

OFF-HIGHWAY VEHICLE AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Brent H. Goodfellow

This act modifies the Motor Vehicle Code by amending safety provisions relating to off-highway vehicles. The act increases the stipend paid to off-highway vehicle volunteer instructors.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-22-2, as last amended by Chapter 9, Laws of Utah 2001

41-22-10.7, as last amended by Chapter 73, Laws of Utah 1999

41-22-10.8, as last amended by Chapter 363, Laws of Utah 1997

41-22-12.1, as enacted by Chapter 162, Laws of Utah 1987

41-22-30, as last amended by Chapter 13, Laws of Utah 1998

41-22-33, as last amended by Chapter 363, Laws of Utah 1997

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

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

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by the Board of Parks and Recreation.

(2) "All-terrain type I vehicle" means any motor vehicle [~~50~~] 52 inches or less in width, having an unladen dry weight of 800 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsection (2), (9), or (20), designed for or capable of travel over unimproved terrain. This term does not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

- (4) "Board" means the Board of Parks and Recreation.
- (5) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.
- (6) "Division" means the Division of Parks and Recreation.
- (7) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 12 inches or less and utilizing an operating pressure of ten pounds per square inch or less as recommended by the vehicle manufacturer.
- (8) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.
- (9) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.
- (10) "Motor vehicle" means every vehicle which is self-propelled.
- (11) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or motorcycle.
- (12) "Off-highway implement of husbandry" means every all-terrain type I vehicle, motorcycle, or snowmobile which is used by the owner or his agent for agricultural operations.
- (13) "Operate" means to control the movement of or otherwise use an off-highway vehicle.
- (14) "Operator" means the person who is in actual physical control of an off-highway vehicle.
- (15) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.
- (16) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.
- (17) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.
- (18) "Register" means the act of assigning a registration number to an off-highway vehicle.
- (19) "Roadway" is used as defined in Section 41-6-1.

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

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

Section 2. Section **41-22-10.7** is amended to read:

41-22-10.7. Vehicle equipment requirements -- Rulemaking -- Exceptions.

(1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped with:

- (a) brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions;
- (b) headlights and taillights when operated between sunset and sunrise;
- (c) a noise control device and except for a snowmobile, a spark arrestor device; and
- (d) a safety flag, red or orange in color and a minimum of six by 12 inches, attached to the off-highway vehicle at least eight feet above the surface of level ground, when operated on sand dunes designated by the board.

(2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board may make rules which set standards for the equipment [~~referred to in~~] and which designate sand dunes where safety flags are required under Subsection (1).

(3) An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.

Section 3. Section **41-22-10.8** is amended to read:

41-22-10.8. Protective headgear requirements -- Owner duty -- Penalty for violation.

(1) A person under the age of 18 may not operate or ride on all-terrain type I vehicles, snowmobiles, or motorcycles on public land unless the person is wearing a properly fitted[;] and fastened, United States Department of Transportation safety-rated protective headgear designed for motorized vehicle use.

(2) The owner of an off-highway vehicle or any other person may not give permission to a person who is under 18 years of age to operate or ride on an off-highway vehicle in violation of this section.

(3) ~~[Operators]~~ An operator and passengers of off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) ~~[through (5)]~~ and (4) are exempt from the requirements of this section.

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

Section 4. Section **41-22-12.1** is amended to read:

41-22-12.1. Restrictions on use of snowmobile trails.

~~[No]~~ A person may not operate a wheeled vehicle with a gross vehicle weight of ~~[700]~~ 800 pounds or more on any snowmobile trail that the division has ~~[been]~~ marked, posted, designated, or maintained as a snowmobile trail ~~[by the division]~~.

Section 5. 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 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 ~~[and was valid at the time of the citation or arrest]~~.

(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 6. Section **41-22-33** is amended to read:

41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.

(1) A \$2 fee shall be added to the registration fee required to register an off-highway vehicle under Section 41-22-8 to help fund the off-highway vehicle safety and education program. The division may also collect a fee not to exceed \$10 from each person who receives the training and takes the knowledge and skills test, or a fee not to exceed \$5 from each person who takes the knowledge and skills test for off-highway vehicle use.

(2) (a) To help defray instructors' costs, the division may reimburse volunteer certified off-highway vehicle safety instructors up to [~~\$3~~] \$6 for each student who receives the training and takes the knowledge and skills test.

(b) On or before the 10th day of each calendar month, volunteer off-highway vehicle safety instructors shall report to the division all fees collected and students trained and shall accompany the report with all money received for off-highway vehicle training.

(c) If a volunteer off-highway vehicle safety instructor intentionally or negligently fails to pay the amount due, the division may assess a penalty of 20% of the amount due. All delinquent payments shall bear interest at the rate of 1% per month. If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total due together with interest.

(d) All fees collected from students shall be kept separate and apart from private funds of the instructor and shall at all times belong to the state. In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the instructor, receiver, or trustee for all money owing the state for training and shall not be stopped from asserting the claim by reason of commingling of funds or otherwise.

(e) [~~The willful misdating of~~] A person may not:

(i) willfully misdate an off-highway vehicle education safety certificate[~~, the issuance of~~];

(ii) issue an [~~incompleted~~] incomplete certificate[~~;~~]; or [~~the issuance of~~]

(iii) issue a receipt in lieu of a certificate [~~is unlawful~~].

