

1 **ILLEGAL USE OF OFF-HIGHWAY VEHICLES**

2 2009 GENERAL SESSION

3 STATE OF UTAH

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

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Motor Vehicles Code by amending provisions relating to
10 off-highway vehicle use.

11 **Highlighted Provisions:**

12 This bill:

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



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

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **41-22-12**, as last amended by Laws of Utah 2007, Chapter 136

39 **41-22-12.5**, as last amended by Laws of Utah 1989, Chapter 21

40 ENACTS:

41 **41-22-12.2**, Utah Code Annotated 1953

42 **41-22-12.3**, Utah Code Annotated 1953

43 **41-22-12.8**, Utah Code Annotated 1953



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

46 Section 1. Section **41-22-12** is amended to read:

47 **41-22-12. Restrictions on use of public lands.**

48 (1) Except as provided in Section 63-11-17, federal agencies are encouraged and
49 agencies of the state and its subdivisions shall pursue opportunities to open public land to
50 responsible off-highway vehicle use.

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

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

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

57 (b) a fence or other enclosure or a gate or bars belonging to the fence or other
58 enclosure.

59 Section 2. Section **41-22-12.2** is enacted to read:

60 **41-22-12.2. Unlawful use of an off-highway vehicle on public land.**

61 (1) A person may not operate or give another person permission to operate an
62 off-highway vehicle on public land unless the location is posted by sign or designated by map
63 or description as open to off-highway vehicle use by the controlling federal agency, state,
64 county, or municipality in accordance with Section 41-22-10.1.

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

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

67 (a) shall impose a fine of not less than:

68 (i) \$125 for a violation that occurred on an existing road or trail constructed or
69 maintained by a federal agency, the state, a county, or municipality; or

70 (ii) \$150 for a violation that occurred off of an existing road or trail constructed or
71 maintained by a federal agency, the state, a county, or municipality;

72 (b) may require the person to pay restitution for any damage caused by the unlawful
73 off-highway vehicle use; and

74 (c) may require the person to perform community service in the form of repairing any
75 damage caused to the public land by the unlawful off-highway vehicle use.

76 Section 3. Section **41-22-12.3** is enacted to read:

77 **41-22-12.3. Aggravated unlawful use of an off-highway vehicle on public or**
78 **private property.**

79 (1) A person is guilty of aggravated unlawful use of an off-highway vehicle on public
80 or private property if the person:

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

82 (b) (i) has been convicted of violating Section 41-22-12, 41-22-12.2, 41-22-12.5, or
83 41-22-13 within the last five years; or

84 (ii) knowingly, intentionally, or recklessly:

85 (A) damages soil, vegetation, trees, watershed, wetlands, riparian areas, fences,
86 structures, or improvements; or

87 (B) harasses wildlife or livestock.

88 (2) A person who violates Subsection (1) is guilty of a class B misdemeanor.

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

90 (a) shall impose a fine of not less than \$300;

91 (b) may require the person to pay restitution for any damage caused by the unlawful
92 off-highway vehicle use;

93 (c) may require the person to perform community service in the form of repairing any
94 damage caused to the public land by the unlawful off-highway vehicle use;

95 (d) may suspend the person's driving privileges for a period not to exceed one month;
96 and

97 (e) may suspend the vehicle registration on any off-highway vehicle used in violation
98 of this section for a period not to exceed one year.

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

100 **41-22-12.5. Restrictions on use of privately owned lands without permission --**
101 **Unlawful for person to tamper with signs or fencing on privately owned land.**

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

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

108 (c) Subsections (1)(a) and (b) ~~shall~~ do not apply to prescriptive easements on
109 privately owned land.

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

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

113 (i) shall impose a fine of not less than:

114 (A) \$125 for a violation that occurred on an existing road or trail constructed or
115 maintained by the landowner; or

116 (B) \$150 for a violation that occurred off of an existing road or trail constructed or
117 maintained by the landowner;

118 (ii) may require the person to pay restitution for any damage caused by the unlawful
119 off-highway vehicle use; and

120 (iii) may require the person to perform community service in the form of repairing any

121 damage caused to the public land by the unlawful off-highway vehicle use.

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

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

126 (3) A person may not:

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

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

131 Section 5. Section **41-22-12.8** is enacted to read:

132 **41-22-12.8. Exceptions to off-highway vehicle use restrictions.**

133 The off-highway vehicle restrictions in Sections 41-22-12.1, 41-22-12.2, 41-22-12.3,
134 and 41-22-12.5 do not apply to:

135 (1) a law enforcement officer or emergency service personnel acting within the course
136 and scope of their employment;

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

139 (3) a person otherwise authorized to use an off-highway vehicle in a closed area by
140 legal right or by permission of the landowner or land manager.

Legislative Review Note
as of 1-28-09 3:33 PM

Office of Legislative Research and General Counsel

H.B. 283 - Illegal Use of Off-highway 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.
