

Enrolled Senate Bill 101

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CHAPTER

AN ACT

Relating to all-terrain vehicles; creating new provisions; and amending ORS 390.555, 390.560, 390.570, 390.575, 390.585, 821.170, 821.172, 821.200, 821.202, 821.203 and 821.292.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 821.170 is amended to read:

821.170. (1) A person **16 years of age or older** commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the person operates a Class I all-terrain vehicle on public lands and the person does not [*meet one of the following qualifications:*] **hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.**

[(a) The person must hold a valid driver license;]

[(b) The person must hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570; or]

[(c) The person must be accompanied by a person who is at least 18 years of age, who has either a valid driver license or a valid Class I all-terrain vehicle operator permit and who is either on the same vehicle, if the vehicle is designed to carry passengers, or on a separate Class I all-terrain vehicle.]

[(2) Notwithstanding subsection (1) of this section, no person under 12 years of age may operate a Class I all-terrain vehicle on a designated snowmobile trail under snow conditions unless the person holds a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.]

(2) A child under 16 years of age commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the child operates a Class I all-terrain vehicle on public lands and the child does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.

(c) The child must meet rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(3) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

[3] (4) The offense described in this section, operation of Class I all-terrain vehicle without driving privileges, is a [Class D] **Class C** traffic violation.

SECTION 2. ORS 821.172 is amended to read:

821.172. (1) A person [*who is 12*] **16** years of age or older commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the person operates a Class III all-terrain vehicle on public lands and the person does not [*meet one of the following qualifications:*] **hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.**

[(a) The person must hold a valid driver license;]

[(b) The person must hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575; or]

[(c) The person must be accompanied by a person who is at least 18 years of age, who has either a valid driver license or a valid Class III all-terrain vehicle operator permit and who is either on the same vehicle, if the vehicle is designed to carry passengers, or on a separate Class III all-terrain vehicle.]

[(2) A person who is at least seven years of age but under 12 years of age commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the person operates a Class III all-terrain vehicle on public lands and the person does not meet both of the following qualifications:]

[(a) The person must hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575; and]

[(b) The person must be accompanied by a person who is at least 18 years of age, who has either a valid driver license or a valid Class III all-terrain vehicle operator permit and who is either on the same vehicle, if the vehicle is designed to carry passengers, or on a separate Class III all-terrain vehicle.]

[(3) A person under seven years of age commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the person operates a Class III all-terrain vehicle on public lands.]

(2) A child under 16 years of age commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the child operates a Class III all-terrain vehicle on public lands and the child does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.

(3) A child under seven years of age may not operate a Class III all-terrain vehicle on public lands.

(4) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

[4] (5) The offense described in this section, operation of a Class III all-terrain vehicle without driving privileges, is a Class C traffic violation.

SECTION 3. ORS 821.200 is amended to read:

821.200. This section establishes exemptions from the limitations placed on the use of snowmobiles and all-terrain vehicles under ORS 821.190. The prohibitions and penalties under ORS 821.190 do not apply when a snowmobile or all-terrain vehicle that qualifies for the exemption from

equipment requirements under ORS 821.010 is being operated as described under any of the following:

(1) A person may lawfully cross a highway or railroad right of way while operating a snowmobile or all-terrain vehicle if the person complies with all of the following:

(a) The crossing must be made at an angle of approximately 90 degrees to the direction of the highway or railroad right of way.

(b) The crossing must be made at a place where no obstruction prevents a quick and safe crossing.

(c) The vehicle must be brought to a complete stop before entering the highway or railroad right of way.

(d) The operator of the vehicle must yield the right of way to vehicles using the highway or equipment using the railroad tracks.

(e) The crossing of a railroad right of way must be made at an established public railroad crossing.

(f) The crossing of a highway must be made at a place that is more than 100 feet from any highway intersection.

(g) If the operator of a snowmobile is under 12 years of age, a person who is 18 years of age or older must accompany the operator either as a passenger or as the operator of another snowmobile that is in proximity to the younger operator.

[(h) If the operator of a Class I all-terrain vehicle is under 12 years of age, a person who is 18 years of age or older must accompany the operator either as a passenger, if the vehicle is designed to carry passengers, or on a separate Class I all-terrain vehicle.]

(2) A snowmobile or all-terrain vehicle may be lawfully operated upon a highway under any of the following circumstances:

(a) Where the highway is completely covered with snow or ice and has been closed to motor vehicle traffic during winter months.

(b) For purposes of loading or unloading when such operation is performed with safety and without causing a hazard to vehicular traffic approaching from either direction on the highway.

(c) Where the highway is posted to permit snowmobiles or all-terrain vehicles.

(d) In an emergency during the period of time when and at locations where snow upon the highway renders travel by automobile impractical.

(e) When traveling along a designated snowmobile or all-terrain vehicle trail.

(3) It shall be lawful to operate a snowmobile or all-terrain vehicle upon a railroad right of way under any of the following circumstances:

(a) Where the right of way is posted to permit the operation.

(b) In an emergency.

(c) When the snowmobile or all-terrain vehicle is operated by an officer or employee or authorized contractor or agent of a railroad.

SECTION 3a. ORS 821.202 is amended to read:

821.202. (1) A person commits the offense of failure of a Class I or Class III all-terrain vehicle operator or passenger to wear a motorcycle helmet if the person is under 18 years of age, operates or rides on a Class I or Class III all-terrain vehicle on premises open to the public and is not wearing a motorcycle helmet **with a fastened chin strap**.

(2) The requirement to wear a motorcycle helmet **with a fastened chin strap** does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, failure of a Class I or Class III all-terrain vehicle operator or passenger to wear a motorcycle helmet, is a Class D traffic violation.

SECTION 3b. ORS 821.203 is amended to read:

821.203. (1) A person commits the offense of endangering a Class I or Class III all-terrain vehicle operator or passenger if:

(a) The person is operating a Class I or Class III all-terrain vehicle on premises open to the public and the person carries another person on the Class I or Class III all-terrain vehicle who is under 18 years of age and is not wearing a motorcycle helmet **with a fastened chin strap**; or

(b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 18 years of age and the child operates or rides on a Class I or Class III all-terrain vehicle on premises open to the public without wearing a motorcycle helmet **with a fastened chin strap**.

(2) The requirement to wear a motorcycle helmet **with a fastened chin strap** does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class I or Class III all-terrain vehicle operator or passenger, is a Class D traffic violation.

SECTION 4. ORS 821.292 is amended to read:

821.292. (1) A person commits the offense of endangering a Class III all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child at least seven years of age but under [12] **16** years of age and the child operates a Class III all-terrain vehicle on public lands and:

(a) Does not have a Class III all-terrain vehicle operator permit issued under ORS 390.575; and

(b) Is not accompanied by [*the parent, legal guardian or person with legal responsibility who is on the same vehicle, if the vehicle is designed to carry passengers, or on a separate Class III all-terrain vehicle*] **a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 and is able to provide immediate assistance and direction to the child.**

(2) A person commits the offense of endangering a Class III all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under seven years of age and the child operates a Class III all-terrain vehicle on public lands.

(3) **This section does not apply if the all-terrain vehicle is:**

(a) **Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and**

(b) **Being used on land owned or leased by the owner of the vehicle.**

[3] (4) The offense described in this section, endangering a Class III all-terrain vehicle operator, is a Class C traffic violation.

SECTION 5. Sections 6 and 7 of this 2007 Act are added to and made a part of ORS 821.150 to 821.292.

SECTION 6. (1) A person commits the offense of endangering a Class I all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and the child operates a Class I all-terrain vehicle on public lands and:

(a) **Does not have a Class I all-terrain vehicle operator permit issued under ORS 390.570;**

(b) **Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570 or 390.575 and is able to provide immediate assistance and direction to the child; and**

(c) **Is not in compliance with the rider fit guidelines established by the Parks and Recreation Department under ORS 390.585.**

(2) **This section does not apply if the all-terrain vehicle is:**

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class I all-terrain vehicle operator, is a Class C traffic violation.

SECTION 7. As used in ORS 821.170, 821.172, 821.192 and 821.292 and section 6 of this 2007 Act, "public lands" includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560.

SECTION 8. ORS 390.585 is amended to read:

390.585. (1) The State Parks and Recreation Department may adopt rules necessary for carrying out the duties imposed by ORS 390.550 to 390.590.

(2) **The department shall adopt rules establishing rider fit guidelines to ensure that an all-terrain vehicle properly fits the operator of the vehicle.**

SECTION 9. ORS 390.560 is amended to read:

390.560. Moneys in the All-Terrain Vehicle Account established under ORS 390.555 shall be used for the following purposes only:

(1) In each 12-month period, no less than 10 percent of the moneys described in ORS 390.555 that are attributable to Class I all-terrain vehicles shall be transferred to the Department of Transportation for the development and maintenance of snowmobile facilities as provided in ORS 802.110;

(2) Planning, promoting and implementing a statewide all-terrain vehicle program, including the acquisition, development and maintenance of all-terrain vehicle recreation areas;

(3) Education and safety training for all-terrain vehicle operators;

(4) Provision of first aid and police services in all-terrain vehicle recreation areas designated by the appropriate authority;

(5) Paying the costs of instigating, developing or promoting new programs for all-terrain vehicle users and of advising people of possible usage areas for all-terrain vehicles;

(6) Paying the costs of coordinating between all-terrain vehicle user groups and the managers of public lands;

(7) Paying the costs of providing consultation and guidance to all-terrain vehicle user programs; [and]

(8) Paying the costs of administration of the all-terrain vehicle programs, including staff support provided under ORS 390.565 as requested by the All-Terrain Vehicle Account Allocation Committee; and

(9) **Paying the costs of law enforcement activities related to the operation of Class I and Class III all-terrain vehicles. The State Parks and Recreation Department shall determine the amount required for law enforcement activities and the intervals at which the moneys shall be distributed. The funds available shall be apportioned according to the terms of an intergovernmental agreement entered into between the State Parks and Recreation Department and a city, the Department of State Police or the sheriff of a county.**

SECTION 10. ORS 390.555 is amended to read:

390.555. The All-Terrain Vehicle Account is established as a separate account in the State Parks and Recreation Department Fund, to be accounted for separately. Interest earned by the All-Terrain Vehicle Account shall be credited to the account. After deduction of expenses of collection, transfer and administration, including the expenses of establishment and operation of Class I all-terrain vehicle safety education courses **and examinations** under ORS 390.570 and Class III all-terrain vehicle safety education courses **and examinations** under ORS 390.575, the following moneys shall be transferred to the account:

(1) Fees collected by the State Parks and Recreation Department for issuance of operating permits for all-terrain vehicles under ORS 390.580 and 390.590.

(2) Fees collected by the department from participants in the Class I and Class III all-terrain vehicle safety education courses under ORS 390.570 and 390.575.

(3) The moneys transferred from the Department of Transportation under ORS 802.125 that represent unrefunded fuel tax.

SECTION 11. ORS 390.570 is amended to read:

390.570. (1) The State Parks and Recreation Department shall issue or provide for issuance of a Class I all-terrain vehicle operator permit to any person who:

(a) Has taken a Class I all-terrain vehicle safety education course established under this section and has been found qualified to operate a Class I all-terrain vehicle; **or**

(b) Is at least 16 years of age, has five or more years of experience operating a Class I all-terrain vehicle and passes an equivalency examination.

(2) The department shall adopt rules to provide for Class I all-terrain vehicle safety education courses, **equivalency examinations** and the issuance of Class I all-terrain vehicle operator permits consistent with this section. The rules adopted by the department shall be consistent with the following:

(a) The courses must be given by instructors designated by the department as qualified to conduct the courses and issue the permits.

(b) The instructors may be provided and permits issued through public or private local and state organizations meeting qualifications established by the department.

(c) The department may collect a fee of not more than \$5 from each participant in a course established under this section.

SECTION 12. ORS 390.575 is amended to read:

390.575. (1) The State Parks and Recreation Department shall issue or provide for issuance of a Class III all-terrain vehicle operator permit to any person who:

(a) Has taken a Class III all-terrain vehicle safety education course established under this section and has been found qualified to operate a Class III all-terrain vehicle; **or**

(b) Is at least 16 years of age, has five or more years of experience operating a Class III all-terrain vehicle and passes an equivalency examination.

(2) The department shall adopt rules to provide for Class III all-terrain vehicle safety education courses, **equivalency examinations** and the issuance of Class III all-terrain vehicle operator permits consistent with this section. The rules adopted by the department shall be consistent with the following:

(a) The courses must be given by instructors designated by the department as qualified to conduct the courses and issue the permits.

(b) The instructors may be provided and permits issued through public or private local and state organizations meeting qualifications established by the department.

(c) The department may collect a fee of not more than \$5 from each participant in a course established under this section.

SECTION 13. The requirement to hold a Class I or Class III all-terrain vehicle permit pursuant to the amendments to ORS 821.170 and 821.172 by sections 1 and 2 of this 2007 Act applies:

(1) On or after January 1, 2009, to persons who are under 16 years of age as of that date.

(2) On or after January 1, 2010, to persons who are under 31 years of age as of that date.

(3) On or after January 1, 2011, to persons who are under 41 years of age as of that date.

(4) On or after January 1, 2012, to persons who are under 51 years of age as of that date.

(5) On or after January 1, 2013, to persons who are under 61 years of age as of that date.

(6) On or after January 1, 2014, to all persons.

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Secretary of Senate

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President of Senate

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