

1 AN ACT  
2 RELATING TO MOTOR VEHICLES; INCREASING OFF-HIGHWAY MOTOR  
3 VEHICLE REGISTRATION FEES; REQUIRING NONRESIDENT OFF-HIGHWAY  
4 MOTOR VEHICLE PERMITS; IMPOSING SAFETY REQUIREMENTS; CREATING  
5 THE OFF-HIGHWAY MOTOR VEHICLE SAFETY BOARD; CREATING THE  
6 TRAIL SAFETY FUND; PROVIDING PENALTIES; MAKING AN  
7 APPROPRIATION.

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

10 Section 1. A new section of the Off-Highway Motor  
11 Vehicle Act is enacted to read:

12 "DEFINITIONS.--As used in the Off-Highway Motor Vehicle  
13 Act:

- 14 A. "board" means the off-highway motor vehicle  
15 safety board;
- 16 B. "division" means the motor vehicle division;
- 17 C. "fund" means the trail safety fund;
- 18 D. "off-highway motor vehicle" means a motor  
19 vehicle designed by the manufacturer for operation  
20 exclusively off the highway or road and includes:

21 (1) "all-terrain vehicle", which means a  
22 motor vehicle fifty inches or less in width, having an  
23 unladen dry weight of one thousand pounds or less, traveling  
24 on three or more low-pressure tires and having a seat  
25 designed to be straddled by the operator and handlebar-type

1 steering control;

2 (2) "off-highway motorcycle", which means a  
3 motor vehicle traveling on not more than two tires and having  
4 a seat designed to be straddled by the operator and that has  
5 handlebar-type steering control; or

6 (3) "snowmobile", which means a motor  
7 vehicle designed for travel on snow or ice and steered and  
8 supported in whole or in part by skis, belts, cleats, runners  
9 or low-pressure tires;

10 E. "staging area" means a parking lot, trailhead  
11 or other location to or from which an off-highway motor  
12 vehicle is transported so that it may be placed into  
13 operation or removed from operation; and

14 F. "unpaved public roadway" means a dirt graveled  
15 street or road that is constructed, signed and maintained for  
16 regular passenger-car use by the general public."

17 Section 2. Section 66-3-1003 NMSA 1978 (being Laws  
18 1978, Chapter 35, Section 199, as amended) is amended to  
19 read:

20 "66-3-1003. OFF-HIGHWAY MOTOR VEHICLES--REGISTRATION.--  
21 Unless exempted from the provisions of the Off-Highway Motor  
22 Vehicle Act, a person shall not operate an off-highway motor  
23 vehicle unless the off-highway motor vehicle has been  
24 registered in accordance with Chapter 66, Article 3 NMSA  
25 1978. The owner shall affix the validating sticker as

1 provided in Chapter 66, Article 3 NMSA 1978."

2 Section 3. Section 66-3-1004 NMSA 1978 (being Laws  
3 1978, Chapter 35, Section 200, as amended) is amended to  
4 read:

5 "66-3-1004. REGISTRATION CERTIFICATE AND NONRESIDENT  
6 PERMIT FEES--RENEWAL.--

7 A. The fees for registering an off-highway motor  
8 vehicle are:

9 (1) seventeen dollars (\$17.00) for each  
10 off-highway motor vehicle; and

11 (2) an amount determined by rule of the  
12 tourism department not to exceed thirty dollars (\$30.00) for  
13 an off-highway user fee for each off-highway motor vehicle.

14 B. Upon a change of ownership, the new owner shall  
15 make application and pay registration fees of:

16 (1) seventeen dollars (\$17.00) in the same  
17 manner as provided by rules of the division for original  
18 registration; and

19 (2) an amount determined by rule of the  
20 tourism department not to exceed thirty dollars (\$30.00) for  
21 an off-highway user fee for each off-highway motor vehicle.

22 C. The fees for a nonresident permit of an  
23 off-highway motor vehicle are either:

24 (1) seventeen dollars (\$17.00) for each  
25 off-highway motor vehicle that is not registered in another

1 state; and

2 (2) an amount determined by rule of the  
3 tourism department not to exceed thirty dollars (\$30.00) for  
4 an off-highway user fee for each off-highway motor vehicle  
5 that is not currently in compliance with a similar  
6 off-highway user fee law or rule in another state; or

7 (3) seventeen dollars (\$17.00) for a  
8 ninety-day permit to include both the off-highway motor  
9 vehicle not otherwise registered and the off-highway user  
10 fee.

11 D. Except as provided in Paragraph (3) of  
12 Subsection C of this section, each registration certificate  
13 and nonresident permit shall be:

14 (1) good for two years after the month in  
15 which the off-highway motor vehicle is registered or the  
16 permit is issued; and

17 (2) renewed every two years.

18 E. The off-highway user fee for each off-highway  
19 motor vehicle shall be paid upon obtaining and renewing each  
20 registration certificate or nonresident permit.

21 F. Duplicate registration certificates and  
22 nonresident permits shall be issued upon payment of a  
23 seven-dollar-fifty-cent (\$7.50) fee.

24 G. A fee of one dollar (\$1.00) on registration  
25 certificates and nonresident permits shall be collected for

1 the New Mexico clean and beautiful program.

2 H. The tourism department, in conjunction with the  
3 division and the department of game and fish, may establish  
4 and maintain sites to collect fees and issue permits for  
5 residents and nonresidents."

6 Section 4. A new section of the Off-Highway Motor  
7 Vehicle Act is enacted to read:

8 "FEES--DISPOSITION.--

9 A. Except as provided in Subsection B of this  
10 section, fees collected pursuant to Section 66-3-1004 NMSA  
11 1978 shall be distributed as follows:

12 (1) of each seventeen dollars (\$17.00)  
13 collected pursuant to Paragraph (1) of Subsection A,  
14 Paragraph (1) of Subsection B or Paragraph (1) of Subsection  
15 C of Section 66-3-1004 NMSA 1978, five dollars (\$5.00) to the  
16 division, and the money is appropriated to the division to  
17 defray the cost of making and issuing registration  
18 certificates, validating stickers and nonresident permits for  
19 off-highway motor vehicles. The remaining twelve dollars  
20 (\$12.00) shall be deposited in the motor vehicle suspense  
21 fund for distribution pursuant to Section 66-6-23 NMSA 1978;

22 (2) fees collected pursuant to Paragraph (2)  
23 of Subsection A, Paragraph (2) of Subsection B or Paragraph  
24 (2) of Subsection C of Section 66-3-1004 NMSA 1978 to the  
25 fund;

1                   (3) fees collected pursuant to Subsection F  
2 of Section 66-3-1004 NMSA 1978 to the division, and the money  
3 is appropriated to the division to defray the cost of making  
4 and issuing duplicate registration certificates and  
5 nonresident permits for off-highway motor vehicles;

6                   (4) of each seventeen dollars (\$17.00)  
7 collected pursuant to Paragraph (3) of Subsection C of  
8 Section 66-3-1004 NMSA 1978, five dollars (\$5.00) to the  
9 division, and the money is appropriated to the division to  
10 defray the costs of making and issuing nonresident permits.  
11 The remaining twelve dollars (\$12.00) shall be deposited in  
12 the fund; and

13                   (5) fees collected pursuant to Subsection G  
14 of Section 66-3-1004 NMSA 1978 to the tourism department for  
15 the New Mexico clean and beautiful program.

16                   B. If fees are collected by the department of game  
17 and fish pursuant to Paragraph (1) of Subsection A, Paragraph  
18 (1) of Subsection B or Paragraphs (1) and (3) of Subsection C  
19 of Section 66-3-1004 NMSA 1978, seven dollars (\$7.00) shall  
20 be deposited in the game protection fund, five dollars  
21 (\$5.00) to the division, and the money is appropriated to the  
22 division to defray the cost of making and issuing  
23 registration certificates, validating stickers and  
24 nonresident permits for off-highway motor vehicles, and the  
25 remaining five dollars (\$5.00) shall be deposited in the

1 motor vehicle suspense fund for distribution pursuant to  
2 Section 66-6-23 NMSA 1978."

3 Section 5. Section 66-3-1005 NMSA 1978 (being Laws  
4 1978, Chapter 35, Section 201, as amended) is amended to  
5 read:

6 "66-3-1005. EXEMPTIONS.--The provisions of the  
7 Off-Highway Motor Vehicle Act shall not apply to persons who  
8 operate off-highway motor vehicles on privately held lands or  
9 to off-highway motor vehicles that are:

10 A. owned and operated by an agency or department  
11 of the United States, this state or a political subdivision  
12 of this state;

13 B. operated exclusively on lands privately held;  
14 provided that the appropriate tax or fee has been paid in  
15 lieu of the motor vehicle registration fees;

16 C. owned by nonresidents and used in this state  
17 only for organized and endorsed competition purposes;  
18 provided that the use is not on a rental basis;

19 D. brought into this state by manufacturers or  
20 distributors for wholesale purposes and not used for  
21 demonstrations;

22 E. in the possession of dealers as stock-in-trade  
23 and not used for demonstration purposes;

24 F. farm tractors, as defined in Section 66-1-4.6  
25 NMSA 1978, special mobile equipment, as defined in Section

1 66-1-4.16 NMSA 1978, or off-highway motor vehicles being used  
2 for agricultural operations; or

3 G. used exclusively on private closed courses,  
4 whether owned by the rider or another person; provided that,  
5 if applicable, the excise tax and registration fees have been  
6 paid and are current."

7 Section 6. Section 66-3-1006 NMSA 1978 (being Laws  
8 1978, Chapter 35, Section 202, as amended) is amended to  
9 read:

10 "66-3-1006. GROUNDS FOR REFUSING REGISTRATION OR  
11 CERTIFICATE OF TITLE.--The division may refuse registration  
12 or issuance of a certificate of title or any transfer of a  
13 registration certificate if:

14 A. the division has reasonable grounds to believe  
15 that the application contains any false or fraudulent  
16 statement or that the applicant has failed to furnish the  
17 required information or reasonable additional information  
18 requested by the division or that the applicant is not  
19 entitled to the issuance of a certificate of title or  
20 registration certificate of the off-highway motor vehicle  
21 under the Motor Vehicle Code or laws of this state;

22 B. the division has reasonable grounds to believe  
23 that the off-highway motor vehicle is stolen or embezzled or  
24 that the granting of a registration certificate or the  
25 issuance of a certificate of title would constitute a fraud

1 against the rightful owner or other person having a valid  
2 lien upon the off-highway motor vehicle;

3 C. the division has reasonable grounds to believe  
4 that a nonresident applicant is not entitled to registration  
5 issuance under the laws of the nonresident applicant's state  
6 of residence;

7 D. the required fees have not been paid; or

8 E. the motor vehicle excise tax has not been paid  
9 pursuant to Chapter 7, Article 14 NMSA 1978."

10 Section 7. Section 66-3-1007 NMSA 1978 (being Laws  
11 1978, Chapter 35, Section 203, as amended) is amended to  
12 read:

13 "66-3-1007. EVIDENTIARY VALUE OF CERTIFICATE OF  
14 TITLE.--A certificate of title issued by the division for an  
15 off-highway motor vehicle shall be received as prima facie  
16 evidence of the ownership of the off-highway motor vehicle  
17 named in the certificate and as prima facie evidence of all  
18 liens and encumbrances against the off-highway motor vehicle  
19 appearing on the certificate."

20 Section 8. Section 66-3-1008 NMSA 1978 (being Laws  
21 1978, Chapter 35, Section 204, as amended) is amended to  
22 read:

23 "66-3-1008. VALIDATING STICKERS TO BE FURNISHED BY  
24 DIVISION.--The division, upon registering an off-highway  
25 motor vehicle, shall issue to the owner validating stickers

1 as provided in Section 66-3-14 NMSA 1978."

2 Section 9. A new section of the Off-Highway Motor  
3 Vehicle Act is enacted to read:

4 "OFF-HIGHWAY MOTOR VEHICLE SAFETY TRAINING  
5 ORGANIZATION--APPROVAL AND CERTIFICATION.--

6 A. An off-highway motor vehicle safety training  
7 organization that offers and conducts an off-highway motor  
8 vehicle safety training course shall be approved and  
9 certified by the board. Applicants for approval and  
10 certification shall submit an application to the board for  
11 consideration.

12 B. The board may approve and certify an  
13 organization that meets the minimum criteria established by  
14 the board for an off-highway motor vehicle safety training  
15 organization. Each approval and certification shall be  
16 renewed annually."

17 Section 10. A new section of the Off-Highway Motor  
18 Vehicle Act is enacted to read:

19 "OFF-HIGHWAY MOTOR VEHICLE SAFETY PERMIT--REQUIREMENTS--  
20 ISSUANCE.--A person under the age of eighteen shall be  
21 required to successfully complete an off-highway motor  
22 vehicle safety training course for which the person shall  
23 have parental permission. The course shall be conducted by  
24 an off-highway motor vehicle safety training organization  
25 that is approved and certified by the board. Upon successful

1 completion of the course, the person shall receive an off-  
2 highway motor vehicle safety permit issued by the  
3 organization."

4 Section 11. A new section of the Off-Highway Motor  
5 Vehicle Act is enacted to read:

6 "OPERATION AND EQUIPMENT--SAFETY REQUIREMENTS.--

7 A. A person shall not operate an off-highway motor  
8 vehicle:

9 (1) in a careless, reckless or negligent  
10 manner so as to endanger the person or property of another;

11 (2) while under the influence of  
12 intoxicating liquor or drugs as provided by Section 66-8-102  
13 NMSA 1978;

14 (3) while in pursuit of and with intent to  
15 hunt or take a species of animal or bird protected by law  
16 unless otherwise authorized by the state game commission;

17 (4) in excess of ten miles per hour within  
18 two hundred feet of a business, animal shelter, horseback  
19 rider, bicyclist, pedestrian or occupied dwelling, unless the  
20 person operates the vehicle on a closed course or track;

21 (5) unless in possession of the person's  
22 registration certificate or nonresident permit;

23 (6) unless the vehicle is equipped with a  
24 spark arrester approved by the United States forest service;  
25 provided that a snowmobile is exempt from this provision;

1                   (7) when conditions such as darkness limit  
2 visibility to five hundred feet or less, unless the vehicle  
3 is equipped with:

4                   (a) one or more headlights of  
5 sufficient candlepower to light objects at a distance of one  
6 hundred fifty feet; and

7                   (b) at least one taillight of  
8 sufficient intensity to exhibit a red or amber light at a  
9 distance of two hundred feet under normal atmospheric  
10 conditions; or

11                   (8) that produces noise that exceeds  
12 ninety-six decibels when measured using test procedures  
13 established by the society of automotive engineers pursuant  
14 to standard J-1287.

15                   B. A person under the age of eighteen shall not  
16 operate an off-highway motor vehicle:

17                   (1) or ride upon an off-highway motor  
18 vehicle without wearing eye protection and a safety helmet  
19 that is securely fastened in a normal manner as headgear and  
20 that meets the standards established by the board;

21                   (2) without an off-highway motor vehicle  
22 safety permit; or

23                   (3) while carrying a passenger.

24                   C. A person under the age of eighteen but at least  
25 ten years of age shall not operate an off-highway motor

1 vehicle unless the person is visually supervised at all times  
2 by a parent, legal guardian or a person over the age of  
3 eighteen who has a valid driver's license. This subsection  
4 shall not apply to a person who is at least:

5 (1) thirteen years of age and has a valid  
6 motorcycle license and off-highway motor vehicle safety  
7 permit; or

8 (2) fifteen years of age and has a valid  
9 driver's license, instructional permit or provisional license  
10 and off-highway motor vehicle safety permit.

11 D. A person under the age of ten shall not operate  
12 an off-highway motor vehicle unless:

13 (1) the all-terrain vehicle is an  
14 age-appropriate size-fit vehicle established by rule of the  
15 board; and

16 (2) the person is visually supervised at all  
17 times by a parent, legal guardian or instructor of a safety  
18 training course certified by the board.

19 E. The requirements of Subsections C and D of this  
20 section do not apply to a person who is part of an organized  
21 tour under the guidance or direction of a guide certified by  
22 the board.

23 F. An off-highway motor vehicle may not be sold or  
24 offered for sale if the vehicle produces noise that exceeds  
25 ninety-six decibels when measured using test procedures

1 established by the society of automotive engineers pursuant  
2 to standard J-1287. This subsection shall not apply to an  
3 off-highway motor vehicle that is sold or offered for sale  
4 only for organized competition."

5 Section 12. A new section of the Off-Highway Motor  
6 Vehicle Act is enacted to read:

7 "SAFETY HELMET--CIVIL LIABILITY.--Failure by a passenger  
8 or driver to use a safety helmet while on an off-highway  
9 motor vehicle shall not in any instance constitute fault or  
10 negligence and shall not limit or apportion damages."

11 Section 13. A new section of the Off-Highway Motor  
12 Vehicle Act is enacted to read:

13 "REQUIREMENTS OF DEALERS TO DISTRIBUTE SAFETY  
14 INFORMATION.--A dealer selling off-highway motor vehicles  
15 shall distribute information recommended by the board to  
16 off-highway motor vehicle purchasers on state laws, safety  
17 requirements, training programs, operating characteristics  
18 and potential risk of injury associated with off-highway  
19 motor vehicles."

20 Section 14. Section 66-3-1011 NMSA 1978 (being Laws  
21 1975, Chapter 240, Section 11, as amended) is amended to  
22 read:

23 "66-3-1011. OPERATION ON STREETS OR HIGHWAYS--  
24 PROHIBITED AREAS.--

25 A. A person shall not operate an off-highway motor SB 252  
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1 vehicle on any:

2 (1) limited access highway or freeway at any  
3 time; or

4 (2) any paved street or highway except as  
5 provided in Subsection B of this section.

6 B. Off-highway motor vehicles may cross streets or  
7 highways, except limited access highways or freeways, if the  
8 crossings are made after coming to a complete stop prior to  
9 entering the roadway. Off-highway motor vehicles shall yield  
10 the right of way to oncoming traffic and shall begin a  
11 crossing only when it can be executed safely and then cross  
12 in the most direct manner as close to a perpendicular angle  
13 as possible.

14 C. A person shall not operate an off-highway motor  
15 vehicle on state game commission-owned, -controlled or  
16 -administered land except as specifically allowed pursuant to  
17 Chapter 17, Article 6 NMSA 1978.

18 D. A person shall not operate an off-highway motor  
19 vehicle on land owned, controlled or administered by the  
20 state parks division of the energy, minerals and natural  
21 resources department, pursuant to Chapter 16, Article 2 NMSA  
22 1978, except in areas designated by and permitted by rules  
23 adopted by the secretary of energy, minerals and natural  
24 resources."

25 Section 15. Section 66-3-1012 NMSA 1978 (being Laws

1 1978, Chapter 35, Section 208, as amended) is amended to  
2 read:

3 "66-3-1012. DRIVING OF OFF-HIGHWAY MOTOR VEHICLES  
4 ADJACENT TO HIGHWAY.--

5 A. Off-highway motor vehicles issued a validating  
6 sticker or nonresident permit may be driven adjacent to a  
7 highway, yielding to all vehicles entering or exiting the  
8 highway, in a manner so as not to interfere with traffic upon  
9 the highway, only for the purpose of gaining access to or  
10 returning from areas designed for the operation of  
11 off-highway motor vehicles by the shortest possible route and  
12 when no other route is available or when the area adjacent to  
13 a highway is being used as a staging area. Such use must  
14 occur between the highway and fencing that separates the  
15 highway from private or public lands.

16 B. When snow conditions permit, an off-highway  
17 motor vehicle may be operated on the right-hand side of a  
18 highway, parallel, but not closer than ten feet, to the  
19 inside of the plow bank."

20 Section 16. Section 66-3-1013 NMSA 1978 (being Laws  
21 1975, Chapter 240, Section 13, as amended) is amended to  
22 read:

23 "66-3-1013. LIABILITY--LOCAL REGISTRATION PROHIBITED.--

24 A. A landowner shall not be held liable for  
25 damages arising out of off-highway motor vehicle-related

1 accidents or injuries occurring on the landowner's lands in  
2 which the landowner is not directly involved unless the entry  
3 on the lands is subject to payment of a fee.

4 B. It is unlawful to operate an off-highway motor  
5 vehicle on private lands or roads except with the express  
6 permission of the landowner or leaseholder of the lands."

7 Section 17. Section 66-3-1014 NMSA 1978 (being Laws  
8 1975, Chapter 240, Section 14, as amended) is amended to  
9 read:

10 "66-3-1014. ACCIDENTS AND ACCIDENT REPORTS.--The driver  
11 of an off-highway motor vehicle involved in an accident  
12 resulting in injuries to or the death of a person or  
13 resulting in damage to public or private property to the  
14 extent of five hundred dollars (\$500) or more shall  
15 immediately notify a law enforcement agency of the accident  
16 and the facts relating to the accident. If the driver is  
17 under the age of eighteen, the driver's parent or legal  
18 guardian shall immediately notify a law enforcement agency of  
19 the accident and the facts relating to the accident."

20 Section 18. Section 66-3-1015 NMSA 1978 (being Laws  
21 1978, Chapter 35, Section 211, as amended) is amended to  
22 read:

23 "66-3-1015. ENFORCEMENT.--A wildlife conservation  
24 officer, state police officer or peace officer of this state  
25 or any of its political subdivisions, upon displaying the

1 officer's badge of office, has the authority to enforce the  
2 provisions of the Off-Highway Motor Vehicle Act and may:

3 A. require an off-highway motor vehicle operator  
4 to produce:

5 (1) the registration certificate or  
6 nonresident permit;

7 (2) proof of successful completion of an  
8 off-highway motor vehicle training course conducted by an  
9 off-highway safety training organization approved and  
10 certified by the board, when required by Section 10 of this  
11 2005 act; and

12 (3) the personal identification of the  
13 operator; and

14 B. issue citations for violations of the  
15 provisions of the Off-Highway Motor Vehicle Act."

16 Section 19. A new section of the Off-Highway Motor  
17 Vehicle Act is enacted to read:

18 "OFF-HIGHWAY MOTOR VEHICLE SAFETY BOARD CREATED--  
19 MEMBERS--COMPENSATION.--

20 A. The "off-highway motor vehicle safety board" is  
21 created. The board consists of the following nine ex-officio  
22 members or their designees and seventeen appointed members:

23 (1) the director of the department of game  
24 and fish;

25 (2) the director of the motor vehicle

1 division;

2 (3) the secretary of transportation;

3 (4) the secretary of public safety;

4 (5) the commissioner of public lands;

5 (6) the secretary of energy, minerals and  
6 natural resources;

7 (7) the secretary of tourism;

8 (8) the secretary of health;

9 (9) the director of the state parks division  
10 of the energy, minerals and natural resources department;

11 (10) one member of the New Mexico department  
12 of agriculture appointed by the board of regents of New  
13 Mexico state university;

14 (11) one representative from each of the  
15 state's six tourism regions with expertise in off-highway  
16 motor vehicle safety or motorized and non-motorized  
17 recreation, two of whom are appointed by the secretary of  
18 health, two of whom are appointed by the secretary of tourism  
19 and two of whom are appointed by the secretary of energy,  
20 minerals and natural resources, to include at least one  
21 member of:

22 (a) a recognized off-highway motorcycle  
23 user group;

24 (b) an all-terrain vehicle user group;

25 and

1 (c) a snowmobile user group;

2 (12) three representatives from local law  
3 enforcement agencies appointed by the secretary of public  
4 safety;

5 (13) two representatives from a conservation  
6 or environmental organization appointed by the secretary of  
7 energy, minerals and natural resources;

8 (14) two off-highway motor vehicle dealers  
9 appointed by the secretary of tourism;

10 (15) one health professional with expertise  
11 in injury prevention or treatment appointed by the secretary  
12 of health;

13 (16) one representative from the United  
14 States bureau of land management appointed by the governor;  
15 and

16 (17) one representative from the United  
17 States forest service appointed by the governor.

18 B. The board shall select a chairperson, a vice  
19 chairperson and other officers as it deems necessary.

20 C. The board shall meet at the call of the  
21 chairperson but not less than twice annually. A majority of  
22 members constitutes a quorum for the transaction of business.  
23 The affirmative vote of at least a majority of the quorum  
24 present shall be necessary for an action to be taken by the  
25 board.

1           D. Members shall be appointed to staggered terms  
2 of two years each; provided that no more than nine terms  
3 expire in any one year. The ex-officio board members shall  
4 select by lot nine appointed members to serve initial terms  
5 of three years each. A vacancy shall be filled by  
6 appointment by the original appointing authority for the  
7 remainder of the unexpired term.

8           E. Appointed members, except for representatives  
9 of federal agencies, of the board are entitled to  
10 reimbursement for attending meetings of the board as provided  
11 for nonsalaried officers in the Per Diem and Mileage Act and  
12 shall receive no other compensation, perquisite or  
13 allowance."

14           Section 20. A new section of the Off-Highway Motor  
15 Vehicle Act is enacted to read:

16           "BOARD--POWERS AND DUTIES.--

17           A. The board may cooperate with appropriate  
18 federal agencies, public and private organizations and  
19 corporations and local government units to implement the  
20 provisions of the Off-Highway Motor Vehicle Act.

21           B. The board shall:

22                   (1) accept and evaluate all applications for  
23 approval and certification of an off-highway motor vehicle  
24 safety training organization and approve and certify those  
25 that meet the minimum criteria;

1                   (2) notify the division of the off-highway  
2 motor vehicle safety training organizations that have  
3 received approval and certification;

4                   (3) establish minimum criteria, by  
5 January 1, 2007, to approve and certify an off-highway motor  
6 vehicle safety training organization. The criteria shall  
7 include requirements for curriculum and materials for:

8                                 (a) training instructors to teach  
9 off-highway motor vehicle safety;

10                                (b) training the public about  
11 off-highway motor vehicle safety and age-appropriate size-fit  
12 use of off-highway motor vehicles; and

13                               (c) teaching responsible use of  
14 off-highway motor vehicles with respect to environmental  
15 considerations, private property restrictions, off-highway  
16 motor vehicle operating laws and prohibitions against  
17 operating off-highway motor vehicles under the influence of  
18 alcohol or drugs;

19                   (4) implement, by January 1, 2007, a state  
20 off-highway motor vehicle safety training and certification  
21 program;

22                   (5) adopt and promulgate rules regarding  
23 the:

24                               (a) age-appropriate size-fit use of  
25 off-highway motor vehicles;

1 (b) acceptance or accreditation of  
2 instruction or safety courses provided by other states; and

3 (c) standards covering the  
4 specifications of eye protection and safety helmets;

5 (6) recommend, with public participation and  
6 input, off-highway motor vehicle park, facility and trail  
7 locations to the state, county, tribal or local governing  
8 body or private entity that owns or administers the land upon  
9 which the park, facility or trail is located. The board  
10 shall establish criteria to recommend locations that include  
11 consideration of off-highway motor vehicle operating laws and  
12 effects on:

13 (a) wildlife and the environment;

14 (b) adjacent state, county, federal,  
15 tribal and private property;

16 (c) other recreational and  
17 nonrecreational uses on the same or adjacent lands; and

18 (d) archaeological, cultural and  
19 historic resources;

20 (7) recommend restoration or, if deemed  
21 necessary, closure of off-highway motor vehicle tracks or  
22 trails to the state, county, tribal or local governing body  
23 or private entity that owns or administers the land upon  
24 which the tracks or trails are located if they pose  
25 significant or irreversible environmental damage, a danger to

1 users or a public nuisance as determined by the board. The  
2 board shall consider the construction of alternative tracks  
3 or trails as part of the closure process;

4 (8) accept and evaluate all applications for  
5 grants from the fund and make recommendations to the tourism  
6 department. The board shall establish criteria for grants  
7 from the fund that include consideration of the:

8 (a) applicant's financial and legal  
9 status;

10 (b) applicant's management plan,  
11 including specific measures to avoid or minimize  
12 environmental damage to public and private lands and danger  
13 to users and spectators;

14 (c) operating budget for the park,  
15 trail, facility or staging area;

16 (d) availability of matching funds; and

17 (e) public participation and input; and

18 (9) certify tour guides."

19 Section 21. A new section of the Off-Highway Motor  
20 Vehicle Act is enacted to read:

21 "FUND CREATED--DISPOSITION.--

22 A. The "trail safety fund" is created in the state  
23 treasury. The fund is a nonreverting fund, and income from  
24 investment of the fund shall be credited to the fund. The  
25 fund shall be administered by the tourism department, and

1 money in the fund is appropriated to the tourism department  
2 to carry out the purposes of the Off-Highway Motor Vehicle  
3 Act. Expenditures from the fund shall be by warrant of the  
4 secretary of finance and administration upon vouchers signed  
5 by the secretary of tourism or the secretary's authorized  
6 representative.

7 B. The tourism department, upon recommendation by  
8 the board, shall make distributions from the fund to develop  
9 and maintain trails, build and maintain staging areas, market  
10 safety programs and promote safety for off-highway motor  
11 vehicles."

12 Section 22. A new section of the Off-Highway Motor  
13 Vehicle Act is enacted to read:

14 "PENALTIES.--

15 A. Unless the violation is declared a felony, a  
16 petty misdemeanor or a citation under the Motor Vehicle Code,  
17 a person who violates the provisions of the Off-Highway Motor  
18 Vehicle Act is guilty of a misdemeanor pursuant to Section  
19 66-8-7 NMSA 1978.

20 B. When a person is convicted of a felony or  
21 misdemeanor committed while operating an off-highway motor  
22 vehicle, the court may order the person to complete a  
23 board-certified safety training course."

24 Section 23. Section 66-4-1 NMSA 1978 (being Laws 1978,  
25 Chapter 35, Section 214, as amended) is amended to read:

1 "66-4-1. DEALERS, WRECKERS, WHOLESALERS AND  
2 DISTRIBUTORS OF VEHICLES AND TITLE SERVICE COMPANIES MUST BE  
3 LICENSED--PRESUMPTION OF CONDUCTING BUSINESS.--

4 A. A person, unless licensed to do so by the  
5 department, shall not carry on or conduct the active trade or  
6 business of:

7 (1) a dealer in motor vehicles of a type  
8 subject to registration pursuant to the Motor Vehicle Code,  
9 including:

10 (a) trailers, but not trailers sold as  
11 kits;

12 (b) recreational vehicles designed to  
13 be towed;

14 (c) motorcycles over fifty-five cubic  
15 centimeters; and

16 (d) off-highway motor vehicles pursuant  
17 to the Off-Highway Motor Vehicle Act;

18 (2) dismantling any vehicle for the resale  
19 of the parts. Any person possessing three or more wrecked,  
20 dismantled or partially wrecked or dismantled vehicles and  
21 selling or offering for sale a used vehicle part and who  
22 regularly sells or offers for sale used vehicles or used  
23 vehicle parts shall be presumed to be conducting the business  
24 of wrecking or dismantling a vehicle for the resale of the  
25 parts;

1                   (3) wholesaling of vehicles. Any person who  
2 sells or offers for sale vehicles of a type subject to  
3 registration in this state, to a vehicle dealer licensed  
4 pursuant to the Motor Vehicle Code or who is franchised by  
5 a manufacturer, distributor or vehicle dealer to sell or  
6 promote the sale of vehicles dealt in by such manufacturer,  
7 distributor or vehicle dealer shall be presumed to be  
8 conducting the business of wholesaling;

9                   (4) distributing of vehicles. Any person  
10 who distributes or sells new or used motor vehicles to  
11 dealers and who is not a manufacturer shall be presumed to be  
12 conducting the business of distributing vehicles; or

13                   (5) a title service company. Any person who  
14 for consideration prepares or submits applications for the  
15 registration of or title to vehicles shall be presumed to be  
16 engaging in the business of a title service company.

17                   B. Application for a dealer, wholesaler,  
18 distributor or wrecker of vehicles license or a title service  
19 company license shall be made upon the form prescribed by the  
20 department and shall contain the name and address of the  
21 applicant and, when the applicant is a partnership, the name  
22 and address of each partner or, when the applicant is a  
23 corporation, the names of the principal officers of the  
24 corporation and the state in which incorporated and the place  
25 where the business is to be conducted and the nature of the

1 business and such other information as may be required by the  
2 department. Every application shall be verified by the oath  
3 or affirmation of the applicant, if an individual, or, in the  
4 event an applicant is a partnership or corporation, by a  
5 partner or officer of the partnership or corporation. Every  
6 application shall be accompanied by the fee required by law.

7 C. A metal processor or dealer in scrap who  
8 dismantles, processes for scrap, shreds, compacts, crushes or  
9 otherwise destroys more than three vehicles within a period  
10 of one year shall be licensed pursuant to the provisions of  
11 Sections 66-4-1 through 66-4-9 NMSA 1978.

12 D. To ensure that a dealer, wholesaler,  
13 distributor, wrecker of vehicles or title service company  
14 complies with this section, the secretary may apply to a  
15 district court of this state to have a person operating  
16 without a license as required by this section or operating  
17 without the bond required by Section 66-4-7 NMSA 1978  
18 enjoined from engaging in business until that person complies  
19 with the requirements of licensing as provided by this  
20 section and the bonding requirements of Section 66-4-7 NMSA  
21 1978.

22 E. Upon application to a court for the issuance of  
23 an injunction against an unlicensed person, the court may  
24 issue an order temporarily restraining that person from doing  
25 business. The court shall hear the matter within three days

1 and, upon a showing by the preponderance of the evidence that  
2 the person is operating without a license and that the person  
3 has been given notice of the hearing as required by law, the  
4 court may enjoin the person from engaging in business in New  
5 Mexico until the person ceases to be unlicensed. Upon  
6 issuing an injunction, the court may also order the business  
7 premises of the person to be sealed by the sheriff and may  
8 allow the person access thereto only upon approval of the  
9 court.

10 F. A temporary restraining order shall not be  
11 issued against a person who has complied with the provisions  
12 of this section. Upon a showing to the court by a person  
13 against whom a temporary restraining order has been issued  
14 that the person has a license in accordance with the  
15 provisions of this section, the court shall dissolve or set  
16 aside the temporary restraining order."

17 Section 24. Section 66-6-22.1 NMSA 1978 (being Laws  
18 1990, Chapter 120, Section 34, as amended) is amended to  
19 read:

20 "66-6-22.1. MOTOR VEHICLE SUSPENSE FUND CREATED--  
21 RECEIPTS--DISBURSEMENTS.--

22 A. There is created in the state treasury a fund  
23 to be known as the "motor vehicle suspense fund".

24 B. The fees collected under the provisions of  
25 Sections 66-1-1 through 66-6-19 NMSA 1978 shall be paid to

1 the state treasurer for the credit of the motor vehicle  
2 suspense fund not later than the close of the second business  
3 day after their receipt, except as otherwise provided by the  
4 Off-Highway Motor Vehicle Act.

5 C. Money deposited to the credit of or disbursed  
6 from the motor vehicle suspense fund shall be accounted for  
7 as provided by law or rule of the secretary of finance and  
8 administration. Disbursements from the motor vehicle  
9 suspense fund shall be made by the department of finance and  
10 administration upon request and certification of their  
11 appropriateness by the secretary of finance and  
12 administration or the secretary's delegate.

13 D. The balance of the motor vehicle suspense fund  
14 is appropriated for the purpose of making refunds,  
15 distributions and other disbursements authorized or required  
16 by law to be made from the motor vehicle suspense fund,  
17 provided that no distribution shall be made to a  
18 municipality, county or fee agent operating a motor vehicle  
19 field office with respect to money collected and remitted to  
20 the department by that municipality, county or fee agent  
21 until the report of the municipality, county or fee agent is  
22 audited and accepted by the department."

23 Section 25. REPEAL.--Sections 66-9-1, 66-9-2, 66-9-4,  
24 66-9-8, 66-9-9 and 66-9-11 through 66-9-13 NMSA 1978 (being  
25 Laws 1971, Chapter 177, Sections 1 and 2, Laws 1973, Chapter

1 86, Section 1 and Laws 1971, Chapter 177, Sections 7, 8, 10,  
2 11 and 12, as amended) are repealed.

3 Section 26. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is January 1, 2006. \_\_\_\_\_

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