

1972 Bill 85

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 85

The Off-Highway Vehicle Act

HONOURABLE MR. DOWLING

First Reading

Second Reading

Third Reading

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BILL 85

1972

THE OFF-HIGHWAY VEHICLE ACT

(Assented to _____, 1972)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. (1) In this Act,
 - (a) "all terrain vehicle" means a wheeled or tracked motor vehicle designed for travel primarily on unprepared surfaces such as open country and marshland, but does not include a snow vehicle, implement of husbandry or construction machinery;
 - (b) "highway" means a highway as defined in *The Highway Traffic Act*;
 - (c) "miniature motor vehicle" means a motor vehicle other than a motor cycle, having specifications prescribed by the regulations;
 - (d) "minibike" means a motor cycle having specifications as prescribed by the regulations;
 - (e) "Minister" means the Minister of Highways and Transport;
 - (f) "motor cycle" means a motor vehicle mounted on two or three wheels and includes those motor vehicles known to the trade as motor cycles, scooters and power bicycles;
 - (g) "night time" means that period commencing one hour after sunset and ending one hour before the following sunrise;
 - (h) "off-highway vehicle" means any motorized vehicle designed for cross-country travel on land, water, snow, ice, marsh or swamp land or on other natural terrain and, without limiting the generality of the foregoing, includes, when designed for such travel,
 - (i) four-wheel drive or low pressure tire vehicles,
 - (ii) motor cycles and related two-wheel vehicles,
 - (iii) amphibious machines,
 - (iv) all terrain vehicles,
 - (v) miniature motor vehicles,

Explanatory Notes

1. Definitions.

- (vi) snow vehicles,
 - (vii) minibikes, and
 - (viii) any other means of transportation which is propelled by any power other than muscular power or wind, but does not include
 - (ix) motor boats, or
 - (x) any other vehicle exempted from all of the provisions of this Act by the regulations.
 - (i) “operator” means a person who drives or is in actual physical control of a vehicle;
 - (j) “owner” includes any person renting an off-highway vehicle or having the exclusive use thereof under a lease or otherwise for a period of more than 30 days;
 - (k) “parking lane” means that portion of a primary highway between
 - (i) the edge of the roadway to the right of the direction of traffic, and
 - (ii) the nearest solid white line (not being the centre line) marked on the roadway;
 - (l) “peace officer” means a member of the Royal Canadian Mounted Police, a member of a municipal police force, a member of the Enforcement Division of the Motor Vehicle Branch of the Department of Highways and Transport, a forest officer, a parks officer or a wildlife officer;
 - (m) “Registrar” means the Registrar of the Motor Vehicle Branch of the Department of Highways and Transport and, for the purposes of signing a certificate as required in section 238, subsection (4) of the *Criminal Code*, a deputy Registrar;
 - (n) “roadway” means that part of a highway intended for use by vehicular traffic;
 - (o) “snow vehicle” means a motor vehicle designed or intended to be driven exclusively or chiefly upon snow or ice or both.
- (2) *The Highway Traffic Act*, except section 200, subsection (2) and sections 201 and 206, does not apply to any matter relating to off-highway vehicles to which this Act applies.

2. (1) Subject to subsections (2) and (3), no person who is the owner or operator of an off-highway vehicle may operate or suffer or permit any other person to operate the off-highway vehicle when there is not for the time being a subsisting certificate of registration issued pursuant to this Act in respect of that off-highway vehicle.

2. Registration required.

(2) A person does not contravene subsection (1) where he operates an unregistered off-highway vehicle

(a) on his own land, or

(b) on land owned by some other person if that other person has expressly or impliedly consented to such operation thereon.

(3) The owner of an off-highway vehicle who is resident outside Alberta is not in contravention of this section if

(a) the off-highway vehicle is registered in some other jurisdiction in accordance with the laws thereof,

(b) the off-highway vehicle while it is in Alberta has attached thereto the identification plate, licence plate or other similar plate issued in the other jurisdiction in connection with the registration of the off-highway vehicle, and

(c) he does not keep the off-highway vehicle in Alberta for more than 30 consecutive days.

(4) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$100 and in default of payment to imprisonment for not more than 15 days.

3. (1) Every operator of an off-highway vehicle required to be registered under this Act shall produce the certificate of registration of the off-highway vehicle upon demand by any peace officer.

(2) A peace officer shall give a person a reasonable time to produce a certificate of registration.

(3) Upon every change of his address or change of his name or both the person to whom the certificate of registration is issued shall in the manner prescribed by regulation forthwith in writing notify the Registrar of the change.

(4) A person who contravenes subsection (1) or (3) is guilty of an offence and liable on summary conviction to a fine of not more than \$5.

4. (1) An application for the registration of an off-highway vehicle shall be made to the Registrar in such form and giving such particulars as the Registrar requires.

(2) No liability attaches to the Crown for any loss caused by incorrect information contained in an application for registration of an off-highway vehicle, notwithstanding that the information may have been entered on the application form by some person other than the applicant.

3. Production of registration.

4. Application for registration.

5. (1) Upon receipt of an application for registration of an off-highway vehicle and upon payment of the registration fee as prescribed by the regulation, the Registrar may issue or cause to be issued

- (a) a certificate of registration in the form provided by the Registrar, and
- (b) a licence plate of such type, colour or shade as may be provided by the Registrar.

(2) Subject to this Act, a certificate of registration issued pursuant to this section is valid for the period prescribed by the regulations.

6. (1) Except as provided by subsection (2), an off-highway vehicle of which the manufacturer's serial number or similar identifying mark has been removed or obliterated shall not be registered.

(2) A person who has in his possession an off-highway vehicle that is

- (a) in the condition described in subsection (1), or
- (b) made without any serial number or similar identifying mark,

may file with the Registrar satisfactory proof of the ownership of the off-highway vehicle and the Registrar may thereupon grant permission to cut, impress, or attach permanently to the vehicle a special identifying number or mark, which thereafter shall be deemed sufficient for the purpose of registration of the off-highway vehicle.

7. (1) Where the ownership of a registered off-highway vehicle passes from the registered owner to another person, whether by act of the owner or by operation of law, the registration of the off-highway vehicle expires forthwith and the registered owner shall remove the licence plate from the off-highway vehicle and retain it in his possession.

(2) Notwithstanding anything in this Act, a person to whom a licence plate has been issued may apply to the Registrar to use the licence plate on another off-highway vehicle to be registered in his name, and, if the application is made within 14 days after acquiring ownership of another vehicle that person may

- (a) display the licence plate on the off-highway vehicle, and
- (b) operate or permit another person to operate the off-highway vehicle,

during the balance of that 14-day period.

5. Duration of registration.

6. Serial numbers.

7. Change of ownership.

- (3) An application made under subsection (2) shall
- (a) be made on the form provided by the Registrar, and
 - (b) be accompanied by the fee prescribed by regulation.

(4) When an off-highway vehicle is transferred as provided for in subsection (2) the Registrar shall issue a certificate of registration in respect of the vehicle so transferred.

8. No person shall operate an off-highway vehicle unless the licence plate issued in respect of that off-highway vehicle is firmly attached to the front or rear of the off-highway vehicle in such a position as to be clearly visible and readable and unobscured by any part of the off-highway vehicle or any attachment or load or other obstruction.

- 9.** (1) The Registrar may issue a licence plate or plates
- (a) to manufacturers of and dealers in off-highway vehicles, and
 - (b) to persons engaged in the business of servicing off-highway vehicles kept for sale by manufacturers or dealers.

(2) Licence plates issued pursuant to this section are valid for only one place of business but where the person to whom any plates are issued has more than one place of business in the same municipality, all those places shall, for the purpose of this subsection, be considered one place of business.

(3) No person shall attach a licence plate issued pursuant to this section to any vehicle,

- (a) except an off-highway vehicle kept by a manufacturer or dealer for sale and not for hire, or
- (b) except an off-highway vehicle that is, for the time being, in the custody and control of a person engaged in the business of servicing off-highway vehicles on behalf of a manufacturer or dealer.

(4) No person shall use or operate an off-highway vehicle to which a licence plate is attached contrary to subsection (3).

10. (1) Every licence plate issued under this Act remains the property of the Crown and the person in possession thereof shall return it to the Minister whenever the Minister so requires.

8. Licence plate must be visibly displayed.

9. Dealer licence plates.

10. Licence plates remain Crown property.

(2) Where the ownership of a registered off-highway vehicle passes from the registered owner, either by act of the owner or by the operation of law, to a person engaged in the business of dealing in off-highway vehicles, whether new or otherwise, or engaged in the business of vehicle wreckage, that person, if the licence plate issued to the registered owner comes into his possession, shall return the plate forthwith to the Minister.

11. (1) No person shall engage in the business of off-highway vehicle rental for use by others unless he first obtains from the Registrar a drive-yourself rental certificate authorizing him to engage in the business of renting off-highway vehicles.

(2) An application for a drive-yourself rental certificate shall be made to the Registrar in such form and giving such particulars as the Registrar may require.

(3) Upon receipt of an application for a drive-yourself rental certificate and upon payment of the fee prescribed by the regulations, the Registrar may issue a drive-yourself rental certificate if he is satisfied that each off-highway vehicle to which the certificate relates is covered by a policy of insurance in conformity with and insuring such persons or classes of persons for such amounts as the regulations may require.

(4) The Registrar may issue a licence plate to any person in respect of each off-highway vehicle used in a rental business and where he does so

- (a) the licence plate shall be in the form provided by the Registrar, and
- (b) the person engaged in the rental business shall pay to the Registrar the fee prescribed by the regulations.

12. No person shall

- (a) deface or alter any certificate or licence plate issued under this Act, or
- (b) use or permit the use of any defaced or altered certificate or licence plate issued under this Act, or
- (c) except as provided in this Act, use or permit the use of any licence plate upon an off-highway vehicle or class thereof other than the off-highway vehicle or class thereof for which the licence plate was issued.

11. Rentals.

12. Prohibitions.

13. (1) No person shall operate an off-highway vehicle on any portion of a highway.

(2) Notwithstanding subsection (1),

(a) the Minister may by order authorize persons to operate off-highway vehicles along any portion of any highway or class thereof under his direction, control and management, subject to such restrictions and conditions as the Minister may prescribe,

(b) the council of a municipality may by by-law, or the Minister of Municipal Affairs or the Minister of Lands and Forests may by order, with respect to highways under its or his direction, control and management, as the case may be, authorize persons to operate off-highway vehicles on any portion of any such highway or class thereof and may restrict the hours during which such operation may take place, and

(c) the operator of an off-highway vehicle may cross any highway, including the roadway, parking lane or sidewalk portion thereof, as the case may require, if

(i) the operator stops the off-highway vehicle before entering onto the highway or portion thereof to be crossed,

(ii) all passengers disembark from the off-highway vehicle and any vehicle or thing attached thereto before he commences to cross,

(iii) the operator yields the right of way to all other vehicles and persons on the highway, and

(iv) the operator crosses over the highway or portion thereof to be crossed, by the most direct and shortest route of travel available to him.

(3) A by-law, order or regulation made under this section may, in respect of off-highway vehicles and subject to the maximum rates of speed prescribed for such highways under *The Highway Traffic Act*, prescribe maximum and minimum rates of speed therefor.

(4) Every person who contravenes this section or a by-law, order or regulation made under this section is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not more than \$50 and in default of payment to imprisonment for a term of not more than 30 days, and

(b) for a second or subsequent offence, to a fine of not more than \$100 and in default of payment to imprisonment for a term of not more than 60 days.

13. Operation of off-highway vehicles.

14. (1) Notwithstanding anything in this Act, an off-highway vehicle operator shall at all times yield the right of way to the operators of vehicles of other classes.

(2) Where an off-highway vehicle is on or approaching a highway, the operator shall obey all traffic control devices regulating traffic on, approaching or leaving the highway.

15. (1) When an accident occurs the operator or other person in charge of an off-highway vehicle that was directly or indirectly involved in the accident,

- (a) shall remain at or immediately return to the scene of the accident,
- (b) shall render all reasonable assistance, and
- (c) shall produce in writing to anyone sustaining loss or injury and to any peace officer and to a witness
 - (i) his name and address,
 - (ii) the name and address of the registered owner of the off-highway vehicle, and
 - (iii) the registration number of the off-highway vehicles,or such of that information as is requested.

(2) The driver of an off-highway vehicle that collides with an unattended vehicle, whether an off-highway vehicle or not, shall stop and

- (a) shall locate and notify the person in charge or owner of the unattended vehicle of the name and address of the driver and the registration number of the off-highway vehicle striking the unattended vehicle, or
- (b) shall leave in a conspicuous place in or upon the vehicle collided with a written notice giving the name and address of the operator and the registration number of the off-highway vehicle striking the unattended vehicle.

(3) The driver of an off-highway vehicle involved in an accident resulting in damage to any property other than that referred to in subsections (1) and (2), shall take reasonable steps to locate and notify the owner or person in charge of the property of such fact and of the name and address of the driver and owner and the registration number of the off-highway vehicle.

16. (1) Subject to subsection (2), where an accident results in injury or death to a person or in property damage to an apparent extent of \$200 or more, the operator or person in charge of an off-highway vehicle involved in the

14. Right of way.

15. Accidents.

16. Accident reports.

accident shall forthwith make a written report in the form provided by the Registrar and containing such information as may be required thereby, to a peace officer having jurisdiction where the accident occurred.

(2) Where the operator is incapable of making the report required by subsection (1) and there is another occupant of the off-highway vehicle capable of making the report, the occupant shall make the report required to be made by the operator.

(3) Where no report has been made under subsection (1) or (2) and neither the operator nor any passenger is the owner of the off-highway vehicle, the owner shall forthwith after learning of the accident make the report.

(4) Where the operator is alone, is the owner and is incapable of making the report required by subsection (1), he shall make the report forthwith after becoming capable of making it.

(5) Notwithstanding anything contained in this section, accidents resulting from participation in an organized race meet for which an entry fee is charged need not be reported to the Minister.

17. A peace officer who has witnessed or has investigated an accident shall forthwith forward to the Minister a written report in the form provided by the Minister setting forth full particulars of the accident, including the names and addresses of the persons involved and the extent of the personal injuries or property damage.

18. Every person who operates an off-highway vehicle

(a) without due care and attention, or

(b) without reasonable consideration for other persons or property,

is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 and in default of payment thereof to imprisonment for a term of not more than six months or for a term of not more than six months without the option of a fine.

19. No person shall knowingly make a false statement in any application required or made under this Act or the regulations.

20. (1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence.

(2) Any person who permits another person to operate an off-highway vehicle in contravention of this Act or the regulations is guilty of an offence.

17. Investigation reports.

18. Careless driving.

19. False statements.

20. Offences.

21. Except as otherwise provided in this Act, a person who is guilty of an offence under this Act or the regulations for which a penalty is not otherwise provided is liable on summary conviction to a fine of not more than \$100 and in default of payment to imprisonment for a term not exceeding 30 days.

22. Except where this Act or any other Act specifically provides to a contrary effect, no municipality has any power to pass, enforce or maintain any by-law

- (a) requiring from any owner or operator of an off-highway vehicle any tax, fee, licence or permit for the use, possession or operation of an off-highway vehicle, or
- (b) that in any way affects the registration or numbering of off-highway vehicles, or
- (c) forbidding the operation of off-highway vehicles in a manner contrary to or inconsistent with this Act.

23. The Lieutenant Governor in Council may make regulations

- (a) requiring or prohibiting the use of any equipment in connection with off-highway vehicles or things that may be attached to off-highway vehicles;
- (b) prescribing fees for anything required to be done under this Act;
- (c) prescribing terms and conditions governing the registration, use and operation of off-highway vehicles;
- (d) prescribing rates of speed for off-highway vehicles;
- (e) prescribing rules of operation for off-highway vehicles and any other matter or thing considered necessary for the safety of operators, passengers or other persons;
- (f) prescribing any equipment required and the types and uses therefor
 - (i) on an off-highway vehicle,
 - (ii) by an operator of and passengers on an off-highway vehicle, and
 - (iii) by passengers on any vehicle being drawn by an off-highway vehicle;
- (g) governing, restricting or prohibiting the operation of an off-highway vehicle by any person under a specified age;
- (h) prescribing the amount and type of insurance coverage that shall be supplied in respect of off-highway vehicles;

21. General penalty.

22. Municipal by-laws may not impose licensing or registration.

23. Regulations.

- (i) requiring and regulating the registration of off-highway vehicles
 - (i) kept for sale by manufacturers or dealers of off-highway vehicles, and
 - (ii) kept for hire by any person engaged in the business of renting out off-highway vehicles;
- (j) permitting any person to inspect or take copies of or extracts from any writing, paper or document filed with or kept by the Department of Highways and Transport pursuant to this Act or the regulations, and requiring the payment of and setting the amount of fees therefor;
- (k) requiring the owner of every off-highway vehicle to affix to the off-highway vehicle an identification number or tag in such form and on such part of the off-highway vehicle as the regulations may prescribe;
- (l) governing, restricting or prohibiting the use of any highway or highways by any off-highway vehicle;
- (m) governing, restricting or prohibiting the use of any off-highway vehicle or class of vehicles that, in the opinion of the Minister, may be a hazard to other persons by reason of unusual or novel size, weight or operating characteristics, or by any reason of any alteration or modification from its original construction by the manufacturer;
- (n) exempting any off-highway vehicle or class of off-highway vehicles from any or all of the provisions of this Act or the regulations;
- (o) prescribing minimum specifications for any class of off-highway vehicle;
- (p) adopting in whole or in part any code of standards or specifications in relation to any equipment or material to be used or installed in off-highway vehicles;
- (q) prescribing generally as to any other matter or thing that is considered necessary for the better carrying out of the intent of this Act and the doing of which is permitted by this Act and to meet cases that arise and for which no provision is made in this Act.

24. *The Highway Traffic Act is amended as to section 2, clause 14 by striking out the words "but does not include a snow vehicle as defined in The Snow Vehicles Act or a vehicle of like nature where wheels have been attached thereto" and by substituting therefor the words "but does not include an off-highway vehicle as defined in The Off-highway Vehicle Act".*

24. Consequential amendment to the definition of “motor cycle”
in chapter 169 of the Revised Statutes of Alberta 1970.

25. *The Motor Vehicle Accident Claims Act is amended as to section 2, clause (f), subclause (i) by striking out the words “motorized snow vehicles” and by substituting therefor the words “off-highway vehicles as defined in The Off-highway Vehicle Act”.*

26. *The Snow Vehicles Act is hereby repealed.*

27. This Act comes into force on a date to be fixed by Proclamation.

25. Consequential amendment to the exclusions from the definition of "motor vehicle" in chapter 243 of the Revised Statutes of Alberta 1970.

26. Chapter 344 of the Revised Statutes of Alberta 1970 is repealed.