



DRAFT MODEL STATE LEGISLATION

OFF-HIGHWAY VEHICLE ACT

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

Material in italics is for drafting purposes only and may not be appropriate for every state.

Findings. The *General Assembly* 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.

CHAPTER 1. OFF-HIGHWAY VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

§1. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Board" means the State Off-Highway Vehicle Trails Advisory Board.
- (2) "*Commissioner*" means the commissioner of _____.
- (3) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail in this state.
- (4) "Department" means the *Department of* _____.
- (5) "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.
- (6) "Director" means the Director of _____.
- (7) "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.
- (8) "Fund" means the Off-Highway Vehicle Trails Fund.
- (9) "Off-highway vehicle, (OHV)" means any self-propelled vehicle designed to travel on wheels or tracks in contact with the ground, intended primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. OHV includes but is not limited to off-highway motorcycles and all-terrain vehicles, but does not include the following:
 - (a) Any vessel, boat or personal watercraft designed primarily for travel on, over, or in the water;

- (b) Golf carts;
- (c) Military vehicles;
- (d) Snowmobiles; and
- (e) Vehicles titled and registered pursuant to chapter ____ of Title ____ for use on the highways of this state.

(10) "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.

(11) "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.

(12) "Off-highway vehicle recreation facility" includes OHV trails and OHV use areas.

(13) "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.

(14) "Operator" means any person who operates, or is in physical control of, an off-highway vehicle.

(15) "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.

(16) "Owner" means any person, other than a lien holder, having a property interest in an off-highway vehicle and entitled to its use and possession.

(17) "Person" means any individual, firm, partnership, association, or corporation.

(18) "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.

(19) "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.

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

§2. Designated division or state agency.

The governor shall designate a division of the governor's office or a state agency(s) to establish and administer off-highway vehicle title and registration programs.

§3. Purpose of program

The purpose of the off-highway vehicle 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 such as vehicle anti-theft and recovery, to promote off-highway vehicle recreation as an economic component of tourism and to establish a revenue-neutral fee base.

§4. Off-highway vehicle registration.

(a) Except as provided in subsection (o) of this section, a person may not operate any off-highway vehicle within the state unless the vehicle has been registered by the *Department of Public Safety* and numbered 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 indicating the

distinctive number assigned to the vehicle, the validity of the current registration, the expiration date thereof and a validation tag, plate or decal which shall be affixed to the off-highway vehicle as may be prescribed. 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 provided otherwise provided.

(d) Except as provided in (n), (1) and (2) below, 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 sixty days after the effective date of this Act. The off-highway vehicle title shall be issued for purposes of registration only and convey no right or privilege to operate the vehicle on public roads and highways.

(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.

(g) A number assigned to an off-highway vehicle at the time of its original registration shall remain with the off-highway vehicle until the vehicle ownership changes, the vehicle is destroyed, abandoned, or permanently removed from the state or until such registration number is changed or terminated by the department.

(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 in section _____ and issue a temporary registration. The application will then be forwarded to the department which shall issue the registration. The agent may retain not more than \$2.00 for each registration issued, as authorized by the director.

(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 vehicle leaves the dealer's premises, except for those exempted in subsection (n) of this section 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 division 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) 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 and such off-highway vehicle has not been within this state for more than thirty 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.

(o) The registration number assigned to an off-highway vehicle shall be displayed on the vehicle at all times in such manner as prescribed.

(p) 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.

(q) Any person who violates the requirements of this section is guilty of a misdemeanor.

§5. Fees for off-highway vehicle title and registration.

(a) Off-highway vehicle title	\$10.00
(b) Off-highway vehicle registration	10.00
(c) Off-highway vehicle registered for use by dealers and manufacturers.	20.00
(d) Off-highway vehicle registered for rental use.	20.00
(e) Off-highway vehicle replacement title or registration.	2.00

§6. Remittance of fees collected.

- (a) 100% of the OHV title fees shall be remitted as prescribed for administration of title, registration and access use permit issuance.
- (b) 85% of the registration fees shall be deposited into the OHV trails fund and 15% shall be retained by the department for administrative costs.

SUBCHAPTER C. OFF-HIGHWAY VEHICLE RECREATION PROGRAM.

§7. Designated division or state agency.

The governor shall designate a division of the governor's office or a state agency(s) to establish and administer the off-highway vehicle recreation program.

§8. Purpose of program.

The purpose of the off-highway vehicle recreation program is to 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 a positive contributor to the state economy.

§9. Off-highway vehicle recreation access use permit required.

(a) Except as provided in (k) (1) through (5) of this section, no person shall operate any off-highway vehicle on designated recreation trails or riding areas established within this state in accordance with the provisions of this chapter after December 31, 200_ unless the off-highway vehicle has been assigned and displays an OHV recreation access use permit decal in accordance with the provisions of this subchapter. The access use decal shall be displayed in addition to and distinct in design and color from the OHV registration decal as prescribed in subchapter B.

(b) The department shall provide for the issuance of recreation access use permits for off-road vehicles and may appoint agents for collecting fees and issuing permits. The department shall provide for replacement decals upon application and payment of fee. Fees are as prescribed in section _____.

(c) Application for annual or temporary OHV recreation access use permits shall be made to the department or its authorized agent as prescribed.

(d) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by the prescribed fee. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a recreation access use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed.

(e) Any person acquiring an off-road vehicle for which an annual access use permit has been issued who desires to continue to use the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee as prescribed.

(f) Application for a temporary permit shall be accompanied by the prescribed fee and is valid for thirty days. The permit shall be carried on the vehicle at all times during its operation in the state.

(g) Except as provided in (k), (3) of this section, any out-of-state operator of an off-highway vehicle shall, when operating in this state, comply with this chapter, and if an OHV recreation access use permit is required under this chapter, the operator shall obtain an annual or temporary permit and decal as appropriate.

(h) Except as provided in subsection (k), (1) through (5) of this section, on and after January 1, 200_, no person shall operate, nor have in his possession at any staging area, designated trail or riding area any nonresident-owned or -operated off-highway vehicle unless the vehicle is covered by a valid license or

registration of another state or country and the nonresident-owned or -operated off-highway vehicle has not been within this state for more than thirty consecutive days, or has been issued an access use permit pursuant to this subsection.

(i) OHV recreation access use permits may be issued to nonresident-owned or -operated off-highway vehicles and shall be available through designated agents for a fee as specified in section _____ and are valid for one year.

(j) Nonresident off-highway vehicle permits shall be displayed as required by the division.

(k) OHV recreation access use permits and decals shall be required under the provisions of this chapter except for the following:

- (1) Off-highway vehicles owned and operated by the United States, this state, another state, or political subdivisions thereof;
- (2) Off-road vehicles operated on lands owned or leased by the OHV owner or operator or on lands which the operator has permission to operate without an OHV use permit;
- (3) Off-road vehicles owned by a resident of another State or country that have a valid OHV access use permit or vehicle registration issued in accordance with the laws of that State or country. This exemption shall apply only to the extent that a reciprocal exemption or privilege is granted under the laws of that State or country;
- (4) Off-road vehicles while being used for law enforcement or search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency, and
- (5) Off-highway vehicle used exclusively on private property.

§10. Fees for off-highway vehicle recreation access use permit.

(a) Annual off-highway vehicle recreation access use permit.	15.00
(b) Temporary resident access use permit.	4.00
(c) Replacement permit.	3.00
(d) Transfer of permit.	3.00
(e) Non-resident access use permit.	30.00
(f) Temporary non-resident access use permit.	10.00

§11. Remittance of fees collected.

100% of fees collected under section 10 shall be deposited into the OHV trails fund.

SUBCHAPTER D. OFF-HIGHWAY VEHICLE TRAILS FUND.

§12. Purpose and operation of fund

(a) The purpose of the trails fund is to establish a revenue-neutral funding mechanism to support the off-highway vehicle recreation program.

(b) The off-highway vehicle trails fund is created as a special fund in the State treasury. Moneys from Federal, state, and private sources may be deposited into the fund. Fees collected from the issuance of off-highway vehicle access use permits shall be deposited into the fund. Fines assessed for citations issued to off-highway vehicle operators shall be deposited into the fund. All interest accrued on the fund shall be deposited into the fund.

(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.

(d) The Department shall establish, by rule, 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) The Department shall establish a program to administer grants from the Fund to units of local government, 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.

§13. 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.

§14. Use of funds on Federal lands; conditions

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 officials and participate as necessary in the activities to be conducted on the properties.

§15. Funding from gasoline tax.

(a) 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.

(b) 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.

SUBCHAPTER E. OFF-HIGHWAY VEHICLE TRAILS ADVISORY BOARD.

§16. Establishment and operation of the board.

(a) The Board shall consist of 7 members, one from each of the following organizations, except 3 members shall be from chartered off-highway motorcycle and all-terrain vehicle rider clubs, appointed by the Director from nominations submitted by clubs statewide with the concurrence of the agency members.

- (1) *Department of Economic Development (tourism).*
- (2) *Department of Natural Resources.*
- (3) *Department of Parks and Wildlife.*
- (4) *Department of Public Safety.*
- (5) 3 members representing funding user groups.

(b) Terms of the members shall be 3 years, beginning on January 1 and ending on December 31. The board shall meet beginning in January of 200_. The Department shall establish by rule, procedures for

conduct of the board's business. At least one member of the Board shall also be the Department's state trails coordinator.

(c) The director of the *Department of Parks and Wildlife* or his designee shall chair the meetings.

(d) The Board shall evaluate and recommend to the Director, recreation trail and riding area projects for funding consistent with the purposes set forth in section 12.

§17. Rules.

The designated division(s) or state agency(s) may adopt rules to administer this chapter.

SUBCHAPTER F. OFF-HIGHWAY VEHICLE NOISE EMISSIONS

§18. Noise Emissions.

(a) Off-highway vehicles shall at all times be equipped with a silencer, or other device, which limits noise emissions.

(b) Noise emissions of off-highway vehicles shall be limited to the following levels 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.....101 dbA