

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT
RELATING TO MOTOR VEHICLES; AMENDING SECTIONS OF THE
OFF-HIGHWAY MOTOR VEHICLE ACT TO PROVIDE FOR REGULATION OF
THE OPERATION OF OFF-HIGHWAY VEHICLES TO ENSURE THEIR SAFE
AND RESPONSIBLE OPERATION; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE NMSA 1978; PROVIDING PENALTIES; MAKING
APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. Section 66-3-1001.1 NMSA 1978 (being Laws
2005, Chapter 325, Section 1) is amended to read:

"66-3-1001.1. DEFINITIONS.--As used in the Off-Highway
Motor Vehicle Act:

- A. "board" means the off-highway motor vehicle advisory board;
- B. "department" means the department of game and fish;
- C. "division" means the motor vehicle division of the taxation and revenue department;
- D. "fund" means the trail safety fund;
- E. "off-highway motor vehicle" means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:
 - (1) "all-terrain vehicle", which means a motor vehicle fifty inches or less in width, having an

1 unladen dry weight of one thousand pounds or less, traveling
2 on three or more low-pressure tires and having a seat
3 designed to be straddled by the operator and handlebar-type
4 steering control;

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

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

13 (4) "recreational off-highway vehicle",
14 which means a motor vehicle designed for travel on four or
15 more non-highway tires, for recreational use by one or more
16 persons, and having:

17 (a) a steering wheel for steering
18 control;

19 (b) non-straddle seating;

20 (c) maximum speed capability greater
21 than thirty-five miles per hour;

22 (d) gross vehicle weight rating no
23 greater than one thousand seven hundred fifty pounds;

24 (e) less than eighty inches in overall
25 width, exclusive of accessories;

1 (f) engine displacement of less than
2 one thousand cubic centimeters; and

3 (g) identification by means of a
4 seventeen-character vehicle identification number; or

5 (5) by rule of the department, any other
6 vehicles that may enter the market that fit the general
7 profile of vehicles operated off the highway for recreational
8 purposes;

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

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

16 Section 2. Section 66-3-1004 NMSA 1978 (being Laws
17 1978, Chapter 35, Section 200, as amended) is amended to
18 read:

19 "66-3-1004. REGISTRATION CERTIFICATE AND NONRESIDENT
20 PERMIT FEES--RENEWAL--DISTRIBUTION OF FEES.--Fees shall be
21 collected and distributed as follows:

22 A. the fees for registering an off-highway motor
23 vehicle are:

24 (1) seventeen dollars (\$17.00) for each
25 off-highway motor vehicle, of which five dollars (\$5.00) is

1 appropriated to the division to defray the cost of making and
2 issuing registration certificates, validating stickers and
3 nonresident permits for off-highway motor vehicles. The
4 remaining twelve dollars (\$12.00) shall be deposited in the
5 motor vehicle suspense fund for distribution pursuant to
6 Section 66-6-23 NMSA 1978; and

7 (2) an amount determined by rule of the
8 department not to exceed forty dollars (\$40.00) for an
9 off-highway user fee for each off-highway motor vehicle,
10 which shall be distributed to the fund;

11 B. upon a change of ownership, the new owner shall
12 make application and pay registration fees of:

13 (1) seventeen dollars (\$17.00) in the same
14 manner as provided by rules of the division for original
15 registration; and

16 (2) an amount determined by rule of the
17 department not to exceed forty dollars (\$40.00) for an
18 off-highway user fee for each off-highway motor vehicle,
19 which shall be distributed to the fund;

20 C. except for an off-highway vehicle that is
21 currently in compliance with another state's off-highway
22 vehicle registration, user fee or similar law or rule
23 demonstrated by certificate of registration, permit or
24 similar evidence, the fees for a nonresident permit of an
25 off-highway motor vehicle are either:

1 (1) seventeen dollars (\$17.00), of which
2 five dollars (\$5.00) is appropriated to the division to
3 defray the cost of making and issuing registration
4 certificates, validating stickers and nonresident permits for
5 off-highway motor vehicles. The remaining twelve dollars
6 (\$12.00) shall be deposited in the motor vehicle suspense
7 fund for distribution pursuant to Section 66-6-23 NMSA 1978,
8 and an amount determined by rule of the department not to
9 exceed forty dollars (\$40.00) for each off-highway motor
10 vehicle, which shall be distributed to the fund; or

11 (2) seventeen dollars (\$17.00) for a
12 ninety-day permit, of which five dollars (\$5.00) is
13 appropriated to the division to defray the cost of making and
14 issuing registration certificates, validating stickers and
15 nonresident permits for off-highway motor vehicles. The
16 remaining twelve dollars (\$12.00) shall be deposited in the
17 motor vehicle suspense fund for distribution pursuant to
18 Section 66-6-23 NMSA 1978;

19 D. except as provided in Paragraph (2) of
20 Subsection C of this section, each nonresident permit shall
21 be:

22 (1) good for two years after the month in
23 which the off-highway motor vehicle nonresident permit is
24 issued; and

25 (2) renewed every two years;

1 E. the off-highway user fee for each off-highway
2 motor vehicle shall be paid upon obtaining and renewing each
3 registration certificate or nonresident permit;

4 F. duplicate registration certificates and
5 nonresident permits shall be issued upon payment of a
6 seven-dollar-fifty-cent (\$7.50) fee, which is appropriated to
7 the division to defray the cost of making and issuing
8 duplicate registration certificates and nonresident permits
9 for off-highway motor vehicles;

10 G. a fee of one dollar (\$1.00) on registration
11 certificates and nonresident permits shall be collected for
12 the litter control and beautification fund; and

13 H. the department, in conjunction with other
14 agencies and departments, may establish and maintain sites to
15 collect fees and issue permits for residents and
16 nonresidents."

17 Section 3. Section 66-3-1010.1 NMSA 1978 (being Laws
18 2005, Chapter 325, Section 9) is amended to read:

19 "66-3-1010.1. OFF-HIGHWAY MOTOR VEHICLE SAFETY TRAINING
20 ORGANIZATION--APPROVAL AND CERTIFICATION.--

21 A. An off-highway motor vehicle safety training
22 organization that offers and conducts an off-highway motor
23 vehicle safety training course shall be approved and
24 certified by the department. Applicants for approval and
25 certification shall submit an application to the department

1 for consideration.

2 B. The department may approve and certify an
3 organization that meets the minimum criteria established by
4 the department for an off-highway motor vehicle safety
5 training organization. Each approval and certification shall
6 be renewed annually."

7 Section 4. Section 66-3-1010.2 NMSA 1978 (being Laws
8 2005, Chapter 325, Section 10) is amended to read:

9 "66-3-1010.2. OFF-HIGHWAY MOTOR VEHICLE SAFETY PERMIT--
10 REQUIREMENTS--ISSUANCE.--A person under the age of eighteen
11 shall be required to successfully complete an off-highway
12 motor vehicle safety training course for which the person
13 shall have parental permission. The course shall be
14 conducted by an off-highway motor vehicle safety training
15 organization that is approved and certified by the
16 department. Upon successful completion of the course, the
17 person shall receive an off-highway motor vehicle safety
18 permit issued by the organization."

19 Section 5. Section 66-3-1010.3 NMSA 1978 (being Laws
20 2005, Chapter 325, Section 11) is amended to read:

21 "66-3-1010.3. OPERATION AND EQUIPMENT--SAFETY
22 REQUIREMENTS.--

23 A. A person shall not operate an off-highway motor
24 vehicle:

25 (1) in a careless, reckless or negligent

1 manner so as to endanger the person or property of another;

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

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

8 (4) in pursuit of or harassment of livestock
9 in any manner that negatively affects the livestock's
10 condition;

11 (5) on or within an earthen tank or other
12 structure meant to water livestock or wildlife, unless the
13 off-highway motor vehicle is on a route designated by the
14 landowner or land management agency as an off-highway motor
15 vehicle route;

16 (6) in a manner that has a direct negative
17 effect on or interferes with persons engaged in agricultural
18 practices;

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

24 (8) unless in possession of the person's
25 registration certificate or nonresident permit;

1 (9) unless the vehicle is equipped with a
2 spark arrester approved by the United States forest service;
3 provided that a snowmobile is exempt from this provision;

4 (10) when conditions such as darkness limit
5 visibility to five hundred feet or less, unless the vehicle
6 is equipped with:

7 (a) one or more headlights of
8 sufficient candlepower to light objects at a distance of one
9 hundred fifty feet; and

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

14 (11) that produces noise that exceeds
15 ninety-six decibels when measured using test procedures
16 established by the society of automotive engineers pursuant
17 to standard J-1287; or

18 (12) where off-highway motor vehicle traffic
19 is prohibited under local, state or federal rules or
20 regulations.

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

23 (1) or ride upon an off-highway motor
24 vehicle without wearing eye protection and a safety helmet
25 that is securely fastened in a normal manner as headgear and

1 that meets the standards established by the department;

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

4 (3) while carrying a passenger.

5 C. A person under the age of eighteen but at least
6 ten years of age shall not operate an off-highway motor
7 vehicle unless the person is visually supervised at all times
8 by a parent, legal guardian or a person over the age of
9 eighteen who has a valid driver's license. This subsection
10 shall not apply to a person who is at least:

11 (1) thirteen years of age and has a valid
12 motorcycle license and off-highway motor vehicle safety
13 permit; or

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

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

19 (1) the all-terrain vehicle or recreational
20 off-highway vehicle is an age-appropriate size-fit vehicle
21 established by rule of the department; and

22 (2) the person is visually supervised at all
23 times by a parent, legal guardian or instructor of a safety
24 training course certified by the department.

25 E. An off-highway motor vehicle shall not be sold

1 or offered for sale if the vehicle produces noise that
2 exceeds ninety-six decibels when measured using test
3 procedures established by the society of automotive engineers
4 pursuant to standard J-1287. This subsection shall not apply
5 to an off-highway motor vehicle that is sold or offered for
6 sale only for organized competition."

7 Section 6. Section 66-3-1010.5 NMSA 1978 (being Laws
8 2005, Chapter 325, Section 13) is amended to read:

9 "66-3-1010.5. REQUIREMENTS OF DEALERS TO DISTRIBUTE
10 SAFETY INFORMATION.--A dealer selling off-highway motor
11 vehicles shall distribute information provided by the
12 department to off-highway motor vehicle purchasers on state
13 laws, environmental and cultural considerations, customs,
14 safety requirements, training programs, operating
15 characteristics and potential risk of injury associated with
16 off-highway motor vehicles."

17 Section 7. Section 66-3-1011 NMSA 1978 (being Laws
18 1975, Chapter 240, Section 11, as amended) is amended to
19 read:

20 "66-3-1011. OPERATION ON STREETS OR HIGHWAYS--
21 PROHIBITED AREAS.--

22 A. A person shall not operate an off-highway motor
23 vehicle on any:

24 (1) limited access highway or freeway at any
25 time; or

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

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

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

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

22 E. Unless authorized, a person shall not:

23 (1) remove, deface or destroy any official
24 sign installed by a state, federal, local or private land
25 management agency; or

1 (2) install any off-highway motor
2 vehicle-related sign."

3 Section 8. Section 66-3-1015 NMSA 1978 (being Laws
4 1978, Chapter 35, Section 211, as amended) is amended to
5 read:

6 "66-3-1015. ENFORCEMENT.--A wildlife conservation
7 officer, state police officer or peace officer of this state
8 or any of its political subdivisions, upon displaying the
9 officer's badge of office, has the authority to enforce the
10 provisions of the Off-Highway Motor Vehicle Act and may:

11 A. require an off-highway motor vehicle operator
12 to produce:

13 (1) the registration certificate or
14 nonresident permit;

15 (2) proof of successful completion of an
16 off-highway motor vehicle training course conducted by an
17 off-highway safety training organization approved and
18 certified by the department, when required by Section
19 66-3-1010.2 NMSA 1978; and

20 (3) the personal identification of the
21 operator; and

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

24 Section 9. Section 66-3-1017 NMSA 1978 (being Laws
25 2005, Chapter 325, Section 19) is amended to read:

1 "66-3-1017. OFF-HIGHWAY MOTOR VEHICLE ADVISORY BOARD
2 CREATED--MEMBERS--COMPENSATION.--

3 A. The "off-highway motor vehicle advisory board"
4 is created to advise the department on matters related to
5 administration of the Off-Highway Motor Vehicle Act. The
6 board shall consist of the following seven members appointed
7 by the governor:

8 (1) one landowner living near a national
9 forest or bureau of land management property that is used
10 extensively for recreational off-highway vehicle activity;

11 (2) one producer or one grazing permittee on
12 public lands from the farming or livestock industry;

13 (3) one person from the off-highway motor
14 vehicle industry;

15 (4) one off-highway motor vehicle user;

16 (5) one hunter or angler;

17 (6) one quiet recreationalist, such as a
18 hiker, backpacker, birdwatcher, equestrian, mountain biker,
19 rock climber or archaeological enthusiast; and

20 (7) one member with expertise in injury
21 prevention or treatment.

22 B. The board shall select a chair and a vice
23 chair.

24 C. The board shall meet at the call of the chair
25 but not less than twice annually.

1 D. Members shall be appointed to staggered terms
2 of two years each; provided that no more than four terms
3 expire in any one year. The board members shall select by
4 lot four members to serve initial terms of three years each.
5 A vacancy shall be filled by appointment of the governor for
6 the remainder of the unexpired term. Members of the board
7 shall be entitled to reimbursement pursuant to the Per Diem
8 and Mileage Act."

9 Section 10. Section 66-3-1018 NMSA 1978 (being Laws
10 2005, Chapter 325, Section 20) is amended to read:

11 "66-3-1018. DEPARTMENT--POWERS AND DUTIES.--

12 A. The department shall cooperate with appropriate
13 federal agencies, public and private organizations and
14 corporations and local government units to implement the
15 provisions of the Off-Highway Motor Vehicle Act.

16 B. The department:

17 (1) shall accept and evaluate all
18 applications for approval and certification of an off-highway
19 motor vehicle safety training organization and approve and
20 certify those that meet the minimum criteria;

21 (2) shall notify the division of the
22 off-highway motor vehicle safety training organizations that
23 have received approval and certification;

24 (3) shall establish and revise as
25 appropriate minimum criteria to approve and certify an

1 off-highway motor vehicle safety training organization. The
2 criteria shall include requirements for curriculum and
3 materials for:

4 (a) training instructors to teach
5 off-highway motor vehicle safety;

6 (b) training the public about
7 off-highway motor vehicle safety and age-appropriate size-fit
8 use of off-highway motor vehicles; and

9 (c) teaching responsible use of
10 off-highway motor vehicles with respect to environmental
11 considerations, private property restrictions, agricultural
12 and rural lifestyles and cultural considerations, off-highway
13 motor vehicle operating laws and prohibitions against
14 operating off-highway motor vehicles under the influence of
15 alcohol or drugs;

16 (4) shall implement a state off-highway
17 motor vehicle safety training and certification program;

18 (5) shall adopt and promulgate rules
19 regarding the:

20 (a) age-appropriate size-fit use of
21 all-terrain vehicles or recreational off-highway motor
22 vehicles;

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

25 (c) standards covering the

1 specifications of eye protection and safety helmets;

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

10 (a) wildlife and the environment;

11 (b) adjacent state, county, federal,
12 tribal and private property;

13 (c) other recreational and
14 nonrecreational uses on the same or adjacent lands; and

15 (d) archaeological, cultural and
16 historic resources and customs;

17 (7) shall recommend restoration or, if
18 deemed necessary, closure of off-highway motor vehicle tracks
19 or trails to the state, county, tribal or local governing
20 body or private entity that owns or administers the land upon
21 which the tracks or trails are located if they pose
22 significant or irreversible environmental damage, a danger to
23 users or a public nuisance as determined by the department.

24 The department shall consider the construction of alternative
25 tracks or trails as part of the closure process;

1 (8) shall accept and evaluate all
2 applications for grants from the fund for implementation of
3 the provisions of the Off-Highway Motor Vehicle Act. The
4 department shall establish criteria for grants from the fund
5 that include consideration of the:

6 (a) applicant's financial and legal
7 status;

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

12 (c) operating budget for the park,
13 trail, facility or staging area;

14 (d) availability of matching funds; and

15 (e) public participation and input;

16 (9) shall certify tour guides;

17 (10) shall prepare a management plan that
18 accomplishes the purposes of the Off-Highway Motor Vehicle
19 Act in a cost-effective manner and relies on existing
20 agencies' available funding with specific qualifications for
21 program implementation, which shall include joint powers
22 agreements with the department of public safety and other law
23 enforcement agencies for law enforcement and other agencies
24 as appropriate for carrying out the provisions of the
25 Off-Highway Motor Vehicle Act;

1 (11) shall develop and implement an overall
2 enforcement strategy for the entire state that includes:

3 (a) cooperation with federal, state and
4 local law enforcement agencies to provide training and
5 educational materials related to off-highway motor vehicle
6 use;

7 (b) coordination efforts related to
8 off-highway motor vehicle use with participating law
9 enforcement agencies;

10 (c) developing strategies for
11 addressing and minimizing impacts on farmers and ranchers in
12 rural agricultural areas, on hunters and anglers and on
13 non-motorized recreationalists by off-highway motor vehicle
14 use; and

15 (d) using law enforcement DUI-type
16 "blitzes" in heavily used areas, staging areas or other
17 problem areas;

18 (12) shall develop and implement an overall
19 educational strategy for the entire state that:

20 (a) incorporates materials developed by
21 the United States department of agriculture forest service
22 program that teaches trail etiquette and respect for natural
23 resources;

24 (b) includes the development of New
25 Mexico-specific written, video or other educational materials

1 and educational programs that address the impact of
2 off-highway motor vehicles on traditional living culture,
3 agricultural land and private property; and

4 (c) includes the development and
5 maintenance of a web site containing rules and regulations,
6 safety information and educational material relating to
7 resource protection and the impact of off-highway motor
8 vehicles on traditional living culture, agricultural land and
9 historical sites;

10 (13) shall develop an overall strategy for
11 phased implementation of an information system to track
12 information, such as use patterns, injury data, ecological
13 data, natural resource data and data relating to the impact
14 of off-highway motor vehicles on traditional living culture
15 and on agricultural land. The strategy shall include:

16 (a) identification and implementation
17 of appropriate data collecting mechanisms, such as a
18 toll-free number or a web-based data collecting process; and

19 (b) development of an information
20 system program capable of interfacing with existing
21 government and private databases or other information
22 systems;

23 (14) may implement noise enforcement by the
24 testing of sound levels of off-highway motor vehicles at the
25 time of registration and equip law enforcement officers with

1 sound meters for field testing of sound levels;

2 (15) may contract with government or
3 quasi-government agencies to conduct analysis of the impact
4 of off-highway motor vehicle use on forests, rangeland and
5 other natural resources and use the data obtained to make
6 recommendations to the appropriate land management agency;

7 (16) shall review the definition of
8 "off-highway motor vehicle" as needed to include new classes
9 of off-highway motor vehicles as they become available in the
10 marketplace;

11 (17) shall, in cooperation with the
12 division, determine the size, composition, attachment
13 mechanism, letter or number height and other properties of
14 off-highway motor vehicle identification. This
15 identification may be a traditional license plate, stick-on
16 lettering as used for boat identification or another form of
17 identification that is visible and readable;

18 (18) shall present its semiannual plans and
19 progress to the advisory board for the board's input and
20 response; and

21 (19) may collaborate with the appropriate
22 land agencies to develop criteria for signage relating to
23 off-road motor vehicle use, including the size, visibility,
24 graphics and frequency of signage."

25 Section 11. Section 66-3-1019 NMSA 1978 (being Laws

1 2005, Chapter 325, Section 21) is amended to read:

2 "66-3-1019. FUND CREATED--DISPOSITION.--

3 A. The "trail safety fund" is created in the state
4 treasury. The fund is a nonreverting fund and consists of
5 revenues from off-highway motor vehicle registration and user
6 fees, grants and donations. No more than thirty percent of
7 the fund may be used for administrative overhead, and at
8 least fifty percent shall be devoted to law enforcement and
9 education. Income from investment of the fund shall be
10 credited to the fund. The fund shall be administered by the
11 department, and money in the fund is appropriated to the
12 department to carry out the purposes of the Off-Highway Motor
13 Vehicle Act. Expenditures from the fund shall be by warrant
14 of the secretary of finance and administration upon vouchers
15 signed by the director of the department of game and fish or
16 the director's authorized representative.

17 B. The department shall make annual distributions
18 from the fund for the following purposes:

- 19 (1) administrative;
20 (2) law enforcement;
21 (3) education and training;
22 (4) information system development and
23 management;
24 (5) resource monitoring and protection and
25 trail building, maintenance and restoration; and

1 (6) implementation of other provisions of
2 the Off-Highway Motor Vehicle Act."

3 Section 12. Section 66-3-1020 NMSA 1978 (being Laws
4 2005, Chapter 325, Section 22) is amended to read:

5 "66-3-1020. PENALTIES.--

6 A. A person who violates the provisions of the
7 Off-Highway Motor Vehicle Act is guilty of a penalty
8 assessment misdemeanor. A parent, guardian or custodian who
9 causes or knowingly permits a child under the age of eighteen
10 years to operate an off-highway motor vehicle in violation of
11 the provisions of the Off-Highway Motor Vehicle Act is in
12 violation of that act and subject to the same penalty as the
13 child operating the off-highway motor vehicle in violation of
14 that act.

15 B. As used in the Off-Highway Motor Vehicle Act,
16 "penalty assessment misdemeanor" means violation of any
17 provision of the Off-Highway Motor Vehicle Act for which a
18 violator may be subject to the following:

CLASS 1 VIOLATIONS	SECTION	PENALTY
	VIOLATED	ASSESSMENT
failure to possess a registration certificate or nonresident permit	66-3-1010.3	\$10.00
violations involving		

1	headlights or taillights	66-3-1010.3	10.00
2	failure to possess an off-		
3	highway motor vehicle		
4	safety permit	66-3-1010.3	10.00
5	selling a vehicle that produces		
6	noise in excess of ninety-six		
7	decibels	66-3-1010.3	10.00
8	any violation of the Off-Highway		
9	Motor Vehicle Act not otherwise		
10	specifically defined elsewhere		
11	in this section	66-3-1010.3	10.00
12	CLASS 2 VIOLATIONS	SECTION	PENALTY
13		VIOLATED	ASSESSMENT
14	failure to complete a required		
15	off-highway motor vehicle		
16	safety training course	66-3-1010.2	\$50.00
17	operating a vehicle in excess		
18	of ten miles per hour within		
19	two hundred feet of a business,		
20	animal shelter, horseback		
21	rider, bicyclist, pedestrian,		
22	livestock or occupied		
23	dwelling	66-3-1010.3	50.00
24	a person under the age of		
25	eighteen but at least		

1	fifteen years of age who		
2	operates an off-highway		
3	motor vehicle in violation		
4	of the supervision requirements		
5	of the Off-Highway Motor		
6	Vehicle Act	66-3-1010.3	50.00
7	operating an off-highway motor		
8	vehicle that produces noise		
9	that exceeds ninety-six		
10	decibels	66-3-1010.3	50.00
11	unauthorized installation,		
12	removal, destruction or		
13	defacing of a motor		
14	vehicle sign	66-3-1011	50.00
15	CLASS 3 VIOLATIONS	SECTION	PENALTY
16		VIOLATED	ASSESSMENT
17	operating a vehicle that is		
18	not equipped with an approved		
19	spark arrester	66-3-1010.3	\$100.00
20	operating an off-highway		
21	motor vehicle while in		
22	pursuit of and with		
23	intent to hunt or take		
24	a species of animal or bird		
25	protected by law, unless		

1	otherwise authorized by		
2	the state game commission	66-3-1010.3	100.00
3	operating an off-highway		
4	motor vehicle in pursuit of		
5	or harassment of livestock		
6	in any manner that negatively		
7	affects the livestock's		
8	condition	66-3-1010.3	100.00
9	operating an off-highway		
10	motor vehicle on or within		
11	an earthen tank or other		
12	structure meant to water		
13	livestock or wildlife	66-3-1010.3	100.00
14	operating a motor vehicle		
15	in a manner that has a		
16	direct negative effect on		
17	or interferes with persons		
18	engaged in agricultural		
19	practices	66-3-1010.3	100.00
20	a person under the age of		
21	eighteen operating an		
22	off-highway motor vehicle		
23	without wearing eye		
24	protection and a safety		
25	helmet	66-3-1010.3	100.00

1 a person under the age of
2 eighteen operating an
3 off-highway motor vehicle
4 while carrying a passenger 66-3-1010.3 100.00

5 a person under the age of
6 fifteen but at least ten
7 years of age who operates
8 an off-highway motor vehicle
9 in violation of the supervision
10 requirements of the Off-Highway
11 Motor Vehicle Act 66-3-1010.3 100.00

12 a person under the age of
13 ten operating an all-terrain
14 vehicle or recreational off-highway
15 motor vehicle that is not an
16 age-appropriate size-fit or
17 who operates an off-highway
18 motor vehicle in violation
19 of the supervision requirements
20 of this section 66-3-1010.3 100.00

21 CLASS 4 VIOLATIONS SECTION PENALTY
22 VIOLATED ASSESSMENT

23
24 operating an off-highway
25 motor vehicle in a

1	careless, reckless or		
2	negligent manner so as		
3	to endanger the person		
4	or property of another	66-3-1010.3	\$200.00
5	operating an off-highway		
6	motor vehicle on any road		
7	or area closed to off-		
8	highway motor vehicle		
9	traffic under local, state		
10	or federal regulations	66-3-1010.3	200.00
11	operating an off-highway		
12	motor vehicle on a		
13	limited-access highway		
14	or freeway.	66-3-1011	200.00.

15 C. The penalty for second, third and subsequent
16 violations within a three-year time period shall be increased
17 as follows:

18 (1) a second violation in a class 1 penalty
19 category involving failure to possess a registration
20 certificate or nonresident permit shall be increased to a
21 class 2 penalty category;

22 (2) any class 2 or class 3 violation for a
23 second or greater infraction within a three-year period shall
24 be increased to the next-highest penalty assessment category;
25 and

1 (3) each subsequent violation in a class 4
2 penalty category will result in an additional penalty of two
3 hundred dollars (\$200).

4 D. Multiple violations for the same incident shall
5 be treated as a single event and shall not result in
6 graduated penalties.

7 E. The term "penalty assessment misdemeanor" does
8 not include a violation that has caused or contributed to the
9 cause of an accident resulting in injury or death to a
10 person.

11 F. When an alleged violator of a penalty
12 assessment misdemeanor elects to accept a notice to appear in
13 lieu of a notice of penalty assessment, a fine imposed upon
14 later conviction shall not exceed the penalty assessment
15 established for the particular penalty assessment
16 misdemeanor, and probation imposed upon a suspended or
17 deferred sentence shall not exceed ninety days."

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

20 "LEGISLATIVE OVERSIGHT.--In addition to reporting to the
21 legislative finance committee pursuant to the performance
22 review and budgeting process, the department shall report to
23 the appropriate interim committee appointed by the New Mexico
24 legislative council on the status of implementation of the
25 Off-Highway Motor Vehicle Act. The department shall report

1 to the appropriate committee of the legislature on the status
2 of existing and proposed rules and relevant enforcement
3 issues."

4 Section 14. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
5 PROPERTY, CONTRACTS, RECORDS AND APPROPRIATIONS.--On
6 July 1, 2009, all records, personnel, appropriations, money,
7 equipment, supplies and other property of the tourism
8 department pursuant to administration and enforcement of the
9 Off-Highway Motor Vehicle Act shall be transferred to the
10 department of game and fish and all contracts pursuant to the
11 Off-Highway Motor Vehicle Act shall be binding and effective
12 on the department of game and fish.

13 Section 15. REPEAL.--Sections 66-3-1004.1 and 66-3-1016
14 NMSA 1978 (being Laws 2005, Chapter 325, Section 4 and Laws
15 1978, Chapter 35, Section 212, as amended) are repealed.

16 Section 16. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect
18 immediately.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25