

CHAPTER 80

NATURAL RESOURCES

HOUSE BILL 18-1103

BY REPRESENTATIVE(S) McLachlan, Ginal, Hamner, Hansen, Kraft-Tharp, Michaelson Jenet, Rosenthal, Singer, Young, Duran;
also SENATOR(S) Coram, Aguilar, Court, Donovan, Guzman, Kerr, Merrifield, Moreno.

AN ACT

CONCERNING THE ABILITY OF A LOCAL GOVERNMENT TO REQUIRE A DRIVER TO MEET SAFETY STANDARDS FOR THE USE OF AN OFF-HIGHWAY VEHICLE.

Be it enacted by the General Assembly of the, State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that:

- (a) The recreational use of off-highway vehicles is important to Colorado's tourism industry and the economy of many communities;
- (b) Many of these communities have developed significant trail networks that include local roads;
- (c) Under Colorado law, local governments may open up roads in their jurisdictions for off-highway use;
- (d) The opening of roads in local jurisdictions has put more off-highway vehicles in direct proximity to motor vehicles and the traveling public, and many local communities are taking steps to increase the safety of these interactions by adopting additional safety requirements on roads the community has opened up for off-highway vehicles;
- (e) Several counties have passed ordinances that require additional safety requirements, and these counties were recently notified by the state that these requirements were not consistent with state rules.

(2) The general assembly declares that local governments may impose additional safety requirements on the roads that are under their jurisdiction while being

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

consistent with state rules.

SECTION 2. In Colorado Revised Statutes, 33-14.5-108, **amend** (1)(a) as follows:

33-14.5-108. Off-highway vehicle operation prohibited on streets, roads, and highways. (1) No off-highway vehicle may be operated on the public streets, roads, or highways of this state except in the following cases:

(a) When a street, road, or highway is designated open by the state or any agency or ~~political subdivision thereof~~ OF THE STATE;

SECTION 3. In Colorado Revised Statutes, 33-14.5-110, **amend** (1)(b) as follows:

33-14.5-110. Regulation by political subdivisions. (1) (b) (I) Notwithstanding the requirement that its ordinance or resolution not be inconsistent with this ~~article~~ ARTICLE 14.5 or a rule promulgated under this ~~article~~ ARTICLE 14.5, a county, city and county, city, or town may, ~~require the driver who is driving~~ WHEN an off-highway vehicle IS BEING DRIVEN on a street, road, or highway within the jurisdiction of the county, city and county, city, or town, ~~to~~ DO ANY COMBINATION OF THE FOLLOWING:

(A) REQUIRE THE DRIVER TO have a driver's license; ~~or~~

(B) REQUIRE THE DRIVER TO carry liability insurance;

(C) REQUIRE THE OCCUPANTS TO WEAR A SAFETY BELT SYSTEM IF THE MANUFACTURER INSTALLED A SAFETY BELT SYSTEM IN THE OFF-HIGHWAY VEHICLE;

(D) REQUIRE THE USE OF A CHILD RESTRAINT SYSTEM IN ACCORDANCE WITH SECTION 42-4-236 IF THE OFF-HIGHWAY VEHICLE WAS DESIGNED BY THE MANUFACTURER TO BE USED WITH A CHILD RESTRAINT SYSTEM;

(E) REQUIRE THE USE OF EYE PROTECTION FOR ALL OCCUPANTS IN THE OFF-HIGHWAY VEHICLE, WHICH EYE PROTECTION MUST CONFORM TO SECTION 42-4-232 (1) UNLESS THE EYE PROTECTION IS A WINDSHIELD;

(F) REQUIRE THE USE OF A HELMET FOR AN OCCUPANT WHO IS UNDER EIGHTEEN YEARS OF AGE, IN ACCORDANCE WITH SECTION 42-4-1502 (4.5); OR

(G) LIMIT THE NUMBER OF OCCUPANTS TO THE GREATER OF THE NUMBER OF OCCUPANTS THAT THE OFF-HIGHWAY VEHICLE WAS DESIGNED BY THE MANUFACTURER TO HOLD OR THE NUMBER OF OCCUPANTS THAT THE VEHICLE WAS DESIGNED TO HOLD PLUS ONE OCCUPANT IN AN AFTERMARKET SEAT IF THE AFTERMARKET SEAT IS INSTALLED IN ACCORDANCE WITH THE INSTRUCTIONS OF THE AFTERMARKET SEAT MANUFACTURER AND DOES NOT EXTEND OUTSIDE THE ROLL CAGE; BUT IF THE OFF-HIGHWAY VEHICLE IS AN ALL-TERRAIN VEHICLE OR MOTORCYCLE, LIMIT THE NUMBER OF OCCUPANTS TO TWO.

(II) Notwithstanding ~~subparagraph (I) of this paragraph (b)~~ SUBSECTION (1)(b)(I)

OF THIS SECTION, a county, city and county, city, or town does not have authority to ~~require a driver to have a driver's license or carry liability insurance~~ PROMULGATE A RESOLUTION OR ORDINANCE IMPOSING THE REQUIREMENTS AUTHORIZED BY SUBSECTION (1)(b)(I) OF THIS SECTION under the circumstances described in section 33-14.5-108 (1)(a), ~~to (1)(d), (1)(e), and (1)(g) to (1)(i).~~

SECTION 4. In Colorado Revised Statutes, 33-14.5-101, **amend** (1); and **add** (1.5) as follows:

33-14.5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail in this state~~ "ALL-TERRAIN VEHICLE" HAS THE MEANING SET FORTH IN SECTION 42-6-102.

(1.5) "DEALER" MEANS A PERSON ENGAGED IN THE BUSINESS OF SELLING OFF-HIGHWAY VEHICLES AT WHOLESALE OR RETAIL IN THIS STATE.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 29, 2018