

Bill No. CS for SB 1742

Barcode 452868

CHAMBER ACTION

Senate

House

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Comm: RCS
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The Committee on Government Efficiency Appropriations
(Campbell) recommended the following **substitute for amendment
to amendment** (033200):

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,

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

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

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

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

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

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

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1 age, who is in this state temporarily for a period not to
 2 exceed 30 days is exempt from this subsection. Nothing
 3 contained in this chapter shall prohibit an agency from
 4 requiring additional safety-education courses for all
 5 operators.

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

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

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

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

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1 at night.

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

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

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

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

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

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

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

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

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1 of subsection (5)(a).

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3 (Redesignate subsequent sections.)

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

7 And the title is amended as follows:

8 On page 79, line 8, after the semicolon

9

10 insert:

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

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