

Off-Highway Motor Vehicle Act with SB51 amendments as enacted 1 July 2017

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66-3-1001. Short title. (1985)

[Sections 66-3-1001](#) through [66-3-1016](#) [and [66-3-1017](#) through [66-3-1020](#)] NMSA 1978 may be cited as the "Off-Highway Motor Vehicle Act".

History: 1953 Comp., § [64-3-1001](#), enacted by Laws 1978, ch. [35](#), § [197](#); 1985, ch. [189](#), § [1](#).

66-3-1001.1. Definitions. (2009)

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 unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;
 - (2) "off-highway motorcycle", which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control;
 - (3) "snowmobile", which means a motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires;
 - (4) "recreational off-highway vehicle", which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
 - (a) a steering wheel for steering control;
 - (b) non-straddle seating;
 - (c) maximum speed capability greater than thirty-five miles per hour;
 - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
 - (e) less than eighty inches in overall width, exclusive of accessories;
 - (f) engine displacement of less than one thousand cubic centimeters; and
 - (g) identification by means of a seventeen-character vehicle identification number; or
 - (5) by rule of the department, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes;
- F. "staging area" means a parking lot, trailhead or other location to or from which an off-highway motor vehicle is transported so that it may be placed into operation or removed from operation; and
- G. "unpaved public roadway" means a dirt graveled street or road that is constructed, signed and maintained for regular passenger-car use by the general public.

History: Laws 2005, ch. [325](#), § [1](#); 2009, ch. [53](#), § [1](#).

66-3-1002. Repealed. (1990)

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66-3-1003. Off-highway motor vehicles; registration. (2005)

Unless exempted from the provisions of the Off-Highway Motor Vehicle Act, a person shall not operate an off-highway motor vehicle unless the off-highway motor vehicle has been registered in accordance with Chapter [66](#), Article [3](#) NMSA 1978. The owner shall affix the validating sticker as provided in Chapter [66](#), Article [3](#) NMSA 1978.

History: 1953 Comp., § [64-3-1003](#), enacted by Laws 1978, ch. [35](#), § [199](#); 1985, ch. [189](#), § [3](#); 1987, ch. [17](#), § [1](#); 2005, ch. [325](#), § [2](#).

66-3-1003.1. Off-highway motor vehicle paved road use vehicle plate. (2017)

- A. The department shall issue a standardized special off-highway motor vehicle paved road use vehicle plate with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient intends to operate an off-highway motor vehicle on paved streets or highways in accordance with the provisions of the Off-Highway Motor Vehicle Act.
- B. For a fee of seven dollars (\$7.00), an off-highway motor vehicle owner who wishes to indicate an intent to operate an off-highway motor vehicle on paved streets or highways in accordance with the provisions of the Off-Highway Motor Vehicle Act may apply for the issuance of a special vehicle plate as provided in Subsection A of this section. No two owners shall be issued identically lettered or numbered vehicle plates.
- C. The revenue from the special off-highway motor vehicle paved road use vehicle plate fee imposed by Subsection B of this section shall be retained by the department and is appropriated to the department for the manufacture and issuance of the vehicle plates.

History: Laws 2017, ch. [70](#), § [2](#).

66-3-1004. Registration certificate and nonresident permit fees; renewal; distribution of fees. (2009)

Fees shall be collected and distributed as follows:

- A. the fees for registering an off-highway motor vehicle are:
 - (1) seventeen dollars (\$17.00) for each off-highway motor vehicle, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- B. upon a change of ownership, the new owner shall make application and pay registration fees of:
 - (1) seventeen dollars (\$17.00) in the same manner as provided by rules of the division for original registration; and
 - (2) an amount determined by rule of the department not to exceed forty dollars (\$40.00) for an off-highway user fee for each off-highway motor vehicle, which shall be distributed to the fund;
- C. except for an off-highway vehicle that is currently in compliance with another state's off-highway vehicle registration, user fee or similar law or rule demonstrated by certificate of registration, permit or similar evidence, the fees for a nonresident permit of an off-highway motor vehicle are either:

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- (1) seventeen dollars (\$17.00), of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978, and an amount determined by rule of the department not to exceed forty dollars (\$40.00) for each off-highway motor vehicle, which shall be distributed to the fund; or
 - (2) seventeen dollars (\$17.00) for a ninety-day permit, of which five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978;
- D. except as provided in Paragraph (2) of Subsection C of this section, each nonresident permit shall be:
- (1) good for two years after the month in which the off-highway motor vehicle nonresident permit is issued; and
 - (2) renewed every two years;
- E. the off-highway user fee for each off-highway motor vehicle shall be paid upon obtaining and renewing each registration certificate or nonresident permit;
- F. duplicate registration certificates and nonresident permits shall be issued upon payment of a seven-dollar-fifty-cent (\$7.50) fee, which is appropriated to the division to defray the cost of making and issuing duplicate registration certificates and nonresident permits for off-highway motor vehicles;
- G. a fee of one dollar (\$1.00) on registration certificates and nonresident permits shall be collected for the litter control and beautification fund; and
- H. the department, in conjunction with other agencies and departments, may establish and maintain sites to collect fees and issue permits for residents and nonresidents.

History: 1953 Comp., § [64-3-1004](#), enacted by Laws 1978, ch. [35](#), § [200](#); 1985, ch. [189](#), § [4](#); 1987, ch. [17](#), § [2](#); 2005, ch. [325](#), § [3](#); 2007, ch. [319](#), § [36](#); 2009, ch. [53](#), § [2](#).

66-3-1004.1. Repealed. (2009)

66-3-1005. Exemptions. (2005)

The provisions of the Off-Highway Motor Vehicle Act shall not apply to persons who operate off-highway motor vehicles on privately held lands or to off-highway motor vehicles that are:

- A. owned and operated by an agency or department of the United States, this state or a political subdivision of this state;
- B. operated exclusively on lands privately held; provided that the appropriate tax or fee has been paid in lieu of the motor vehicle registration fees;
- C. owned by nonresidents and used in this state only for organized and endorsed competition purposes; provided that the use is not on a rental basis;
- D. brought into this state by manufacturers or distributors for wholesale purposes and not used for demonstrations;
- E. in the possession of dealers as stock-in-trade and not used for demonstration purposes;

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- F. farm tractors, as defined in Section [66-1-4.6](#) NMSA 1978, special mobile equipment, as defined in Section [66-1-4.16](#) NMSA 1978, or off-highway motor vehicles being used for agricultural operations; or
- G. used exclusively on private closed courses, whether owned by the rider or another person; provided that, if applicable, the excise tax and registration fees have been paid and are current.

History: 1953 Comp., § [64-3-1005](#), enacted by Laws 1978, ch. [35](#), § [201](#); 1985, ch. [189](#), § [5](#); 2005, ch. [325](#), § [5](#).

66-3-1006. Grounds for refusing registration or certificate of title. (2005)

The division may refuse registration or issuance of a certificate of title or any transfer of a registration certificate if:

- A. the division has reasonable grounds to believe that the application contains any false or fraudulent statement or that the applicant has failed to furnish the required information or reasonable additional information requested by the division or that the applicant is not entitled to the issuance of a certificate of title or registration certificate of the off-highway motor vehicle under the Motor Vehicle Code [[66-1-1](#) NMSA 1978] or laws of this state;
- B. the division has reasonable grounds to believe that the off-highway motor vehicle is stolen or embezzled or that the granting of a registration certificate or the issuance of a certificate of title would constitute a fraud against the rightful owner or other person having a valid lien upon the off-highway motor vehicle;
- C. the division has reasonable grounds to believe that a nonresident applicant is not entitled to registration issuance under the laws of the nonresident applicant's state of residence;
- D. the required fees have not been paid; or
- E. the motor vehicle excise tax has not been paid pursuant to Chapter [7](#), Article [14](#) NMSA 1978.

History: 1953 Comp., § [64-3-1006](#), enacted by Laws 1978, ch. [35](#), § [202](#); 1985, ch. [189](#), § [6](#); 2005, ch. [325](#), § [6](#).

66-3-1007. Evidentiary value of certificate of title. (2005)

A certificate of title issued by the division for an off-highway motor vehicle shall be received as prima facie evidence of the ownership of the off-highway motor vehicle named in the certificate and as prima facie evidence of all liens and encumbrances against the off-highway motor vehicle appearing on the certificate.

History: 1953 Comp., § [64-3-1007](#), enacted by Laws 1978, ch. [35](#), § [203](#); 1985, ch. [189](#), § [7](#); 2005, ch. [325](#), § [7](#).

66-3-1008. Validating stickers to be furnished by division. (2005)

The division, upon registering an off-highway motor vehicle, shall issue to the owner validating stickers as provided in Section [66-3-14](#) NMSA 1978.

History: 1953 Comp., § [64-3-1008](#), enacted by Laws 1978, ch. [35](#), § [204](#); 1985, ch. [189](#), § [8](#); 2005, ch. [325](#), § [8](#).

66-3-1009. Repealed. (1991)

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66-3-1010. Licensing. (1985)

Drivers of off-highway motor vehicles are not required to be licensed.

History: 1953 Comp., § [64-3-1010](#), enacted by Laws 1978, ch. [35](#), § [206](#); 1985, ch. [189](#), § [10](#).

66-3-1010.1. Off-highway motor vehicle safety training organization; approval and certification. (2009)

- A. An off-highway motor vehicle safety training organization that offers and conducts an off-highway motor vehicle safety training course shall be approved and certified by the department. Applicants for approval and certification shall submit an application to the department for consideration.
- B. The department may approve and certify an organization that meets the minimum criteria established by the department for an off-highway motor vehicle safety training organization. Each approval and certification shall be renewed annually.

History: Laws 2005, ch. [325](#), § [9](#); 2009, ch. [53](#), § [3](#).

66-3-1010.2. Off-highway motor vehicle safety permit; requirements; issuance. (2009)

A person under the age of eighteen shall be required to successfully complete an off-highway motor vehicle safety training course for which the person shall have parental permission. The course shall be conducted by an off-highway motor vehicle safety training organization that is approved and certified by the department. Upon successful completion of the course, the person shall receive an off-highway motor vehicle safety permit issued by the organization.

History: Laws 2005, ch. [325](#), § [10](#); Laws 2009, ch. [53](#), § [4](#).

66-3-1010.3. Operation and equipment; safety requirements. (2017)

- A. A person shall not operate an off-highway motor vehicle:
 - (1) in a careless, reckless or negligent manner so as to endanger the person or property of another;
 - (2) while under the influence of intoxicating liquor or drugs as provided by Section 66-8-102 NMSA 1978;
 - (3) while in pursuit of and with intent to hunt or take a species of animal or bird protected by law unless otherwise authorized by the state game commission;
 - (4) in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition;
 - (5) on or within an earthen tank or other structure meant to water livestock or wildlife, unless the off-highway motor vehicle is on a route designated by the landowner or land management agency as an off-highway motor vehicle route;
 - (6) in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices;
 - (7) in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track or a public roadway;
 - (8) unless in possession of the person's registration certificate or nonresident permit;

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- (9) unless the vehicle is equipped with a spark arrester approved by the United States forest service; provided that a snowmobile is exempt from this provision;
 - (10) when conditions such as darkness limit visibility to five hundred feet or less, unless the vehicle is equipped with:
 - (a) one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet; and
 - (b) at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet under normal atmospheric conditions;
 - (11) that produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287; or
 - (12) where off-highway motor vehicle traffic is prohibited under local, state or federal rules or regulations.
- B. A person under the age of eighteen shall not operate an off-highway motor vehicle:
- (1) or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that is securely fastened in a normal manner as headgear and that meets the standards established by the department;
 - (2) without an off-highway motor vehicle safety permit; or
 - (3) while carrying a passenger.
- C. A person under the age of eighteen but at least ten years of age shall not operate an off-highway motor vehicle unless the person is visually supervised at all times by a parent, legal guardian or a person over the age of eighteen who has a valid driver's license. This subsection shall not apply to a person who is at least:
- (1) thirteen years of age and has a valid motorcycle license and off-highway motor vehicle safety permit; or
 - (2) fifteen years of age and has a valid driver's license, instructional permit or provisional license and off-highway motor vehicle safety permit.
- D. A person under the age of ten shall not operate an off-highway motor vehicle unless:
- (1) the all-terrain vehicle or recreational off-highway vehicle is an age-appropriate size-fit vehicle established by rule of the department; and
 - (2) the person is visually supervised at all times by a parent, legal guardian or instructor of a safety training course certified by the department.
- E. An off-highway motor vehicle shall not be sold or offered for sale if the vehicle produces noise that exceeds ninety-six decibels when measured using test procedures established by the society of automotive engineers pursuant to standard J-1287. This subsection shall not apply to an off-highway motor vehicle that is sold or offered for sale only for organized competition.

History: Laws 2005, ch. [325](#), § [10](#); Laws 2009, ch. [53](#), § [4](#).

66-3-1010.4. Safety helmet; civil liability. (2005)

Failure by a passenger or driver to use a safety helmet while on an off-highway motor vehicle shall not in any instance constitute fault or negligence and shall not limit or apportion damages.

History: Laws 2005, ch. [325](#), § [12](#).

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66-3-1010.5. Requirements of dealers to distribute safety information. (2009)

A dealer selling off-highway motor vehicles shall distribute information provided by the department to off-highway motor vehicle purchasers on state laws, environmental and cultural considerations, customs, safety requirements, training programs, operating characteristics and potential risk of injury associated with off-highway motor vehicles.

History: Laws 2005, ch. [325](#), § [13](#); 2009, ch. [53](#), § [6](#).

66-3-1011. Operation on streets or highways; prohibited areas. (2017)

- A. A person shall not operate an off-highway motor vehicle on any:
- (1) limited access highway or freeway at any time; or
 - (2) paved street or highway except as provided in Subsection B, C, D or E of this section.
- B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.
- C. If authorized by ordinance or resolution of a local authority or the state transportation commission, a recreational off-highway vehicle or an all-terrain vehicle may be operated on a paved street or highway owned and controlled by the authorizing entity if:
- (1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;
 - (2) the vehicle has brakes, mirrors and mufflers;
 - (3) the operator has valid driver's licenses or permits as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-Highway Motor Vehicle Act;
 - (4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act [Sections 66-5-201 through 66-5-239 NMSA 1978];
 - (5) the operator of the vehicle is using eye protection that complies with the Off-Highway Motor Vehicle Act; and
 - (6) if the operator is under eighteen years of age, the operator is wearing a safety helmet that complies with the Off-Highway Motor Vehicle Act.
- D. Except for sections of the Motor Vehicle Code that are in conflict with the licensing and equipment requirements of the Off-Highway Motor Vehicle Act, any operator using an off-highway motor vehicle on a paved street or highway shall be subject to the requirements and penalties for operators of moving and parked vehicles under the Motor Vehicle Code.
- E. By ordinance or resolution, a local authority or state transportation commission may establish separate speed limits and operating restrictions for off-highway vehicles where they are authorized to operate on paved streets or highways pursuant to Subsection C of this section.
- F. A person shall not operate an off-highway motor vehicle on state game commission-owned, -controlled or -administered land except as specifically allowed pursuant to Chapter 17, Article 6 NMSA 1978.
- G. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to Chapter 16, Article 2 NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.

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H. Unless authorized, a person shall not:

- (1) remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or
- (2) install any off-highway motor vehicle-related sign.

History: 1953 Comp., § [64-42-11](#), enacted by Laws 1975, ch. [240](#), § [11](#); recompiled as 1953 Comp., § [64-3-1011](#), by Laws 1978, ch. [35](#), § [207](#); 1985, ch. [189](#), § [11](#); 2005, ch. [325](#), § [14](#); 2009, ch. [53](#), § [7](#); 2016, ch. [91](#), § [1](#); 2017, ch. [70](#), § [4](#).

66-3-1012. Driving of off-highway motor vehicles adjacent to highway. (2005)

- A. Off-highway motor vehicles issued a validating sticker or nonresident permit may be driven adjacent to a highway, yielding to all vehicles entering or exiting the highway, in a manner so as not to interfere with traffic upon the highway, only for the purpose of gaining access to or returning from areas designed for the operation of off-highway motor vehicles by the shortest possible route and when no other route is available or when the area adjacent to a highway is being used as a staging area. Such use must occur between the highway and fencing that separates the highway from private or public lands.
- B. When snow conditions permit, an off-highway motor vehicle may be operated on the right-hand side of a highway, parallel, but not closer than ten feet, to the inside of the plow bank.

History: 1953 Comp., § [64-3-1012](#), enacted by Laws 1978, ch. [35](#), § [208](#); 1985, ch. [189](#), § [12](#); 2005, ch. [325](#), § [15](#).

66-3-1013. Liability; local registration prohibited. (2005)

- A. A landowner shall not be held liable for damages arising out of off-highway motor vehicle-related accidents or injuries occurring on the landowner's lands in which the landowner is not directly involved unless the entry on the lands is subject to payment of a fee.
- B. It is unlawful to operate an off-highway motor vehicle on private lands or roads except with the express permission of the landowner or leaseholder of the lands.

History: 1953 Comp., § [64-42-13](#), enacted by Laws 1975, ch. [240](#), § [13](#); recompiled as 1953 Comp., § [64-3-1013](#), by Laws 1978, ch. [35](#), § [209](#); 1985, ch. [189](#), § [13](#); 2005, ch. [325](#), § [16](#).

66-3-1014. Accidents and accident reports. (2005)

The driver of an off-highway motor vehicle involved in an accident resulting in injuries to or the death of a person or resulting in damage to public or private property to the extent of five hundred dollars (\$500) or more shall immediately notify a law enforcement agency of the accident and the facts relating to the accident. If the driver is under the age of eighteen, the driver's parent or legal guardian shall immediately notify a law enforcement agency of the accident and the facts relating to the accident.

History: 1953 Comp., § [64-42-14](#), enacted by Laws 1975, ch. [240](#), § [14](#); recompiled as 1953 Comp., § [64-3-1014](#), by Laws 1978, ch. [35](#), § [210](#); 1985, ch. [189](#), § [14](#); 2005, ch. [325](#), § [17](#).

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66-3-1015. Enforcement. (2009)

A wildlife conservation officer, state police officer or peace officer of this state or any of its political subdivisions, upon displaying the officer's badge of office, has the authority to enforce the provisions of the Off-Highway Motor Vehicle Act and may:

- A. require an off-highway motor vehicle operator to produce:
 - (1) the registration certificate or nonresident permit;
 - (2) proof of successful completion of an off-highway motor vehicle training course conducted by an off-highway safety training organization approved and certified by the department, when required by Section [66-3-1010.2](#) NMSA 1978; and
 - (3) the personal identification of the operator; and
- B. issue citations for violations of the provisions of the Off-Highway Motor Vehicle Act.

History: 1953 Comp., § [64-3-1015](#), enacted by Laws 1978, ch. [35](#), § [211](#); 1985, ch. [189](#), § [15](#); 2005, ch. [325](#), § [18](#); 2009, ch. [53](#), § [8](#).

66-3-1016. Repealed. (2009)

66-3-1017. Off-highway motor vehicle advisory board created; members; compensation. (2009)

- A. The "off-highway motor vehicle advisory board" is created to advise the department on matters related to administration of the Off-Highway Motor Vehicle Act. The board shall consist of the following seven members appointed by the governor:
 - (1) one landowner living near a national forest or bureau of land management property that is used extensively for recreational off-highway vehicle activity;
 - (2) one producer or one grazing permittee on public lands from the farming or livestock industry;
 - (3) one person from the off-highway motor vehicle industry;
 - (4) one off-highway motor vehicle user;
 - (5) one hunter or angler;
 - (6) one quiet recreationalist, such as a hiker, backpacker, birdwatcher, equestrian, mountain biker, rock climber or archaeological enthusiast; and
 - (7) one member with expertise in injury prevention or treatment.
- B. The board shall select a chair and a vice chair.
- C. The board shall meet at the call of the chair but not less than twice annually.
- D. Members shall be appointed to staggered terms of two years each; provided that no more than four terms expire in any one year. The board members shall select by lot four members to serve initial terms of three years each. A vacancy shall be filled by appointment of the governor for the remainder of the unexpired term. Members of the board shall be entitled to reimbursement pursuant to the Per Diem and Mileage Act [[10-8-1](#) NMSA 1978].

History: Laws 2005, ch. [325](#), § [19](#); 2009, ch. [53](#), § [9](#).

66-3-1018. Department; powers and duties. (2009)

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

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B. The department:

- (1) shall accept and evaluate all applications for approval and certification of an off-highway motor vehicle safety training organization and approve and certify those that meet the minimum criteria;
- (2) shall notify the division of the off-highway motor vehicle safety training organizations that have received approval and certification;
- (3) shall establish and revise as appropriate minimum criteria to approve and certify an off-highway motor vehicle safety training organization. The criteria shall include requirements for curriculum and materials for:
 - (a) training instructors to teach off-highway motor vehicle safety;
 - (b) training the public about off-highway motor vehicle safety and age-appropriate size-fit use of off-highway motor vehicles; and
 - (c) teaching responsible use of off-highway motor vehicles with respect to environmental considerations, private property restrictions, agricultural and rural lifestyles and cultural considerations, off-highway motor vehicle operating laws and prohibitions against operating off-highway motor vehicles under the influence of alcohol or drugs;
- (4) shall implement a state off-highway motor vehicle safety training and certification program;
- (5) shall adopt and promulgate rules regarding the:
 - (a) age-appropriate size-fit use of all-terrain vehicles or recreational off-highway motor vehicles;
 - (b) acceptance or accreditation of instruction or safety courses provided by other states; and
 - (c) standards covering the specifications of eye protection and safety helmets;
- (6) may recommend, with public participation and input, off-highway motor vehicle park, facility and trail locations to the state, county, tribal or local governing body or private entity that owns or administers the land upon which the park, facility or trail is located. The department shall establish criteria to recommend locations that include consideration of off-highway motor vehicle operating laws and effects on:
 - (a) wildlife and the environment;
 - (b) adjacent state, county, federal, tribal and private property;
 - (c) other recreational and nonrecreational uses on the same or adjacent lands; and
 - (d) archaeological, cultural and historic resources and customs;
- (7) shall recommend restoration or, if deemed necessary, closure of off-highway motor vehicle tracks or trails to the state, county, tribal or local governing body or private entity that owns or administers the land upon which the tracks or trails are located if they pose significant or irreversible environmental damage, a danger to users or a public nuisance as determined by the department. The department shall consider the construction of alternative tracks or trails as part of the closure process;
- (8) shall accept and evaluate all applications for grants from the fund for implementation of the provisions of the Off-Highway Motor Vehicle Act. The department shall establish criteria for grants from the fund that include consideration of the:
 - (a) applicant's financial and legal status;
 - (b) applicant's management plan, including specific measures to avoid or minimize environmental damage to public and private lands and danger to users and spectators;
 - (c) operating budget for the park, trail, facility or staging area;
 - (d) availability of matching funds; and

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- (e) public participation and input;
- (9) shall certify tour guides;
- (10) shall prepare a management plan that accomplishes the purposes of the Off-Highway Motor Vehicle Act in a cost-effective manner and relies on existing agencies' available funding with specific qualifications for program implementation, which shall include joint powers agreements with the department of public safety and other law enforcement agencies for law enforcement and other agencies as appropriate for carrying out the provisions of the Off-Highway Motor Vehicle Act;
- (11) shall develop and implement an overall enforcement strategy for the entire state that includes:
 - (a) cooperation with federal, state and local law enforcement agencies to provide training and educational materials related to off-highway motor vehicle use;
 - (b) coordination efforts related to off-highway motor vehicle use with participating law enforcement agencies;
 - (c) developing strategies for addressing and minimizing impacts on farmers and ranchers in rural agricultural areas, on hunters and anglers and on non-motorized recreationalists by off-highway motor vehicle use; and
 - (d) using law enforcement DUI-type "blitzes" in heavily used areas, staging areas or other problem areas;
- (12) shall develop and implement an overall educational strategy for the entire state that:
 - (a) incorporates materials developed by the United States department of agriculture forest service program that teaches trail etiquette and respect for natural resources;
 - (b) includes the development of New Mexico-specific written, video or other educational materials and educational programs that address the impact of off-highway motor vehicles on traditional living culture, agricultural land and private property; and
 - (c) includes the development and maintenance of a web site containing rules and regulations, safety information and educational material relating to resource protection and the impact of off-highway motor vehicles on traditional living culture, agricultural land and historical sites;
- (13) shall develop an overall strategy for phased implementation of an information system to track information, such as use patterns, injury data, ecological data, natural resource data and data relating to the impact of off-highway motor vehicles on traditional living culture and on agricultural land. The strategy shall include:
 - (a) identification and implementation of appropriate data collecting mechanisms, such as a toll-free number or a web-based data collecting process; and
 - (b) development of an information system program capable of interfacing with existing government and private databases or other information systems;
- (14) may implement noise enforcement by the testing of sound levels of off-highway motor vehicles at the time of registration and equip law enforcement officers with sound meters for field testing of sound levels;
- (15) may contract with government or quasi-government agencies to conduct analysis of the impact of off-highway motor vehicle use on forests, rangeland and other natural resources and use the data obtained to make recommendations to the appropriate land management agency;
- (16) shall review the definition of "off-highway motor vehicle" as needed to include new classes of off-highway motor vehicles as they become available in the marketplace;
- (17) shall, in cooperation with the division, determine the size, composition, attachment mechanism, letter or number height and other properties of off-highway motor vehicle

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identification. This identification may be a traditional license plate, stick-on lettering as used for boat identification or another form of identification that is visible and readable;

- (18) shall present its semiannual plans and progress to the advisory board for the board's input and response; and
- (19) may collaborate with the appropriate land agencies to develop criteria for signage relating to off-road motor vehicle use, including the size, visibility, graphics and frequency of signage.

History: Laws 2005, ch. [325](#), § [20](#); 2009, ch. [53](#), § [10](#).

66-3-1019. Fund created; disposition. (2009)

- A. The "trail safety fund" is created in the state treasury. The fund is a nonreverting fund and consists of revenues from off-highway motor vehicle registration and user fees, grants and donations. No more than thirty percent of the fund may be used for administrative overhead, and at least fifty percent shall be devoted to law enforcement and education. Income from investment of the fund shall be credited to the fund. The fund shall be administered by the department, and money in the fund is appropriated to the department to carry out the purposes of the Off-Highway Motor Vehicle Act. Expenditures from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the director of the department of game and fish or the director's authorized representative.
- B. The department shall make annual distributions from the fund for the following purposes:
 - (1) administrative;
 - (2) law enforcement;
 - (3) education and training;
 - (4) information system development and management;
 - (5) resource monitoring and protection and trail building, maintenance and restoration; and
 - (6) implementation of other provisions of the Off-Highway Motor Vehicle Act.

History: Laws 2005, ch. [325](#), § [21](#); 2009, ch. [53](#), § [11](#).

66-3-1020. Penalties. (2009)

- A. A person who violates the provisions of the Off-Highway Motor Vehicle Act is guilty of a penalty assessment misdemeanor. A parent, guardian or custodian who causes or knowingly permits a child under the age of eighteen years to operate an off-highway motor vehicle in violation of the provisions of the Off-Highway Motor Vehicle Act is in violation of that act and subject to the same penalty as the child operating the off-highway motor vehicle in violation of that act.
- B. As used in the Off-Highway Motor Vehicle Act, "penalty assessment misdemeanor" means violation of any provision of the Off-Highway Motor Vehicle Act for which a violator may be subject to the following:

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

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violations involving headlights or taillights	66-3-1010.3	10.00
failure to possess an off-highway motor vehicle safety permit	66-3-1010.3	10.00
selling a vehicle that produces noise in excess of ninety-six decibels	66-3-1010.3	10.00
any violation of the Off-Highway Motor Vehicle Act not otherwise specifically defined elsewhere in this section	66-3-1010.3	10.00
CLASS 2 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
failure to complete a required off-highway motor vehicle safety training course	66-3-1010.2	\$50.00
operating a vehicle in excess of ten miles per hour within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling	66-3-1010.3	50.00
a person under the age of eighteen but at least fifteen years of age who operates an off-highway motor vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	50.00
operating an off-highway motor vehicle that produces noise that exceeds ninety-six decibels	66-3-1010.3	50.00
unauthorized installation, removal, destruction or defacing of a motor vehicle sign	66-3-1011	50.00
CLASS 3 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating a vehicle that is not equipped with an approved spark arrester	66-3-1010.3	\$100.00
operating an off-highway motor vehicle while in pursuit of and with intent to hunt or take a species of animal or bird protected by law, unless otherwise authorized by the state game commission	66-3-1010.3	100.00
operating an off-highway motor vehicle in pursuit of or harassment of livestock in any manner that negatively affects the livestock's condition	66-3-1010.3	100.00
operating an off-highway motor vehicle on or within an earthen tank or other structure meant to water livestock or wildlife	66-3-1010.3	100.00

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operating a motor vehicle in a manner that has a direct negative effect on or interferes with persons engaged in agricultural practices	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle without wearing eye protection and a safety helmet	66-3-1010.3	100.00
a person under the age of eighteen operating an off-highway motor vehicle while carrying a passenger	66-3-1010.3	100.00
a person under the age of fifteen but at least ten years of age who operates an off-highway motor vehicle in violation of the supervision requirements of the Off-Highway Motor Vehicle Act	66-3-1010.3	100.00
a person under the age of ten operating an all-terrain vehicle or recreational off-highway motor vehicle that is not an age-appropriate size-fit or who operates an off-highway motor vehicle in violation of the supervision requirements of this section	66-3-1010.3	100.00

CLASS 4 VIOLATIONS	SECTION VIOLATED	PENALTY ASSESSMENT
operating an off-highway motor vehicle in a careless, reckless or negligent manner so as to endanger the person or property of another	66-3-1010.3	\$200.00
operating an off-highway motor vehicle on any road or area closed to off-highway motor vehicle traffic under local, state or federal regulations	66-3-1010.3	200.00
operating an off-highway motor vehicle on a limited-access highway or freeway	66-3-1011	200.00

- C. The penalty for second, third and subsequent violations within a three-year time period shall be increased as follows:
 - (1) a second violation in a class 1 penalty category involving failure to possess a registration certificate or nonresident permit shall be increased to a class 2 penalty category;
 - (2) any class 2 or class 3 violation for a second or greater infraction within a three-year period shall be increased to the next-highest penalty assessment category; and
 - (3) each subsequent violation in a class 4 penalty category will result in an additional penalty of two hundred dollars (\$200).
- D. Multiple violations for the same incident shall be treated as a single event and shall not result in graduated penalties.
- E. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

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

History: Laws 2005, ch. [325](#), § [22](#); 2009, ch. [53](#), § [12](#).

66-3-1021. Legislative oversight. (2009)

In addition to reporting to the legislative finance committee pursuant to the performance review and budgeting process, the department shall report to the appropriate interim committee appointed by the New Mexico legislative council on the status of implementation of the Off-Highway Motor Vehicle Act. The department shall report to the appropriate committee of the legislature on the status of existing and proposed rules and relevant enforcement issues.

History: Laws 2009, ch. [53](#), § [13](#).