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HOUSE BILL 445

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Zachary J. Cook

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTIONS OF THE OFF-HIGHWAY MOTOR VEHICLE ACT TO PROVIDE FOR OPERATION OF OFF-HIGHWAY MOTOR VEHICLES ON PAVED STREETS OR HIGHWAYS UNDER SPECIFIED CONDITIONS; PROHIBITING COUNTIES OR MUNICIPALITIES FROM IMPOSING FEES FOR OFF-HIGHWAY VEHICLE USE OF PUBLIC LAND; PROVIDING A PENALTY.

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

**SECTION 1.** Section 66-3-1011 NMSA 1978 (being Laws 1975, Chapter 240, Section 11, as amended) is amended to read:

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

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

(1) limited access highway or freeway at any

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1 time; or

2 (2) [~~any~~] paved street or highway, except as  
3 provided in Subsection B of this section.

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

11 No off-highway vehicle may be operated on the public streets,  
12 roads or highways of this state, except in the following cases:

13 (1) when a street, road or highway is  
14 designated open by the state or any agency or political  
15 subdivision;

16 (2) during special off-highway vehicle events  
17 lawfully conducted pursuant to the authority granted to local  
18 political subdivisions;

19 (3) when political subdivisions have  
20 authorized, by ordinance or resolution, the establishment of  
21 off-highway vehicle routes to permit the operation of off-  
22 highway vehicles on streets or roads; or

23 (4) when using an off-highway vehicle for  
24 agricultural purposes.

25 C. Operation of an off-highway vehicle in

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1 accordance with this section shall not constitute operation of  
2 a motor vehicle on a road, street or highway of this state as  
3 described by Chapter 66 NMSA 1978. If a state political  
4 subdivision designates roads, streets or highways as open to  
5 off-highway vehicle travel, on-road off-highway vehicle  
6 operation shall comply with the following regulations:

7 (1) the off-highway vehicle shall have  
8 liability insurance;

9 (2) off-highway vehicle operation on a road,  
10 street or highway shall comply with that route's posted signs  
11 and designations;

12 (3) no off-highway vehicle may be operated on  
13 roads, streets or highways after dusk and before dawn unless  
14 the vehicle has an illuminated headlight and taillight;

15 (4) no one under the age of sixteen shall  
16 operate an off-highway vehicle on roads, streets or highways at  
17 any time, regardless of vehicle design or manufacture; and

18 (5) no one under the age of eighteen shall  
19 transport a passenger on any off-highway vehicle on any road,  
20 street or highway at any time, unless the person is under the  
21 direct supervision of a licensed adult and within direct visual  
22 contact of the adult supervisor and the off-highway vehicle is  
23 manufactured for a passenger.

24 D. Every person operating an off-highway vehicle on  
25 a road, street or highway shall be subject to all the duties

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1 applicable to the driver of an on-road, licensed and registered  
2 vehicle in accordance with all applicable motor vehicle laws  
3 and regulations.

4 E. No county or municipality shall impose a fee for  
5 the use of public land under the jurisdiction of any agency of  
6 the state or for the use of or access to land owned by the  
7 county or municipality nor shall it require an off-highway  
8 vehicle to be licensed or registered in that political  
9 subdivision.

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

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

21 ~~[E.]~~ H. Unless authorized, a person shall not:  
22 (1) remove, deface or destroy any official  
23 sign installed by a state, federal, local or private land  
24 management agency; or

25 (2) install any off-highway motor vehicle-

1 related sign."

2 SECTION 2. Section 66-3-1020 NMSA 1978 (being Laws 2005,  
3 Chapter 325, Section 22, as amended) is amended to read:

4 "66-3-1020. PENALTIES.--

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

14 B. As used in the Off-Highway Motor Vehicle Act,  
15 "penalty assessment misdemeanor" means violation of any  
16 provision of the Off-Highway Motor Vehicle Act for which a  
17 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		
headlights or taillights	66-3-1010.3	10.00
failure to possess an off-		

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

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

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

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1           eighteen operating an  
2           off-highway motor vehicle  
3           while carrying a passenger           66-3-1010.3           100.00  
4    a person under the age of  
5           fifteen but at least ten  
6           years of age who operates  
7           an off-highway motor vehicle  
8           in violation of the supervision  
9           requirements of the Off-Highway  
10          Motor Vehicle Act                   66-3-1010.3           100.00  
11   a person under the age of  
12          ten operating an all-terrain  
13          vehicle or recreational off-highway  
14          motor vehicle that is not an  
15          age-appropriate size-fit or  
16          who operates an off-highway  
17          motor vehicle in violation  
18          of the supervision requirements  
19          of this section                   66-3-1010.3           100.00  
20   CLASS 4 VIOLATIONS                   SECTION               PENALTY  
21   VIOLATED             ASSESSMENT  
22   operating an off-highway  
23          motor vehicle in a  
24          careless, reckless or  
25          negligent manner so as

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

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

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

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

24  
25 (3) each subsequent violation in a class 4

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1 penalty category will result in an additional penalty of two  
2 hundred dollars (\$200).

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

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

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