

1 **OFF-HIGHWAY VEHICLE AND**
2 **STREET-LEGAL ALL-TERRAIN VEHICLE**
3 **REVISIONS**

4 2010 GENERAL SESSION

5 STATE OF UTAH

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

7 Senate Sponsor: Ralph Okerlund

8
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies the Traffic Code, Off-highway Vehicles Code, and the Motor and
12 Special Fuel Tax Act by amending provisions relating to off-highway vehicles.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ repeals the requirement that a street-legal all-terrain vehicle only be operated on a
16 highway with one lane in each direction;
- 17 ▶ provides that a street-legal all-terrain vehicle may not be operated on an interstate
18 freeway or a **H→ [controlled] limited ←H** access highway;
- 19 ▶ provides that an all-terrain type II vehicle is eligible for an off-highway implement
20 of husbandry sticker;
- 21 ▶ provides that an off-highway vehicle accident shall be reported in accordance with
22 the motor vehicle accident reporting requirements;
- 23 ▶ provides that an off-highway vehicle owned and operated by a state government
24 agency is exempt from the non-resident permit requirements if the operation within
25 the state is within the course and scope of the duties of the agency;
- 26 ▶ repeals the sunset on the refund of the motor fuel tax revenues that are deposited
27 into the Off-highway Vehicle Account; and



28 ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **41-6a-1509**, as last amended by Laws of Utah 2009, Chapter 311

36 **41-22-5.5**, as last amended by Laws of Utah 1999, Chapter 217

37 **41-22-10.6**, as last amended by Laws of Utah 2005, Chapter 2

38 **41-22-35**, as last amended by Laws of Utah 2008, Chapter 382

39 **59-13-201**, as last amended by Laws of Utah 2008, Chapter 382



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

42 Section 1. Section **41-6a-1509** is amended to read:

43 **41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways --**

44 **Registration and licensing requirements -- Equipment requirements.**

45 (1) (a) Except as provided in Subsection (1)(b), an all-terrain type I or utility type
46 vehicle that meets the requirements of this section may be operated as a street-legal ATV on a
47 street or highway [~~that is a highway with one lane in each direction~~] unless the highway is an
48 interstate freeway or a \overleftarrow{H} → [controlled] limited ← \overleftarrow{H} access highway as defined in
48a Section 41-6a-102.

49 (b) Unless a street or highway is designated as open for street-legal ATV use by the
50 controlling highway authority in accordance with Section 41-22-10.5, a person may not operate
51 a street-legal ATV on a street or highway in accordance with Subsection (1)(a) if the highway
52 is under the jurisdiction of:

- 53 (i) a county of the first class;
- 54 (ii) a municipality that is within a county of the first class; or
- 55 (iii) a municipality with a population of 7,500 or more people.

56 (2) A street-legal ATV shall comply with the same requirements as:

- 57 (a) a motorcycle for:
- 58 (i) traffic rules under Title 41, Chapter 6a, Traffic Code;

59 (ii) registration, titling, odometer statement, vehicle identification, license plates, and
60 registration fees under Title 41, Chapter 1a, Motor Vehicle Act;

61 (iii) fees in lieu of property taxes or in lieu fees under Section 59-2-405.2; and

62 (iv) the county motor vehicle emissions inspection and maintenance programs under
63 Section 41-6a-1642;

64 (b) a motor vehicle for:

65 (i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;

66 (ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of
67 Motor Vehicle Owners and Operators Act; and

68 (iii) safety inspection requirements under Title 53, Chapter 8, Part 2, Motor Vehicle
69 Safety Inspection Act, except that a street-legal ATV shall be subject to a safety inspection
70 when registered for the first time; and

71 (c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title
72 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business
73 Regulation Act, unless otherwise specified in this section.

74 (3) A street-legal ATV shall be equipped with:

75 (a) one or more headlamps that meet the requirements of Section 41-6a-1603;

76 (b) one or more tail lamps;

77 (c) a tail lamp or other lamp constructed and placed to illuminate the registration plate
78 with a white light;

79 (d) one or more red reflectors on the rear;

80 (e) one or more stop lamps on the rear;

81 (f) amber or red electric turn signals, one on each side of the front and rear;

82 (g) a braking system, other than a parking brake, that meets the requirements of Section
83 41-6a-1623;

84 (h) a horn or other warning device that meets the requirements of Section 41-6a-1625;

85 (i) a muffler and emission control system that meets the requirements of Section
86 41-6a-1626;

87 (j) rearview mirrors on the right and left side of the driver in accordance with Section
88 41-6a-1627;

89 (k) a windshield, unless the operator wears eye protection while operating the vehicle;

- 90 (l) a speedometer, illuminated for nighttime operation;
- 91 (m) for vehicles designed by the manufacturer for carrying one or more passengers, a
- 92 seat designed for passengers, including a footrest and handhold for each passenger;
- 93 (n) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and
- 94 (o) tires that:
 - 95 (i) do not exceed 26 inches in height;
 - 96 (ii) are not larger than the tires that the all-terrain vehicle manufacturer made available
 - 97 for the all-terrain vehicle model; and
 - 98 (iii) have at least 2/32 inches or greater tire tread.

99 (4) (a) Subject to the requirement in Subsection (4)(b), an operator of a street-legal
100 all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway in accordance
101 with this section, may not exceed the lesser of:

- 102 (i) the posted speed limit; or
- 103 (ii) 45 miles per hour.

104 (b) An operator of a street-legal all-terrain vehicle, when operating a street-legal
105 all-terrain vehicle on a highway with a posted speed limit higher than 45 miles per hour, shall:

- 106 (i) operate the street-legal all-terrain vehicle on the extreme right hand side of the
- 107 roadway; and
- 108 (ii) shall equip the street-legal all-terrain vehicle with a reflector or reflective tape.

109 (5) (a) A nonresident operator of an off-highway vehicle that is authorized to be
110 operated on the highways of another state has the same rights and privileges as a street-legal
111 ATV that is granted operating privileges on the highways of this state, subject to the
112 restrictions under this section and rules made by the Board of Parks and Recreation, if the other
113 state offers reciprocal operating privileges to Utah residents.

114 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
115 Board of Parks and Recreation shall establish eligibility requirements for reciprocal operating
116 privileges for nonresident users granted under Subsection (5)(a).

117 (6) Nothing in this chapter shall restrict the operation of an off-highway vehicle in
118 accordance with Section 41-22-10.5.

119 Section 2. Section **41-22-5.5** is amended to read:

120 **41-22-5.5. Off-highway husbandry vehicles.**

121 (1) (a) (i) The owner of an all-terrain type I vehicle, motorcycle, all-terrain type II
122 vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division
123 for an off-highway implement of husbandry sticker.

124 (ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

125 (A) evidence of ownership[;];

126 (B) a title[;] or a manufacturer's certificate of origin[;]; and

127 (C) a signed statement certifying that the off-highway vehicle is used for agricultural
128 purposes.

129 (iii) The owner shall receive an off-highway implement of husbandry sticker upon
130 production of:

131 (A) the documents required [~~above~~] under this Subsection (1); and

132 (B) payment of an off-highway implement of husbandry sticker fee established by the
133 board not to exceed \$10.

134 (b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or
135 highways, it shall also be registered under Section 41-22-3.

136 (c) The off-highway implement of husbandry sticker shall be displayed in a manner
137 prescribed by the board and shall identify the all-terrain type I vehicle, motorcycle, or
138 snowmobile as an off-highway implement of husbandry.

139 (2) The off-highway implement of husbandry sticker is valid only for the life of the
140 ownership of the all-terrain type I vehicle, motorcycle, or snowmobile and is not transferable.

141 (3) The off-highway implement of husbandry sticker is valid for an all-terrain type I
142 vehicle, motorcycle, or snowmobile which is being operated adjacent to a roadway:

143 (a) when the all-terrain type I vehicle, motorcycle, or snowmobile is only being used to
144 travel from one parcel of land owned or operated by the owner of the vehicle to another parcel
145 of land owned or operated by the owner; and

146 (b) when this operation is necessary for the furtherance of agricultural purposes.

147 (4) If the operation of an off-highway implement of husbandry adjacent to a roadway is
148 impractical, it may be operated on the roadway if the operator exercises due care towards
149 conventional motor vehicle traffic.

150 (5) It is unlawful to operate an off-highway implement of husbandry along, across, or
151 within the boundaries of an interstate freeway.

152 Section 3. Section **41-22-10.6** is amended to read:

153 **41-22-10.6. Requiring compliance with traffic laws.**

154 (1) Any person operating an off-highway vehicle is subject to the provisions of Title
155 41, Chapter 6a, Traffic Code, unless specifically excluded.

156 (2) An off-highway vehicle accident shall be reported in accordance with the
157 requirements of Section 41-6a-402.

158 Section 4. Section **41-22-35** is amended to read:

159 **41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent**
160 **issuance of decal -- Deposit and use of fee revenue.**

161 (1) (a) Except as provided in Subsection (1)(b), any nonresident owning an
162 off-highway vehicle who operates or gives another person permission to operate the
163 off-highway vehicle on any public land, trail, street, or highway in this state shall:

164 (i) apply for an off-highway vehicle decal issued exclusively for an off-highway
165 vehicle owned by a nonresident of the state;

166 (ii) pay an annual off-highway vehicle user fee; and

167 (iii) provide evidence that:

168 (A) the person is a nonresident; and

169 (B) the person is the owner of the off-highway vehicle.

170 (b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the
171 off-highway vehicle is:

172 (i) registered in another state that offers reciprocal operating privileges to Utah
173 residents under rules made by the board; [~~or~~]

174 (ii) used exclusively for the purposes of a scheduled competitive event sponsored by a
175 public or private entity or another event sponsored by a governmental entity under rules made
176 by the board[~~;~~]; or

177 (iii) owned and operated by a state government agency and the operation of the
178 off-highway vehicle within the boundaries of the state is within the course and scope of the
179 duties of the agency.

180 (2) The off-highway vehicle user fee is \$30.

181 (3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:

182 (a) receive a nonresident off-highway vehicle user decal indicating compliance with the

183 provisions of Subsection (1)(a); and

184 (b) display the decal on the off-highway vehicle in accordance with rules made by the
185 board.

186 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
187 board shall make rules establishing:

188 (a) procedures for:

189 (i) the payment of off-highway vehicle user fees; and

190 (ii) the display of a decal on an off-highway vehicle as required under Subsection

191 (3)(b);

192 (b) acceptable evidence indicating compliance with Subsection (1);

193 (c) eligibility requirements for reciprocal operating privileges for nonresident users;

194 and

195 (d) eligibility for scheduled competitive events or other events under Subsection

196 (1)(b)(ii).

197 (5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle
198 user fee may be collected by the division or agents of the division.

199 (b) An agent shall retain 10% of all off-highway vehicle user fees collected.

200 (c) The division may require agents to obtain a bond in a reasonable amount.

201 (d) On or before the tenth day of each month, each agent shall:

202 (i) report all sales to the division; and

203 (ii) submit all off-highway vehicle user fees collected less the remuneration provided in
204 Subsection (5)(b).

205 (e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20%
206 of the amount due.

207 (ii) Delinquent payments shall bear interest at the rate of 1% per month.

208 (iii) If the amount due is not paid because of bad faith or fraud, the division shall assess
209 a penalty of 100% of the total amount due together with interest.

210 (f) All fees collected by an agent, except the remuneration provided in Subsection
211 (5)(b), shall:

212 (i) be kept separate and apart from the private funds of the agent; and

213 (ii) belong to the state.

214 (g) An agent may not issue an off-highway vehicle user decal to any person unless the
215 person furnishes evidence of compliance with the provisions of Subsection (1)(a).

216 (h) A violation of any provision of this Subsection (5) is a class B misdemeanor and
217 may be cause for revocation of the agent authorization.

218 (6) Revenue generated by off-highway vehicle user fees shall be deposited in the
219 Off-highway Vehicle Account created in Section 41-22-19.

220 Section 5. Section **59-13-201** is amended to read:

221 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
222 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
223 **in limited circumstances.**

224 (1) (a) Subject to the provisions of this section, a tax is imposed at the rate of 24-1/2
225 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

226 (b) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of
227 this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a),
228 rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in
229 Section 59-13-102 and are sold, used, or received for sale or use in this state.

230 (2) Any increase or decrease in tax rate applies to motor fuel that is imported to the
231 state or sold at refineries in the state on or after the effective date of the rate change.

232 (3) (a) No motor fuel tax is imposed upon:

233 (i) motor fuel that is brought into and sold in this state in original packages as purely
234 interstate commerce sales;

235 (ii) motor fuel that is exported from this state if proof of actual exportation on forms
236 prescribed by the commission is made within 180 days after exportation;

237 (iii) motor fuel or components of motor fuel that is sold and used in this state and
238 distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in
239 this state; or

240 (iv) motor fuel that is sold to the United States government, this state, or the political
241 subdivisions of this state.

242 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
243 commission shall make rules governing the procedures for administering the tax exemption
244 provided under Subsection (3)(a)(iv).

245 (4) The commission may either collect no tax on motor fuel exported from the state or,
246 upon application, refund the tax paid.

247 (5) (a) All revenue received by the commission under this part shall be deposited daily
248 with the state treasurer and credited to the Transportation Fund.

249 (b) An appropriation from the Transportation Fund shall be made to the commission to
250 cover expenses incurred in the administration and enforcement of this part and the collection of
251 the motor fuel tax.

252 (6) (a) The commission shall determine what amount of motor fuel tax revenue is
253 received from the sale or use of motor fuel used in motorboats registered under the provisions
254 of the State Boating Act, and this amount shall be deposited in a restricted revenue account in
255 the General Fund of the state.

256 (b) The funds from this account shall be used for the construction, improvement,
257 operation, and maintenance of state-owned boating facilities and for the payment of the costs
258 and expenses of the Division of Parks and Recreation in administering and enforcing the State
259 Boating Act.

260 (7) (a) The United States government or any of its instrumentalities, this state, or a
261 political subdivision of this state that has purchased motor fuel from a licensed distributor or
262 from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this
263 section is entitled to a refund of the tax and may file with the commission for a quarterly
264 refund.

265 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
266 commission shall make rules governing the application and refund provided for in Subsection
267 (7)(a).

268 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
269 the General Fund an amount equal to the lesser of the following:

270 (i) .5% of the motor fuel tax revenues collected under this section; or

271 (ii) \$1,050,000.

272 (b) This amount shall be used as provided in Section 41-22-19.

273 [~~(c) This Subsection (8) sunsets on July 1, 2010.~~]

274 (9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that
275 is sold, used, or received for sale or use in this state is reduced to the extent provided in

276 Subsection (9)(b) if:

277 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
278 fuel is paid to the Navajo Nation;

279 (ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or
280 not the person required to pay the tax is an enrolled member of the Navajo Nation; and

281 (iii) the commission and the Navajo Nation execute and maintain an agreement as
282 provided in this Subsection (9) for the administration of the reduction of tax.

283 (b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this
284 section:

285 (A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that
286 difference is greater than \$0; and

287 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
288 if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.

289 (ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

290 (A) the amount of tax imposed on the motor fuel by this section; less

291 (B) the tax imposed and collected by the Navajo Nation on the motor fuel.

292 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
293 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of
294 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the
295 Navajo Nation.

296 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
297 commission shall make rules governing the procedures for administering the reduction of tax
298 provided under this Subsection (9).

299 (e) The agreement required under Subsection (9)(a):

300 (i) may not:

301 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

302 (B) provide a reduction of taxes greater than or different from the reduction described
303 in this Subsection (9); or

304 (C) affect the power of the state to establish rates of taxation;

305 (ii) shall:

306 (A) be in writing;

307 (B) be signed by:
308 (I) the chair of the commission or the chair's designee; and
309 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
310 (C) be conditioned on obtaining any approval required by federal law;
311 (D) state the effective date of the agreement; and
312 (E) state any accommodation the Navajo Nation makes related to the construction and
313 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
314 Nation; and
315 (iii) may:
316 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
317 Navajo Nation information that is:
318 (I) contained in a document filed with the commission; and
319 (II) related to the tax imposed under this section;
320 (B) provide for maintaining records by the commission or the Navajo Nation; or
321 (C) provide for inspections or audits of distributors, carriers, or retailers located or
322 doing business within the Utah portion of the Navajo Nation.
323 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
324 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
325 result of the change in the tax rate is not effective until the first day of the calendar quarter after
326 a 60-day period beginning on the date the commission receives notice:
327 (A) from the Navajo Nation; and
328 (B) meeting the requirements of Subsection (9)(f)(ii).
329 (ii) The notice described in Subsection (9)(f)(i) shall state:
330 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
331 motor fuel;
332 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
333 and
334 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
335 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
336 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
337 30-day period beginning on the day the agreement terminates.

338 (h) If there is a conflict between this Subsection (9) and the agreement required by
339 Subsection (9)(a), this Subsection (9) governs.

Legislative Review Note
as of **2-3-10 9:26 AM**

Office of Legislative Research and General Counsel

H.B. 179 - Off-highway Vehicle and Street-legal All-terrain Vehicle Revisions

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. This bill extends a section of law that refunds about \$1 million per year from motor fuel taxes into the Off-highway Vehicle Restricted Account. This section of law would otherwise expire on July 1, 2010.

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.
