

## Synopsis and Summary of 2008 OHV Legislation 2008 General Session

### **SB 76—State Parks and Recreation Amendments**

#### Introduction

SB 76 modifies the Motor Vehicle Act and the State Boating Act by giving the Board of Parks and Recreation authority to set fees for the OHV and Boating Education courses. Previously, those were established in statute. It also amends the definition of a Type I ATV by modifying the definition of a low-pressure tire.

#### Changes

Under existing statute, the maximum fees we could collect for our OHV and Boating Education courses have been set by the Legislature. The Board then had authority to set the actual fee up to the limit in the code. This change allows the Board to set the fee, allowing the Division to react to changes in the program needs in a faster manner. It will also allow us to set the fees for the OHV and Boating programs at the same level to minimize confusion.

A Type I ATV has been defined, in part, as having three or more low pressure tires. Low pressure tires have been defined as “any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 12 inches or less...” Recently, many utility type ATVs have come from the manufacturer with 14 inch wheels. Other aftermarket sources have aggressively marketed 14 inch wheels as the new standard for utility grade ATVs. By definition, a 14 inch wheel is no longer a “low pressure tire”. Since a standard (Type I) ATV with 14 inch wheels is no longer operating on low pressure tires, it ceases to be a Type I ATV and becomes a Type II ATV. Under the law, children are not required to wear helmets on Type II ATVs. This creates a safety concern.

## **HB 291—Off-highway Vehicle Amendments**

### Introduction

HB291 modifies the Motor Vehicle Code by amending provisions governing the use of off-highway vehicles by minors. It creates a definition for “direct supervision” and establishes a requirement for supervision of unlicensed minors while operating OHVs under certain circumstances. The Chief Sponsor of the bill was Representative Michael Noel at the request of the Utah Sheriff’s Association, with Senator Mike Dmitrich acting as the Senate Sponsor. The bill takes effect July 1, 2008.

### Defining “Direct Supervision”

“Direct Supervision” is defined as “Oversight at a distance of no more than 300 feet and within which visual contact is maintained and advice and assistance can be given and received.”

### The new requirement

Under HB 291, the operator of an off-highway vehicle on public lands must meet one of the following criteria:

1. Be under the direct supervision of a certified off-highway vehicle safety instructor during a regularly scheduled training course; or
2. Have in his or her possession a valid driver’s license; or
3. Have in his or her possession an appropriate safety certificate issued or approved by the division, and if under 18 years of age, be under the direct supervision of a person who is at least 18 years of age if operating on a public highway that is open to motor vehicle use and not reserved exclusively for off-highway vehicles.

It was fairly clear that the legislative intent of the bill is to have an adult supervising young riders during any time when they may come into contact with full size vehicles operating on the same route. That would include county roads, forest roads, city streets, and similar highways (highways = travel routes). The legislature was less concerned about the direct supervision requirement in places where full size vehicles would not be found, such as narrow trails, closed courses (racetracks) and the like. Implements of husbandry are not included in this requirement.

Traditionally, the fine for violating this part of the OHV law has been “not more than \$50” per offense. HB 291 raises that limit to “not more than \$100” per offense. Judicial discretion will still apply.

### What does it mean?

Kids will need to be supervised on 80% of the “trails” in the state.

## **SB181S01—Off-highway Vehicle Use on Public Highways**

### Introduction

SB181S01 modifies the Insurance Code and the Motor Vehicles Code by amending provisions governing the use of off-highway vehicles, specifically ATVs, on public highways. It creates by definition a new class of motor vehicles known as “Street-Legal All-terrain Vehicles, or Street-Legal ATVs”, defines the operational and equipment requirements for street-legal ATVs, and modifies the law as it relates to county and municipality authority to designate highways under their respective jurisdictions for OHV use. The Chief Sponsor of the bill was Senator Scott Jenkins, with Representative Michael Noel acting as the House sponsor. The bill takes effect on October 1, 2008.

### Creating a Street Legal ATV

Both Type I ATVs and Type II ATVs are eligible to become “Street-Legal ATVs” under the new law. In order for an ATV to become “street-legal” under SB181S01, it must have the following equipment:

- ✓ One or more headlamps that meet the requirements set forth for standard motor vehicles
- ✓ One or more tail lamps
- ✓ A white tail lamp or other lamp to illuminate the license plate
- ✓ One or more red reflectors on the rear
- ✓ Amber electric turn signals, one on each side, both front and rear
- ✓ A braking system that meets requirements for standard motor vehicles, except street legal ATVs do not require a parking brake
- ✓ A horn or other warning device (No sirens, whistles or bells; must be audible from 200 feet; may not be “unreasonably loud or harsh”)
- ✓ A muffler and emission control system
- ✓ Rearview mirrors on the right and left side of the driver
- ✓ A windshield, unless the operator wears eye protection while operating
- ✓ A speedometer, illuminated for nighttime operations
- ✓ “For vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger.”
- ✓ Seatbelts for each occupant in vehicles with side by side seating.

### Registration and Licensing

A street-legal ATV must comply with the same requirements as a motorcycle for:

Traffic rules under the Traffic Code

Driver licensing under the Uniform Driver License Act (at least 16 years old, with a valid driver’s license and a motorcycle endorsement)

Registration, titling, odometer statement, vehicle identification, license plates, and registration fees

Fees in lieu of property tax

County motor vehicle emissions inspection and maintenance programs

A street-legal ATV must comply with the same requirements as a motor vehicle for:

Motor vehicle insurance

Safety inspection requirements (except that a street-legal ATV shall be subject to a safety inspection when registered for the first time.) Safety inspection will be a verification of the required equipment.

A street-legal ATV must comply with the requirements set forth for off-highway vehicles in all other circumstances, including the payment of fees as established in law. In practical terms, this means that a street-legal ATV will pay both the highway and off-highway fees.

### Operations

Street-legal ATVs may be operated on any highway of the state which has one lane in each direction, except

- Highways under the jurisdiction of any first class county (Salt Lake County is the only first class county in the state at present)
- Highways under the jurisdiction of any municipality in a county of the first class, or
- Highways under the jurisdiction of any municipality with a population of 7500 or more.

Provisions are made in the law for first class counties and municipalities to designate routes open to street-legal ATVs, notwithstanding the above-mentioned prohibitions. Street-legal ATVs are still prohibited on interstate freeways and controlled access highways, as are all off-highway vehicles.

While operating a street-legal ATV, the operator may not exceed the posted speed limit, or 45 MPH, whichever is less. Otherwise, all traffic laws apply.

### Other Provisions of the new law

In addition to addressing the issue of street-legal ATVs, SB181S01 clarifies an often misunderstood section of OHV law. It has been unclear whether or not a county or municipality could designate highways under their control for general OHV use, or only as routes for access to and from designated riding areas. SB181S01 clarifies this issue, stating that a county or municipality may designate highways under its jurisdiction as

1. Open for street-legal ATV operation;
2. Open for general off-highway vehicle operation; or
3. Open for limited off-highway vehicle operation to allow OHVs to gain direct access to and from a public or private riding area.

### What doesn't change

1. Counties and municipalities may still designate routes under their respective jurisdiction for use by OHVs, and should be encouraged to do so. Allowing the street-legal designation to replace local designation will disrupt tourism related use of our established trail systems and community connectors by

eliminating family use, since non-licensed operators are not allowed to operate as street-legal.

2. The Division's responsibility remains the same, which is to assist Counties, municipalities, and federal agencies in managing the recreational use of off-highway vehicles.
3. Travel planning by federal agencies should not be greatly affected. Street-legal ATVs will be limited to routes designated for motor vehicle travel. They will likely be allowed on routes otherwise limited to full sized vehicles, but non-motorized trails are still off-limits to street-legal ATVs.

What we still don't know...

1. We don't know how many ATVs will be licensed as street-legal. Arizona reports approximately 30% of their ATVs made the switch.
2. We don't know what the safety ramifications will be in mixing ATVs (at 45 MPH) and larger vehicles (at speeds up to 65 MPH) but are concerned that it will present a significant safety hazard. However, we don't know if it could be worse than having bicycles on highways, a condition that we live with daily.
3. If there are safety issues, we don't know how that will affect the future of OHV recreation. We have seen a recent increase in scrutiny by the CPSC and various consumer protection organizations, with the backing of some environmental extremists, in attacking OHV use in general as unsafe.
4. We don't know if this change will become a disincentive to agencies or counties in designating OHV routes, but certainly hope it will not be.
5. It is unclear which agency will be the lead agency in enforcing provisions of the law. It appears that this is primarily a highway issue, rather than a recreational use issue.
6. We still don't know what forms the basis of the population figures used to determine whether a city is above or below the 7500 mark. Moreover, visitors will have an even tougher time making this determination!
7. We don't know how this will play with our nonresident program. That is still to be determined. The law requires the Board to set reciprocity standards for other states with similar programs.