

Off Highway Vehicle Legislative Proposal

Amendments to NRS 490

Current NRS 490 is highlighted in blue 10 font

The purpose of this legislation is to provide for the registration of off-highway vehicles, the establishment and management of OHV trails and riding areas, the issuance of recreation use permits and to establish fees and their uses.

Findings. The legislature finds that:

- (1) Recreation is an important industry in this state and its growth should be encouraged.
- (2) The establishment and maintenance of off-highway vehicle recreation trails and riding areas is an important component for the promotion of recreation and conservation.
- (3) The federal government has emphasized the importance of recreation trails by enacting the National Recreational Trails Act of 1991 (P.L. 102-240, Sec. 1301).
- (4) The State should adopt a comprehensive off-highway vehicle recreation trails Act for the establishment, maintenance and use of recreation trails and riding areas.

Purpose. The purpose of the off-highway vehicle recreation program is to provide for the titling and registration of off-highway vehicles as defined, develop information on the state off-highway vehicle population to facilitate off-highway vehicle recreation and other management programs, including vehicle anti-theft and recovery, encourage the establishment of trails and riding areas, both public and private, to foster the responsible use of off-highway vehicles as a beneficial recreational activity and to promote its growth as an economic component of tourism and a positive contributor to the state economy.

Policy declaration.

It is the policy of this state to promote safety and protection for persons, property, and the environment connected with the use, operation, and equipment of off-highway vehicles, to promote uniformity of laws, to adopt and pursue a safety education program, and to develop trails and other facilities for the use of these vehicles.

<p>EXHIBIT S1 - LANDS Document consists of 44 pages. Entire Exhibit Provided Meeting Date: 05-26-06</p>

Definitions

As used in this chapter:

(1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by the Board of Wildlife Commissioners.

(2) **NRS 490.060 "Off-highway vehicle" defined.**

1. "Off-highway vehicle" means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

- (a) An all-terrain vehicle;
- (b) An all-terrain motorcycle;
- (c) A dune buggy;
- (d) A snowmobile; and
- (e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

- (a) A motor vehicle designed primarily for use in water;
- (b) A motor vehicle that is registered by the Department of Motor Vehicles; or
- (c) A low-speed vehicle as defined in [NRS 484.527](#).

(Added to NRS by [2005, 2025](#))

OHV includes but is not limited to off-highway motorcycles and all-terrain vehicles further defined as;

- (A) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 800 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.
- (B) "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsection (2), (9), or (20), designed for or capable of travel over unimproved terrain.
- (C) This term does not include the following:
 - (a) Golf carts;
 - (b) Military vehicles; and
 - (c) any vehicle designed to carry a disabled person.

NRS 490.020 "Authorized dealer" defined. "Authorized dealer" means a dealer authorized by the Department to issue certificates of operation for off-highway vehicles pursuant to [NRS 490.070](#).

(Added to NRS by [2005, 2025](#))

(3) "Board" means the Board of Wildlife Commissioners.

(4) "Curb base weight" means the weight of a motor vehicle without passengers or cargo.

(5) "Closed course" means a maintained facility that uses a Department of Transportation approved dust abatement measure and that has water available for fire abatement.

(6) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(7) "Designated off-highway vehicle recreation trail or riding area" means a trail or riding area that is developed, acquired, maintained, managed and funded under the provisions of this Act.

(8) "Direct services" includes, but is not limited to, the activities and expenses associated with law enforcement, capital equipment, rescue and first aid equipment, off-highway vehicle facilities, and contract services related to maintaining staging areas, trails and riding areas.

(9) "Established road" means:

(1) A road of any material that is built by machinery and intended for use by motor vehicles with a curb base weight of 2000 pounds or more;

(2) A road that is maintained by machinery and intended for use by motor vehicles with a curb base weight of 2000 pounds or more; or

(3) A dirt road that:

(I) Has existing ruts caused by the tires of a motor vehicle with a curb base weight of 2000 pounds or more;

(II) Accommodates the left and right front tires of a motor vehicle with a curb base weight of 2000 pounds or more;

(III) Shows use by motor vehicles outside the open season for purposes other than hunting or trapping, including, without limitation, recreation, mining and ranching; and

(IV) Does not appear to have been closed legally or permanently to vehicular traffic by the use of artificial means, including, without limitation, scarification, reseeding, fences, locked gates, barricades or posted notice of closures.

(10) **NRS 490.040 "Highway" defined.** "Highway" has the meaning ascribed to it in [NRS 482.045](#).

(Added to NRS by [2005, 2025](#)) **NRS 482.045 "Highway" defined.** "Highway" means the entire width between the boundary lines of every way maintained by a public authority when any part of such way is open to the use of the public for purposes of vehicular traffic.

[Part 1:202:1931; A 1951, 165; 1953, 280]—(NRS A 1973, 230)

Highway does not include routes designated for off-highway vehicle use.

(11) **"Department" means the Nevada Department of Wildlife** **NRS 490.030 "Department" defined.** "Department" means the Department of Taxation.

(Supplied in revision)

(12) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 12 inches or less and utilizing an operating pressure of ten pounds per square inch or less as recommended by the vehicle manufacturer.

(13) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(9) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(14) **NRS 490.050 "Motor vehicle" defined.** "Motor vehicle" has the meaning ascribed to it in [NRS 482.075](#).

(Added to NRS by [2005, 2025](#))

(15) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or motorcycle. The term does not include a motor vehicle which has a curb base weight of 2000 pounds or more.

(16) "Off-highway vehicle trail" means any public road, route, or way owned or managed by the state or any agency or political subdivision thereof or the United States for off-highway vehicle use in accordance with the provisions of Subchapter C of this chapter.

- (17) "Off-highway vehicle use area" means the entire area of a parcel of land except for camping and approved buffer areas that is posted or designated for OHV use in accordance with rules adopted by the managing authority.
- (18) "Off-highway vehicle recreation facility" includes OHV trails and OHV use areas.
- (19) "Off-highway vehicle recreation use permit" means a permit issued for operation of an off-road vehicle on designated OHV trails or riding areas under Section 9.
- (20) "Off-highway implement of husbandry" means every all-terrain type I vehicle, motorcycle, or snowmobile which is used by the owner or his agent for agricultural operations.
- (21) "Operator" means any person who operates, or is in actual physical control of, or otherwise uses an off-highway vehicle.
- (22) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized organizations, and conducted at a predetermined time and place as permitted by the resource management authority as required.
- (23) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state, for the purpose of promoting the interests of off-highway vehicle recreation.
- (24) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.
- (25) "Person" means any individual, firm, partnership, association, or corporation.
- (26) "Playa" means the nearly level bottom of an undrained desert basin that may temporarily be covered by water to create a shallow lake.
- (27) "Possession" means physical custody of an off-highway vehicle by any person or by any owner of a motor vehicle or trailer on or in which an off-highway vehicle is placed for the purpose of transport.
- (28) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.
- (29) "Register" means the act of registering an off-highway vehicle.
- (30) "Roadway" is used as defined in [Section 41-6-1](#).
- (31) "Sandy wash" means the dry bed of a stream.
- (32) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, tracks or low pressure tires.
- (33) "Staging area" means any parking lot, trail head, or other location to or from which any off-highway vehicle is transported by truck, trailer, or other motor vehicle so that it may be placed into or removed from operation on a trail or riding area. Staging area does not include any location to which an off-highway vehicle is transported primarily for the purpose of service, maintenance, repair, storage, or sale.

OFF-HIGHWAY VEHICLE ADVISORY COUNCIL

Powers of Board relating to off-highway vehicles.

The Board shall:

Appoint an eleven member “Off-highway Vehicle Advisory Council” from nominations submitted by the Director representing off-highway vehicle users in the state. One member will be from each of the following interests: the Bureau of Land Management; the U.S. Forest Service; Nevada Department of Wildlife – Division of Law Enforcement, Nevada Department of Public Safety; Nevada State Lands; Nevada Commission on Tourism, motorcycling; all-terrain vehicle usage (includes snowmobiling); four-wheel drive vehicle usage; off-highway vehicle dealers; and an off-highway vehicle safety advocate. Not more than two members shall be residents of the same county and not more than three members shall be residents of counties with populations of more than five hundred thousand.

The Department of Wildlife representative or his designee will be appointed by the Director, his term will continue at the pleasure of the director, and he shall chair the meetings.

Terms of the other members shall be 3 years, beginning on January 1 and ending on December 31. Initial terms of members of the off-highway vehicle advisory council will be:

1. Three terms ending December 31, 2008
2. Three terms ending December 31, 2009
3. Four terms ending December 31, 2010

The Department shall establish by regulation, procedures for conduct of the Council’s business.

The board may:

- (1) carry out the provisions of this chapter by appropriate regulation
- (1) seek recommendations from the Off-highway Vehicle Advisory Council representing the various off-highway vehicle, conservation, and other appropriate interests; and
- (2) adopt a uniform marker and sign system for use by agents of appropriate federal, state, county, and city agencies in areas of off-highway vehicle use.

OFF-HIGHWAY VEHICLE TRAILS FUND.

Purpose and operation of fund

1. Except as otherwise provided in this subsection, all fees received by the Department under the provisions of this chapter must be deposited in the Wildlife Account in the State General Fund and may be expended only for the administration and enforcement of the provisions of this chapter.

2. On or before December 31 of each year, the Department shall deposit with the respective county 50 percent of each fee collected according to the County designated as the County of Primary use by the registered owner. These funds may only be expended by the County for the improvement, operation and maintenance of facilities and other outdoor recreational facilities associated with off highway vehicles trails fund and to assist not-for-profit organizations, and other groups to operate, maintain, and acquire land for off-highway vehicle trails, parks and riding areas that are open and accessible to the public in accordance with this chapter.

(a) The purpose of the trails fund is to establish a funding mechanism to support the off-highway vehicle recreation program as supported by the County.

(b) Moneys from Federal, state, and private sources may be deposited into the County fund as a minimum match of funds as established by the county towards any grant.

(c) Moneys in the fund shall be used only for the following purposes:

- (1) Grants for establishment of off-highway vehicle recreation trails and riding areas on county, municipal, other units of local government, or private lands where a recreational need for the development of trails and riding areas is shown;
- (2) Grants for maintenance and construction of off-highway vehicle recreation trails, and riding areas on federal lands, where permitted by law;
- (3) Grants for acquisition of property from willing sellers for off-highway vehicle recreation trails and riding areas when the objective of a trail or riding area cannot be accomplished by other means;
- (4) Grants for development of urban off-highway vehicle trail linkages near homes and workplaces;
- (5) Grants for maintenance of existing off-highway vehicle recreation trails and riding areas;
- (6) Grants for restoration of areas damaged by usage of off-highway vehicles on recreation trails and riding areas;
- (7) Grants for provision of features that facilitate the access and use of off-highway vehicle trails and riding areas by persons with disabilities;
- (8) Grants for acquisition of easements for off-highway vehicle trails or for trail corridors and riding areas;
- (9) Administration, enforcement, planning, and implementation of this Act.

(10) Counties may consider issues relating to off-highway vehicles, including but not limited to the following:

A). the adequacy of the applicant's existing off-highway vehicle management programs,

B). the number of off-highway vehicle recreational days of use within the jurisdiction of the applicant's area.

C). the acreage of public and state land within the jurisdiction of the applicant's area.

D). the ability of the applicant to constructively use the money.

E). the scope and effectiveness of the grant proposal.

F). any matching monies.

(d) The Department shall establish, by regulation, measures to verify that recipients of money from the fund comply with the specified conditions for the use of the money. The fund shall be subject to periodic audit as required by regulation and law.

(e) The Department may not use money from the Fund for the condemnation of any kind of interest in property.

(f) A federal, state, county or municipal agency is not subject to civil liability for any action relating to the designation or maintenance of any land, trail, street or highway that is open for off-highway vehicle use.

NRS 490.100 Authority of city or county to designate portion of highway for vehicle use; approval of Department of Transportation regarding state highways; interstate highways excluded; supervision of certain minors; limitation on purpose of use.

1. Except as otherwise provided in subsection 2, a city or county may designate any portion of a highway within the city or county as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. If a city or county designates any portion a state highway as permissible for the operation of off-highway vehicles pursuant to this subsection, the city or county must obtain approval for the designation from the Department of Transportation. The Department of Transportation shall issue a timely decision concerning the request for approval and must not unreasonably deny the request.

2. The highway designated for operation of off-highway vehicles pursuant to subsection 1 may not consist of any portion of an interstate highway.

3. If a city or county designates a highway for the operation of off-highway vehicles, the city or county may adopt an ordinance requiring a person who is less than 16 years of age and who is operating the off-highway vehicle on a designated highway to be under the direct visual supervision of a person who is at least 18 years of age.

4. A person operating an off-highway vehicle on a highway designated for operation of off-highway vehicles pursuant to subsection 1 may not operate the off-highway vehicle on the highway for any purpose other than to travel to or from the private or public area as described in subsection 1.

(Added to NRS by [2005, 2027](#))

Use of funds on Federal lands; Public land administrating agencies to develop facilities and programs; conditions.

1. As a condition to making available moneys for work on off-highway vehicle trails and riding areas on Federal property, the department shall enter into a memorandum of understanding or other similar agreement that assures that the Federal land manager will cooperate with state and county officials and participate as necessary in the activities to be conducted on the properties.

2. All public land administering agencies are encouraged:
 - (A) to develop and maintain trails, parking areas, rest rooms, and other related facilities appropriate to off-highway vehicle use; and
 - (B) to promote the safety, enjoyment, and responsible use of all forms of this recreational activity.

Use of funds on private lands; conditions.

As a condition to making available moneys for work on off-highway vehicle trails and riding areas that would affect privately owned land, the department shall obtain written assurances that the owner(s) of the property will cooperate and participate as necessary in the activities to be conducted. An easement or other legally binding agreement that ensures access to the trails and riding areas funded by those moneys must accompany any use of moneys on private lands.

Funding from gasoline tax.

1. Revenue collected from motor fuel taxes paid on fuel used in off-highway vehicles shall be remitted annually into the off-highway vehicle trails fund.
2. Amount remitted shall be recalculated annually based on the state OHV population and estimated amount of fuel consumed, however not less than 1/2 of 1% of state total.

Need to amend NRS 365 as follows

NRS 365 Proceeds of tax on motor vehicle fuel paid on fuel used in off highway vehicles for recreational purposes.

1. It is declared to be the policy of the State of Nevada to apply the tax on motor vehicle fuel paid on fuel used in off highway vehicles for recreational purposes during each calendar year, which is hereby declared to be not refundable to the consumer, for the:

(a) Improvement of off highway vehicle use and the improvement, operation and maintenance of other outdoor recreational facilities located in any state park that includes a trail or designated off highway use area; and

(b) Payment of the costs incurred, in part, for the administration and enforcement of the provisions of the off highway vehicle act.

2. The amount of excise taxes paid on all motor vehicle fuel used in off highway vehicles for recreational purposes must be determined annually by the Department by use of a formula developed on a study of the consumption of fuel used by off highway vehicles by the Department of Taxation.

3. The Department of Wildlife shall submit annually to the Department, on or before April 1, the number of off highway vehicles registered in the previous calendar year. On or before June 1, the Department, using that data, shall compute the amount of excise taxes paid on all motor vehicle fuel used in off highway vehicles for recreational purposes based on the formula set forth in subsection 2, and shall certify the ratio for apportionment and distribution, in writing, to the Department of Wildlife and to the

Division of State Parks of the State Department of Conservation and Natural Resources for the next fiscal year.

4. In each fiscal year, the State Treasurer shall, upon receipt of the tax money from the Department collected pursuant to the provisions of [NRS 365](#), allocate the amount determined pursuant to subsection 2, in proportions directed by the Legislature, to:

(a) The Wildlife Account in the State General Fund. This money may be expended only for the administration and enforcement of the provisions of the off highway vehicle act and for the improvement, operation and maintenance of facilities and other outdoor recreational facilities associated with off highway vehicles. Any money received in excess of the amount authorized by the Legislature to be expended for such purposes must be retained in the Wildlife Account.

(b) The Division of State Parks of the State Department of Conservation and Natural Resources. Such money may be expended only as authorized by the Legislature for the improvement, operation and maintenance of facilities and other outdoor recreational facilities located in any state park that includes a trail or designated off highway use area.

TITLING AND REGISTRATION OF OFF-HIGHWAY VEHICLES - FEES - APPLICATIONS - REQUIREMENTS - EXEMPTIONS.

CERTIFICATES OF OPERATION

NRS 490.070 Authority of dealer to issue; form; duties of authorized dealer; authorized dealer not to receive compensation or charge or collect fee for services; regulations.

1. Upon the request of a dealer of off-highway vehicles, the Department may authorize the dealer to issue certificates of operation for off-highway vehicles pursuant to subsection 3.

2. Each certificate of operation for an off-highway vehicle issued by an authorized dealer must be in the form of a sticker approved by the Department.

3. An authorized dealer shall:

(a) Upon the sale of an off-highway vehicle, issue to the purchaser of the off-highway vehicle a certificate of operation for the off-highway vehicle;

(b) Upon request, issue a certificate of operation to a person who purchased the off-highway vehicle before January 1, 2006;

(c) Issue a certificate of operation to the owner of an off-highway vehicle that was purchased outside this State on or after January 1, 2006, if the owner:

(1) Requests the certificate of operation; and

(2) Pays or submits evidence satisfactory to the authorized dealer that he has paid all taxes applicable in this State to the purchase of the off-highway vehicle or submits an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle;

(d) Comply with the regulations adopted pursuant to subsection 6; and

(e) Bear any cost of equipment which is required to issue certificates of operation, including any computer software or hardware.

4. An authorized dealer is not entitled to receive compensation from the Department for the performance of those services.

5. An authorized dealer shall not charge or collect a fee for issuing a certificate of operation.

6. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of certificates of operation by the Department to authorized dealers; and

(b) The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.

(Added to NRS by 2005, 2026)

NRS 490.080 Prerequisite to operation of vehicle on highway; attachment to vehicle; replacement; transferability; exceptions.

1. Except as otherwise provided in subsection 4, a person shall not operate an off-highway vehicle on a highway pursuant to NRS 490.090 to 490.130, inclusive, unless he has:

(a) Obtained a certificate of operation for the off-highway vehicle; and

(b) Attached the certificate to the off-highway vehicle in the manner specified by the Department.

2. If a certificate of operation for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may request a new certificate of operation from an authorized dealer.

3. If the owner of an off-highway vehicle sells or otherwise transfers ownership of the off-highway vehicle, the certificate of operation remains valid.

4. A certificate of operation is not required for an off-highway vehicle which:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles;

(c) Is registered or certified in another state and is located in this State for not more than 90 days;

(d) Is used solely for husbandry on private land or on public land that is leased to the owner or operator of the off-highway vehicle; or

(e) Is used for work conducted by or at the direction of a public or private utility.

(Added to NRS by 2005, 2026)

1. The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Nevada Department of Wildlife for registration on forms approved by the Department.

(a), Unless exempted, a person may not operate or transport, and an owner may not give another person permission to operate or transport any off-highway vehicle within the state unless the vehicle has been registered for the current year by the Department of Wildlife in accordance with the provisions of this section.

(b) Off-highway vehicle registration is valid for one year and shall be renewed annually.

(c) Proof of ownership shall be required prior to the initial registration of any off-highway vehicle under this section. At the time of the original registration and at the time of each annual renewal, the department shall, upon application, issue to the registrant a certificate of registration to the vehicle, the expiration date thereof and a validation decal which shall be affixed to the off-highway vehicle. Each application for registration of an off-highway vehicle shall be accompanied by evidence of ownership; a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number; or the past registration card. Registration of an off-highway vehicle under this section is for purposes other than operation on public roads and highways and conveys no right or privilege to do so except as otherwise provided.

(d) Except as provided in exempted vehicles section, every owner of an off-highway vehicle which is in this State and for which no certificate of title has been issued shall

make application to the department for a certificate of title of the vehicle within six months after the effective date of this Act.

(e) On and after the effective date of this Act, a retail dealer selling a new off-highway vehicle shall apply for title in the purchaser's name within fifteen days following the sale.

(f) The department shall not register or renew the registration of an off-highway vehicle unless a certificate of title has been issued to the owner of the vehicle.

(h) The department may employ agents, including retail dealers, for purposes of registering off-highway vehicles pursuant to the provisions of this section. Upon receiving a registration application, the agent shall collect the fee specified and issue a temporary registration. The application will then be forwarded to the department which shall issue the registration. The agent may retain \$2.00 for each registration issued.

(i) Every dealer shall require each purchaser of an off-highway vehicle as defined in this Act to complete a registration application and pay the registration fee before the off highway vehicle leaves the dealer's premises, except for those exempted in exempted vehicles subsection and non-residents who purchase off-highway vehicles for use exclusively outside of the state.

(j) Each off-highway vehicle owned by a lessor for rental purposes shall be registered pursuant to this section upon the payment of a registration fee as specified.

(k) The registration fee for all off-highway vehicles owned by a dealer or manufacturer and operated solely for demonstration or testing purposes shall be as specified. Dealer and manufacturer registrations are not transferable and shall be distinguishable from the registration required for owners.

(l) In the event of the loss, mutilation, or destruction of any registration, the owner of the registered off-highway vehicle shall file a statement containing such facts, as the department shall require for the issuance of a replacement registration, together with the specified fee.

(m) A registration certificate shall be issued without fee for any off-highway vehicle owned by the Federal government, the State or a political subdivision thereof upon proper application.

(n) Every person, while operating an off-highway vehicle in this state which is required to be registered under this section, shall have on his person or in the off-highway vehicle the registration thereof and shall, upon demand of any peace officer authorized to enforce this article, produce for inspection the registration for such off-highway vehicle.

2. Upon receipt of the application in approved form, the Department shall enter the application upon the records of its office and issue to the applicant a registration card stating the name and address of the registered owner, the legal owner, the County of Primary Use, and a certificate of ownership stating the same information.

Off Highway Vehicles exempt from titling and registration.

Titling and registration under this section is not required for any:

- (1) Off-highway vehicle owned by a resident of another country or state if the vehicle is covered by a valid license or registration issued by that country or State, have a valid motor vehicle safety inspection decal or certificate if required by the country or state, and on which the required safety equipment has not been subsequently modified; and such off-highway vehicle has not been within this state for more than ninety consecutive days; and
- (2) Off-highway vehicle used by a dealer or manufacturer, an authorized designee thereof or other approved training entity for off-highway vehicle operator training or safety education programs.
- (3) vehicles that are currently registered for highway use,
- (4) off-highway vehicles that are owned by a nonresident and that are displaying current annual off-highway vehicle user decal,
- (5) off-highway vehicles sold by a dealer to a person who is not a resident of this state;
- (6) off-highway implements of husbandry operated in the manner prescribed by this act;
- (7) new off-highway vehicles being transported to an off-highway vehicle dealership by the dealer, employee of the dealership, or agent for the dealership;
- (8) Off-highway vehicles that are owned by a nonresident and that are displaying a current off-highway vehicle user decal or registration from the nonresident's state of residence provided they have reciprocity with Nevada, for a period of no more than ninety consecutive days;
- (9) An off-highway vehicle that is sold by a dealer to a person who is not a resident of this state and who does not intend to operate the vehicle in this state; or
- (10) New off-highway vehicles that are being transported to an off-highway vehicle dealership by the dealer, employee of the dealership or agent for the dealership.

Off-highway husbandry vehicles.

- (1) (a) The owner of an all-terrain type I vehicle, motorcycle, or snowmobile used for agricultural purposes may apply to the Department for an off-highway implement of husbandry decal. Each application shall be accompanied by evidence of ownership, a title, or a manufacturer's certificate of origin, and a signed statement certifying that the off-highway vehicle is used for agricultural purposes. The owner shall receive an off-highway implement of husbandry decal upon production of the documents required above and payment of an off-highway implement of husbandry decal fee of \$10.
- (b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered as an off highway vehicle.

- (c) The off-highway implement of husbandry decal shall be displayed in a manner prescribed **above** and shall identify the all-terrain type I vehicle, motorcycle, or snowmobile as an off-highway implement of husbandry.
- (2) The off-highway implement of husbandry decal is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, or snowmobile and is not transferable.
- (3) The off-highway implement of husbandry decal is valid for an all-terrain type I vehicle, motorcycle, or snowmobile which is being operated adjacent to a roadway:
 - (a) when the all-terrain type I vehicle, motorcycle, or snowmobile is only being used to travel from one parcel of land owned or operated by the owner of the vehicle to another parcel of land owned or operated by the owner; and
 - (b) when this operation is necessary for the furtherance of agricultural purposes.
- (4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.
- (5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

Department to submit certain information to Welfare Division. [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] The Department shall, upon request of the Welfare Division of the Department of Human Resources, submit to the Welfare Division the name, address and social security number of each person who has been issued a registration card or a validation decal and any pertinent changes in that information.

Suspension of registration card or validation decal for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration card or validation decal. [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. If the Department receives a copy of a court order issued pursuant to [NRS 425.540](#) that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a registration card or a validation decal, the Department shall deem the registration card or validation decal issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued by the district attorney or other public agency pursuant to [NRS 425.550](#) to the person who has been issued the registration card or validation decal stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#).

2. The Department shall reinstate a registration card or validation decal that has been suspended by a district court pursuant to [NRS 425.540](#) if the Department receives a letter issued by the district attorney or other public agency pursuant to [NRS 425.550](#) to the person whose registration card or validation decal was suspended stating that the person whose registration card or validation decal was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to [NRS 425.560](#)

Requirements for transfer of ownership or interest. Except as otherwise provided for the creation or transfer of a security interest, no transfer of title to or any interest in any off highway vehicle required to be registered under this chapter is effective until one of the following conditions is fulfilled:

1. The transferor has properly endorsed and delivered the certificate of ownership and has delivered the registration card to the transferee as provided in this chapter, and the transferee has, within the prescribed time, delivered the documents to the Department or placed them in the United States mail addressed to the Department with the transfer fee.
2. The transferor has delivered to the Department or placed in the United States mail addressed to the Department the appropriate documents for the transfer of ownership pursuant to the sale or transfer.

Requirements for transfer of ownership or interest. Except as otherwise provided for the creation or transfer of a security interest, no transfer of title to or any interest in any off highway vehicle required to be registered under this chapter is effective until one of the following conditions is fulfilled:

1. The transferor has properly endorsed and delivered the certificate of ownership and has delivered the registration card to the transferee as provided in this chapter, and the transferee has, within the prescribed time, delivered the documents to the Department or placed them in the United States mail addressed to the Department with the transfer fee.
2. The transferor has delivered to the Department or placed in the United States mail addressed to the Department the appropriate documents for the transfer of ownership pursuant to the sale or transfer.

Transferee to file certificates, pay fee and apply for new certificates. Upon receipt of a properly endorsed certificate of ownership and the registration card of any off highway vehicle, the transferee shall within 10 days file the certificates, accompanied by a fee of \$20, with the Department and thereby make application for a new certificate of ownership and a new registration card.

Requirements for issuance of certificate of ownership.

1. Before the issuance of any certificate of ownership, the Department shall obtain a statement in writing signed by the transferee or transferor, showing:
 - (a) The date of the sale or other transfer of ownership of the off highway vehicle
 - (b) The name and address of the seller or transferor.
 - (c) The name and address of the buyer or transferee.

2. Upon receipt of:
 - (a) The properly endorsed certificate of ownership;
 - (b) The registration card and the required fee;
 - (c) The statement of information; and
 - (d) Proof that the applicable taxes have been paid,the Department shall issue a new certificate of ownership to the transferee.

Transferor to notify Department of transfer of title or interest. Any owner of any off highway vehicle registered under this chapter who sells or transfers his title or any interest in the off highway vehicle shall within 10 days notify the Department of the sale or transfer and furnish the following information:

1. The name and address of the legal owner and transferee; and
2. Such description of the off highway vehicle as may be required by the Department.

Interest of registered owner not affected by assignment by legal owner. A legal owner may assign his title or interest in or to any off highway vehicle registered under this chapter to a person other than the registered owner without the consent of and without affecting the interest of the registered owner.

Endorsement of certificate on transfer by legal owner. Upon transfer of the title or any interest of any legal owner in any off highway vehicle registered under this chapter, the transferor shall write his signature, and the transferee shall write his signature and address, in the appropriate spaces provided upon the reverse side of the certificate of ownership issued for such off highway vehicle.

Endorsement of certificate on transfer by registered owner. Upon transfer of the title or any interest of the registered owner of any off highway vehicle registered under this chapter, the registered owner shall write his signature and address and the transferee shall write his signature and address in the appropriate spaces provided on the reverse side of the certificate of ownership for such off highway vehicle, and the legal owner shall write his signature in the space provided for the new legal owner indicating that he is to retain his legal title and interest.

Issuance of duplicate certificate on loss, destruction or mutilation of original.

1. If a certificate of ownership is lost, stolen, damaged or mutilated, an application for transfer may be made upon a form provided by the Department for a duplicate certificate of ownership. The transferor shall write his signature and address in the appropriate spaces provided upon the application and file it together with the proper fees for a duplicate certificate of ownership and transfer.
2. The Department may receive the application and examine into the circumstances of the case and may require the filing of affidavits or other information, and when the Department is satisfied that the applicant is entitled to a transfer of ownership, it may transfer the ownership of the off highway vehicle, and issue a new certificate of ownership and registration to the person found to be entitled thereto.

Failure to endorse or deliver certificate to transferee unlawful. It is unlawful for any person to fail or neglect to deliver the registration, and, when having possession, to properly endorse, date and deliver the certificate of ownership to a transferee who is lawfully entitled to a transfer of ownership.

New certificate not required on substitution of security interest between same parties; time limit. If a security interest in any off highway vehicle registered under this chapter is satisfied, cancelled or released by the registered owner and legal owner of such off highway vehicle, and within a period of 10 days a new security interest covering the off highway vehicle is executed between the same parties, no application for transfer of ownership shall be made, no new certificate of ownership or registration shall be issued, and all provisions of this chapter relating to transfers of any title or interest in an off highway vehicle shall be deemed to have been fully complied with.

Transfer of ownership not required on pledge of security interest. The transferee of a security interest of any legal owner of any off highway vehicle registered under this chapter need not make application for transfer of ownership if such security interest arises from a pledge of a security agreement by the legal owner to the pledgee.

Procedure for perfection of security interest.

1. No security interest in any off highway vehicle required to be registered under this chapter, whether the registration was awarded before or after the creation of the security interest, is perfected until the secured party or his successor or assignee has deposited with the Department a properly endorsed certificate of ownership to the off highway vehicle subject to the security interest.

2. The certificate must show the secured party as legal owner if the off highway vehicle is then registered under this chapter, or if not so registered, the registered owner shall file an initial application for a certificate of registration and for a certificate of ownership and the certificate of ownership issued there under must contain the name and address of the legal owner.

3. Upon compliance with subsections 1 and 2, the security interest is perfected and the records of the Department must show the secured party or his successor or assignee as the legal owner of the off highway vehicle.

Method prescribed for perfecting security interest is exclusive. The method provided in this chapter for perfecting a security interest in any off highway vehicle required to be numbered is exclusive

Change of address of holder of certificate of ownership: Holder to notify Department and furnish new address; surrender and replacement or alteration of inaccurate certificates.

1. Any holder of a certificate of ownership shall notify the Department, within 10 days, if his address no longer conforms to the address appearing on the certificate and shall, as a part of the notification, furnish the Department with his new address.

2. The Board may provide in its regulations for the surrender of the certificate bearing the former address and its replacement with a new certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

Vehicle Identification Numbers: Prohibited acts; Penalties.

1. A person shall not:
 - (a) Intentionally deface, destroy, remove or alter any vehicle identification number required for an off highway vehicle without written authorization from the Department; or
 - (b) Place or stamp any serial number upon an off highway vehicle except a number assigned by the Department.
2. This section does not prohibit:
 - (a) The restoration of the original vehicle identification number by an owner of a off highway vehicle when the restoration is authorized by the Department; or
 - (b) Any manufacturer from placing numbers or marks in the ordinary course of business upon new off highway vehicles or parts of off highway vehicles.
3. Any person who violates subsection 1 is guilty of a gross misdemeanor.

Display of unauthorized decal prohibited. No decal other than the decal awarded to an off highway vehicle or granted reciprocity pursuant to the provisions of this chapter may be attached or otherwise displayed on an off highway vehicle. Only the current decal may be displayed or otherwise attached to an off highway vehicle registered in this state.

Suspension or revocation of registration if fraudulently obtained or fee was unpaid.

The Department may suspend or revoke any certificate of ownership, or registration if it is satisfied that any such registration was fraudulently obtained, or that the appropriate fee was not paid.

Registration fees.

- (1) The fee for each registration shall be \$35.00.
- (2) The fee for each duplicate registration card shall be \$5.00
- (3) The fee for each duplicate registration decal shall be \$7.00
- (4) The fee for each off-highway vehicle title shall be \$15.00
- (5) The fee for each off-highway vehicle registered for use by dealers and manufacturers shall be \$20.00
- (5) In addition to the fees imposed under Section 9 subsection 1, there is imposed a search and rescue fee of \$1.00 on each off-highway vehicle required to be registered or renewed .

Duplicate registration certificates.

- (1) If a registration card is lost or destroyed, or if an owner changes the owner's address from the address shown on the owner's registration card, the owner shall, within 15 days, apply for a duplicate registration card.

- (2) If a registration decal is lost, stolen, or becomes illegible, the owner of the off-highway vehicle shall immediately apply for and obtain a replacement registration decal.

Display of OHV Registration Decals.

- (1) (a) Upon each annual registration, the Department shall issue a registration decal and a registration card for each off-highway vehicle registered.
- (b) The registration decal shall:
- (i) contain a unique number using numbers, letters, or combination of numbers and letters to identify the off-highway vehicle for which it is issued;
 - (ii) be affixed to the off-highway vehicle for which it is issued in a plainly visible position as prescribed by regulations of the Department; and
 - (iii) be maintained free of foreign materials and in a condition to be clearly legible.
- (c) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.
- (2) The owner of an off-highway vehicle shall:
- (a) affix and display the off-highway vehicle registration decal assigned under Subsection (1) on the off-highway vehicle in a manner that is plainly visible from a distance of at least 50 feet during daylight by position, size, and color; and
 - (b) maintain the off-highway vehicle registration decal in a condition that is free of foreign materials and clearly legible.
 - (c) annual registration decals shall be displayed in all instances in a visible location as follows:
 - (1) on snowmobiles, mounted on the side of the hood, tunnel or pan;
 - (2) on motorcycles, wrapped around the side of the right fork; and
 - (3) on all-terrain type I and type II vehicles, mounted on the rear of the vehicle.
 - (4) The decal shall be non-transferable.

Falsification of documents unlawful - Alteration or removal of serial number unlawful - Display of decal.

A person may not:

- (1) knowingly falsify an application for registration, affidavit of ownership, or bill of sale for any off-highway vehicle.
- (2) use or permit the use or display of any registration decal, registration card, permit, or off-highway vehicle registration number upon an off-highway vehicle or in the operation of any off-highway vehicle other than the vehicle for which it was issued or assigned; or
- (3) alter or deface a registration decal, registration card, permit, or off-highway vehicle registration number issued or assigned to an off-highway vehicle.

Nonresident OHV User Permits and Fees.

- (1) (a) Except as provided in Subsection (1)(b), any nonresident owning an off-highway vehicle who operates or gives another person permission to operate the off-highway vehicle on any public land, trail, street, or highway in this state shall:
 - (i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;
 - (ii) pay an annual off-highway vehicle user fee; and
 - (iii) provide evidence that:
 - (A) the person is a nonresident; and
 - (B) the person is the owner of the off-highway vehicle
- (b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:
 - (i) registered in another state that offers reciprocal operating privileges to Nevada residents under regulations made by the Board; or
 - (ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under regulations made by the Board.
- (2) The off-highway vehicle user fee is \$30.
- (3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:
 - (a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and
 - (b) display the decal on the off-highway vehicle in accordance with regulations made by the Board.
- (4) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the Department or agents of the Department.
 - (b) An agent shall retain 10% of all off-highway vehicle user fees collected.
 - (c) The Department may require agents to obtain a bond in a reasonable amount.
 - (d) On or before the tenth day of each month, each agent shall:
 - (i) report all sales to the Department; and
 - (ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (4)(b).
 - (e) An agent may not issue an off-highway vehicle user decal to any person unless the person furnishes evidence of compliance with the provisions of Subsection (1)(a).
 - (h) A violation of any provision of this Subsection (4) is a misdemeanor and may be cause for revocation of the agent authorization.
- (5) Nonresident OHV user permits shall expire December 31 annually.
- (5) Applicants for a nonresident OHV user permit shall provide evidence that the applicant is the owner of the off-highway vehicle and is not a resident of Nevada. Such evidence shall include:
 - a. A government issued identification card showing the state of residency of the off-highway vehicle owner; and one of the following:

- i. A title or certificate of registration from a state other than Nevada,
 - ii. An original bill of sale; or
 - b. A sworn affidavit stating that the off-highway vehicle is owned by a nonresident of the state of Nevada. The affidavit must state the name and address of the vehicle owner, and a description of the off-highway vehicle, including the Vehicle Identification Number (VIN).
- (6) Off-highway vehicles currently registered in a state offering reciprocal operating privileges to Nevada residents shall be exempt from the nonresident user fee requirements. The Department shall maintain a list of states offering reciprocal operating privileges to Nevada residents. This list shall be updated at least annually.
- (7) The provisions of this section shall not apply to off-highway vehicles exempt or to off-highway vehicles participating in scheduled competitive events sponsored by a public or private entity, or in noncompetitive events sponsored in whole or in part by any governmental entity.

MANUFACTURERS AND DEALERS

Unless exempted, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

Manufacturers and dealers: Application for registration card and authority to issue report of sale; criteria for approval or denial of application.

1. The Department shall not issue a dealer's registration card to a manufacturer or dealer or authorize the manufacturer or dealer to issue a dealer's report of sale until he submits an application to the Department which contains such information as the Department may require.
2. In determining whether to approve or deny an application submitted pursuant to subsection 1, the Department may consider, without limitation, the following criteria:
 - (a) Whether the applicant has been convicted of violating a law or regulation relating to the sale of vehicles within the 5 years immediately preceding the date of the application.
 - (b) Whether the applicant has been convicted of a felony or a crime involving moral turpitude.
 - (c) The cooperation of the applicant and employees of the applicant.
 - (d) Characteristics of the business where the applicant would issue a dealer's report of sale, including, without limitation:
 - (1) Accessibility of the business to all segments of the public;
 - (2) Hours the business will be open to the public; and
 - (3) The number of times ownership of the business has been transferred.
 - (e) If the applicant was previously an off highway vehicle dealer for the Department:
 - (1) Whether the applicant complied with all laws and regulations for the issuance of a dealer's report of sale; and
 - (2) Whether the applicant's authority to serve as an off highway vehicle dealer for the Department was cancelled. If the authority was cancelled, the applicant must provide proof that the reason for cancellation has been corrected.

3. Except as otherwise provided in this subsection, if an applicant wishes to be an off highway vehicle dealer for the Department, the business of the applicant must have been established for at least 1 year immediately preceding the date of the application. The Department may waive this requirement if the applicant has previous experience in the business of buying and selling off highway vehicles and the Department determines there is a need for an off highway vehicle dealer for the Department.

4. A dealer must have an established place of business in Nevada and a permanent building or structure on a lot owned or leased with sufficient space to display one or more off highway vehicles.

4. As used in this section, the term “permanent building or structure” does not include a residence.

Off Highway Vehicle Equipment Requirements

NRS 490.120 Required equipment for operation on highway. In addition to the requirements set forth in [NRS 490.070](#), a person shall not operate an off-highway vehicle on a highway pursuant to [NRS 490.090](#) to [490.130](#), inclusive, unless the off-highway vehicle has:

1. At least one headlamp that illuminates objects at least 500 feet ahead of the vehicle;
2. At least one tail lamp that is visible from at least 500 feet behind the vehicle;
3. At least one red reflector on the rear of the vehicle, unless the tail lamp is red and reflective;
4. A stop lamp on the rear of the vehicle; and
5. A muffler which is in working order and which is in constant operation when the vehicle is running.

(Added to NRS by [2005, 2028](#))

All off-highway vehicles in operation in this state shall be equipped with all of the following:

1. Brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions.
2. Headlights: Designer colored headlamp covers are prohibited for use between sunset and sunrise.
3. Spark arrestor device that is approved by the United States Department of Agriculture and that is in constant operation except if operating on a closed course.
4. A safety flag that is at least six by twelve inches and that is attached to the off-highway vehicle at least eight feet above the surface of level ground, if operated on sand dunes or areas designated by the Board.
5. Tampering with an odometer or hour meter is prohibited.

Protective headgear requirements - Owner duty - Penalty for violation.

- (1) A person under the age of 18 may not operate or ride on all-terrain type I vehicles, snowmobiles, or motorcycles on public land unless the person is wearing a properly fitted and fastened, United States Department of Transportation safety-rated protective headgear designed for motorized vehicle use.

- (2) The owner of an off-highway vehicle or any other person may not give permission to a person who is under 18 years of age to operate or ride on an off-highway vehicle in violation of this section.
- (3) An operator and passengers of off-highway implements of husbandry operated in the manner prescribed are exempt from the requirements of this section.

Operation by persons under twelve years of age prohibited

- (1) An operator who is under 16 years of age must be under the direct visual supervision of an adult who is at least 18 years of age while operating an off highway vehicle.
- (2) Except as provided under Subsection (3), a person under twelve years of age may not operate and an owner may not give another person who is under twelve years of age permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state.
- (3) A child under twelve years of age may participate in a sanctioned race, organized practice or on a private course if the child is under the immediate supervision of an adult.

Agencies authorized to erect regulatory signs on public land.

No person, except an agent of an appropriate federal, state, county, or city agency, operating within that agency's authority, may place a regulatory sign governing off-highway vehicle use on any public land.

Restrictions on use of snowmobile trails.

A person may not operate a wheeled vehicle with gross vehicle weight of 800 pounds or more on any snowmobile trail that has been marked, posted, designated, or maintained as a snowmobile trail.

Restrictions on use of privately-owned lands without permission - Unlawful for person to tamper with signs or fencing on privately-owned land.

- (1)
 - (a) No person shall operate or accompany a person operating an off-highway vehicle upon privately-owned land of any other person, firm, or corporation without permission from the owner or person in charge.
 - (b) It is unlawful for any person operating or accompanying a person operating an off-highway vehicle to refuse to immediately leave private land upon request of the owner or person in charge of such land.
 - (c) Subsections (a) and (b) shall not apply to prescriptive easements on privately owned land.
 - (d) No person operating or accompanying a person operating an off-highway vehicle shall obstruct any entrance or exit to private property without the owner's permission.
- (2) It is unlawful for any person to tear down, mutilate, or destroy any sign, signboards, or other notice which regulates trespassing for purposes of

operating an off-highway vehicle on land; or to tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to any such fence or enclosure.

OFF-HIGHWAY VEHICLE NOISE EMISSIONS

Muffling devices.

A muffler that is in good working order and that is in constant operation to prevent excessive or unusual noise above ninety-six decibels, if measured from a distance of twenty inches using test procedures established by the society of automotive engineers except if operating on a closed course.

1. The exhaust of every internal combustion engine used on any off highway vehicle must be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner.
2. A person shall not operate an off highway vehicle in such a manner as to exceed a noise level when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J1287 JUL98:
 - (1) If manufactured on or after January 1, 1998.....96 dbA
 - (2) If manufactured prior to January 1, 1998.....94 dbA
3. Subsections 1 and 2 do not apply to off highway vehicles competing in a race approved as provided in section 4.
4. The Department may issue permits for the purposes enumerated in paragraph 3 under such conditions and restrictions as the Board determines necessary to prevent a public nuisance and to assure the public safety. The Board may adopt regulations to carry out the provisions of this subsection. The fee for a permit issued in accordance with this subparagraph is \$50.
5. A person shall not operate or give permission for the operation of any off highway vehicle in this State if the off highway vehicle is equipped with an altered muffler, muffler cutout, muffler bypass or any other device designed or installed so that it can be used continually or intermittently to bypass any muffler or muffler system installed on the off highway vehicle, or to reduce or eliminate the effectiveness of such a muffler or muffler system.
6. A person shall not remove, alter or otherwise modify in any way a muffler or muffler system installed on an off highway vehicle in such a manner as to prevent the muffler or muffler system from being operated in accordance with this section.
5. A peace officer authorized to enforce the provisions of this section who has reason to believe that an off highway vehicle is being operated in violation of the noise levels established in this section may direct the operator of the off highway vehicle to submit the off highway vehicle to an on-site test to measure noise level. An operator of an off highway vehicle who receives a request from a peace officer pursuant to this subsection to test the noise level of the off highway vehicle shall allow the off highway vehicle to be tested. If, based on a test to determine the noise level of an off highway vehicle administered pursuant to this section, the noise level of the off highway vehicle exceeds the decibel levels established in this section, the peace officer shall direct the operator of

the off highway vehicle to take immediate and reasonable measures to correct the violation, including, without limitation, terminating the use of the off highway vehicle until it no longer operates in violation of this section.

- (8) A copy of the conditions and restrictions for conducting a test of noise levels to determine if an off highway vehicle is in violation of the maximum noise levels set forth in this section may be viewed free of charge from the main or any regional office of the Department. The standards are copyrighted and may be purchased from The Society of Automotive Engineers at their own expense.

RULES OF OPERATION

NRS 490.090 Operation on undesignated paved highways generally prohibited; exceptions; operation on public land, trails, ways or unpaved county roads authorized unless prohibited by governmental entity having jurisdiction; authority of governmental entities having jurisdiction to distribute information concerning prohibited areas and to erect signs designating prohibited areas. Except as otherwise provided in NRS 490.100 or 490.110:

1. A person shall not, except as otherwise provided in subsection 2 or 3, operate an off-highway vehicle on a paved highway that is not otherwise designated for use by off-highway vehicles.

2. A person may operate an off-highway vehicle on a paved highway that is not otherwise designated for use by off-highway vehicles:

(a) If the off-highway vehicle is operated on the highway for the purpose of crossing the highway, comes to a complete stop before crossing and crosses as close as practicable to perpendicular to the direction of travel on the highway;

(b) If the off-highway vehicle is operated on the highway for the purpose of loading or unloading the off-highway vehicle onto or off of another vehicle or trailer, if the loading or unloading is as close as practicable to the place of operation of the off-highway vehicle;

(c) During an emergency if it is impossible or impracticable to use another vehicle or if a peace officer directs the operation of the off-highway vehicle; or

(d) If the off-highway vehicle is operated on a portion of a highway that is designated as a trail connector for a trail authorized for use by off-highway vehicles for not more than 2 miles.

3. A person may operate an off-highway vehicle on any public land, trail, way or unpaved county road unless prohibited by the governmental entity which has jurisdiction over the public land, trail, way or unpaved county road.

4. A governmental entity specified in subsection 3 may:

(a) Prepare and distribute upon request a map or other document setting forth each area of public land, trail, way or unpaved county road that is prohibited for the operation off-highway vehicles; and

(b) Erect and maintain signs designating each area of public land, trail, way or unpaved county road that is prohibited for the operation off-highway vehicles.

(Added to NRS by 2005, 2027)

5. A person who has had his drivers license suspended or revoked may not operate an off highway vehicle on public lands within the state.

Operation of in unsafe condition; penalties.

1. A game warden, sheriff or other peace officer of this State or any of its political subdivisions who observes an off highway vehicle being operated in an unsafe condition may direct the operator of the off highway vehicle to take immediate steps to correct the condition. If the condition cannot be corrected immediately and constitutes an immediate

risk of bodily injury or damage to property, the peace officer may order the operator to terminate the use of the off highway vehicle.

2. For the purposes of this section, an off highway vehicle is being operated in an unsafe condition if it:

- (a) the operator is not wearing the required safety equipment
- (b) there is no safety flag, if required;
- (c) the brakes are inoperable or insufficient to stop the off highway vehicle;
- (d) Fails to display the proper lights;
- (e) Is leaking fuel;

3. An operator who refuses to take immediate steps to correct the condition or fails to comply with the directions of the peace officer shall be punished:

(a) If no injury results, for a misdemeanor;

(b) If bodily injury or damage to property in excess of \$500 results, for a gross misdemeanor; or

(c) If the death of another person results, for a category D felony as provided in [NRS 193.130](#)

Unlawful operation of an off highway vehicle in restricted area; designation and marking of restricted areas.

- 1. No person may operate, except in an emergency, an off highway vehicle, other than a law enforcement, emergency medical or search and rescue vehicle, in an area designated as restricted. Such area shall be designated only with the consent of the Board and shall be clearly marked.
- 2. The Board may adopt regulations relating to the operation of off highway vehicles in areas properly marked.

Unlawful Operation: Reduced Speed Required in certain areas.

1. No person may operate an off highway vehicle at a speed greater than 10 mph when within 100 feet of a person who is not on an off highway vehicle or in a motor vehicle, including but not limited to anglers, hunters, hikers, bicyclists, joggers or horseback riders.

2. No person may operate an off highway vehicle at a speed greater than 10 mph when within 200 feet of a camp, recreational vehicle or dwelling.

Vehicles operated on posted public land.

(1) Currently registered off-highway vehicles may be operated on public land, trails, streets, or highways that are posted by sign or designated by map or description as open to off-highway vehicle use by the controlling federal, state, county, or municipal agency.

(2) The controlling federal, state, county, or municipal agency may:

(a) provide a map or description showing or describing land, trails, streets, or highways open to off-highway vehicle use; or

(b) post signs designating lands, trails, streets, or highways open to off-highway vehicle use.

(3) Liability may not be imposed on any federal, state, county, or municipality relating to the designation or maintenance of any land, trail, street, or highway open for off-highway vehicle use.

Restrictions on use of public lands.

Federal agencies are encouraged and agencies of the state and its subdivisions shall refrain from closing any public land to responsible off-highway vehicle use.

A person may not operate and an owner of an off-highway vehicle may not give another person permission to operate an off-highway vehicle on any public land which is closed to off-highway vehicles.

Operation of vehicles on highways - Limits.

NRS 490.110 Authorized and unauthorized operation on highway.

1. Except as otherwise provided in subsection 2, if an off-highway vehicle meets the requirements of this chapter and the operator holds a valid driver's license and operates the off-highway vehicle in accordance with the requirements of those sections, the off-highway vehicle may be operated on a highway in accordance with [NRS 490.090](#) to [490.130](#), inclusive.

2. An off-highway vehicle may not be operated pursuant to this section:

(a) On an interstate highway;

(b) On a paved highway in this State for more than 2 miles; or

(c) Unless the highway is specifically designated for use by off-highway vehicles in a city whose population is 100,000 or more.

(Added to NRS by [2005, 2028](#))

Requiring compliance with traffic laws.

NRS 490.130 Duties of operator when operating vehicle on highway. The operator of an off-highway vehicle that is being driven on a highway in this State in accordance with [NRS 490.090](#) to [490.130](#), inclusive, shall:

1. Comply with all traffic laws of this State;

2. Ensure that the certificate of operation for the off-highway vehicle is attached to the vehicle in accordance with [NRS 490.080](#); and

3. Wear a helmet.

(Added to NRS by [2005, 2028](#))

Snowmobiles.

Snowmobiles may be operated on streets or highways which have been officially closed for the season to conventional motor vehicle traffic because snow removal is no longer provided for the season by the public authority having jurisdiction.

Unlawful use of an off highway vehicle.

1. A person shall not operate an off-highway vehicle in a manner that causes damage to or disturbance of wildlife, wildlife habitat, riparian areas, meadows, in a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, cultural, historical, natural resources private or public property or improvements.
 2. A person shall not operate off an existing road or trail by driving on undisturbed ground or over vegetation.
 2. A person shall not drive an off-highway vehicle on roads, trails or routes that are posted closed or drive on any roads, trails or routes where driving is prohibited by regulation.
 3. A person shall not operate an off-highway vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries or other crimes or damage to the environment, including excessive pollution of air, water or land, abuse of the watershed, impairment of plant or animal life or excessive mechanical noise.
 4. It is unlawful to molest, rally, stir up or drive any wild mammals or wild birds with an off highway vehicle.
 5. In addition to the prohibitions set forth in subsection 2 of NRS 503.010 and subsection 1 of NRS 503.165 and except as otherwise provided in subsection 3 of NRS 503.165, it is unlawful for a hunter or trapper or a person assisting or accompanying a hunter or trapper to carry a weapon authorized for hunting big game or game birds pursuant to NRS 503.150, or any regulation adopted by the Commission, in or on any off-road vehicle that is being operated 25 yards or more from the edge of an established road located on public land within a management area or management unit which has an open season for the hunting of big game or game birds in effect.
- The provisions of this section do not apply to:
- (a) A hunter who is retrieving a big game mammal which he has taken; or
 - (b) A hunter or trapper who is using an off-road vehicle to cross a playa or travel by way of a sandy wash.

Operating Under Influence of Intoxicating Liquor or Controlled or Prohibited Substance

Operation of an off highway vehicle recklessly or while intoxicated or under influence of controlled substance prohibited.

1. A person shall not operate any off highway vehicle in a reckless or negligent manner so as to endanger the life or property of any person.
2. A person shall not operate any off highway vehicle while intoxicated or under the influence of any controlled substance, unless in accordance with a lawfully issued prescription.

“Concentration of alcohol of 0.08 or more in his blood or breath” defined. [Effective until the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this state.] As used in this section, the phrase “concentration of alcohol of 0.08 or more in his blood or breath” means 0.08 gram or more per 100 milliliters of the blood of a person or per 210 liters of his breath.

“Concentration of alcohol of 0.10 or more in his blood or breath” defined. [Effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this state.] As used in this section, the phrase “concentration of alcohol of 0.10 or more in his blood or breath” means 0.10 gram or more per 100 milliliters of the blood of a person or per 210 liters of his breath.

Unlawful acts. [Effective until the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this state.]

1. It is unlawful for any person who:
 - (a) Is under the influence of intoxicating liquor;
 - (b) Has a concentration of alcohol of 0.08 or more in his blood or breath; or
 - (c) Is found by measurement within 2 hours after operating or being in actual physical control of a off highway vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath, to operate or be in actual physical control of an off highway vehicle.
2. It is unlawful for any person who:
 - (a) Is under the influence of a controlled substance;
 - (b) Is under the combined influence of intoxicating liquor and a controlled substance;
 or
 - (c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of an off highway vehicle to operate or be in actual physical control of an off highway vehicle.
3. It is unlawful for any person to operate or be in actual physical control of an off highway vehicle with an amount of a prohibited substance in his blood or urine that is equal to or greater than:

Blood	Urine	
	Nanograms per	
Prohibited substance	milliliter	milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50

(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Marijuana	10	2
(h) Marijuana metabolite	15	5
(i) Methamphetamine	500	100
(j) Phencyclidine	25	10

4. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the off highway vehicle, and before his blood was tested, to cause him to have a concentration of 0.08 or more of alcohol in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

Unlawful acts. [Effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this state.]

1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.10 or more in his blood or breath; or

(c) Is found by measurement within 2 hours after operating or being in actual physical control of an off highway vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath, to operate or be in actual physical control of an off highway vehicle.

2. It is unlawful for any person who:

(a) Is under the influence of a controlled substance;

(b) Is under the combined influence of intoxicating liquor and a controlled substance;

or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of an off highway vehicle to operate or be in actual physical control of an off highway vehicle.

3. It is unlawful for any person to operate or be in actual physical control of an off highway vehicle with an amount of a prohibited substance in his blood or urine that is equal to or greater than:

	Urine
Blood	
	Nanograms per
Nanograms per	

Prohibited substance	milliliter	milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Marijuana	10	2
(h) Marijuana metabolite	15	5
(i) Methamphetamine	500	100
(j) Phencyclidine	25	10

4. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the off highway vehicle, and before his blood was tested, to cause him to have a concentration of 0.10 or more of alcohol in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

Penalty if death or substantial bodily harm results; segregation of offender; plea bargaining prohibited; affirmative defense; aggravating factor. [Effective until the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.]

1. A person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has a concentration of alcohol of 0.08 or more in his blood or breath;
- (c) Is found by measurement within 2 hours after operating or being in actual physical control of an off highway vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;
- (d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;
- (e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of an off highway vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of this section, and does any act or neglects any duty imposed by law while operating or being in actual physical control of any off highway vehicle, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the off highway vehicle, and before his blood was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the off highway vehicle at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Penalty if death or substantial bodily harm results; segregation of offender; plea bargaining prohibited; affirmative defense; aggravating factor. [Effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.]

1. A person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of an off highway vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a off highway vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of this section, and does any act or neglects any duty imposed by law while operating or being in actual physical control of any off highway vehicle, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the off highway vehicle, and before his blood was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

3. If a person less than 15 years of age was in the off highway vehicle at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Evaluation of certain offenders before sentencing.

1. Before sentencing a defendant pursuant to this section, the court shall require that the defendant be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to [chapter 641C](#) of NRS to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

Fee for chemical analysis.

1. If a defendant pleads guilty to or is found guilty of, a violation of this section and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of \$60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

- (a) Collected from the defendant before or at the same time that the fine is collected.
- (b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by him pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to [NRS 453.575](#). The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

- (a) Except as otherwise provided in paragraph (b), must be:

- (1) Expended to pay for the chemical analyses performed within the county;
 - (2) Expended to purchase and maintain equipment to conduct such analyses;
 - (3) Expended for the training and continuing education of the employees who conduct such analyses; and

- (4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

- (c) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in [NRS 484.388](#).

Implied consent to preliminary test of breath; failure to submit to test; use of results of test.

1. Any person who operates or is in actual physical control of an off highway vehicle shall be deemed to have given his consent to a preliminary test of his breath to determine the concentration of alcohol in his breath when the test is administered at the direction of a peace officer after an off highway vehicle accident or collision or where an officer stops an off highway vehicle, if the officer has reasonable grounds to believe that the person to be tested was:

- (a) Operating or in actual physical control of an off highway vehicle while under the influence of intoxicating liquor or a controlled substance; or
- (b) Engaging in any other conduct prohibited by this section.

2. If the person fails to submit to the test, the officer shall arrest him and take him to a convenient place for the administration of a reasonably available evidentiary test under this section.

4. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

Implied consent to evidentiary test; exemption from blood test; choice of test; circumstances in which peace officer may direct person to submit to blood test; restrictions on requiring urine test; failure to submit to test.

1. Except as otherwise provided in subsections 3 and 4, a person who operates or is in actual physical control of an off highway vehicle shall be deemed to have given his consent to an evidentiary test of his blood, urine, breath or other bodily substance to determine the concentration of alcohol in his blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the direction of a peace officer having reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of an off highway vehicle while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by this section.

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section, but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

4. If the concentration of alcohol of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, he must pay for the cost of the blood test, including the fees and expenses of witnesses in court.

(c) A peace officer may direct the person to submit to a blood test if the officer has reasonable grounds to believe that the person:

(1) Caused death or substantial bodily harm to another person as a result of operating or being in actual physical control of an off highway vehicle while under the influence of intoxicating liquor or a controlled substance or as a result of engaging in any other conduct prohibited by this section; or

(2) Has been convicted within the previous 7 years of:

(I) A violation of [NRS 484.379](#), [484.3795](#), subsection 2 of [NRS 488.400](#), [NRS 488.410](#) or [488.420](#) or a law of another jurisdiction that prohibits the same or similar conduct; or

(II) Any other offense in this State or another jurisdiction in which death or substantial bodily harm to another person resulted from conduct prohibited by a law set forth in sub-subparagraph (I).

5. If the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may direct him to submit to a blood or urine test, or both, in addition to the breath test.

6. Except as otherwise provided in subsections 3 and 5, a peace officer shall not direct a person to submit to a urine test.

7. If a person to be tested fails to submit to a required test as directed by a peace officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of an off highway vehicle while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by this section, the officer may direct that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested. Not more than three such samples may be taken during the 5-hour period immediately following the time of the initial arrest. In such a circumstance, the officer is not required to provide the person with a choice of tests for determining the alcoholic content or presence of a controlled substance or another prohibited substance in his blood.

Requirements for evidentiary test of breath to determine concentration of alcohol in breath; use of reasonable force to obtain sample or conduct test.

1. Except as otherwise provided in subsection 2, an evidentiary test of breath to determine the concentration of alcohol in a person's breath may be used to establish that concentration only if two consecutive samples of the person's breath are taken and:

(a) The difference between the concentration of alcohol in the person's breath indicated by the two samples is less than or equal to 0.02;

(b) If the provisions of paragraph (a) do not apply, a third evidentiary test of breath is administered and the difference between the concentration of alcohol in the person's breath indicated by the third sample and one of the first two samples is less than or equal to 0.02; or

(c) If the provisions of paragraphs (a) and (b) do not apply, a fourth evidentiary test is administered. Except as otherwise provided in this section, the fourth evidentiary test must be a blood test.

2. If the person fails to provide the second or third consecutive sample, or to submit to the fourth evidentiary test, the results of the first test may be used alone as evidence of the concentration of alcohol in the person's breath. If for some other reason a second, third or fourth sample is not obtained, the results of the first test may be used with all other evidence presented to establish the concentration.

3. If a person refuses or otherwise fails to provide a second or third consecutive sample or submit to a fourth evidentiary test, a peace officer may direct that reasonable force be used to obtain a sample or conduct a test pursuant to this section.

Admissibility of evidence of failure to submit to evidentiary test and results of test; availability of results of test; presumption of accuracy and reliability of testing device; judicial notice of certification of operator of testing device; other evidence not precluded.

1. If a person refuses to submit to a required chemical test provided for in [NRS 488.450](#) or [488.460](#), evidence of that refusal is admissible in any criminal action arising out of acts alleged to have been committed while the person was:

- (a) Operating or in actual physical control of an off highway vehicle while under the influence of intoxicating liquor or a controlled substance; or
- (b) Engaging in any other conduct prohibited by this section.

2. Except as otherwise provided in subsection 3 of this section, a court may not exclude evidence of a required test or failure to submit to such a test if the peace officer or other person substantially complied with the provisions of these sections, inclusive.

3. If a person submits to a chemical test provided for in this section, full information concerning that test must be made available, upon his request, to him or his attorney.

4. Evidence of a required test is not admissible in a criminal proceeding unless it is shown by documentary or other evidence that the device for testing breath was certified pursuant to [NRS 484.3882](#) and was calibrated, maintained and operated as provided by the regulations of the Committee on Testing for Intoxication adopted pursuant to [NRS 484.3884](#), [484.3886](#) or [484.3888](#).

5. If the device for testing breath has been certified by the Committee on Testing for Intoxication to be accurate and reliable pursuant to [NRS 484.3882](#), it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath.

6. A court shall take judicial notice of the certification by the Director of a person to operate testing devices of one of the certified types. If a test to determine the amount of alcohol in a person's breath has been performed with a certified type of device by a person who is certified pursuant to [NRS 484.3886](#) or [484.3888](#), it is presumed that the person operated the device properly.

7. This section does not preclude the admission of evidence of a test of a person's breath where the:

- (a) Information is obtained through the use of a device other than one of a type certified by the Committee on Testing for Intoxication.
- (b) Test has been performed by a person other than one who is certified by the Director.

This NRS needs to be amended to include this section

NRS 50.325 Procedure for admission of affidavit or declaration of expert or other person to prove existence of alcohol, quantity of controlled substance or existence or identity of controlled substance, chemical, poison, organic solvent or another prohibited substance in prosecution of certain criminal offenses.

1. If a person is charged with an offense listed in subsection 4, and it is necessary to prove:

- (a) The existence of any alcohol;
- (b) The quantity of a controlled substance; or
- (c) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance, the prosecuting attorney may request that the affidavit or declaration of an expert or other person described in [NRS 50.315](#) and [50.320](#) be admitted into evidence at the preliminary hearing or hearing before a grand jury concerning the offense.

2. The affidavit or declaration must be admitted into evidence upon submission.
3. The provisions of this section do not prohibit either party from producing any witness to offer testimony at a preliminary hearing or hearing before a grand jury.
4. The provisions of this section apply to any of the following offenses:
 - (a) An offense punishable pursuant to NRS 202.257, 455A.170, 455B.080, 493.130 or 639.283.
 - (b) An offense punishable pursuant to chapter 453, 484 or 488 of NRS.
 - (c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a off highway vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425.
 - (d) Any other offense for which it is necessary to prove, as an element of the offense:
 - (1) The existence of any alcohol;
 - (2) The quantity of a controlled substance; or
 - (3) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance.

Opportunity of arrested person to choose qualified person to administer test; substitution of test prohibited.

1. A person who is arrested for operating or being in actual physical control of an off highway vehicle while under the influence of intoxicating liquor or a controlled substance or for engaging in any other conduct prohibited by this section must be permitted, upon his request and at his expense, reasonable opportunity to have a qualified person of his own choosing administer a chemical test to determine:
 - (a) The concentration of alcohol in his blood or breath; or
 - (b) Whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present in his blood or urine.
2. The failure or inability to obtain such a test does not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a peace officer.
3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by this section.

Admissibility of results of blood test in criminal action; immunity from liability for person administering blood test in certain circumstances.

1. The results of any blood test administered under the provisions of this section are not admissible in any criminal action arising out of acts alleged to have been committed by a person who was operating or in actual physical control of a off highway vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by this section unless:
 - (a) The blood tested was withdrawn by a physician, registered nurse, licensed practical nurse, emergency medical technician or a technician, technologist or assistant employed in a medical laboratory;
 - (b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma; and

(c) The person who withdrew the blood was authorized to do so by the appropriate licensing or certifying agency.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a peace officer or the person to be tested to administer the test.

Presumption that solution or gas used to calibrate device for testing breath is properly prepared. If:

1. A manufacturer or technician in a laboratory prepares a chemical solution or gas to be used in calibrating a device for testing a person's breath to determine the concentration of alcohol in his breath; and

2. The technician makes an affidavit or declaration that the solution or gas has the chemical composition that is necessary for calibrating the device, it is presumed that the solution or gas has been properly prepared and is suitable for calibrating the device.

Analysis of blood of deceased victim of accident involving off highway vehicle to determine presence and concentration of alcohol.

1. Any coroner, or other public officer performing like duties, shall in all cases in which a death has occurred as a result of an accident involving an off highway vehicle, whether the person killed is the operator of the off highway vehicle or a passenger or other person, cause to be drawn from each decedent, within 8 hours after the accident, a blood sample to be analyzed for the presence and concentration of alcohol.

2. The findings of the examinations are a matter of public record and must be reported to the Board by the coroner or other public officer within 30 days after the death.

3. Analyses of blood alcohol are acceptable only if made by laboratories licensed to perform this function.

OFF HIGHWAY VEHICLE ACCIDENTS

Collisions, accidents and other casualties.

1. The operator of an off highway vehicle involved in a collision, accident or other casualty shall, so far as he can do so without serious danger to his own safety and passengers, render to other persons affected by the casualty such assistance as may be practicable and as may be necessary to save them from or minimize any danger caused by the casualty, and shall give his name, address and the identification of his off highway vehicle in writing to any person injured and to the owner of any property damaged in the casualty.

2. In the case of collision, accident or other casualty involving an off highway vehicle, the operator thereof, if the casualty results in death or injury to a person or damage to property in excess of \$500, shall file with the Department a full description of the casualty, including, without limitation, such information as the Board may, by regulation, require.

3. The Department shall investigate or cause to be investigated a collision, accident or other casualty involving an off highway vehicle which results in death or substantial bodily injury and shall gather evidence to be used in the prosecution of a person charged with violating a law in connection with the collision, accident or other casualty. The Department may investigate or cause to be investigated a collision, accident or other casualty involving an off highway vehicle which does not result in death or substantial bodily injury and may gather evidence to be used in the prosecution of a person charged with violating a law in connection with the collision, accident or other casualty.

Notice of death or disappearance of person.

1. When, as a result of a collision, accident or other casualty involving an off highway vehicle or its equipment, a person dies or disappears, the operator shall, without delay and by the quickest means available notify the nearest representative of the Department. The notice must include:

- (a) The date, time and exact location of the occurrence;
- (b) The name of each person who died or disappeared;
- (c) The name and address of the owner and the operator.

2. If the operator of the off highway vehicle cannot give the notice, each person on board the off highway vehicle shall notify the Department or determine that the notice has been given.

Report concerning certain occurrences.

1. Except as otherwise provided in subsection 4, the operator of an off highway vehicle shall submit to the Department a report, on a form provided by the Department, whenever as a result of an occurrence involving the off highway vehicle or its equipment:

- (a) A person dies;
- (b) A person is injured and receives medical treatment beyond first aid;
- (c) Damage occurs to the off highway vehicle and other property which totals more than \$500; or
- (d) A person disappears under circumstances indicating his death or injury.

2. The report must be submitted within 48 hours after the occurrence if a person dies within 24 hours after the occurrence, is injured and receives medical treatment beyond first aid, or disappears.

3. The report must be submitted within 10 days after the occurrence or death if an earlier report is not required by subsection 2.

4. If the operator of the off highway vehicle cannot submit the report, the owner shall submit it.

Permission required for race or organized event.

“Off highway vehicle event” defined

As used in this section “off highway vehicle event” includes:

- 1. "Organized practice" means a scheduled off highway vehicle practice held in an off-road vehicle facility

2. "Sanctioned race" means an off highway vehicle race conducted on a closed course and sponsored and sanctioned by an organization

Authority of Department to authorize events; regulations concerning safety; application for permission; contents of application; compliance with other state and federal laws.

1. The Board shall adopt regulations concerning the safety of off highway vehicle races or organized events. No person may organize, promote, or hold an off-highway vehicle race or other organized event on any land or highway within this state, except as permitted by the appropriate agency or landowner having jurisdiction over the land or highway.
2. At least 30 days before an off highway event is proposed to be held, the person in charge thereof must file an application with the Department for permission to hold the event. The application must set forth the date, time and location where it is proposed to hold the event, the type of off highway vehicles participating, and the name of a person who will be present at the event to ensure that the conditions of the permit are satisfied. No such event may be conducted without the written authorization of the Department.
3. The provisions of this section do not exempt any person from compliance with applicable local, state or federal laws or regulations.
4. The Department, by regulation, shall specify the minimum amounts of liability coverage for an organized practice or sanctioned race covering all activities associated with the practice or race.

Supervision, safety certificate, or driver license required - Penalty.

- (1) A person may not operate and an owner may not give a person permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state unless the person:
 - (a) is under the direct supervision of a certified off-highway vehicle safety instructor during a scheduled safety training course;
 - (b) has in his possession the appropriate safety certificate issued or approved by the Department; or
 - (c) has in his immediate possession a valid motor vehicle operator's license.
- (b) It is a defense to a charge under this section, if the person charged produces in court a license or an appropriate safety certificate that was:
 - (i) valid at the time of the citation or arrest; and
 - (ii) issued to the person operating the off-highway vehicle.

(3) The requirements of this section do not apply to an operator of an all-terrain type I vehicle with a properly displayed and current off-highway implement of husbandry decal.

Board to set standards for safety program - Safety certificates issued – Cooperation with public and private entities - State immunity from suit. Requirements; presentation to peace officer of certain documentation; duties of certain persons engaged in business of renting or leasing off highway vehicles.

The Department shall conduct or approve an educational course of instruction in off-highway vehicle safety and environmental ethics. The course shall include instruction on off-highway vehicle uses that limit air pollution and harm to natural terrain, vegetation and animals. Successful completion of the course requires successful passage of a written examination.

1. A person born on or after January 1, 1983, shall not operate an off highway vehicle unless the operator:

(a) Has:

(1) Successfully completed a course in the safe operation of an off highway vehicle or passed a proficiency examination if the examination was proctored and tested the knowledge of information included in the curriculum of such a course; and

(2) Received a certificate as evidence of successful completion of the course or passage of the examination.

2. A person born on or after January 1, 1983, who is operating an off highway vehicle and who is stopped by a game warden, sheriff, U.S. BLM, Forest Service, Fish and Wildlife Service, National Park Service or other peace officer in the enforcement of this chapter or the regulations adopted pursuant thereto shall present to the game warden, sheriff, U.S. BLM, Forest Service, Fish and Wildlife Service, National Park Service or other peace officer:

(a) The certificate received by the person pursuant to subparagraph (2) of paragraph (a) of subsection 1;

(b) A license described in paragraph (b) of subsection 1;

3. Failure to present the certificate, license, permit, agreement or proof constitutes prima facie evidence of a violation of subsection 1. A person who fails to present the certificate, license, permit, agreement or proof is guilty of a misdemeanor unless he presents the required documents in court. The documents must prove that the person was operating the off highway vehicle in compliance with this section on the date of the violation.

4. The Department shall establish and maintain a database of certificates that it issues pursuant to subsection 1. The database must include, without limitation, the:

(a) Name, date of birth and gender of the holder of the certificate;

(b) Date, location and name of the course that the holder of the certificate completed or the examination that he passed; and

(c) Number on the certificate.

(5) The board shall establish curriculum standards for a comprehensive off-highway vehicle safety education and training program and shall implement this program.

- (a) The program shall be designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of an off-highway vehicle.
 - (b) Components of the program shall include the preparation and dissemination of off-highway vehicle information and safety advice to the public and the training of off-highway vehicle operators.
 - (c) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program.
- (6) The Department shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

Certification of safety instructors.

- (1) The department may certify certain qualified persons as off-highway vehicle safety instructors. An instructor certified by the Department may act in behalf of the department as an agent in:
- (a) conducting off-highway vehicle safety classes and examinations; and
 - (b) issuing safety certificates.
- (2) A certified off-highway vehicle safety instructor shall:
- (a) successfully complete an off-highway vehicle safety instructor program for the type of vehicle instruction to be given through a program:
 - (i) of the department; or
 - (ii) through a program recognized by the department which is conducted by an off-highway vehicle safety organization;
 - (b) be at least 18 years of age and hold a valid motor vehicle operator's license;
 - © have no convictions for driving under the influence of alcohol or drugs during the previous five years; and
 - (d) have no convictions for a sexual offense against a minor or a violent crime against a minor.

Fees for safety and education program - Penalty - Unlawful acts.

- (1) The Department may collect a \$10 fee to help fund the off-highway vehicle safety and education program from each person who receives the training and takes the knowledge and skills test, or a fee of \$5 from each person who takes the knowledge and skills test for off-highway vehicle use.
- (2) (a) To help defray instructors' costs, the department may reimburse volunteer certified off-highway vehicle safety instructors up to \$6 for each student who receives the training and takes the knowledge and skills test.
- (b) On or before the 10th day of each calendar month, volunteer off-highway vehicle safety instructors shall report to the division all fees collected and students trained and shall accompany the report with all money received for off-highway vehicle training.

© An instructor shall not:

- 1) willfully misdate an off-highway vehicle education safety certificate
- 2) issue an incomplete certificate; or
- 3) issue of a receipt in lieu of a certificate.

(3) An off-highway vehicle safety instructor shall teach a minimum of two off-highway vehicle courses or skills modules per year to maintain instructor certification.

(4) A duplicate off-highway vehicle education certificate is \$2.

Student Requirements.

1. A student under 18 years old attending any off-highway vehicle education course shall be required to have a parent or adult responsible for that student attend at least the first hour of any classroom session, and all of any applicable skills module.
2. All students shall submit to the course instructor a “Parental Consent and Waiver” form signed by their parent or legal guardian during any off-highway vehicle education class.
3. All students participating in the skills module shall wear the following safety equipment: a properly fitted and fastened DOT safety-rated helmet designed for motorized use, safety proven eye protection, gloves, and long pants and sturdy shoes or boots that cover the foot and ankle.
4. A student must receive a grade of 80 percent or better on the written test before participating in a corresponding skills module. A score of 80 percent is also necessary on the skills module in order to be certified.
5. A student may challenge the written test or any of the skills modules by passing the appropriate test.
6. A student failing any test or skills module may be retested no sooner than seven days after the initial test. If the student fails the retest of a skills module, then he must retake the entire module.
7. A student participating in the skills module must be able to straddle the machine, with a slight bend to his knees, while his feet are on the foot rests.

Authorized peace officers - Arrest provisions - Penalties for violations.

Enforcement by game wardens and other peace officers; inspection of off highway vehicles.

Every game warden, sheriff, U.S. BLM, Forest Service, Fish and Wildlife Service, National Park Service, or other peace officer of this State and its political subdivisions shall enforce the provisions of this chapter and may stop and inspect any off highway vehicle subject to the provisions of this chapter.

Citation; taking person before magistrate.

Whenever any person is halted by a game warden, sheriff, U.S. BLM, Forest Service, Fish and Wildlife Service, National Park Service, or other peace officer for any violation of this chapter, the person shall, in the discretion of the game warden, sheriff, U.S. BLM, Forest Service, Fish and Wildlife Service, National Park Service, or peace officer either

be given a citation or be taken without unnecessary delay before the proper magistrate. He shall be taken before the magistrate in either of the following cases:

1. When the person does not furnish satisfactory evidence of identity; or
2. When the game warden, sheriff, U.S. BLM, Forest Service, Fish and Wildlife Service, National Park Service, or other peace officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court.

Seizure of an off highway vehicle to preserve evidence of crime; payment of storage fees.

1. If a peace officer has probable cause to believe that an off highway vehicle or its contents contain evidence tending to show that a criminal offense has been committed or that a particular person has committed an offense, the officer may take whatever steps are reasonable to ensure the preservation of the evidence including safe storage of the off highway vehicle or its contents.
2. If a criminal conviction is obtained as a result of an action taken pursuant to subsection 1, the person convicted shall pay any storage fees incurred pursuant to that subsection. If a conviction is not obtained, the law enforcement agency that seized the off highway vehicle pursuant to subsection 1 shall pay those fees.

Penalty for violating provision of chapter: Criminal penalty; authority of court to require successful completion of a course in safe operation of off highway vehicles as prerequisite to operation of off highway vehicles in this State.

Except as otherwise provided in this chapter, any person who violates any of the provisions of this chapter is guilty of a misdemeanor.

Effective date. This act is effective for purposes of implementing the act on July 1, 2007, for purposes of registration and titling on January 1, 2009, for education, trails, and enforcement of prohibited acts on January 1, 2010.