this section, the court:

128 (a) may impose a fine not to exceed \$150; and

129 (b) may require the person to perform community service in the form of repairing any  
130 damage to the public land caused by the unlawful cross-country motor vehicle travel.

131 Section 4. Section **41-22-12.5** is amended to read:

132 **41-22-12.5. Restrictions on use of privately-owned lands without permission --**  
133 **Unlawful for person to tamper with signs or fencing on privately-owned land.**

134 (1) (a) ~~[No]~~ A person [shall] may not operate or accompany a person operating ~~[an~~  
135 ~~off-highway vehicle upon]~~ a motor vehicle on privately-owned land of any other person, firm,  
136 or corporation without permission from the owner or person in charge.

137 (b) ~~[It is unlawful for any]~~ A person operating or accompanying a person operating [an  
138 ~~off-highway vehicle to]~~ a motor vehicle may not refuse to immediately leave private land upon  
139 request of the owner or person in charge of ~~[such]~~ the land.

140 (c) Subsections (1)(a) and (b) ~~[shall]~~ do not apply to prescriptive easements on  
141 privately owned land.

142 (d) A person who violates Subsection (1)(a) or (b) is guilty of a class C misdemeanor.

143 (e) As part of any sentence for a conviction of a violation of Subsection (1)(a) or (b),

144 the court may:

145 (i) impose a fine of not more than \$150;

146 (ii) require the person to pay restitution not to exceed \$500 for any damage caused by  
147 the unlawful motor vehicle travel; and

148 (iii) require the person to perform community service in the form of repairing any  
149 damage caused by the unlawful motor vehicle travel.

150 ~~[(d) No]~~ (2) A person operating or accompanying a person operating [an off-highway]  
151 a motor vehicle [shall] may not obstruct [any] an entrance or exit to private property without  
152 the owner's permission.

153 ~~[(2) It is unlawful for any person to]~~

154 (3) A person may not:

155 (a) tear down, mutilate, or destroy any sign, signboards, or other notice which  
156 regulates trespassing for purposes of operating [an off-highway] a motor vehicle on land; or  
157 [to]

158 (b) tear down, deface, or destroy any fence or other enclosure or any gate or bars  
159 belonging to [any such] the fence or enclosure.

160 Section 5. Section **41-22-12.7** is enacted to read:

161 **41-22-12.7. Enhanced penalties for unlawful motor vehicle use on public or**  
162 **private property.**

163 (1) A person is guilty of a class B misdemeanor for unlawful cross-country use of a  
164 motor vehicle on public land or unlawful motor vehicle use on private property if the person:

165 (a) violates Section 41-22-12.2, 41-22-12.5, or 41-22-13; and

166 (b) (i) has been convicted of violating Section 41-22-12, 41-22-12.2, 41-22-12.5, or  
167 41-22-13 within the last two years; or

168 (ii) knowingly, intentionally, or recklessly:

169 (A) damages vegetation, trees, wetlands, riparian areas, fences, structures, or

170 improvements; or

171 (B) harasses wildlife or livestock.

172 (2) As part of any sentence for a conviction of a violation described in Subsection (1),

173 the court may:

174 (a) impose a fine not to exceed \$300;

175 (b) require the person to pay restitution not to exceed \$1,000 for damage caused by the

176 unlawful motor vehicle use; and

177 (c) require the person to perform community service in the form of repairing any

178 damage to the public land caused by the unlawful motor vehicle use.

179 (3) As part of any sentence for a conviction described in Subsection (1) that is within

180 five years of a prior conviction described in Subsection (1), the court may:

181 (a) impose a fine not to exceed \$1,000;

182 (b) require the person to pay restitution not to exceed \$2,000 for damage caused by the

183 unlawful motor vehicle use; and

184 (c) require the person to perform community service in the form of repairing any

185 damage caused by the unlawful motor vehicle use.

186 Section 6. Section **41-22-12.8** is enacted to read:

187 **41-22-12.8. Exceptions to off-highway vehicle use restrictions.**

188 The cross-country motor vehicle and off-highway vehicle restrictions in Sections

189 41-22-12.1, 41-22-12.2, 41-22-12.5, and 41-22-12.7 do not apply to:

190 (1) a law enforcement officer or emergency services personnel acting within the course

191 and scope of their employment;

192 (2) an employee of the landowner or land manager acting within the course and scope

193 of their employment;

194 (3) a person otherwise authorized to use a motor vehicle in a closed area by legal right

195 or by permission of the landowner or land manager; and

196 (4) a person operating a motor vehicle on an R.S. 2477 right-of-way recorded or

197 asserted by the state or a local highway authority.

