House Engrossed Senate Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 294

SENATE BILL 1167

AN ACT

AMENDING SECTIONS 28-1171, 28-1174, 28-1175 AND 28-1176, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 20, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-1177, 28-1178, 28-1179, 28-1180 AND 28-1181; AMENDING SECTIONS 28-2003, 28-2061, 28-2153, 28-2512, 28-5801, 28-6501 AND 41-511.04, ARIZONA REVISED STATUTES; RELATING TO OFF-HIGHWAY VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-1171, Arizona Revised Statutes, is amended to read:

28-1171. Definitions

In this article, unless the context otherwise requires:

1. "ACCESS ROAD" MEANS A MULTIPLE USE CORRIDOR THAT MEETS ALL OF THE FOLLOWING CRITERIA:

(a) IS MAINTAINED FOR TRAVEL BY TWO-WHEEL VEHICLES.

(b) ALLOWS ENTRY TO STAGING AREAS, RECREATIONAL FACILITIES, TRAIL HEADS AND PARKING.

(c) IS DETERMINED TO BE AN ACCESS ROAD BY THE APPROPRIATE LAND MANAGING AUTHORITY.

2. "CLOSED COURSE" MEANS A MAINTAINED FACILITY THAT USES DEPARTMENT APPROVED DUST ABATEMENT AND FIRE ABATEMENT MEASURES.

~~1.~~ 3. "Highway" means the entire width between the boundary lines of every way publicly maintained by the federal government, the department, a city, a town or a county if any part of the way is generally open to the use of the public for purposes of CONVENTIONAL TWO-WHEEL DRIVE vehicular travel. HIGHWAY DOES NOT INCLUDE ROUTES DESIGNATED FOR OFF-HIGHWAY VEHICLE USE.

4. "MITIGATION" MEANS THE RECTIFICATION OR REDUCTION OF EXISTING DAMAGE TO NATURAL RESOURCES, INCLUDING FLORA, FAUNA AND LAND OR CULTURAL RESOURCES, INCLUDING PREHISTORIC OR HISTORIC ARCHAEOLOGICAL SITES, IF THE DAMAGE IS CAUSED BY OFF-HIGHWAY VEHICLES.

~~2.~~ 5. "Off-highway recreation facility" includes off-highway vehicle use areas and trails ~~specifically developed and~~ designated for use by off-highway vehicles.

~~3.~~ 6. "Off-highway vehicle":

(a) Means a motorized vehicle when operated PRIMARILY off of highways on land, water, snow, ice or other natural terrain or on a combination of land, water, snow, ice or other natural terrain.

(b) Includes a two-wheel, three-wheel or four-wheel vehicle, motorcycle, four-wheel drive vehicle, dune buggy, amphibious vehicle, ground effects or air cushion vehicle and any other means of land transportation deriving motive power from a source other than muscle or wind.

(c) Does not include a vehicle that is either:

(i) Designed primarily for travel on, over or in the water.

(ii) Used in installation, inspection, maintenance, repair or related activities involving facilities for the provision of utility or railroad service.

~~4.~~ 7. "Off-highway vehicle special event" means an event THAT IS endorsed, AUTHORIZED, PERMITTED or sponsored by a FEDERAL, STATE, county or ~~municipality~~ MUNICIPAL AGENCY AND in which the event participants operate off-highway vehicles on specific routes OR AREAS designated by a local authority pursuant to section 28-627.

~~5.~~ 8. "Off-highway vehicle trail" means a multiple use corridor that is ~~all~~ BOTH of the following:

(a) Open to recreational travel by an off-highway vehicle.

~~(b) Not normally suitable for travel by conventional two-wheel drive vehicles.~~

~~(c)~~ (b) ~~Opened~~ DESIGNATED OR MANAGED by OR FOR the managing authority of the property that the trail traverses for ~~the specific designated purpose of recreational~~ off-highway vehicle use.

~~6.~~ 9. "Off-highway vehicle use area" means the entire area of a parcel of land, except for ~~camping and~~ approved buffer areas, that is managed ~~specifically~~ OR DESIGNATED for off-highway vehicle use ~~through the development or designation of off-highway vehicle trails~~.

Sec. 2. Section 28-1174, Arizona Revised Statutes, is amended to read:

28-1174. Operation restrictions; violation; classification

A. ~~It is unlawful for~~ A person ~~to~~ SHALL NOT drive an off-highway vehicle:

1. With reckless disregard for the safety of persons or property.

2. OFF OF AN EXISTING ROAD, TRAIL OR ROUTE IN A MANNER THAT CAUSES DAMAGE TO WILDLIFE HABITAT, RIPARIAN AREAS, CULTURAL OR NATURAL RESOURCES OR PROPERTY OR IMPROVEMENTS.

3. ON ROADS, TRAILS, ROUTES OR AREAS CLOSED AS INDICATED IN RULES OR REGULATIONS OF A FEDERAL AGENCY, THIS STATE, A COUNTY OR A MUNICIPALITY OR BY PROPER POSTING IF THE LAND IS PRIVATE LAND.

4. OVER UNIMPROVED ROADS, TRAILS, ROUTES OR AREAS UNLESS DRIVING ON ROADS, TRAILS, ROUTES OR AREAS WHERE SUCH DRIVING IS ALLOWED BY RULE OR REGULATION.

B. A PERSON SHALL DRIVE AN OFF-HIGHWAY VEHICLE ONLY ON ROADS, TRAILS, ROUTES OR AREAS THAT ARE OPENED AS INDICATED IN RULES OR REGULATIONS OF A FEDERAL AGENCY, THIS STATE, A COUNTY OR A MUNICIPALITY.

C. A PERSON SHALL NOT OPERATE AN OFF-HIGHWAY VEHICLE IN A MANNER THAT DAMAGES THE ENVIRONMENT, INCLUDING EXCESSIVE POLLUTION OF AIR, WATER OR LAND, ABUSE OF THE WATERSHED OR CULTURAL OR NATURAL RESOURCES OR IMPAIRMENT OF PLANT OR ANIMAL LIFE, WHERE IT IS PROHIBITED BY RULE, REGULATION, ORDINANCE OR CODE.

D. A PERSON SHALL NOT PLACE OR REMOVE A REGULATORY SIGN GOVERNING OFF-HIGHWAY VEHICLE USE ON ANY PUBLIC OR STATE LAND. THIS SUBSECTION DOES NOT APPLY TO AN AGENT OF AN APPROPRIATE FEDERAL, STATE, COUNTY, TOWN OR CITY AGENCY OPERATING WITHIN THAT AGENCY'S AUTHORITY.

~~B.~~ E. A person who violates ~~this section~~ SUBSECTION A, PARAGRAPH 1 is guilty of a class 2 misdemeanor.

F. A PERSON WHO VIOLATES ANY OTHER PROVISION OF THIS SECTION IS GUILTY OF A CLASS 3 MISDEMEANOR.

~~C.~~ G. In addition to or in lieu of ~~the~~ A fine ~~prescribed by~~ PURSUANT TO this section, a judge may order the person to perform at least eight but not more than twenty-four hours of community restitution or to complete an

approved safety course RELATED TO THE OFF-HIGHWAY OPERATION OF MOTOR VEHICLES, or both.

H. SUBSECTIONS A AND B DO NOT PROHIBIT A PRIVATE LANDOWNER OR LESSEE FROM PERFORMING NORMAL AGRICULTURAL OR RANCHING PRACTICES WHILE OPERATING AN ALL-TERRAIN VEHICLE OR AN OFF-HIGHWAY VEHICLE ON THE PRIVATE OR LEASED LAND.

Sec. 3. Section 28-1175, Arizona Revised Statutes, is amended to read:

28-1175. Instruction course; fee

A. The ARIZONA GAME AND FISH department shall conduct or approve an educational course of instruction in off-highway vehicle safety and environmental ethics. The course shall include instruction on off-highway vehicle uses that limit air pollution and harm to natural terrain, vegetation and animals. Successful completion of the course requires successful passage of a written examination.

B. Any governmental agency, corporation or other individual that conducts a training ~~and~~ OR educational course, OR BOTH, that is approved by the ARIZONA GAME AND FISH department, THE UNITED STATES BUREAU OF LAND MANAGEMENT OR THE UNITED STATES FOREST SERVICE OR THAT IS APPROVED OR ACCEPTED BY THE ALL-TERRAIN VEHICLE SAFETY INSTITUTE OR THE NATIONAL OFF-HIGHWAY VEHICLE CONSERVATION COUNCIL may collect a fee FROM THE PARTICIPANT that is reasonable and commensurate for the training and that ~~does not exceed fifty dollars~~ IS DETERMINED BY THE DIRECTOR OF THE ARIZONA GAME AND FISH DEPARTMENT BY RULE.

Sec. 4. Section 28-1176, Arizona Revised Statutes, is amended to read:

28-1176. Off-highway vehicle recreation fund; annual reports; definition

A. An off-highway vehicle recreation fund is established. The fund consists of:

1. Monies appropriated by the legislature.

2. Monies deposited pursuant to ~~section~~ SECTIONS 28-1177 AND 28-5927.

3. Federal grants and private gifts.

~~4. Matching monies from federal, state, local or private entities.~~

B. Monies in the off-highway vehicle recreation fund are appropriated to the Arizona state parks board solely for the purposes provided in this article. Interest earned on monies in the fund shall be credited to the fund. Monies in the off-highway vehicle recreation fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The Arizona game and fish department shall spend ~~thirty~~ THIRTY-FIVE per cent of the monies in the off-highway vehicle recreation fund for ~~an~~ informational and educational ~~program on~~ PROGRAMS RELATED TO SAFETY, THE ENVIRONMENT AND RESPONSIBLE USE WITH RESPECT TO off-highway vehicle recreation and law enforcement activities relating to this article and for off-highway vehicle law enforcement pursuant to title 17, chapter 4, article 3, INCLUDING SEVEN FULL-TIME EMPLOYEES TO ENFORCE THIS ARTICLE AND TITLE 17, CHAPTER 4, ARTICLE 3.

D. THE STATE LAND DEPARTMENT SHALL SPEND FIVE PER CENT OF THE MONIES IN THE OFF-HIGHWAY VEHICLE RECREATIONAL FUND TO ALLOW OCCUPANTS OF OFF-HIGHWAY VEHICLES WITH USER INDICIA TO CROSS STATE TRUST LAND ON EXISTING ROADS, TRAILS AND DESIGNATED ROUTES. THE STATE LAND DEPARTMENT SHALL USE THESE MONIES FOR COSTS ASSOCIATED WITH OFF-HIGHWAY VEHICLE USE OF LANDS WITHIN ITS JURISDICTION, TO MITIGATE DAMAGE TO THE LAND, FOR NECESSARY ENVIRONMENTAL, HISTORICAL AND CULTURAL CLEARANCE OR COMPLIANCE ACTIVITIES AND TO FUND ENFORCEMENT OF OFF-HIGHWAY VEHICLE LAWS.

~~D.~~ E. The Arizona state parks board shall spend ~~seventy~~ SIXTY per cent of the monies in the off-highway vehicle recreation fund for the following purposes:

1. No more than ~~eighteen~~ TWELVE per cent to fund staff support to plan and administer the off-highway vehicle recreation fund.

2. To establish ~~a facility development~~ AN OFF-HIGHWAY VEHICLE program based on the priorities established in the off-highway vehicle RECREATIONAL plan.

~~3. To establish a matching fund program for funding off-highway related law enforcement, informational and environmental education programs, mitigation of environmental damage, facility development, land acquisition and construction of off-highway vehicle related facilities.~~

3. TO DESIGNATE, CONSTRUCT, MAINTAIN, RENOVATE, REPAIR OR CONNECT OFF-HIGHWAY VEHICLE ROUTES AND TRAILS AND TO DESIGNATE, MANAGE AND ACQUIRE LAND FOR ACCESS ROADS, OFF-HIGHWAY VEHICLE RECREATION FACILITIES AND OFF-HIGHWAY VEHICLE USE AREAS. AFTER EXPENDITURES PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, THE ARIZONA STATE PARKS BOARD SHALL NOT SPEND MORE THAN THIRTY-FIVE PER CENT OF THE REMAINING MONIES RECEIVED PURSUANT TO THIS SUBSECTION FOR CONSTRUCTION OF NEW OFF-HIGHWAY VEHICLE TRAILS.

4. FOR ENFORCEMENT OF OFF-HIGHWAY VEHICLE LAWS.

5. FOR OFF-HIGHWAY VEHICLE RELATED INFORMATIONAL AND ENVIRONMENTAL EDUCATION PROGRAMS, INFORMATION, SIGNAGE, MAPS AND RESPONSIBLE USE PROGRAMS.

6. FOR THE MITIGATION OF DAMAGES TO LAND, REVEGETATION AND THE PREVENTION AND RESTORATION OF DAMAGES TO NATURAL AND CULTURAL RESOURCES, INCLUDING THE CLOSURE OF EXISTING ACCESS ROADS, OFF-HIGHWAY VEHICLE USE AREAS AND OFF-HIGHWAY VEHICLE ROUTES AND TRAILS.

7. FOR NECESSARY ENVIRONMENTAL, HISTORICAL AND CULTURAL CLEARANCE OR COMPLIANCE ACTIVITIES.

~~E.~~ F. The allocation of the monies in ~~the matching fund program prescribed in~~ subsection ~~D~~ E, ~~paragraph~~ PARAGRAPHS 3 THROUGH 7 of this section and the percentages allocated to each of the purposes prescribed in ~~the program~~ SUBSECTION E, PARAGRAPHS 3 THROUGH 7 OF THIS SECTION shall be ~~determined by~~ BASED ON an off-highway vehicle RECREATIONAL plan ~~prepared by the Arizona outdoor recreation coordinating commission and approved by the state parks board~~.

~~F. Monies in the matching fund program established under subsection D, paragraph 3 of this section shall be distributed in an amount determined by~~

~~the Arizona outdoor recreation coordinating commission to a qualified state or federal agency, city, town, county or tribal government. The Arizona state parks board may require additional matching monies that may be direct monies or in-kind services from these entities before the distribution pursuant to this subsection.~~

~~G. Agencies receiving monies under this section shall use the monies:~~

~~1. To designate, construct, maintain and manage off-highway vehicle recreation facilities, off-highway vehicle use areas and off-highway vehicle trails within land under the jurisdiction of the particular agency.~~

~~2. For enforcement of off-highway vehicle laws.~~

~~3. For mitigation of damages to land.~~

~~4. For off-highway vehicle related environmental education.~~

G. MONIES IN THE OFF-HIGHWAY VEHICLE RECREATION FUND SHALL NOT BE USED TO CONSTRUCT NEW OFF-HIGHWAY VEHICLE TRAILS OR ROUTES ON ENVIRONMENTALLY OR CULTURALLY SENSITIVE LAND UNLESS THE APPROPRIATE LAND MANAGEMENT AGENCY DETERMINES THAT CERTAIN NEW TRAIL CONSTRUCTION WOULD BENEFIT OR PROTECT CULTURAL OR SENSITIVE SITES. FOR THE PURPOSES OF THIS SUBSECTION, "ENVIRONMENTALLY OR CULTURALLY SENSITIVE LAND" MEANS AREAS OF LANDS THAT ARE EITHER:

1. ADMINISTRATIVELY OR LEGISLATIVELY DESIGNATED BY THE FEDERAL GOVERNMENT AS ANY OF THE FOLLOWING:

(a) A NATIONAL MONUMENT.

(b) AN AREA OF CRITICAL ENVIRONMENTAL CONCERN.

(c) A CONSERVATION AREA.

(d) AN INVENTORIED ROADLESS AREA.

2. DETERMINED BY THE APPLICABLE LAND MANAGEMENT AGENCY TO CONTAIN SIGNIFICANT NATURAL OR CULTURAL RESOURCES OR VALUES.

H. The Arizona ~~outdoor recreation coordinating commission~~ STATE PARKS BOARD shall examine applications for eligible projects and determine the amount of funding, if any, for each project. IN DETERMINING THE AMOUNT OF MONIES FOR ELIGIBLE PROJECTS, THE ARIZONA STATE PARKS BOARD SHALL GIVE PREFERENCE TO APPLICATIONS FOR PROJECTS WITH MITIGATION EFFORTS AND FOR PROJECTS THAT ENCOMPASS A LARGE NUMBER OF PURPOSES DESCRIBED IN SUBSECTION E, PARAGRAPHS 3 THROUGH 7 OF THIS SECTION.

I. BEGINNING SEPTEMBER 1, 2011, AND ON OR BEFORE SEPTEMBER 1 OF EACH SUBSEQUENT YEAR, EACH AGENCY THAT RECEIVES MONIES FROM THE OFF-HIGHWAY VEHICLE RECREATION FUND SHALL SUBMIT AN OFF-HIGHWAY VEHICLE REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE CHAIRPERSON OF THE SENATE NATURAL RESOURCES AND RURAL AFFAIRS COMMITTEE, OR ITS SUCCESSOR COMMITTEE, AND THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES NATURAL RESOURCES AND PUBLIC SAFETY COMMITTEE, OR ITS SUCCESSOR COMMITTEE. THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC. THE REPORT SHALL INCLUDE INFORMATION ON ALL OF THE FOLLOWING IF APPLICABLE:

1. THE AMOUNT OF MONIES SPENT OR ENCUMBERED IN THE FUND DURING THE PRECEDING FISCAL YEAR FOR THE PURPOSES OF OFF-HIGHWAY VEHICLE LAW ENFORCEMENT ACTIVITIES.

2. THE AMOUNT OF MONIES SPENT FROM THE OFF-HIGHWAY VEHICLE RECREATION FUND DURING THE PRECEDING FISCAL YEAR FOR EMPLOYEE SERVICES.

3. THE NUMBER OF FULL-TIME EMPLOYEES EMPLOYED IN THE PRECEDING FISCAL YEAR IN CONNECTION WITH OFF-HIGHWAY VEHICLE LAW ENFORCEMENT ACTIVITIES.

4. THE AMOUNT OF MONIES SPENT FROM THE OFF-HIGHWAY VEHICLE RECREATION FUND DURING THE PRECEDING FISCAL YEAR FOR INFORMATION AND EDUCATION.

5. THE NUMBER AND SPECIFIC LOCATION OF VERBAL WARNINGS, WRITTEN WARNINGS AND CITATIONS GIVEN OR ISSUED DURING THE PRECEDING FISCAL YEAR.

6. A SPECIFIC AND DETAILED ACCOUNTING FOR ALL MONIES SPENT IN ACCORDANCE WITH THIS SECTION FOR CONSTRUCTION OF NEW OFF-HIGHWAY VEHICLE TRAILS, MITIGATION OF DAMAGES TO LANDS, REVEGETATION, THE PREVENTION AND RESTORATION OF DAMAGES TO NATURAL AND CULTURAL RESOURCES, SIGNAGE, MAPS AND NECESSARY ENVIRONMENTAL, HISTORICAL AND CULTURAL CLEARANCE OR COMPLIANCE ACTIVITIES.

J. FOR THE PURPOSES OF THIS SECTION, "OFF-HIGHWAY VEHICLE RECREATIONAL PLAN" MEANS A PLAN THAT IS MAINTAINED BY THE ARIZONA STATE PARKS BOARD PURSUANT TO SECTION 41-511.04.

Sec. 5. Title 28, chapter 3, article 20, Arizona Revised Statutes, is amended by adding sections 28-1177, 28-1178, 28-1179, 28-1180 and 28-1181, to read:

28-1177. <u>Off-highway vehicle user fee; indicia; registration; state trust land recreational permit; exception</u>

A. A PERSON SHALL NOT OPERATE AN ALL-TERRAIN VEHICLE OR AN OFF-HIGHWAY VEHICLE IN THIS STATE WITHOUT AN OFF-HIGHWAY VEHICLE USER INDICIA ISSUED BY THE DEPARTMENT IF THE ALL-TERRAIN VEHICLE OR OFF-HIGHWAY VEHICLE MEETS BOTH OF THE FOLLOWING CRITERIA:

1. IS DESIGNED BY THE MANUFACTURER PRIMARILY FOR TRAVEL OVER UNIMPROVED TERRAIN.

2. HAS AN UNLADEN WEIGHT OF EIGHTEEN HUNDRED POUNDS OR LESS.

B. A PERSON SHALL APPLY TO THE DEPARTMENT OF TRANSPORTATION FOR THE OFF-HIGHWAY VEHICLE USER INDICIA BY SUBMITTING AN APPLICATION PRESCRIBED BY THE DEPARTMENT OF TRANSPORTATION AND A USER FEE FOR THE INDICIA IN AN AMOUNT TO BE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION IN COOPERATION WITH THE DIRECTOR OF THE ARIZONA GAME AND FISH DEPARTMENT AND THE ARIZONA STATE PARKS BOARD. THE USER INDICIA IS VALID FOR ONE YEAR FROM THE DATE OF ISSUANCE AND MAY BE RENEWED. THE DEPARTMENT SHALL PRESCRIBE BY RULE THE DESIGN AND PLACEMENT OF THE INDICIA.

C. WHEN A PERSON PAYS FOR AN OFF-HIGHWAY VEHICLE USER INDICIA PURSUANT TO THIS SECTION, THE PERSON MAY REQUEST A MOTOR VEHICLE REGISTRATION IF THE VEHICLE MEETS ALL EQUIPMENT REQUIREMENTS TO BE OPERATED ON A HIGHWAY PURSUANT TO ARTICLE 16 OF THIS CHAPTER. IF A PERSON SUBMITS A SIGNED AFFIDAVIT TO THE DEPARTMENT AFFIRMING THAT THE VEHICLE MEETS ALL OF THE EQUIPMENT REQUIREMENTS

FOR HIGHWAY USE AND THAT THE VEHICLE WILL BE OPERATED PRIMARILY OFF OF HIGHWAYS, THE DEPARTMENT SHALL REGISTER THE VEHICLE FOR HIGHWAY USE AND THE VEHICLE OWNER IS NOT REQUIRED TO PAY THE REGISTRATION FEE PRESCRIBED IN SECTION 28-2003. THIS SUBSECTION DOES NOT APPLY TO VEHICLES THAT AS PRODUCED BY THE MANUFACTURER MEET THE EQUIPMENT REQUIREMENTS TO BE OPERATED ON A HIGHWAY PURSUANT TO ARTICLE 16 OF THIS CHAPTER.

D. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, SEVENTY PER CENT OF THE USER FEES COLLECTED PURSUANT TO THIS SECTION IN THE OFF-HIGHWAY VEHICLE RECREATION FUND ESTABLISHED BY SECTION 28-1176 AND THIRTY PER CENT OF THE USER FEES COLLECTED PURSUANT TO THIS SECTION IN THE ARIZONA HIGHWAY USER REVENUE FUND.

E. AN OCCUPANT OF AN OFF-HIGHWAY VEHICLE WITH A USER INDICIA ISSUED PURSUANT TO THIS SECTION WHO CROSSES STATE TRUST LANDS MUST COMPLY WITH ALL OF THE RULES AND REQUIREMENTS UNDER A STATE TRUST LAND RECREATIONAL PERMIT. ALL OCCUPANTS OF AN OFF-HIGHWAY VEHICLE WITH A USER INDICIA SHALL OBTAIN A STATE TRUST LAND RECREATIONAL PERMIT FROM THE STATE LAND DEPARTMENT FOR ALL OTHER AUTHORIZED RECREATIONAL ACTIVITIES ON STATE TRUST LAND.

F. THIS SECTION DOES NOT APPLY TO OFF-HIGHWAY VEHICLES, ALL-TERRAIN VEHICLES OR OFF-ROAD RECREATIONAL MOTOR VEHICLES THAT ARE USED OFF-HIGHWAY EXCLUSIVELY FOR AGRICULTURAL, RANCHING, CONSTRUCTION, MINING OR BUILDING TRADE PURPOSES.

28-1178. <u>Operation of off-highway vehicles; exceptions</u>

A PERSON MAY OPERATE AN ALL-TERRAIN VEHICLE OR AN OFF-HIGHWAY VEHICLE IN THIS STATE WITHOUT AN OFF-HIGHWAY VEHICLE USER INDICIA ISSUED PURSUANT TO SECTION 28-1177 IF ANY OF THE FOLLOWING APPLIES:

1. THE PERSON IS PARTICIPATING IN AN OFF-HIGHWAY SPECIAL EVENT.

2. THE PERSON IS OPERATING AN ALL-TERRAIN VEHICLE OR AN OFF-HIGHWAY VEHICLE ON PRIVATE LAND.

3. THE PERSON IS LOADING OR UNLOADING AN ALL-TERRAIN VEHICLE OR AN OFF-HIGHWAY VEHICLE FROM A VEHICLE.

4. DURING A PERIOD OF EMERGENCY OR IF THE OPERATION IS DIRECTED BY A PEACE OFFICER OR OTHER PUBLIC AUTHORITY.

5. ALL OF THE FOLLOWING APPLY:

(a) THE PERSON IS NOT A RESIDENT OF THIS STATE.

(b) THE PERSON OWNS THE VEHICLE.

(c) THE VEHICLE DISPLAYS A CURRENT OFF-HIGHWAY VEHICLE USER INDICIA OR REGISTRATION FROM THE PERSON'S STATE OF RESIDENCY.

(d) THE VEHICLE IS NOT IN THIS STATE FOR MORE THAN THIRTY CONSECUTIVE DAYS.

28-1179. <u>Off-highway vehicle equipment requirements; rule making</u>

A. AN OFF-HIGHWAY VEHICLE IN OPERATION IN THIS STATE SHALL BE EQUIPPED WITH ALL OF THE FOLLOWING:

1. BRAKES ADEQUATE TO CONTROL THE MOVEMENT OF THE VEHICLE AND TO STOP AND HOLD THE VEHICLE UNDER NORMAL OPERATING CONDITIONS.

2. LIGHTED HEADLIGHTS AND TAILLIGHTS THAT MEET OR EXCEED ORIGINAL EQUIPMENT MANUFACTURER GUIDELINES IF OPERATED BETWEEN ONE-HALF HOUR AFTER SUNSET AND ONE-HALF HOUR BEFORE SUNRISE.

3. EXCEPT WHEN OPERATING ON A CLOSED COURSE, EITHER A MUFFLER OR OTHER NOISE DISSIPATIVE DEVICE THAT PREVENTS SOUND ABOVE NINETY-SIX DECIBELS. THE DIRECTOR SHALL ADOPT THE CURRENT SOUND MEASUREMENT STANDARD OF THE SOCIETY OF AUTOMOTIVE ENGINEERS FOR ALL-TERRAIN VEHICLES AND MOTORCYCLES AND THE CURRENT SOUND MEASUREMENT STANDARD OF THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION FOR ALL OTHER OFF-HIGHWAY VEHICLES.

4. A SPARK ARRESTOR DEVICE THAT IS APPROVED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE AND THAT IS IN CONSTANT OPERATION EXCEPT IF OPERATING ON A CLOSED COURSE.

5. A SAFETY FLAG THAT IS AT LEAST SIX BY TWELVE INCHES AND THAT IS ATTACHED TO THE OFF-HIGHWAY VEHICLE AT LEAST EIGHT FEET ABOVE THE SURFACE OF LEVEL GROUND, IF OPERATED ON SAND DUNES OR AREAS DESIGNATED BY THE MANAGING AGENCY.

B. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE MAY NOT OPERATE OR RIDE ON AN OFF-HIGHWAY VEHICLE ON PUBLIC OR STATE LAND UNLESS THE PERSON IS WEARING PROTECTIVE HEADGEAR THAT IS PROPERLY FITTED AND FASTENED, THAT IS DESIGNED FOR MOTORIZED VEHICLE USE AND THAT HAS A MINIMUM UNITED STATES DEPARTMENT OF TRANSPORTATION SAFETY RATING.

C. IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, THE ARIZONA GAME AND FISH COMMISSION MAY:

1. ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION.

2. PRESCRIBE ADDITIONAL EQUIPMENT REQUIREMENTS NOT IN CONFLICT WITH FEDERAL LAWS.

D. THIS SECTION DOES NOT APPLY TO A PRIVATE LANDOWNER OR LESSEE PERFORMING NORMAL AGRICULTURAL OR RANCHING PRACTICES WHILE OPERATING AN ALL-TERRAIN VEHICLE OR AN OFF-HIGHWAY VEHICLE ON THE PRIVATE OR LEASED LAND IN ACCORDANCE WITH THE LANDOWNER'S OR LESSEE'S LEASE.

28-1180. Race or organized event; authorization required

NO PERSON MAY ORGANIZE, PROMOTE OR HOLD AN OFF-HIGHWAY VEHICLE RACE OR OTHER ORGANIZED EVENT ON ANY LAND OR HIGHWAY IN THIS STATE, EXCEPT AS AUTHORIZED BY THE APPROPRIATE AGENCY THAT HAS JURISDICTION OVER THE LAND OR HIGHWAY OR THE LANDOWNER.

28-1181. Civil traffic violation

UNLESS OTHERWISE SPECIFIED IN THIS ARTICLE, A VIOLATION OF THIS ARTICLE IS A CIVIL TRAFFIC VIOLATION.

Sec. 6. Section 28-2003, Arizona Revised Statutes, is amended to read:

28-2003. Fees; vehicle title and registration; identification plate; definition

A. The following fees are required:

1. For each certificate of title, salvage certificate of title, restored salvage certificate of title or nonrepairable vehicle certificate of title, four dollars.

2. For each certificate of title for a mobile home, seven dollars. The director shall deposit three dollars of each fee imposed by this paragraph in the state highway fund established by section 28-6991.

3. EXCEPT AS PROVIDED IN SECTION 28-1177, for the registration of a motor vehicle, eight dollars, except that the fee for motorcycles is nine dollars.

4. For a duplicate registration card or any duplicate permit, four dollars.

5. For each special ninety day nonresident registration issued under section 28-2154, fifteen dollars.

6. Except as provided in paragraph 7 of this subsection, for the registration of a trailer or semitrailer that is ten thousand pounds or less gross vehicle weight, eight dollars, and for the registration of a trailer or semitrailer that exceeds ten thousand pounds gross vehicle weight:

(a) On initial registration, a one-time fee of two hundred forty-five dollars.

(b) On renewal of registration or if previously registered in another state, a one-time fee of:

(i) If the trailer's or semitrailer's model year is less than six years old, one hundred forty-five dollars.

(ii) If the trailer's or semitrailer's model year is at least six years old, ninety-five dollars.

7. For the registration of a noncommercial trailer that is not a travel trailer and that is less than six thousand pounds gross vehicle weight:

(a) On initial registration, a one-time fee of twenty dollars.

(b) On renewal of registration, a one-time fee of five dollars.

8. For a transfer of a noncommercial trailer that is not a travel trailer and that is less than six thousand pounds gross vehicle weight, twelve dollars.

9. For each special ninety day resident registration issued under section 28-2154, fifteen dollars.

10. For each one trip registration permit issued under section 28-2155, one dollar.

11. For each temporary general use registration issued under section 28-2156, fifteen dollars.

12. For each identification plate bearing a serial or identification number to be affixed to any vehicle, five dollars.

B. For the purposes of this section, "travel trailer" means a trailer that is:

1. Mounted on wheels.

2. Designed to provide temporary living quarters for recreational, camping or travel use.

3. Less than eight feet in width and less than forty feet in length.

Sec. 7. Section 28-2061, Arizona Revised Statutes, is amended to read:

28-2061. All-terrain vehicles; off-highway vehicles; off-road recreational motor vehicles; certificates of title; exemption

A. On the retail sale of a new ALL-TERRAIN VEHICLE, OFF-HIGHWAY VEHICLE AS DEFINED IN SECTION 28-1171 OR off-road recreational motor vehicle, the dealer or person first receiving the motor vehicle from the manufacturer shall apply, on behalf of the purchaser, to the department for a certificate of title to the motor vehicle in the name of the purchaser. If satisfied that the application is genuine and regular and that the applicant is entitled to a certificate, the department shall issue a certificate of title to the motor vehicle without requiring registration for the motor vehicle.

B. A person WHO OWNS AN ALL-TERRAIN VEHICLE, OFF-HIGHWAY VEHICLE AS DEFINED IN SECTION 28-1171 OR OFF-ROAD RECREATIONAL MOTOR VEHICLE shall apply for and obtain a certificate of title required by this section in the manner prescribed in this chapter ON OR BEFORE JULY 1, 2009. On the transfer of ownership of an ALL-TERRAIN VEHICLE, OFF-HIGHWAY VEHICLE AS DEFINED IN SECTION 28-1171 OR off-road recreational motor vehicle for which a certificate of title is required by this section, a person shall apply for and obtain a new certificate in the manner prescribed in this chapter.

C. A person participating in an off-highway vehicle special event as defined in section 28-1171 is exempt from the requirements of this section.

Sec. 8. Section 28-2153, Arizona Revised Statutes, is amended to read:

28-2153. Registration requirement; exceptions; assessment; violation; classification

A. A person shall not operate, move or leave standing on a highway a motor vehicle, trailer or semitrailer unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year or is properly registered for the current registration year by the state or country of which the owner or lessee is a resident.

B. A resident shall not operate, move or leave standing on a highway a motor vehicle, trailer or semitrailer that is:

1. Owned by a nonresident and that is primarily under the control of a resident of this state for more than seven months unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year.

2. Leased by the resident for more than twenty-nine days unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year.

C. This section applies to a trailer or semitrailer without motive power unless the vehicle is disabled or is being towed as an abandoned vehicle at the direction of a law enforcement agency.

D. This section does not apply to:

1. A farm tractor.

2. A trailer used solely in the operation of a farm for transporting the unprocessed fiber or forage products of a farm or any implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved on a highway.

3. A road roller or road machinery, including a power sweeper, that is temporarily operating or moved on the highway.

4. An owner permitted to operate a vehicle under special provisions relating to lienholders, manufacturers, dealers and nonresidents.

5. Motorized or nonmotorized equipment designed primarily for and used in mining operations and only incidentally operated or moved on a highway.

6. A motor vehicle that is being towed by a tow truck that has been registered and for which a permit has been obtained pursuant to section 28-1108.

7. A golf cart used in the operation of a golf course or only incidentally operated or moved on a highway.

8. Wheeled equipment. For the purposes of this paragraph, "wheeled equipment" means:

(a) A compressor.

(b) A forklift.

(c) A portable cement mixer.

(d) A single axle tow dolly as defined in section 28-1095.

(e) A tar pot.

(f) A water trailer used for watering livestock or for agricultural or domestic purposes.

(g) A welder.

(h) Any other similar item designed and used primarily for construction or building trade purposes.

9. An all-terrain vehicle or an off-road recreational motor vehicle operating on a dirt road that is located in an unincorporated area of this state. For the purposes of this paragraph, "dirt road" means an unpaved or ungraveled road that is not maintained by this state or a city, town or county of this state.

10. A person operating an off-highway vehicle who is participating in an off-highway vehicle special event as defined in section 28-1171.

11. AN ALL-TERRAIN VEHICLE OR AN OFF-HIGHWAY VEHICLE AS DEFINED IN SECTION 28-1171 THAT IS ONLY INCIDENTALLY OPERATED OR MOVED ON A HIGHWAY.

E. A person who owns or operates a trailer that is exempt from registration pursuant to subsection D, paragraph 2 of this section shall notify the county assessor of the exemption, and the assessor shall assess the trailer.

F. A person who violates subsection E of this section is guilty of a class 2 misdemeanor.

Sec. 9. Section 28-2512, Arizona Revised Statutes, is amended to read:

28-2512. All-terrain motor vehicles; off-highway vehicles; off-road recreational motor vehicles; license plates

A. EVERY OWNER OF AN ALL-TERRAIN VEHICLE, OFF-HIGHWAY VEHICLE AS DEFINED IN SECTION 28-1171 OR OFF-ROAD RECREATIONAL MOTOR VEHICLE SHALL APPLY TO THE DEPARTMENT FOR A LICENSE PLATE.

~~A.~~ B. The department shall furnish to an owner of an ALL-TERRAIN VEHICLE, OFF-HIGHWAY VEHICLE AS DEFINED IN SECTION 28-1171 OR off-road recreational motor vehicle one license plate for each ~~titled off-road recreational motor~~ vehicle.

~~B. The license plate is valid for the life of the vehicle.~~

C. The fee for a plate issued pursuant to this section is eight dollars.

D. The license plate assigned to ~~an off-road recreational~~ A motor vehicle PURSUANT TO THIS SECTION shall be:

1. Attached to the rear of the vehicle.

2. Securely fastened to the vehicle in a clearly visible position.

E. An owner of an off-highway vehicle as defined in section 28-1171 participating in an off-highway vehicle special event as defined in section 28-1171 is exempt from the requirements of this section.

F. ON OR BEFORE JULY 1, 2009, THE DIRECTOR SHALL ESTABLISH PROCEDURES TO SYSTEMATICALLY REPLACE LICENSE PLATES ISSUED FOR ALL-TERRAIN VEHICLES, OFF-HIGHWAY VEHICLES AND OFF-ROAD RECREATIONAL MOTOR VEHICLES BEFORE JANUARY 1, 2009 WITH THE LICENSE PLATE PRESCRIBED IN THIS SECTION.

G. IN CONSULTATION WITH THE ARIZONA GAME AND FISH DEPARTMENT AND THE ARIZONA STATE PARKS BOARD, THE DIRECTOR SHALL DESIGN THE LICENSE PLATE PRESCRIBED BY THIS SECTION.

Sec. 10. Section 28-5801, Arizona Revised Statutes, is amended to read:

28-5801. Vehicle license tax rate

A. At the time of application for and before registration each year of a vehicle, the registering officer shall collect the vehicle license tax imposed by article IX, section 11, Constitution of Arizona. On the taxpayer's vehicle license tax bill, the registering officer shall provide the taxpayer with the following:

1. Information showing the amount of the vehicle license tax that each category of recipient will receive and the amount that is owed by the taxpayer.

2. The amount of vehicle license tax the taxpayer would pay pursuant to section 28-5805 if the taxpayer's motor vehicle was powered by alternative fuel.

B. Except as provided in subsections C, ~~and~~ D AND E of this section:

1. During the first twelve months of the life of a vehicle as determined by its initial registration, the vehicle license tax is based on each one hundred dollars in value, the value of the vehicle is sixty per cent of the manufacturer's base retail price of the vehicle and the vehicle license tax rate for each of the recipients is as follows:

(a) The rate for the Arizona highway user revenue fund is one dollar twenty-six cents.

(b) The rate for the county general fund is sixty-nine cents.

(c) The rate for counties for the same use as highway user revenue fund monies is sixteen cents.

(d) The rate for incorporated cities and towns is sixty-nine cents.

2. During each succeeding twelve month period, the vehicle license tax is based on each one hundred dollars in value, the value of the vehicle is 16.25 per cent less than the value for the preceding twelve month period and the vehicle license tax rate for each of the recipients is as follows:

(a) The rate for the Arizona highway user revenue fund is one dollar thirty cents.

(b) The rate for the county general fund is seventy-one cents.

(c) The rate for counties for the same use as highway user revenue fund monies is seventeen cents.

(d) The rate for incorporated cities and towns is seventy-one cents.

3. The minimum amount of the vehicle license tax computed under this section is ten dollars per year for each vehicle that is subject to the tax. If the product of all of the rates prescribed in paragraph 1 or 2 of this subsection is less than ten dollars, the vehicle license tax is ten dollars. The vehicle license tax collected pursuant to this paragraph shall be distributed to the recipients prescribed in this subsection based on the percentage of each recipient's rate to the sum of all of the rates.

C. The vehicle license tax is as follows for noncommercial trailers that are not travel trailers and that are less than six thousand pounds gross vehicle weight:

1. On initial registration, a one-time vehicle license tax of one hundred five dollars.

2. On renewal of registration, a one-time vehicle license tax of seventy dollars.

D. The vehicle license tax is as follows for a trailer or semitrailer that exceeds ten thousand pounds gross vehicle weight:

1. On initial registration, a one-time vehicle license tax of five hundred fifty-five dollars.

2. On renewal of registration or if previously registered in another state, a one-time vehicle license tax of:

(a) If the trailer's or semitrailer's model year is less than six years old, three hundred fifty-five dollars.

(b) If the trailer's or semitrailer's model year is at least six years old, one hundred dollars.

E. THE VEHICLE LICENSE TAX FOR AN ALL-TERRAIN VEHICLE OR OFF-HIGHWAY VEHICLE AS DEFINED IN SECTION 28-1171 IS THREE DOLLARS IF THE ALL-TERRAIN VEHICLE OR OFF-HIGHWAY VEHICLE MEETS BOTH OF THE FOLLOWING CRITERIA:

1. IS DESIGNED BY THE MANUFACTURER PRIMARILY FOR TRAVEL OVER UNIMPROVED TERRAIN.

2. HAS AN UNLADEN WEIGHT OF EIGHTEEN HUNDRED POUNDS OR LESS.

~~E.~~ F. The vehicle license tax collected pursuant to subsection C, ~~or~~ D OR E of this section shall be distributed to the recipients prescribed in subsection B of this section based on the percentage of each recipient's rate to the sum of all of the rates.

~~F.~~ G. For the purposes of subsection C of this section, "travel trailer" has the same meaning prescribed in section 28-2003.

Sec. 11. Section 28-6501, Arizona Revised Statutes, is amended to read:

28-6501. <u>Definition of highway user revenues</u>

In this article, unless the context otherwise requires or except as otherwise provided by statute, "highway user revenues" means all monies received in this state from licenses, taxes, penalties, interest and fees authorized by the following:

1. Chapters 2, 7, 8 and 15 of this title, except for:

(a) The special plate administration fees prescribed in sections 28-2404, 28-2412 through 28-2428 and 28-2514.

(b) The donations prescribed in sections 28-2404, 28-2412 through 28-2415, 28-2417 through 28-2428, 28-2453, 28-2454 and 28-2455.

2. SECTION 28-1177.

~~2.~~ 3. Chapters 10 and 11 of this title.

~~3.~~ 4. Chapter 16, articles 1, 2 and 4 of this title, except as provided in sections 28-5926 and 28-5927.

Sec. 12. Section 41-511.04, Arizona Revised Statutes, is amended to read:

41-511.04. <u>Duties; board; partnership fund; state historic preservation officer</u>

A. The board shall:

1. Select areas of scenic beauty, natural features and historical properties now owned by the state, except properties in the care and custody of other agencies by virtue of agreement with the state or as established by law, for management, operation and further development as state parks and historical monuments.

2. Manage, develop and operate state parks, monuments or trails established or acquired pursuant to law, or previously granted to the state for park or recreation purposes, except those falling under the jurisdiction of other state agencies as established by law.

3. Investigate lands owned by the state to determine in cooperation with the agency that manages the land which tracts should be set aside and dedicated for use as state parks, monuments or trails.

4. Investigate federally owned lands to determine their desirability for use as state parks, monuments or trails and negotiate with the federal agency having jurisdiction over such lands for the transfer of title to the Arizona state parks board.

5. Investigate privately owned lands to determine their desirability as state parks, monuments or trails and negotiate with private owners for the transfer of title to the Arizona state parks board.

6. Enter into agreements with the United States, other states or local governmental units, private societies or persons for the development and protection of state parks, monuments and trails.

7. Plan, coordinate and administer a state historic preservation program including the program established pursuant to the national historic preservation act of 1966, as amended.

8. Advise, assist and cooperate with federal and state agencies, political subdivisions of this state and other persons in identifying and preserving properties of historic or prehistoric significance.

9. Keep and administer an Arizona register of historic places composed of districts, sites, buildings, structures and objects significant in this state's history, architecture, archaeology, engineering and culture which meet criteria which the board establishes or which are listed on the national register of historic places. Entry on the register requires nomination by the state historic preservation officer and owner notification in accordance with rules which the board adopts.

10. Accept, on behalf of the state historic preservation officer, applications for classification as historic property received from the county assessor.

11. Adopt rules with regard to classification of historic property including:

(a) Minimum maintenance standards for the property.

(b) Requirements for documentation.

12. Monitor the performance of state agencies in the management of historic properties as provided in chapter 4.2 of this title.

13. Advise the governor on historic preservation matters.

14. Plan and administer a statewide parks and recreation program, including the programs established pursuant to the land and water conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

15. Prepare, maintain and update a comprehensive plan for the development of the outdoor recreation resources of this state.

16. Initiate and carry out studies to determine the recreational needs of this state and the counties, cities and towns.

17. Coordinate recreational plans and developments of federal, state, county, city, town and private agencies.

18. Receive applications for projects to be funded through the land and water conservation fund, the state lake improvement fund and the law enforcement and boating safety fund on behalf of the Arizona outdoor recreation coordinating commission.

19. Provide staff support to the Arizona outdoor recreation coordinating commission.

20. Maintain a statewide off-highway vehicle recreational plan. ~~which~~ THE PLAN shall be updated at least once every ~~six~~ FIVE years and shall be used by all participating agencies to guide distribution and expenditure of monies under section 28-1176. THE PLAN SHALL BE OPEN TO PUBLIC INPUT AND SHALL INCLUDE THE PRIORITY RECOMMENDATIONS FOR ALLOCATING AVAILABLE MONIES IN THE OFF-HIGHWAY VEHICLE RECREATION FUND ESTABLISHED BY SECTION 28-1176.

21. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management and wildfire prevention and suppression as provided by section 37-622, subsection B.

B. Notwithstanding section 41-511.11, the board may annually collect and expend monies to plan and administer the land and water conservation fund program, in conjunction with other administrative tasks and recreation plans, as a surcharge to subgrantees in a proportionate amount, not to exceed ten per cent, of the cost of each project. The surcharge monies shall be set aside to fund staff support for the land and water conservation fund program.

C. A partnership fund is established consisting of monies received pursuant to subsection B of this section, monies received from intergovernmental agreements pursuant to title 11, chapter 7, article 3 and monies received pursuant to section 35-148. The board shall administer the fund monies as a continuing appropriation for the purposes provided in these sections.

D. The state historic preservation officer shall:

1. In cooperation with federal and state agencies, political subdivisions of this state and other persons, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of historic properties.

2. Identify and nominate eligible properties to the national register of historic places and the Arizona register of historic places and otherwise administer applications for listing historic properties on the national and state registers.

3. Administer grants-in-aid for historic preservation projects within this state.

4. Advise, assist and monitor, as appropriate, federal and state agencies and political subdivisions of this state in carrying out their historic preservation responsibilities and cooperate with federal and state agencies, political subdivisions of this state and other persons to ensure that historic properties are taken into consideration at all levels of planning and development.

1 5. Develop and make available information concerning professional
2 methods and techniques for the preservation of historic properties.
3 6. Make recommendations on the certification, classification and
4 eligibility of historic properties for property tax and investment tax
5 incentives.
6 Sec. 13. Effective date
7 This act is effective from and after December 31, 2008.

APPROVED BY THE GOVERNOR JUNE 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 27, 2008.