

**Representative Brent H. Goodfellow** proposes the following substitute bill:

**OFF-HIGHWAY VEHICLE AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Brent H. Goodfellow**

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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;

- ▶ ~~h [defines "direct supervision";~~  
~~requires that a person with a safety certificate must be under the direct supervision~~  
~~of a person who is at least 18 years of age;]~~ **h**

- ▶ 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



26 violation of the off-highway vehicle provisions to the Division of Parks and  
27 Recreation;

28       ▶ repeals the Board of Parks and Recreation rulemaking provisions relating to  
29 registration; and

30       ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       This bill takes effect July 1, 2004.

35       This bill provides a coordination clause.

36 **Utah Code Sections Affected:**

37 AMENDS:

38       **41-22-8**, as last amended by Chapter 163, Laws of Utah 1987

39       **41-22-19**, as last amended by Chapter 212, Laws of Utah 2003

40       **41-22-30**, as last amended by Chapter 148, Laws of Utah 2002

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

42       **53C-3-101**, as last amended by Chapter 72, Laws of Utah 1997

43       **78-3-14.5**, as last amended by Chapter 270, Laws of Utah 1998

44       **78-5-116**, as last amended by Chapter 270, Laws of Utah 1998

45 REPEALS:

46       **41-22-5**, as last amended by Chapter 317, Laws of Utah 2003



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

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

50       **41-22-8. Registration fees.**

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

53       (1) The fee for each registration may not exceed [~~\$10~~] \$17.

54       (2) The fee for each duplicate certificate of registration may not exceed [~~\$2~~] \$3.

55       (3) The fee for each duplicate numbered [~~stickers~~] sticker may not exceed [~~\$4~~] \$5.

56       (4) [~~No~~] A fee may not be charged for an off-highway [~~vehicles which are~~] vehicle

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

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

59 **41-22-19. Deposit of fees and related moneys in Off-highway Vehicle Account --**  
60 **Use for facilities, costs and expenses of division, and education -- Request for matching**  
61 **funds.**

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

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

69a **Ĥ (b) FOR THE MITIGATION OF IMPACTS ASSOCIATED WITH OFF-HIGHWAY VEHICLE USE; ĥ**

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

74 **Ĥ [(c)] (d) ĥ** for the administration and enforcement of the provisions of this chapter; and

75 **Ĥ [(d)] (e) ĥ** for the education of off-highway vehicle users.

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

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

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

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

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

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

88 \$350,000 at the end of each fiscal year shall be deposited in the Off-Highway Vehicle Account  
 89 under Subsection (1).

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

91 **41-22-30. Supervision, safety certificate, or driver license required -- Penalty.**

92 ~~§ [(1) As used in this section, "direct supervision" means oversight at a distance within~~  
 93 ~~which visual contact is maintained for the purpose of advising and assisting.]~~ **§**

94 [(+) ~~§ [(2)] (1)~~ **§** A person may not operate and an owner may not give that person  
 94a permission

95 to operate an off-highway vehicle on any public land, trail, street, or highway of this state  
 96 unless the person:

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

99 (b) has in his possession the appropriate safety certificate issued or approved by the  
 100 division ~~§ [and is under the direct supervision of a person who is at least 18 years of age]~~ **§** ; or

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

103 [(2)] ~~§ [(3)] (2)~~ **§** (a) Any person convicted of a violation of this section is guilty of an  
 103a infraction

104 and shall be fined not more than \$50 per offense.

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

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

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

109 [(3)] ~~§ [(4)] (3)~~ **§** The requirements of this section[~~:(a) apply only to Utah residents; and~~  
 109a ~~(b)]~~

110 do not apply to an operator of an all-terrain type I vehicle with a properly displayed and current  
 111 off-highway implement of husbandry sticker.

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

113 **41-22-32. Certification of safety instructors.**

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

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

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

119           (2) A certified[;] off-highway vehicle safety [instructors] instructor shall:  
 120           [~~(+)~~] (a) successfully complete an off-highway vehicle safety instructor program for the  
 121 type of vehicle instruction to be given through a program;  
 122           (i) of the division; or [~~through a program~~]  
 123           (ii) recognized by the division which is conducted by an off-highway vehicle safety  
 124 organization;  
 125           [~~(2)~~] (b) be at least 18 years of age and hold a valid motor vehicle operator's license;  
 126 [~~and~~]  
 127           [~~(3)~~] (c) have no convictions as defined in Subsection 41-6-44(1) for driving under the  
 128 influence of alcohol or drugs during the previous five years[;]; and  
 129           (d) have no convictions for a sexual offense against a minor or a violent crime against a  
 130 minor.

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

132 **53C-3-101. Land Grant Management Fund -- Contents -- Use of monies.**

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

134 (b) This fund shall consist of:

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

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

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

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

139 (2) The director may expend monies:

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

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

144           (3) [~~Any~~] Except for revenues deposited under Subsection (1)(b)(iii), any amount in  
 145 excess of that required to fund the budget shall be distributed to the various trust beneficiaries  
 146 as of June 30 of each calendar year, and at other times determined by the director, in shares  
 147 equal to the portion of total Land Grant Management Fund revenues obtained from each  
 148 beneficiary's land during the accounting period.

149           (4) Money from the lease or rental of school trust lands or from the use, sale, or lease

150 of resources on school trust lands, all sums paid for fees, including grazing fees, and all  
151 forfeitures or penalties received in connection with those transactions shall be deposited in the  
152 Permanent State School Fund.

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

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

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

161 **78-3-14.5. Allocation of district court fees and forfeitures.**

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

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

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

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

173 (b) For violations of Title 41, Chapter 22, or Title 73, Chapter 18, the state treasurer  
174 shall allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.

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

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

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

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

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

188 **78-5-116. Disposition of fines.**

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

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

196 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter  
197 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and  
198 15% to the general fund of the city or county government responsible for the justice court.

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

200 (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice  
201 court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations  
202 and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial  
203 Council, shall be paid to the state treasurer and distributed to the class B and C road account.

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

207 **Section 8. Repealer.**

208 This bill repeals:

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

210 **Section 9. Effective date.**

211 This bill takes effect July 1, 2004.

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

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

217 "(3) (a) One dollar and 50 cents of each annual registration fee collected under  
218 Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection  
219 41-22-35(2) shall be ~~it~~ [shall be] ~~it~~ deposited in the Land Grant Management Fund created under  
220 Section 53C-3-101."