

HB0180S02 compared with HB0180S01

~~text~~ shows text that was in HB0180S01 but was deleted in HB0180S02.

text shows text that was not in HB0180S01 but was inserted into HB0180S02.

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Representative Carl R. Albrecht proposes the following substitute bill:

OFF-ROAD VEHICLE SAFETY EDUCATION

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to off-highway vehicle safety education and registration.

Highlighted Provisions:

This bill:

- ▶ requires any individual operating an off-highway vehicle to complete an online education course;
- ▶ requires an individual under 18 years old without a driver license to complete an operational safety course before operating an off-highway vehicle;
- ▶ requires an individual convicted of certain off-highway vehicle laws to perform community services to repair damages caused by the violation;
- ▶ amends provisions related to off-highway vehicle registration and requires issuance

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and display of a license plate on each off-highway vehicle; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-22-3, as last amended by Laws of Utah 2021, Chapters 135 and 280

41-22-5.1, as last amended by Laws of Utah 2021, Chapter 280

41-22-12.2, as last amended by Laws of Utah 2015, Chapter 412

41-22-12.5, as last amended by Laws of Utah 2015, Chapter 412

41-22-19, as last amended by Laws of Utah 2012, Chapter 71

41-22-30, as last amended by Laws of Utah 2021, Chapters 110 and 280

41-22-31, as last amended by Laws of Utah 2021, Chapter 280

41-22-35, as last amended by Laws of Utah 2021, Chapter 280

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

Section 1. Section **41-22-3** is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card --

Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(2) (a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor

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Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) (i) Beginning on January 1, 2023, the first time an off-highway vehicle is registered, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(ii) If an off-highway vehicle has been registered previously in this state but has not been issued an off-highway vehicle license plate, beginning on January 1, 2023, upon application for registration renewal, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

~~[(4)(a)]~~ (b) Upon each annual registration, the Motor Vehicle Division shall issue a registration ~~[sticker]~~ decal and a registration card for each off-highway vehicle registered.

~~[(b)]~~ (c) The ~~[registration sticker shall]~~ off-highway vehicle license plate:

(i) shall contain a unique five-digit number ~~[using numbers, letters, or combination of numbers and letters]~~ to identify the off-highway vehicle for which it is issued;

(ii) shall be affixed to the rear of the off-highway vehicle for which it is issued in a plainly visible and upright position as prescribed by rule of the division under Section 41-22-5.1; ~~[and]~~

(iii) shall be maintained free of foreign materials and in a condition to be clearly legible~~[-]~~;

(iv) shall be a distinct ~~{green}~~tan color with black lettering to identify the license plate as an off-highway vehicle license plate;

(v) shall have a location to attach the registration decal; and

(vi) may not be a personalized license plate or a special group license plate.

~~[(c)]~~ (d) At all times, a registration card shall be kept with the off-highway vehicle and

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shall be available for inspection by a law enforcement officer.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration [~~sticker~~] decals shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5, or a motorcycle that is an off-highway vehicle is:

(i) exempt from the requirement under this Subsection (5)[:];

(ii) not required to obtain or purchase an off-highway vehicle license plate; and

(iii) required to obtain and display an off-highway vehicle registration sticker.

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 2. Section **41-22-5.1** is amended to read:

41-22-5.1. Rules of division relating to display of registration stickers.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after consultation with the commission, shall make rules for the display of [~~a registration sticker~~] an off-highway license plate and registration decal on an off-highway vehicle in accordance with Section 41-22-3.

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

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

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(1) A person may not operate and an owner of a motor vehicle may not give another person permission to operate a motor vehicle cross-country on any public land not designated for that use by the controlling agency.

(2) A person who violates this section is guilty of an infraction.

(3) (a) (i) As part of any sentence for a conviction of a violation of this section, the court[?] shall order the person to perform community service in the form of repairing any damage to the public land caused by the unlawful cross-country motor vehicle travel, with a minimum sentence calculated as described in Subsection (3)(b).

(ii) The court shall order the community service described in Subsection (3)(a)(i) to occur at the location or locations where the person caused damage to the public land.

(b) For the community service required in Subsection (3)(a), the court shall:

(i) determine the approximate value of the damage caused by the unlawful cross-country motor vehicle travel; and

(ii) calculate the number of hours of community service required to cover the cost of the damage caused by dividing the approximate value determined pursuant to Subsection (3)(b)(i) by a rate of \$25 per hour.

~~[(a) may impose a fine not to exceed \$150; and]~~

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

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

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

(1) (a) A person may not operate or accompany a person operating a motor vehicle on privately-owned land of any other person, firm, or corporation without permission from the owner or person in charge.

(b) A person operating or accompanying a person operating a motor vehicle may not refuse to immediately leave private land upon request of the owner or person in charge of the land.

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

(d) A person who violates Subsection (1)(a) is guilty of an infraction.

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

~~[(f) As part of any sentence for a conviction of a violation of Subsection (1)(a) or (b), the court may:]~~

~~[(i) impose a fine of not more than \$150;]~~

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

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

(f) (i) As part of any sentence for a conviction of a violation of this Subsection (1), the court shall order the person to perform community service in the form of repairing any damage to the land or infrastructure caused by the unlawful motor vehicle travel, with a minimum sentence calculated as described in Subsection (1)(f)(iii).

(ii) The court shall order the community service described in Subsection (1)(f)(i) to occur at the location or locations where the person caused damage to the private land or infrastructure.

(iii) For the community service required in Subsection (1)(f)(i), the court shall:

(A) determine the approximate value of the damage caused by the unlawful cross-country motor vehicle travel; and

(B) calculate the number of hours of community service required to cover the cost of the damage caused by dividing the approximate value determined pursuant to Subsection (1)(f)(iii)(A) by a rate of \$25 per hour.

(2) A person operating or accompanying a person operating a motor vehicle may not obstruct an entrance or exit to private property without the owner's permission.

(3) A person may not:

(a) tear down, mutilate, or destroy any sign, signboards, or other notice which regulates trespassing for purposes of operating a motor vehicle on land; or

(b) tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to the fence or enclosure.

(4) (a) A violation of Subsection (2) is an infraction.

(b) A violation of Subsection (3) is a class C misdemeanor.

(5) (a) (i) As part of any sentence for a conviction of a violation of Subsection (2) or

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(3), the court shall order the person to perform community service in the form of repairing any damage to the land or infrastructure caused by the unlawful motor vehicle travel, with a minimum sentence calculated as described in Subsection (5)(b).

(ii) The court shall order the community service described in Subsection (5)(a)(i) to occur at the location or locations where the person caused damage to the land or infrastructure.

(b) For the community service required in Subsection (5)(a), the court shall:

(i) determine the approximate value of the damage caused by the unlawful cross-country motor vehicle travel; and

(ii) calculate the number of hours of community service required to cover the cost of the damage caused by dividing the approximate value determined pursuant to Subsection (5)(b)(i) by a rate of \$25 per hour.

Section 5. Section **41-22-19** is amended to read:

41-22-19. Deposit of fees and related money into Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching funds.

(1) (a) Except as provided under Subsections (3) and (4) and Sections 41-22-34 and 41-22-36, all registration fees and related money collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue ~~[in]~~ into the Off-highway Vehicle Account in the General Fund less the costs ~~[of]~~ incurred by the Motor Vehicle Division for collecting off-highway vehicle registration fees ~~[by the Motor Vehicle Division]~~ or issuing an off-highway vehicle license plate.

(b) The balance of the money may be used by the division as follows:

~~[(a)]~~ (i) for the construction, improvement, operation, or maintenance of publicly owned or administered off-highway vehicle facilities;

~~[(b)]~~ (ii) for the mitigation of impacts associated with off-highway vehicle use;

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

~~[(d)]~~ (iv) for the administration and enforcement of the provisions of this chapter; and

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~~(e)~~ (v) for the education of off-highway vehicle users.

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

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

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

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

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

(c) Any unused balance of the money deposited under Subsection (3)(a) exceeding \$350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

(4) One dollar of each off-highway vehicle registration fee collected under Subsection 41-22-8(1) shall be deposited ~~in~~ into the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

Section 6. Section **41-22-30** is amended to read:

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

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

(a) of no more than 300 feet; and

(b) within which:

(i) visual contact is maintained; and

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

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

(a) is able to reach and operate each control necessary to safely operate the off-highway vehicle;

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(b) (i) is under the direct supervision of an off-highway vehicle safety instructor during a scheduled safety training course approved by the division in accordance with Section 41-22-32; or

(ii) possesses a safety certificate issued or approved by the division in accordance with Section 41-22-31; [~~or~~] and

~~[(iii) possesses a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and]~~

(c) is under the direct supervision of a person who is at least 18 years old if the person operating the off-highway vehicle:

(i) is under 18 years old;

(ii) does not possess a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and

(iii) is operating the off-highway vehicle on a public highway that is:

(A) open to motor vehicles; and

(B) not exclusively reserved for off-highway vehicle use.

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

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

(i) produces in court a license or safety certificate described in Subsection (2)(b) that was:

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

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

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

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

(5) Nothing in this section allows an individual without a valid driver license issued in accordance with Title 53, Chapter 3, Uniform Driver License Act, to operate a street-legal all-terrain vehicle on a roadway.

Section 7. Section **41-22-31** is amended to read:

41-22-31. Division to set standards for safety program -- Safety certificates issued

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-- Cooperation with public and private entities -- State immunity from suit.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules, after consultation with the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program and shall implement this program.

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

(c) (i) The program shall include:

(A) an operational skills instruction and examination component required for every operator under 18 years old ~~and~~ that does not possess a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and

(B) a written knowledge instruction and examination component required for every operator.

(ii) An individual with valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act, is not required to complete the operational skills instruction and examination component of the course.

~~(c)~~ (d) Components of the program shall include:

(i) the preparation and dissemination of off-highway vehicle information and safety advice to the public and the training of off-highway vehicle operators[-]; ~~and~~

(ii) education concerning the importance of gates and fences used in agriculture and how to properly close a gate~~;~~; and

(iii) education concerning respectful, sustainable, and on-trail off-highway vehicle operation, and respect for communities affected by off-highway vehicle operation.

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

(f) The division shall ensure that an individual may complete the written component of the program online.

(2) (a) Subject to Subsection 41-22-35(1), an individual may not operate an off-highway vehicle on public lands in this state unless the individual has completed the off-highway vehicle safety education and training program described in Subsection (1).

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(b) (i) Except as provided in Subsection (2)(d), an individual under 18 years old may not operate an off-highway vehicle in the state unless the individual has completed both the skills component and the written component of the off-highway vehicle safety education and training program described in Subsection (1).

(ii) Except as provided in Subsection (2)(d), an individual 18 years old or older may not operate an off-highway vehicle in the state unless the individual has completed the written component of the off-highway vehicle safety education and training program described in Subsection (1).

(~~b~~c) Except as provided in Subsection (2)(d), a person may not rent an off-highway vehicle to an individual until the individual that will operate the off-highway vehicle has completed the off-highway vehicle safety education and training program described in Subsection (1).

(~~c~~) Except as provided in Subsection (2)(d), a dealer may not sell an off-highway vehicle to an individual until the individual that will operate the off-highway vehicle has completed the relevant components of the off-highway vehicle safety education and training program described in Subsection (1).

~~(d)~~(i) Subsections (2)(a) through (c) do not apply to:

(A) a snowmobile or an off-highway implement of husbandry; or

(B) an individual operating an off-highway vehicle as part of a guided tour or a sanctioned off-highway vehicle event.

(ii) (A) The division shall ensure that the online written knowledge component of the program is available beginning on January 1, 2023.

(B) The requirement to complete the online written knowledge component of the program as described in this section and relevant enforcement begins on February 1, 2023.

(~~2~~) (3) The division shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(~~3~~) (4) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training

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provided by this program.

(5) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than \$150 per offense.

Section 8. Section 41-22-35 is amended to read:

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

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

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

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

(iii) provide evidence that the owner is a nonresident~~[-]; and~~

(iv) provide evidence of completion of the safety course and program described in Section 41-22-35.

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

(i) used exclusively as an off-highway implement of husbandry;

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the division, after consultation with the commission;

(iii) owned and operated by a state government agency and the operation of the off-highway vehicle within the boundaries of the state is within the course and scope of the duties of the agency; ~~or~~

(iv) used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state under rules made by the division~~[-]; or~~

(v) operated as part of a sanctioned off-highway vehicle event or part of an official tour by a person licensed as a off-highway vehicle tour guide in this state.

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

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

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(a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and

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

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after consultation with the commission, shall make rules establishing:

(a) procedures for:

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

(ii) the display of a decal on an off-highway vehicle as required under Subsection (3)(b);

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

(c) eligibility for scheduled competitive events or other events under Subsection (1)(b)(ii); and

(d) eligibility for an off-highway vehicle manufacturer sponsored event under Subsection (1)(b)(iv).

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

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

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

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

(i) report all sales to the division; and

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

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

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

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

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

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

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(ii) belong to the state.

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

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

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

Section 9. Effective date.

This bill takes effect on January 1, 2023.