

REFERENCE TITLE: off-highway vehicles; fund

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1377

Introduced by
Senators Kerr: Rogers

AN ACT

AMENDING SECTIONS 28-1171, 28-1176 AND 28-1177, ARIZONA REVISED STATUTES;
AMENDING TITLE 28, CHAPTER 3, ARTICLE 20, ARIZONA REVISED STATUTES, BY
ADDING SECTION 28-1182; AMENDING SECTION 28-6501, ARIZONA REVISED
STATUTES; RELATING TO OFF-HIGHWAY VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 28-1171. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Access road" means a multiple use corridor that meets all of
7 the following criteria:

8 (a) Is maintained for travel by two-wheel vehicles.

9 (b) Allows entry to staging areas, recreational facilities, trail
10 heads and parking.

11 (c) Is determined to be an access road by the appropriate land
12 managing authority.

13 2. "Closed course" means a maintained facility that uses department
14 approved dust abatement and fire abatement measures.

15 3. "Highway" means the entire width between the boundary lines of
16 every way publicly maintained by the federal government, the department, a
17 city, a town or a county if any part of the way is generally open to the
18 use of the public for purposes of conventional two-wheel drive vehicular
19 travel. Highway does not include routes designated for off-highway
20 vehicle use.

21 4. "Mitigation" means the rectification or reduction of existing
22 damage to natural resources, including flora, fauna and land or cultural
23 resources, including prehistoric or historic archaeological sites, if the
24 damage is caused by off-highway vehicles.

25 5. "Off-highway recreation facility" includes off-highway vehicle
26 use areas and trails designated for use by off-highway vehicles.

27 6. "Off-highway vehicle":

28 (a) Means a motorized vehicle that is operated primarily off of
29 highways and that is designed, modified or purpose-built primarily for
30 recreational nonhighway all-terrain travel.

31 (b) Includes a tracked or wheeled vehicle, utility vehicle,
32 all-terrain vehicle, motorcycle, four-wheel drive vehicle, dune buggy,
33 sand rail, amphibious vehicle, ground effects or air cushion vehicle and
34 any other means of land transportation deriving motive power from a source
35 other than muscle or wind.

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

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

38 (ii) Used in installation, inspection, maintenance, repair or
39 related activities involving facilities for the provision of utility or
40 railroad service or used in the exploration or mining of minerals or
41 aggregates as defined in title 27.

42 7. "Off-highway vehicle special event" means an event that is
43 endorsed, authorized, permitted or sponsored by a federal, state, county
44 or municipal agency and in which the event participants operate
45 off-highway vehicles on specific routes or areas designated by a local
46 authority pursuant to section 28-627.

1 E. The Arizona state parks board shall spend ~~sixty~~ FIFTY percent of
2 the monies in the off-highway vehicle recreation fund for the following
3 purposes:

4 1. ~~No~~ NOT more than ~~twelve~~ TEN percent to fund staff support to
5 plan and administer the off-highway vehicle recreation fund.

6 2. To establish an off-highway vehicle program based on the
7 priorities established in the off-highway vehicle recreational plan.

8 3. To designate, construct, maintain, renovate, repair or connect
9 off-highway vehicle routes and trails and to designate, manage and acquire
10 land for access roads, off-highway vehicle recreation facilities and
11 off-highway vehicle use areas. After expenditures pursuant to paragraph 1
12 of this subsection, the Arizona state parks board shall not spend more
13 than thirty-five percent of the remaining monies received pursuant to this
14 subsection for construction of new off-highway vehicle trails. ANY
15 DESIGNATION OR ACQUISITION OF LAND FOR THE PURPOSES OF THIS PARAGRAPH MUST
16 BE APPROVED AT A PUBLIC MEETING OF THE ARIZONA STATE PARKS BOARD.

17 4. AT LEAST TEN PERCENT for enforcement of off-highway vehicle
18 laws.

19 5. For off-highway vehicle related informational and environmental
20 education programs, information, signage, maps and responsible use
21 programs.

22 6. For the mitigation of damages to land, revegetation and the
23 prevention and restoration of damages to natural and cultural resources,
24 including the closure of existing access roads, off-highway vehicle use
25 areas and off-highway vehicle routes and trails.

26 7. For necessary environmental, historical and cultural clearance
27 or compliance activities.

28 8. AT LEAST TEN PERCENT FOR STATE LAND LESSEE IMPACTS.

29 F. The allocation of the monies in subsection E, paragraphs 3
30 through ~~7~~ 8 of this section and the percentages allocated to each of the
31 purposes prescribed in subsection E, paragraphs 3 through ~~7~~ 8 of this
32 section shall be based on an off-highway vehicle recreational plan.

33 G. Monies in the off-highway vehicle recreation fund shall not be
34 used to construct new off-highway vehicle trails or routes on
35 environmentally or culturally sensitive land unless the appropriate land
36 management agency determines that certain new trail construction would
37 benefit or protect cultural or sensitive sites. For the purposes of this
38 subsection, "environmentally or culturally sensitive land" means areas of
39 lands that are either:

40 1. Administratively or legislatively designated by the federal
41 government as any of the following:

42 (a) A national monument.

43 (b) An area of critical environmental concern.

44 (c) A conservation area.

45 (d) An inventoried roadless area.

1 2. Determined by the applicable land management agency to contain
2 significant natural or cultural resources or values.

3 H. The Arizona state parks board shall examine applications for
4 eligible projects and determine the amount of funding, if any, for each
5 project. In determining the amount of monies for eligible projects, the
6 Arizona state parks board shall give preference to applications for
7 projects with mitigation efforts, **FOR PROJECTS THAT ADDRESS IMPACTS TO**
8 **STATE LAND LESSEES, FOR NONFEDERAL PROJECTS, FOR PROJECTS WHERE FEDERAL**
9 **ENTITIES WORK WITH STATE AND LOCAL ENTITIES** and for projects that
10 encompass a large number of purposes described in subsection E, paragraphs
11 3 through ~~7~~ 8 of this section.

12 I. Beginning September 1, 2011, and on or before September 1 of
13 each subsequent year, each agency that receives monies from the
14 off-highway vehicle recreation fund shall submit an off-highway vehicle
15 report to the president of the senate, the speaker of the house of
16 representatives, the chairperson of the senate natural resources and rural
17 affairs committee, or its successor committee, and the chairperson of the
18 house of representatives natural resources and public safety committee, or
19 its successor committee. The report shall be made available to the
20 public. The report shall include information on all of the following if
21 applicable:

22 1. The amount of monies spent or encumbered in the fund during the
23 preceding fiscal year for the purposes of off-highway vehicle law
24 enforcement activities.

25 2. The amount of monies spent from the off-highway vehicle
26 recreation fund during the preceding fiscal year for employee services.

27 3. The number of full-time employees employed in the preceding
28 fiscal year in connection with off-highway vehicle law enforcement
29 activities.

30 4. The amount of monies spent from the off-highway vehicle
31 recreation fund during the preceding fiscal year for information and
32 education.

33 5. The number and specific location of verbal warnings, written
34 warnings and citations given or issued during the preceding fiscal year.

35 6. A specific and detailed accounting for all monies spent in
36 accordance with this section for construction of new off-highway vehicle
37 trails, mitigation of damages to lands, revegetation, the prevention and
38 restoration of damages to natural and cultural resources, signage, maps
39 and necessary environmental, historical and cultural clearance or
40 compliance activities.

41 **7. THE NUMBER AND STATUS OF OFF-HIGHWAY VEHICLE INJURY CLAIMS FILED**
42 **IN THIS STATE.**

43 J. For the purposes of this section, "off-highway vehicle
44 recreational plan" means a plan that is maintained by the Arizona state
45 parks board pursuant to section 41-511.04.

1 Sec. 3. Section 28-1177, Arizona Revised Statutes, is amended to
2 read:

3 28-1177. Off-highway vehicle user fee; indicia; registration;
4 state trust land recreational permit; exception

5 A. A person shall not operate or allow the operation of an
6 all-terrain vehicle or an off-highway vehicle in this state without either
7 a resident or nonresident off-highway vehicle user indicia issued by the
8 department if the all-terrain vehicle or off-highway vehicle meets both of
9 the following criteria:

10 1. Is designed by the manufacturer primarily for travel over
11 unimproved terrain.

12 2. Has an unladen weight of two thousand five hundred pounds or
13 less.

14 B. A person shall apply to the department of transportation for a
15 resident or nonresident off-highway vehicle user indicia by submitting an
16 application prescribed by the department of transportation and a user fee
17 for the indicia in an amount to be determined by the director of the
18 department of transportation in cooperation with the director of the
19 Arizona game and fish department and the Arizona state parks board. The
20 resident or nonresident off-highway vehicle user indicia is valid for one
21 year from the date of issuance and may be renewed. The department shall
22 prescribe by rule the design and placement of the indicia.

23 C. When a person pays for a resident off-highway vehicle user
24 indicia pursuant to this section, the person may request a motor vehicle
25 registration if the vehicle meets all equipment requirements to be
26 operated on a highway pursuant to article 16 of this chapter. If a person
27 submits a signed affidavit to the department affirming that the vehicle
28 meets all of the equipment requirements for highway use and that the
29 vehicle will be operated primarily off of highways, the department shall
30 register the vehicle for highway use and the vehicle owner is not required
31 to pay the registration fee prescribed in section 28-2003. This
32 subsection does not apply to vehicles that as produced by the manufacturer
33 meet the equipment requirements to be operated on a highway pursuant to
34 article 16 of this chapter.

35 D. The director shall deposit, pursuant to sections 35-146 and
36 35-147, ~~seventy percent of~~ the user fees collected pursuant to this
37 section in the off-highway vehicle recreation fund established by section
38 28-1176 ~~and thirty percent of the user fees collected pursuant to this~~
39 ~~section in the Arizona highway user revenue fund.~~

40 E. The Arizona game and fish department may provide for the
41 purchase of nonresident off-highway vehicle user indicia and may impose an
42 additional service fee in an amount to be determined by the Arizona game
43 and fish commission by rule. The Arizona game and fish department shall
44 deposit, pursuant to sections 35-146 and 35-147, the service fees
45 collected pursuant to this subsection in the game and fish fund
46 established by section 17-261.

1 F. An occupant of an off-highway vehicle with a resident or
2 nonresident off-highway vehicle user indicia issued pursuant to this
3 section who crosses state trust lands must comply with all of the rules
4 and requirements under a state trust land recreational permit. All
5 occupants of an off-highway vehicle with a resident or nonresident
6 off-highway vehicle user indicia shall obtain a state trust land
7 recreational permit from the state land department for all other
8 authorized recreational activities on state trust land.

9 G. This section does not apply to off-highway vehicles, all-terrain
10 vehicles or off-road recreational motor vehicles that are used off-highway
11 exclusively for agricultural, ranching, construction, mining, mining
12 exploration or building trade purposes.

13 H. In consultation with the department of transportation, the
14 Arizona game and fish department may adopt rules necessary to implement
15 this section.

16 Sec. 4. Title 28, chapter 3, article 20, Arizona Revised Statutes,
17 is amended by adding section 28-1182, to read:

18 28-1182. Off-highway vehicle operators; assumption of risk;
19 landowners

20 A. NOTWITHSTANDING ANY OTHER LAW, ALL OFF-HIGHWAY VEHICLE OPERATORS
21 AND PASSENGERS ASSUME ALL RISKS OF PERSONAL INJURY OR DEATH ASSOCIATED
22 WITH RECREATIONAL USE ON PUBLIC, STATE OR PRIVATE LAND.

23 B. NOTWITHSTANDING SECTION 33-1551, LANDOWNERS AND THEIR AUTHORIZED
24 LESSEES DO NOT HAVE A DUTY TO KEEP LANDS SAFE FOR ENTRY AND USE BY
25 RECREATIONAL USERS AS DEFINED IN SECTION 33-1551 OR TO WARN OF OR MAINTAIN
26 LANDS AND TRAILS AGAINST UNSAFE CONDITIONS.

27 Sec. 5. Section 28-6501, Arizona Revised Statutes, is amended to
28 read:

29 28-6501. Definition of highway user revenues

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

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

35 (a) The special plate administration fees prescribed in sections
36 28-2404, 28-2407, 28-2412 through 28-2470.09 and 28-2514.

37 (b) The donations prescribed in sections 28-2404, 28-2407, 28-2412
38 through 28-2415, 28-2417 through 28-2470.09, 28-2473, 28-2474, 28-2475 and
39 28-2476.

40 ~~2. Section 28-1177.~~

41 ~~3.~~ 2. Chapters 10 and 11 of this title.

42 ~~4.~~ 3. Chapter 16, articles 1, 2 and 4 of this title, except as
43 provided in sections 28-5926 and 28-5927.