

CHAPTER 416

HEALTH AND ENVIRONMENT

SENATE BILL 08-063

BY SENATOR(S) Penry, Gibbs, Isgar, Romer, Schwartz, Tochtrop, and Williams;
also REPRESENTATIVE(S) Butcher, Curry, Kerr J., and McFadyen.

AN ACT

CONCERNING THE HARMONIZATION OF SOUND-PRESSURE STANDARDS APPLICABLE TO THE OPERATION OF OFF-HIGHWAY VEHICLES WITH FEDERAL OFF-HIGHWAY MOTORCYCLE MANUFACTURING STANDARDS BY THE ADOPTION OF SAE INTERNATIONAL'S SOUND PRESSURE TESTS.

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

SECTION 1. 25-12-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

25-12-102. Definitions. As used in this article, unless the context otherwise requires:

(5.2) "MOTORCYCLE" MEANS A SELF-PROPELLED VEHICLE WITH NOT MORE THAN THREE WHEELS IN CONTACT WITH THE GROUND THAT IS DESIGNED PRIMARILY FOR USE ON THE PUBLIC HIGHWAYS.

(5.4) "MOTOR VEHICLE" MEANS A SELF-PROPELLED VEHICLE WITH AT LEAST FOUR WHEELS IN CONTACT WITH THE GROUND THAT IS DESIGNED PRIMARILY FOR USE ON THE PUBLIC HIGHWAYS.

(5.6) "OFF-HIGHWAY VEHICLE" MEANS A SELF-PROPELLED VEHICLE WITH WHEELS OR TRACKS IN CONTACT WITH THE GROUND THAT IS DESIGNED PRIMARILY FOR USE OFF THE PUBLIC HIGHWAYS. "OFF-HIGHWAY VEHICLE" SHALL NOT INCLUDE THE FOLLOWING:

- (a) MILITARY VEHICLES;
- (b) GOLF CARTS;

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

(c) SNOWMOBILES;

(d) VEHICLES DESIGNED AND USED TO CARRY PERSONS WITH DISABILITIES; AND

(e) VEHICLES DESIGNED AND USED SPECIFICALLY FOR AGRICULTURAL, LOGGING, FIREFIGHTING, OR MINING PURPOSES.

(7) "SAE J1287" MEANS THE J1287 STATIONARY SOUND TEST OR ANY SUCCESSOR TEST PUBLISHED BY SAE INTERNATIONAL OR ANY SUCCESSOR ORGANIZATION.

(8) "SAE J2567" MEANS THE J2567 STATIONARY SOUND TEST OR ANY SUCCESSOR TEST PUBLISHED BY SAE INTERNATIONAL OR ANY SUCCESSOR ORGANIZATION.

(9) "SNOWMOBILE" MEANS A SELF-PROPELLED VEHICLE PRIMARILY DESIGNED OR ALTERED FOR TRAVEL ON SNOW OR ICE WHEN SUPPORTED IN PART BY SKIS, BELTS, OR CLEATS AND DESIGNED PRIMARILY FOR USE OFF THE PUBLIC HIGHWAYS. "SNOWMOBILE" SHALL NOT INCLUDE MACHINERY USED STRICTLY FOR THE GROOMING OF SNOWMOBILE TRAILS OR SKI SLOPES.

SECTION 2. The introductory portion to 25-12-106 (1) and 25-12-106 (1) (g), Colorado Revised Statutes, are amended to read:

25-12-106. Noise restrictions - sale of new vehicles. (1) Except for such vehicles as are designed exclusively for racing purposes, no person shall sell or offer for sale a new motor vehicle ~~or any self-propelled vehicle designed for off-highway use and for which registration as a motor vehicle is not required~~ which produces a maximum noise exceeding the following noise ~~limit~~ LIMITS, at a distance of fifty feet from the center of the lane of travel, ~~or fifty feet or more from a vehicle designed for off-highway use,~~ under test procedures established by the department of revenue:

~~(g) Any self-propelled vehicle designed for off-highway use and for which registration as a motor vehicle is not required, as follows:~~

~~(I) Manufactured on or after January 1, 1971, and before January 1, 1973..... 86 db(A);~~

~~(II) Manufactured on or after January 1, 1973..... 84 db(A).~~

SECTION 3. The introductory portion to 25-12-107 (1) and 25-12-107 (1) (b), Colorado Revised Statutes, are amended to read:

25-12-107. Powers of local authorities. (1) Counties or municipalities may adopt resolutions or ordinances prohibiting the operation of motor vehicles within their respective jurisdictions ~~which~~ THAT produce noise in excess of the sound levels in decibels, measured on the "A" scale on a standard sound level meter having characteristics established by the American national standards institute, publication S1.4 - 1971, and measured at a distance of fifty feet from the center of the lane of travel ~~or fifty feet or more from a vehicle designed for off-highway use~~ and within the speed limits specified in this section:

Speed limit of 35 mph or less	Speed limit of more than 35 mph but less than 55 mph
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~~(b) Any other motor vehicle or self-propelled recreational vehicle primarily designed for off-highway use and for which registration as a motor vehicle is not required, and any combination of vehicles towed by such motor vehicle or self-propelled vehicle~~

~~82 db(A)~~

~~86 db(A)~~

SECTION 4. 25-12-108, Colorado Revised Statutes, is amended to read:

25-12-108. Preemption. ~~The provisions of~~ EXCEPT AS PROVIDED IN SECTIONS 25-12-103 (12) AND 25-12-110, this article shall not be construed to preempt or limit the authority of any municipality or county to adopt standards ~~which~~ THAT are no less restrictive than the provisions of this article.

SECTION 5. Article 12 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-12-110. Off-highway vehicles. (1) AN OFF-HIGHWAY VEHICLE OPERATED WITHIN THE STATE SHALL NOT EMIT MORE THAN THE FOLLOWING LEVEL OF SOUND WHEN MEASURED USING SAE J1287:

(a) IF MANUFACTURED BEFORE JANUARY 1, 1998. 99 DB(A);

(b) IF MANUFACTURED ON OR AFTER JANUARY 1, 1998. 96 DB(A).

(2) A SNOWMOBILE SHALL NOT EMIT MORE THAN THE FOLLOWING LEVEL OF SOUND WHEN MEASURED USING SAE J2567:

(a) IF MANUFACTURED ON OR AFTER JULY 1, 1972, AND BEFORE JULY 2, 1975. 90 DB(A);

(b) IF MANUFACTURED ON OR AFTER JULY 2, 1975. 88 DB(A).

(3) (a) A PERSON SHALL NOT SELL OR OFFER TO SELL A NEW OFF-HIGHWAY VEHICLE THAT EMITS A LEVEL OF SOUND IN EXCESS OF THAT PROHIBITED BY SUBSECTION (1) OF THIS SECTION UNLESS THE OFF-HIGHWAY VEHICLE COMPLIES WITH FEDERAL NOISE EMISSION STANDARDS. A PERSON SHALL NOT SELL OR OFFER TO SELL A NEW SNOWMOBILE THAT EMITS A LEVEL OF SOUND IN EXCESS OF THAT PROHIBITED BY SUBSECTION (2) OF THIS SECTION UNLESS THE SNOWMOBILE COMPLIES WITH FEDERAL NOISE EMISSION STANDARDS.

(b) FOR THE PURPOSES OF THIS SECTION, A "NEW" SNOWMOBILE OR OFF-HIGHWAY VEHICLE MEANS A SNOWMOBILE OR OFF-HIGHWAY VEHICLE THAT HAS NOT BEEN TRANSFERRED ON A MANUFACTURER'S STATEMENT OF ORIGIN AND FOR WHICH AN

OWNERSHIP REGISTRATION CARD HAS NOT BEEN SUBMITTED BY THE ORIGINAL OWNER TO THE MANUFACTURER.

(4) THIS SECTION SHALL NOT APPLY TO THE FOLLOWING:

(a) A VEHICLE DESIGNED OR MODIFIED FOR AND USED IN CLOSED-CIRCUIT, OFF-HIGHWAY VEHICLE COMPETITION FACILITIES;

(b) AN OFF-HIGHWAY VEHICLE USED IN AN EMERGENCY TO SEARCH FOR OR RESCUE A PERSON; AND

(c) AN OFF-HIGHWAY VEHICLE WHILE IN USE FOR AGRICULTURAL PURPOSES.

(5) A PERSON WHO VIOLATES THIS SECTION COMMITS A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

(6) NO MUNICIPALITY OR COUNTY MAY ADOPT AN ORDINANCE OR RESOLUTION SETTING NOISE STANDARDS FOR OFF-HIGHWAY VEHICLES OR SNOWMOBILES THAT ARE MORE RESTRICTIVE THAN THIS SECTION.

(7) (a) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO MODIFY THE AUTHORITY GRANTED IN SECTION 25-12-103.

(b) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE THE TEST TO PRODUCE A LESS RESTRICTIVE STANDARD THAN THE J1287 STATIONARY SOUND TEST OR THE J2567 STATIONARY SOUND TEST PUBLISHED BY SAE INTERNATIONAL OR ANY SUCCESSOR ORGANIZATION.

(8) THE FOLLOWING SHALL BE AN AFFIRMATIVE DEFENSE TO A VIOLATION UNDER THIS SECTION IF THE OFF-HIGHWAY VEHICLE OR SNOWMOBILE:

(a) WAS MANUFACTURED BEFORE JANUARY 1, 2005;

(b) COMPLIED WITH FEDERAL AND STATE LAW WHEN PURCHASED;

(c) HAS NOT BEEN MODIFIED FROM THE MANUFACTURER'S ORIGINAL EQUIPMENT SPECIFICATIONS OR TO EXCEED THE SOUND LIMITS IMPOSED BY SUBSECTION (1) OR (2) OF THIS SECTION; AND

(d) DOES NOT HAVE A MALFUNCTIONING EXHAUST SYSTEM.

SECTION 6. 33-10-109 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

33-10-109. Powers and duties of director. (1) It is the duty of the director to:

(g) (I) OBTAIN FROM POWERSPORTS VEHICLE MANUFACTURERS THE ENGINE ROTATIONS PER MINUTE NEEDED TO CONDUCT THE SAE J1287, AS DEFINED IN SECTION 25-12-102, C.R.S., AND TO MAKE THE INFORMATION AVAILABLE TO LAW ENFORCEMENT AGENCIES IN COLORADO;

(II) PROVIDE, AT THE DIRECTOR'S DISCRETION, TRAINING PROGRAMS TO LOCAL LAW ENFORCEMENT AGENCIES CONCERNING THE ENFORCEMENT OF SUBSECTIONS (1) AND (2) OF SECTION 25-12-110, C.R.S.;

(III) COOPERATE WITH FEDERAL AGENCIES, COLORADO AGENCIES, AND POLITICAL SUBDIVISIONS OF COLORADO TO ENFORCE SUBSECTIONS (1) AND (2) OF SECTION 25-12-110, C.R.S.; AND

(IV) ISSUE AN ANNUAL REPORT, BY JANUARY 15 OF EACH YEAR, TO THE EXECUTIVE DIRECTOR AND THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONTAINING THE FOLLOWING INFORMATION:

(A) THE RESULTS OF A SURVEY OF FEDERAL, STATE, AND LOCAL GOVERNMENTS TO ASCERTAIN THE SUCCESS OF THE COOPERATION, EDUCATION, TRAINING, AND ENFORCEMENT COMPONENTS OF THIS PARAGRAPH (g) AND SECTION 25-12-110, C.R.S.;

(B) THE EXPENDITURES OF MONEYS APPROPRIATED FOR PROVIDING TRAINING AND PURCHASING OF EQUIPMENT TO ENFORCE SUBSECTIONS (1) AND (2) OF SECTION 25-12-110, C.R.S., AND ANY OTHER SOURCES OF FUNDING, PUBLIC OR PRIVATE, FOR THE IMPLEMENTATION OF THIS ACT DEEMED IMPORTANT BY THE DIRECTOR; AND

(C) THE PROGRESS AND STATUS OF THE COOPERATION EFFORTS REQUIRED BY SUBPARAGRAPH (III) OF THIS PARAGRAPH (g).

SECTION 7. Effective date - applicability. (1) Sections 6 and 7 of this act shall take effect July 1, 2009, and the remainder of this act shall take effect July 1, 2010.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to offenses committed on or after the applicable effective date of this act.

Approved: June 3, 2008