

Representative Michael E. Noel proposes the following substitute bill:

ILLEGAL USE OF MOTOR VEHICLES

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that a person may not tear down, mutilate, deface, or destroy:
 - a sign, signboard, or other notice that regulates off-highway vehicle use; or
 - a fence, gate, or other enclosure;
- ▶ provides that a person may not operate or give another person permission to operate

a motor vehicle cross-country on any public land that is closed to motor vehicle

cross-country travel **⚡→ with exception ←⚡** ;

- ▶ provides penalties and sentencing provisions for violating the prohibition on operating a motor vehicle cross-country on public land;
- ▶ provides that a person is guilty of enhanced penalties for unlawful use of a motor vehicle cross-country on public land or a motor vehicle on private land if:
 - the person violates certain restrictions on the use of a motor vehicle cross-country on public land or a motor vehicle on private land; and



- 26 • ~~H~~→ the person ←~~H~~ has previously been convicted of the restrictions on
- 26a use of a motor
- 27 vehicle cross-country on public land or a motor vehicle on private land
- 28 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 by
53 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), ~~Ĥ→ [(9)] (10) ←Ĥ~~ , or ~~Ĥ→ [(20)] (21) ←Ĥ~~ , designed for or capable of travel
59a over unimproved terrain.

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

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

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

66 ~~[(5)] (6)~~ "Dealer" means a person engaged in the business of selling off-highway
67 vehicles at wholesale or retail.

68 ~~[(6)] (7)~~ "Division" means the Division of Parks and Recreation.

69 ~~[(7)] (8)~~ "Low pressure tire" means any pneumatic tire six inches or more in width
70 designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating
71 pressure of ten pounds per square inch or less as recommended by the vehicle manufacturer.

72 ~~[(8)] (9)~~ "Manufacturer" means a person engaged in the business of manufacturing
73 off-highway vehicles.

74 ~~[(9)] (10)~~ "Motorcycle" means every motor vehicle having a saddle for the use of the
75 operator and designed to travel on not more than two tires.

76 ~~[(10)] (11) (a)~~ "Motor vehicle" means every vehicle which is self-propelled.

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

78 ~~[(11)] (12)~~ "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle,
79 all-terrain type II vehicle, or motorcycle.

80 ~~[(12)] (13)~~ "Off-highway implement of husbandry" means every all-terrain type I
81 vehicle, motorcycle, or snowmobile that is used by the owner or his agent for agricultural
82 operations.

83 ~~[(13)] (14)~~ "Operate" means to control the movement of or otherwise use an
84 off-highway vehicle.

85 ~~[(14)] (15)~~ "Operator" means the person who is in actual physical control of an
86 off-highway vehicle.

87 ~~[(15)] (16)~~ "Organized user group" means an off-highway vehicle organization

88 incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised
89 Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle
90 recreation.

91 ~~[(16)]~~ (17) "Owner" means a person, other than a person with a security interest,
92 having a property interest or title to an off-highway vehicle and entitled to the use and
93 possession of that vehicle.

94 ~~[(17)]~~ (18) "Public land" means land owned or administered by any federal or state
95 agency or any political subdivision of the state.

96 ~~[(18)]~~ (19) "Register" means the act of assigning a registration number to an
97 off-highway vehicle.

98 ~~[(19)]~~ (20) "Roadway" is used as defined in Section 41-6a-102.

99 ~~[(20)]~~ (21) "Snowmobile" means any motor vehicle designed for travel on snow or ice
100 and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure
101 tires.

102 ~~[(21)]~~ (22) "Street or highway" means the entire width between boundary lines of every
103 way or place of whatever nature, when any part of it is open to the use of the public for
104 vehicular travel.

105 ~~[(22)]~~ (23) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same
106 meaning as defined in Section 41-6a-102.

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

108 **41-22-12. Restrictions on use of public lands.**

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

112 ~~[(2) A person may not operate and an owner of an off-highway vehicle may not give
113 another person permission to operate an off-highway vehicle on any public land which is
114 closed to off-highway vehicles.]~~

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

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

118 (b) a fence or other enclosure or a gate or bars belonging to the fence or other

119 enclosure.

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

121 **41-22-12.2. Unlawful cross-country motor vehicle travel on public land.**

122 (1) ~~H~~→ ~~[A]~~ (a) **Except as provided in Subsection (1)(b), a** ~~←H~~ person may not operate
 122a and an owner of a motor vehicle may not give another
 123 person permission to operate a motor vehicle cross-country on any public land that is closed to
 124 motor vehicle cross-country travel.

124a ~~H~~→ (b) **A person operating a snowmobile on sufficient snow cover cross-country on**
 124b **public land is not subject to the restriction in Subsection (1)(a).** ~~←H~~

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

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

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

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

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

131 **41-22-12.5. Restrictions on use of privately-owned lands without permission --**
 132 **Unlawful for person to tamper with signs or fencing on privately-owned land.**

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

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

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

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

142 (e) As part of any sentence for a conviction of a violation of Subsection (1)(a) or (b),
 143 the court may:

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

145 (ii) require the person to pay restitution ~~§~~→ ~~[not to exceed \$500]~~ ~~←~~§ for any damage caused by
 146 the unlawful motor vehicle travel; and

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

149 ~~[(d) No]~~ (2) A person operating or accompanying a person operating ~~[an off-highway]~~

150 a motor vehicle ~~[shall]~~ may not obstruct ~~[any]~~ an entrance or exit to private property without
 151 the owner's permission.

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

153 (3) A person may not:

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

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

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

159 **41-22-12.7. Enhanced penalties for unlawful motor vehicle use on public or**
 160 **private property.**

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

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

164 (b) (i) has been convicted of violating Section 41-22-12, 41-22-12.2, 41-22-12.5, or
 165 41-22-13 within the last two years; or

166 (ii) knowingly, intentionally, or recklessly:

167 (A) damages vegetation, trees, wetlands, riparian areas, fences, structures, or
 168 improvements; or

169 (B) harasses wildlife or livestock.

170 (2) As part of any sentence for a conviction of a violation described in Subsection (1),
 171 the court may:

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

173 (b) require the person to pay restitution ~~→~~ ~~[not to exceed \$500]~~ ~~←~~ for damage caused by the
 174 unlawful motor vehicle use; and

175 (c) require the person to perform community service in the form of repairing any
 176 damage to the public land caused by the unlawful motor vehicle use.

177 (3) As part of any sentence for a conviction described in Subsection (1) that is within
 178 five years of a prior conviction described in Subsection (1), the court may:

179 (a) impose a fine not to exceed ~~→~~ ~~[\$500]~~ ~~\$1,000~~ ~~←~~ ;

180 (b) require the person to pay restitution ~~→~~ ~~[not to exceed \$1,000]~~ ~~←~~ for damage caused
 180a by the

181 unlawful motor vehicle use; and

182 (c) require the person to perform community service in the form of repairing any
183 damage caused by the unlawful motor vehicle use.

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

185 **41-22-12.8. Exceptions to off-highway vehicle use restrictions.**

186 The cross country motor vehicle and off-highway vehicle restrictions in Section
187 41-22-12.1, 41-22-12.2, 41-22-12.5, and 41-22-12.7 do not apply to:

188 (1) a law enforcement officer or emergency services personnel acting within the course
189 and scope of their employment;

190 (2) an employee of the landowner or land manager acting within the course and scope
191 of their employment;

192 (3) a person otherwise authorized to use a motor vehicle in a closed area by legal right
193 or by permission of the landowner or land manager; and

194 (4) a person operating a motor vehicle on an R.S. 2477 right-of-way recorded or
195 asserted by the state or a local highway authority.

H.B. 283 1st Sub. (Buff) - Illegal Use of Motor Vehicles

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
