CHAPTER 39-29
OFF-HIGHWAY VEHICLES

39-29-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Dealer" means any person engaged in the business of buying, selling, or exchanging off-highway vehicles or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of off-highway vehicles, or who engages in the buying of off-highway vehicles for resale.
2. "Off-highway vehicle" means any motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:
   a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
   b. Class II off-highway vehicle is fifty inches [1270.00 millimeters] or less in width, weighs one thousand two hundred pounds [544.31 kilograms] or less, and travels on three or more nonhighway tires; or is sixty-five inches [1651 millimeters] or less in width, weighs two thousand pounds [907.19 kilograms] or less, and travels on four or more nonhighway tires.
   c. Class III off-highway vehicle weighs less than eight thousand pounds [3628.74 kilograms]; travels on skis, runners, tracks, or four or more tires; has a seat; has a wheel, handlebars, or t steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, but does not include a vehicle registered by the department under chapter 39-04 or 39-24.
3. "Operate" means to ride in or on and control the operation of an off-highway vehicle.
4. "Operator" means an individual who operates or is in actual physical control of an off-highway vehicle.
5. "Owner" means a person, other than a lienholder, having the property in or title to an off-highway vehicle and entitled to its use or possession.
6. "Register" means the act of assigning a registration number to an off-highway vehicle.

39-29-01.1. Safety fee - Imposition - Collection by dealer - Payment to department - Use of fee.

Upon the sale of a new or used off-highway vehicle, a dealer shall collect a five dollar safety fee from the buyer. By the end of each calendar quarter, the dealer shall file a report with the parks and recreation department which discloses the number of off-highway vehicles sold the previous months and includes the fees collected from the buyer. Fees imposed under this section must be deposited in the off-highway vehicle fund established under section 39-29-05. The fees may be used only by the parks and recreation department and only for off-highway vehicle safety education and promotion. The parks and recreation department shall report to the director within thirty days of the end of each calendar quarter the motor-powered recreational vehicle dealers that submitted a safety fee report and the number of vehicles sold, and shall identify every dealer not collecting or transmitting the safety fee.

39-29-02. Off-highway vehicle registration.

Except as provided in this chapter, an individual may not operate an off-highway vehicle unless it has been registered under this chapter.

39-29-03. Registration - Application - Issuance - Fees - Renewal.

1. Application for registration must be made to the department of transportation in the form the department prescribes and furnishes. The registration must state the name and address of every owner of the off-highway vehicle and be signed by at least one

owner. A copy of the application is evidence of registration for the first thirty days after the date of application.

2. On receipt of an application and the appropriate fee, the department shall register the off-highway vehicle and assign a registration number and a certificate of registration. In addition, the department shall issue a decal made of reflectorized material which contains the registration number or the department shall issue one distinctive number plate upon the request of the owner. The operator of an off-highway vehicle shall securely affix and display the decal or the plate in a position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner.
3. The fee for registration of each off-highway vehicle is five dollars for a registration period of two years. For a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible, the department may charge a fee of not more than five dollars. For each off-highway vehicle registered under this chapter, there is an off-highway vehicle trail tax of fifteen dollars.
4. The owner of an off-highway vehicle shall renew the registration in the manner the department prescribes and pay the registration fees and applicable tax provided in subsection 3.
5. On application for registration as prescribed in subsection 2, and on payment of the amounts prescribed in subsection 3, an off-highway vehicle dealer is entitled to be issued registration numbers distinctively marked as dealer's registration numbers. The dealer's registration numbers may be used only on off-highway vehicles owned by the dealership.

39-29-04. Exemption from registration - Exemption from fees.

1. Registration and payment of fees is not required of:
   a. Off-highway vehicles owned and used by the United States or another state or its political subdivisions.
   b. Off-highway vehicles registered in a foreign country and temporarily used in this state.
   c. Off-highway vehicles validly licensed in another state and which have not been within this state for more than thirty consecutive days.
   d. Off-highway vehicles used exclusively on private lands.
   e. Off-highway vehicles used exclusively in organized track racing events.
2. Off-highway vehicles owned by the state or any of its political subdivisions are exempt from the registration fees in section 39-29-03.

39-29-05. Disposition of registration fees and trail tax.

1. Fees from registration of off-highway vehicles must be deposited with the state treasurer and credited to the highway tax distribution fund.
2. The off-highway vehicle trail tax must be deposited in the off-highway vehicle fund in the state treasury. The parks and recreation department may, on appropriation by the legislative assembly, expend from that fund moneys for establishing off-highway vehicle facilities, use areas, and safety and education programs, and on enforcement of this chapter. The department may also use the fund to make grants to political subdivisions, governmental agencies, and nonprofit organizations for the purpose of developing and improving off-highway vehicle facilities and use areas and on promoting off-highway vehicle safety and education. The department may also use the fund to make grants to law enforcement agencies for the purpose of enforcing laws applicable to off-highway vehicles and to the use of off-highway vehicle facilities and use areas.

39-29-06. Transfer or termination of off-highway vehicle ownership - Change of address of owner.

Within fifteen days after the transfer of any ownership interest in an off-highway vehicle, other than a security interest, or the destruction or abandonment of any off-highway vehicle, or a change of address of the owner as listed with the application for registration, written notice of the fact must be given by the new owner to the director in the form the director requires.

39-29-07. Licensing by political subdivisions.

Political subdivisions of this state may not require licensing or registration of off-highway vehicles.

39-29-08. Rules.

1. The department shall adopt rules for the registration of off-highway vehicles and display of registration numbers.
2. The director, in the interest of public health, welfare, and safety, may regulate, by rule, the operation of off-highway vehicles on state highways. The director's authority to prohibit the use of off-highway vehicles is limited to the roadways, shoulders, inslopes, and medians within the right of way, except where such action is necessary to avoid an obstacle. Notwithstanding the racing prohibitions in section 39-08-03.1, the director may, on a case-by-case basis, permit organized and bona fide off-highway vehicle races on the ditch bottoms, backslopes, and the top of the backslopes of the state highway rights of way. The planning, organization, route selection, and safety precautions of any race are the sole responsibility of the person obtaining the permit. The director, the department, and the department's employees do not incur any liability for permitting races.
3. The director of the parks and recreation department shall adopt rules to regulate use of off-highway vehicles in state parks and other state-owned land under the supervision of the director of the parks and recreation department.
4. The governing bodies of political subdivisions may adopt rules to regulate use of off-highway vehicles in areas under their jurisdiction. The governing body of a city may, by ordinance, regulate, restrict, and prohibit the use of off-highway vehicles operated in the city limits in areas under the exclusive jurisdiction of the city.

39-29-09. Operation of off-highway vehicles.

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, an individual may not operate an off-highway vehicle within the right of way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles [88.51 kilometers] per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles [104.61 kilometers] per hour. An individual may not operate an off-highway vehicle on a paved highway if the vehicle is unable to attain a speed, on a paved level surface, of at least thirty miles [48.28 kilometers] per hour.
2. The operator of an off-highway vehicle may make a direct crossing of a street or highway only if:
   a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
   b. The off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
   c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and

d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.

3. Unless an individual is operating a class I off-highway vehicle, an individual may not operate an off-highway vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director, except when under the direct supervision of an off-highway vehicle instructor teaching a certified off-highway vehicle safety training course, the requirement for a headlamp and taillamp may be waived.
4. The emergency conditions under which an off-highway vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
5. An individual may not operate an off-highway vehicle in the following ways, which are declared to be unsafe and a public nuisance:
   a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
   b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to another person or the property of another person.
   c. While under the influence of intoxicating liquor or a controlled substance.
   d. Without a lighted headlamp and taillamp except when used by an off-highway vehicle instructor during a certified off-highway vehicle safety training course.
   e. In any tree nursery or planting in a manner that damages growing stock.
   f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system.
   g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of these signs at or on all gates through the fence or enclosure.
6. Except as provided in section 39-29-10, an individual may not operate an off-highway vehicle without having in possession a valid driver's license or permit.
7. When an off-highway vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the off-highway vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the off-highway vehicle.
8. An individual may not operate an off-highway vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the off-highway vehicle by a hinged swivel and secure hitch.
9. An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an off-highway vehicle unless the person wears a safety helmet meeting United States department of transportation standards.
10. An operator of an off-highway vehicle may not carry a passenger while operating the vehicle unless the off-highway vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.
11. Unless otherwise provided by law, an off-highway vehicle may be operated on an aggregate road surface only when designated as part of an active off-highway vehicle trail by the managing entity.
12. A person who is performing pest control or survey work for a political subdivision may operate an all-terrain vehicle on the bottom, backslope, inside slope, and shoulder of a highway other than a controlled-access highway.

39-29-09.1. Equipment.

To operate an off-highway vehicle on a paved highway or gravel, dirt, or loose surface roadway under subsection 1 of section 39-29-09, the off-highway vehicle must be equipped with a mirror in compliance with section 39-27-09, a horn in compliance with section 39-27-15, a speedometer and odometer in compliance with section 39-27-16, a brake light, a lighted headlamp in compliance with section 39-27-17.1, and a motor of at least three hundred fifty cubic centimeters.

39-29-10. Operation by persons under age sixteen.

Except as otherwise provided in this section, an individual under sixteen years of age who is not in possession of a valid operator's license or permit to operate an off-highway vehicle may not, except upon the lands of the individual's parent or guardian or as a participant in an organized sporting event that involves the use of off-highway vehicles, operate an off-highway vehicle. An individual at least twelve years of age may operate an off-highway vehicle if the individual has completed an off-highway vehicle safety training course prescribed by the director of the parks and recreation department and has received the appropriate off-highway vehicle safety certificate issued by the director of the department of transportation. The failure of an operator to exhibit an off-highway vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that that person does not hold a certificate. Fees collected from each individual receiving certification must be deposited in the off-highway vehicle trail tax fund for off-highway vehicle safety education and training programs.

39-29-11. Enforcement.

Only peace officers of this state and their respective duly authorized representatives may enforce this chapter.

39-29-12. Penalties.

Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed.