

Senate Engrossed

~~off-highway vehicles; fund~~
(now: off-highway vehicles; fund; instruction; operation)

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

SENATE BILL 1377

AN ACT

AMENDING SECTIONS 28-1171, 28-1174, 28-1176 AND 28-1177, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 3, ARTICLE 20, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-1182 AND 28-1183; 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

1 off-highway vehicles on specific routes or areas designated by a local
2 authority pursuant to section 28-627.

3 8. "Off-highway vehicle trail" means a multiple use corridor that
4 is both of the following:

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

6 (b) Designated ~~or managed by or for the managing authority of the~~
7 ~~property that the trail traverses~~ for off-highway vehicle use.

8 9. "Off-highway vehicle use area" means the entire area of a parcel
9 of land, except for approved buffer areas, that is managed or designated
10 for off-highway vehicle use.

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

13 28-1174. Operation restrictions; violation; classification

14 A. A person shall not ~~drive~~ OPERATE OR ALLOW THE OPERATION OF an
15 off-highway vehicle:

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

17 2. Off of an existing road, trail or route in a manner that causes
18 damage to wildlife habitat, riparian areas, cultural or natural resources
19 or property or improvements.

20 3. On roads, trails, routes or areas closed as indicated in rules
21 or regulations of a federal agency, this state, a county or a municipality
22 or by proper posting if the land is private land.

23 4. Over unimproved roads, trails, routes or areas unless driving on
24 roads, trails, routes or areas where such driving is allowed by rule or
25 regulation.

26 B. A person shall ~~drive~~ OPERATE OR ALLOW THE OPERATION OF an
27 off-highway vehicle only on roads, trails, routes or areas that are opened
28 as indicated in rules or regulations of a federal agency, this state, a
29 county or a municipality.

30 C. A person shall not operate OR ALLOW THE OPERATION OF an
31 off-highway vehicle in a manner that damages the environment, including
32 excessive pollution of air, water or land, abuse of the watershed or
33 cultural or natural resources or impairment of plant or animal life, where
34 it is prohibited by rule, regulation, ordinance or code.

35 D. A person shall not place or remove a regulatory sign governing
36 off-highway vehicle use on any public or state land. This subsection does
37 not apply to an agent of an appropriate federal, state, county, town or
38 city agency operating within that agency's authority.

39 E. A person who violates subsection A, paragraph 1 is guilty of a
40 class 2 misdemeanor.

41 F. A person who violates any other provision of this section is
42 guilty of a class 3 misdemeanor.

43 G. In addition to or in lieu of a fine pursuant to this section, a
44 judge may order the person to perform at least eight but not more than
45 twenty-four hours of community restitution or to complete an approved

1 safety course related to the off-highway operation of motor vehicles, or
2 both.

3 H. Subsections A and B do not prohibit a private landowner or
4 lessee from performing normal agricultural or ranching practices while
5 operating an all-terrain vehicle or an off-highway vehicle on the private
6 or leased land.

7 Sec. 3. Section 28-1176, Arizona Revised Statutes, is amended to
8 read:

9 28-1176. Off-highway vehicle recreation fund; annual reports;
10 definition

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

- 13 1. Monies appropriated by the legislature.
- 14 2. Monies deposited pursuant to sections 28-1177 and 28-5927.
- 15 3. Federal grants and private gifts.

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

22 C. The Arizona game and fish department shall spend thirty-five
23 percent of the monies in the off-highway vehicle recreation fund for:

- 24 1. Informational and educational programs related to safety, the
25 environment and responsible use with respect to off-highway vehicle
26 recreation.
- 27 2. Law enforcement activities relating to this article.
- 28 3. The administration of the OFF-HIGHWAY VEHICLE USER indicia
29 program.
- 30 4. Off-highway vehicle law enforcement pursuant to title 17,
31 chapter 4, article 3, including ~~seven~~ NOT MORE THAN FOURTEEN full-time
32 employees to enforce this article and title 17, chapter 4, article 3.

33 D. The state land department shall spend ~~five~~ FIFTEEN percent of
34 the monies in the off-highway vehicle recreational fund to allow occupants
35 of off-highway vehicles with resident or nonresident off-highway vehicle
36 user indicia to cross state trust land on existing roads, trails and
37 designated routes. The state land department shall use these monies for
38 costs associated with off-highway vehicle use of lands within its
39 jurisdiction, to mitigate damage to the land, for necessary environmental,
40 historical and cultural clearance or compliance activities, TO ADDRESS
41 IMPACTS TO ITS LESSEES and to fund enforcement of off-highway vehicle
42 laws.

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

- 1 1. ~~No~~ NOT more than ~~twelve~~ TEN percent to fund staff support to
2 plan and administer the off-highway vehicle recreation fund.
- 3 2. To establish an off-highway vehicle program based on the
4 priorities established in the off-highway vehicle recreational plan.
- 5 3. To designate, construct, maintain, renovate, repair or connect
6 off-highway vehicle routes and trails and to designate, manage and acquire
7 land for access roads, off-highway vehicle recreation facilities and
8 off-highway vehicle use areas. After expenditures pursuant to paragraph 1
9 of this subsection, the Arizona state parks board shall not spend more
10 than thirty-five percent of the remaining monies received pursuant to this
11 subsection for construction of new off-highway vehicle trails. **ANY**
12 **DESIGNATION OR ACQUISITION OF LAND FOR THE PURPOSES OF THIS PARAGRAPH MUST**
13 **BE APPROVED AT A PUBLIC MEETING OF THE ARIZONA STATE PARKS BOARD.**
- 14 4. **AT LEAST TEN PERCENT** for enforcement of off-highway vehicle
15 laws.
- 16 5. For off-highway vehicle related informational and environmental
17 education programs, information, signage, maps and responsible use
18 programs.
- 19 6. For the mitigation of damages to land, revegetation and the
20 prevention and restoration of damages to natural and cultural resources,
21 including the closure of existing access roads, off-highway vehicle use
22 areas and off-highway vehicle routes and trails.
- 23 7. For necessary environmental, historical and cultural clearance
24 or compliance activities.
- 25 8. **AT LEAST TEN PERCENT FOR STATE LAND LESSEE IMPACTS.**
- 26 F. The allocation of the monies in subsection E, paragraphs 3
27 through ~~7~~ 8 of this section and the percentages allocated to each of the
28 purposes prescribed in subsection E, paragraphs 3 through ~~7~~ 8 of this
29 section shall be based on an off-highway vehicle recreational plan.
- 30 G. Monies in the off-highway vehicle recreation fund shall not be
31 used to construct new off-highway vehicle trails or routes on
32 environmentally or culturally sensitive land unless the appropriate land
33 management agency determines that certain new trail construction would
34 benefit or protect cultural or sensitive sites. For the purposes of this
35 subsection, "environmentally or culturally sensitive land" means areas of
36 lands that are either:
- 37 1. Administratively or legislatively designated by the federal
38 government as any of the following:
- 39 (a) A national monument.
40 (b) An area of critical environmental concern.
41 (c) A conservation area.
42 (d) An inventoried roadless area.
- 43 2. Determined by the applicable land management agency to contain
44 significant natural or cultural resources or values.

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

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

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

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

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

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

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

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

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

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

1 Sec. 4. 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

1 collected pursuant to this subsection in the game and fish fund
2 established by section 17-261.

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

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

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

18 Sec. 5. Title 28, chapter 3, article 20, Arizona Revised Statutes,
19 is amended by adding sections 28-1182 and 28-1183, to read:

20 28-1182. Off-highway vehicle operators; duty of care;
21 landowners

22 A. NOTWITHSTANDING ANY OTHER LAW, ALL OFF-HIGHWAY VEHICLE OPERATORS
23 AND PASSENGERS OWE A DUTY OF ORDINARY CARE IN THE RECREATIONAL USE OF
24 OFF-HIGHWAY VEHICLES ON PUBLIC, STATE OR PRIVATE LAND.

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

29 28-1183. Rental companies; sales; education materials

30 BEFORE A PERSON MAY RENT OR SELL AN OFF-HIGHWAY VEHICLE TO A
31 CUSTOMER, THE PERSON MUST PROVIDE THE CUSTOMER WITH OFF-HIGHWAY VEHICLE
32 SAFETY AND ENVIRONMENTAL EDUCATIONAL MATERIALS THAT ARE APPROVED BY THE
33 ARIZONA GAME AND FISH DEPARTMENT.

34 Sec. 6. Section 28-6501, Arizona Revised Statutes, is amended to
35 read:

36 28-6501. Definition of highway user revenues

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

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

42 (a) The special plate administration fees prescribed in sections
43 28-2404, 28-2407, 28-2412 through 28-2470.09 and 28-2514.

1 (b) The donations prescribed in sections 28-2404, 28-2407, 28-2412
2 through 28-2415, 28-2417 through 28-2470.09, 28-2473, 28-2474, 28-2475 and
3 28-2476.

4 ~~2. Section 28-1177.~~

5 ~~3.~~ 2. Chapters 10 and 11 of this title.

6 ~~4.~~ 3. Chapter 16, articles 1, 2 and 4 of this title, except as
7 provided in sections 28-5926 and 28-5927.

8 Sec. 7. Off-highway vehicle user indicia; education
9 requirement; report; delayed repeal

10 A. From and after December 31, 2022, a person must complete the
11 educational course of instruction in off-highway vehicle safety and
12 environmental ethics as prescribed in section 28-1175, Arizona Revised
13 Statutes, and provide to the department of transportation proof of the
14 completion before the department of transportation may issue a resident or
15 nonresident off-highway vehicle user indicia to the person pursuant to
16 section 28-1177, Arizona Revised Statutes, as amended by this act. The
17 department of transportation shall share with the Arizona game and fish
18 department all off-highway vehicle data relating to persons who have
19 provided proof of completion of the education course prescribed by this
20 subsection and all user indicias issued by the department of
21 transportation pursuant to this subsection.

22 B. On or before December 1, 2024, the department of transportation
23 shall submit a report regarding the results of implementing the education
24 requirement prescribed in subsection A of this section, including the
25 revenues and costs associated with the implementation and any
26 recommendations for administrative or legislative action, to the governor,
27 the president of the senate and the speaker of the house of
28 representatives and provide a copy of this report to the secretary of
29 state.

30 C. This section is repealed from and after May 31, 2025.