

OFF-HIGHWAY VEHICLE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This bill amends provisions of the Motor Vehicle Code relating to off-highway vehicles.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to off-highway vehicles and safety requirements;
- ▶ modifies provisions relating to safety courses; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 41-22-2**, as last amended by Laws of Utah 2014, Chapter 229
- 41-22-29**, as last amended by Laws of Utah 2008, Chapter 382
- 41-22-30**, as last amended by Laws of Utah 2008, Chapter 79
- 41-22-31**, as last amended by Laws of Utah 2008, Chapter 382
- 41-22-33**, as last amended by Laws of Utah 2009, Chapter 183

REPEALS AND REENACTS:



28 [41-22-32](#), as last amended by Laws of Utah 2005, Chapter 2



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

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

32 **41-22-2. Definitions.**

33 As used in this chapter:

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

36 (2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width,
37 having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure
38 tires, having a seat designed to be straddled by the operator, and designed for or capable of
39 travel over unimproved terrain.

40 (3) (a) "All-terrain type II vehicle" means any other motor vehicle, not defined in
41 Subsection (2), (11), or (22), designed for or capable of travel over unimproved terrain.

42 (b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to
43 carry a person with a disability, any vehicle not specifically designed for recreational use, or
44 farm tractors as defined under Section [41-1a-102](#).

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

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

48 (6) "Dealer" means a person engaged in the business of selling off-highway vehicles at
49 wholesale or retail.

50 (7) "Division" means the Division of Parks and Recreation.

51 (8) "Low pressure tire" means any pneumatic tire six inches or more in width designed
52 for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of
53 10 pounds per square inch or less as recommended by the vehicle manufacturer.

54 (9) "Manufacturer" means a person engaged in the business of manufacturing
55 off-highway vehicles.

56 (10) "Motorcycle" means every motor vehicle having a saddle for the use of the
57 operator and designed to travel on not more than two tires.

58 (11) (a) "Motor vehicle" means every vehicle which is self-propelled.

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

60 (12) "Off-highway implement of husbandry" means every all-terrain type I vehicle,
61 all-terrain type II vehicle, motorcycle, or snowmobile that is used by the owner or the owner's
62 agent for agricultural operations.

63 (13) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle,
64 all-terrain type II vehicle, or motorcycle.

65 (14) "Operate" means to control the movement of or otherwise use an off-highway
66 vehicle.

67 (15) "Operator" means the person who is in actual physical control of an off-highway
68 vehicle.

69 (16) "Organized user group" means an off-highway vehicle organization incorporated
70 as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit
71 Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

72 (17) "Owner" means a person, other than a person with a security interest, having a
73 property interest or title to an off-highway vehicle and entitled to the use and possession of that
74 vehicle.

75 (18) "Public land" means land owned or administered by any federal or state agency or
76 any political subdivision of the state.

77 (19) "Register" means the act of assigning a registration number to an off-highway
78 vehicle.

79 (20) "Roadway" is used as defined in Section [41-6a-102](#).

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

82 [~~23~~] (22) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same
83 meaning as defined in Section [41-6a-102](#).

84 [~~22~~] (23) "Street or highway" means the entire width between boundary lines of every
85 way or place of whatever nature, when any part of it is open to the use of the public for
86 vehicular travel.

87 Section 2. Section **41-22-29** is amended to read:

88 **41-22-29. Operation by persons under eight years of age prohibited -- Definitions**
89 **-- Exception -- Penalty.**

90 (1) As used in this section:

91 (a) "Organized practice" means a scheduled [~~motorcycle~~] off-highway vehicle practice
92 held in an off-road vehicle facility designated by the division and conducted by an organization
93 carrying liability insurance in at least the amounts specified by the division under Subsection
94 (5) covering all activities associated with the practice.

95 (b) "Sanctioned race" means [~~a motorcycle~~] an off-highway vehicle race conducted on
96 a closed course and sponsored and sanctioned by an organization carrying liability insurance in
97 at least the amounts specified by the division under Subsection (5) covering all activities
98 associated with the race.

99 (2) Except as provided under Subsection (3), a person under eight years of age may not
100 operate and an owner may not give another person who is under eight years of age permission
101 to operate an off-highway vehicle on any public land, trail, street, or highway of this state.

102 (3) A child under eight years of age may participate in a sanctioned race or organized
103 practice if:

104 (a) the child is under the [~~immediate~~] direct supervision of an adult as described in
105 Subsection 4-2-30(1); and

106 (b) emergency medical service personnel, as defined in Section ~~26-8a-102~~, are on the
107 premises and immediately available to provide assistance at all times during the sanctioned
108 race or organized practice[~~and~~].

109 [~~(c) an ambulance provider, as defined in Section 26-8a-102, is on the premises and~~
110 ~~immediately available to provide assistance for a sanctioned race.]~~

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

113 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
114 division shall make rules specifying the minimum amounts of liability coverage for an
115 organized practice or sanctioned race.

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

117 **41-22-30. Supervision, safety certificate, or driver license required -- Penalty.**

118 (1) As used in this section, "direct supervision" means oversight at a distance:

119 (a) of no more than 300 feet; and

120 (b) within which:

121 (i) visual contact is maintained; and

122 (ii) advice and assistance can be given and received.

123 (2) A person may not operate and an owner may not give that person permission to
124 operate an off-highway vehicle on any public land, trail, street, or highway of this state unless
125 the person:

126 (a) is under the direct supervision of ~~a certified~~ an off-highway vehicle safety
127 instructor during a scheduled safety training course approved by the board pursuant to Section
128 41-22-32;

129 (b) (i) has in the person's possession the appropriate safety certificate issued or
130 approved by the division; and

131 (ii) if under 18 years of age, is under the direct supervision of a person who is at least
132 18 years of age if operating on a public highway that is:

133 (A) open to motor vehicles; and

134 (B) not exclusively reserved for off-highway vehicle use; or

135 (c) has in the person's immediate possession a valid motor vehicle operator's license, as
136 provided in Title 53, Chapter 3, Uniform Driver License Act.

137 (3) (a) A person convicted of a violation of this section is guilty of an infraction and
138 shall be fined not more than \$100 per offense.

139 (b) It is a defense to a charge under this section, if the person charged:

140 (i) produces in court a license or an appropriate safety certificate that was:

141 (A) valid at the time of the citation or arrest; and

142 (B) issued to the person operating the off-highway vehicle; and

143 (ii) can show that the direct supervision requirement under Subsection (2)(b) was not
144 violated at the time of citation or arrest.

145 (4) The requirements of this section do not apply to an operator of an off-highway
146 implement of husbandry.

147 Section 4. Section **41-22-31** is amended to read:

148 **41-22-31. Board to set standards for safety program -- Safety certificates issued --**
149 **Cooperation with public and private entities -- State immunity from suit.**

150 (1) ~~The~~ (a) In accordance with Title 63G, Chapter 3, Utah Administrative
151 Rulemaking Act, the board shall make rules that establish curriculum standards for a

152 comprehensive off-highway vehicle safety education and training program and shall implement
153 this program.

154 ~~[(a)]~~ (b) The program shall be designed to develop and instill the knowledge, attitudes,
155 habits, and skills necessary for the safe operation of an off-highway vehicle.

156 ~~[(b)]~~ (c) Components of the program shall include the preparation and dissemination of
157 off-highway vehicle information and safety advice to the public and the training of off-highway
158 vehicle operators.

159 ~~[(c)]~~ (d) Off-highway vehicle safety certificates shall be issued to those who
160 successfully complete training or pass the knowledge and skills test established under the
161 program.

162 (2) The division shall cooperate with appropriate private organizations and
163 associations, private and public corporations, and local government units to implement the
164 program established under this section.

165 (3) In addition to the governmental immunity granted in Title 63G, Chapter 7,
166 Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to
167 act, in any capacity relating to the off-highway vehicle safety education and training program.
168 The state is also not responsible for any insufficiency or inadequacy in the quality of training
169 provided by this program.

170 Section 5. Section **41-22-32** is repealed and reenacted to read:

171 **41-22-32. Approval of safety courses.**

172 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
173 division may make rules that establish standards for an off-highway vehicle safety course for
174 instruction on the safe operation of an off-highway vehicle.

175 (2) If a private organization meets the standards set by the division under Subsection
176 (1), the division shall approve the off-highway safety course as compliant with the standards
177 and purposes of this chapter.

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

179 **41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.**

180 (1) ~~[(a)]~~ A fee set by the board in accordance with Section **63J-1-504** shall be added to
181 the registration fee required to register an off-highway vehicle under Section **41-22-8** to help
182 fund the off-highway vehicle safety and education program.

183 ~~[(b) The division may also collect a fee set by the board in accordance with Section~~
184 ~~63J-1-504 from each person who:]~~

185 ~~[(i) receives the training and takes the knowledge and skills test for off-highway~~
186 ~~vehicle use; or]~~

187 ~~[(ii) takes the knowledge and skills test for off-highway vehicle use.]~~

188 ~~[(c)] (2) If the board modifies the fee under Subsection (1)[(a)], the modification shall~~
189 ~~take effect on the first day of the calendar quarter after 90 days from the day on which the~~
190 ~~board provides the State Tax Commission:~~

191 ~~[(i)] (a) notice from the board stating that the board will modify the fee; and~~

192 ~~[(ii)] (b) a copy of the fee modification.~~

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

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

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

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

209 ~~[(e) A person may not:]~~

210 ~~[(i) willfully misdate an off-highway vehicle education safety certificate;]~~

211 ~~[(ii) issue an incomplete certificate; or]~~

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

**Legislative Review Note
Office of Legislative Research and General Counsel**