

Bill No. CS for SB 1742

Barcode 033200

CHAMBER ACTION

Senate

House

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The Committee on Government Efficiency Appropriations (Posey) recommended the following **amendment to amendment** (155312):

Senate Amendment (with title amendment)

On page 3, between lines 20 and 21,

insert:

Section 3. Effective July 1, 2008, section 261.10, Florida Statutes, is amended to read:

261.10 Criteria for recreation and trails; limitation on liability.--(1) Publicly owned or operated off-highway vehicle recreation areas and trails shall be designated and maintained for recreational travel by off-highway vehicles. These areas and trails need not be generally suitable or maintained for normal travel by conventional two-wheel-drive vehicles and should not be designated as recreational footpaths. State off-highway vehicle recreation areas and trails must be selected and managed in accordance with this chapter.

(2) State agencies, water management districts, counties, and municipalities, and officers and employees

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1 thereof, which provide off-highway recreation areas and trails
 2 on publicly owned land shall not be liable for damage to
 3 personal property or personal injury or death to any person
 4 resulting from participation in the inherently dangerous risks
 5 of off-highway vehicle recreation. This subsection does not
 6 limit liability that would otherwise exist for an act of gross
 7 negligence by the state agency, water management district,
 8 county, or municipality, or officer or employee, that is the
 9 proximate cause of the damage, injury, or death. Nothing in
 10 this subsection creates a duty of care or basis of liability
 11 for death, personal injury, or damage to personal property,
 12 nor shall anything in this subsection be deemed to be a waiver
 13 of sovereign immunity under any circumstances.

14 Section 4. Effective July 1, 2008, section 261.20,
 15 Florida Statutes, is created to read:

16 261.20 Operations of off-highway vehicles on public
 17 lands; restrictions; safety courses; required equipment;
 18 prohibited acts; penalties.--

19 (1) This section applies only to the operation of
 20 off-highway vehicles on public lands.

21 (2) Any person operating an off-highway vehicle as
 22 permitted in this section who has not attained 16 years of age
 23 must be supervised by an adult while operating the off-highway
 24 vehicle.

25 (3) Effective July 1, 2008, while operating an
 26 off-highway vehicle, a person who has not attained 16 years of
 27 age must have in his or her possession a certificate
 28 evidencing the satisfactory completion of an approved
 29 off-highway vehicle safety course in this state or another
 30 jurisdiction. A nonresident, who has not attained 16 years of
 31 age, who is in this state temporarily for a period not to

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1 exceed 30 days is exempt from this subsection. Nothing
 2 contained in this chapter shall prohibit an agency from
 3 requiring additional safety-education courses for all
 4 operators.

5 (4)(a) The department shall approve all off-highway
 6 vehicle public safety-education programs required by this
 7 chapter as a condition for operating on public lands.

8 (b) An off-highway vehicle must be equipped with a
 9 spark arrester that is approved by the United States
 10 Department of Agriculture Forest Service, a braking system,
 11 and a muffler, all in operating condition.

12 (c) On and after July 1, 2008, off-highway vehicles,
 13 when operating pursuant to this chapter, shall be equipped
 14 with a silencer or other device which limits sound emissions.
 15 Exhaust noise must not exceed 96 decibels in the A-weighting
 16 scale for vehicles manufactured after January 1, 1986, or 99
 17 decibels in the A-weighting scale for vehicles manufactured
 18 before January 1, 1986, when measured from a distance of 20
 19 inches using test procedures established by the Society of
 20 Automotive Engineers under Standard J-1287. Off-highway
 21 vehicle manufacturers or their agents prior to the sale to the
 22 general public in this state of any new off-highway vehicle
 23 model manufactured after January 1, 2008, shall provide to the
 24 department revolutions-per-minute data needed to conduct the
 25 J-1287 test, where applicable.

26 (d) An off-highway vehicle that is operated between
 27 sunset and sunrise, or when visibility is reduced because of
 28 rain, smoke, or smog, must display a lighted headlamp and
 29 taillamp unless the use of such lights is prohibited by other
 30 laws, such as a prohibition on the use of lights when hunting
 31 at night.

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1 (e) An off-highway vehicle that is used in certain
2 organized and sanctioned competitive events being held on a
3 closed course may be exempted by departmental rule from any
4 equipment requirement in this subsection.

5 (5) It is a violation of this section:

6 (a) To carry a passenger on an off-highway vehicle,
7 unless the machine is specifically designed by the
8 manufacturer to carry an operator and a single passenger.

9 (b) To operate an off-highway vehicle while under the
10 influence of alcohol, a controlled substance, or any
11 prescription or over-the-counter drug that impairs vision or
12 motor condition.

13 (c) For a person who has not attained 16 years of age,
14 to operate an off-highway vehicle without wearing eye
15 protection, over-the-ankle boots, and a safety helmet that is
16 approved by the United States Department of Transportation or
17 Snell Memorial Foundation, when under the age of sixteen.

18 (d) To operate an off-highway vehicle in a careless or
19 reckless manner that endangers or causes injury or damage to
20 another person or property.

21 (6) Any person who violates this section commits a
22 noncriminal infraction and is subject to a fine of not less
23 than \$100, and may have his or her privilege to operate an ATV
24 on public lands revoked. However, a person who commits such
25 acts with intent to defraud, or who commits a second or
26 subsequent violation, is subject to a fine of not less than
27 \$500, and may have his or her privilege to operate an ATV on
28 public lands revoked.

29 (7) Public land managing agencies, through the course
30 of their management activities, are exempt from the provisions
31 of subsection (5)(a).

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(Redesignate subsequent sections.)

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 79, line 8, after the semicolon

insert:

amending s. 261.10, F.S.; providing a
limitation on liability in off-highway vehicle
recreation; creating s. 261.20, F.S.;
authorizing operations of off-highway vehicles
on public lands; providing restrictions;
requiring safety courses; defining prohibited
acts; providing penalties;