

LEGISLATIVE BILL 80

Approved by the Governor April 29, 1987

Introduced by Barrett, 39

AN ACT relating to all-terrain vehicles; to amend sections 60-301, 60-401, 60-501, and 60-2102, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to regulate the operation and equipping of all-terrain vehicles; to require notice of accidents; to provide penalties; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. As used in sections 1 to 8 of this act, unless the context otherwise requires, all-terrain vehicle shall mean any motorized off-highway vehicle which (1) is fifty inches or less in width, (2) has a dry weight of six hundred pounds or less, (3) travels on three or more low-pressure tires, (4) is designed for operator use only with no passengers, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control.

All-terrain vehicles which have been modified to include additional equipment not required by sections 3 and 4 of this act shall not be registered under Chapter 60, article 3.

Sec. 2. (1) Except as provided in subsections (2), (3), and (4) of this section, an all-terrain vehicle shall not be operated on any public street, road, or highway of this state. The crossing of any interstate or limited-access highway shall not be permitted.

(2) The crossing of a public street, road, or highway shall be permitted only if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the street, road, or highway and at a place where no obstruction prevents a quick and safe crossing.

(b) The vehicle is brought to a complete stop before crossing the shoulder or main-traveled way of the street, road, or highway.

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard.

(d) In crossing a divided street, road, or highway, the crossing is made only at an intersection of such street, road, or highway with another public street, road, or highway; and

(e) Both the headlight and taillight of the vehicle are on when the crossing is made.

(3) All-terrain vehicles may be operated on a public street, road, or highway when such operation occurs only between the hours of sunrise and sunset and such operation is incidental to the vehicles' use for agricultural purposes. Any person operating an all-terrain vehicle on a public street, road, or highway shall have a valid motor vehicle operator's license or a special permit as provided in subsection (5) of section 60-407 and shall not operate such vehicle at a speed in excess of thirty miles per hour. When operated on a public street, road, or highway, the headlight and taillight of the vehicle shall be on, and the all-terrain vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and be day-glow in color.

(4) All-terrain vehicles may be operated on public streets, roads, and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

Sec. 3. Every all-terrain vehicle shall display a lighted headlight and taillight during the period of time from one half hour after sunset to one half hour before sunrise and at any time when visibility is reduced due to insufficient light or unfavorable atmospheric conditions.

Sec. 4. Every all-terrain vehicle shall be equipped with:

(1) A brake system maintained in good operating condition;

(2) An adequate muffler system in good working condition; and

(3) A United States Forest Service qualified spark arrester.

Sec. 5. No person shall:

(1) Equip the exhaust system of an all-terrain vehicle with a cutout, bypass, or similar device;

(2) Operate an all-terrain vehicle with an exhaust system so modified; or

(3) Operate an all-terrain vehicle with the

spark arrester removed or modified except for use in closed-course competition events.

Sec. 6. All-terrain vehicles participating in competitive events may be exempted from sections 3 to 5 of this act at the discretion of the Director of Motor Vehicles.

Sec. 7. If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident in the same manner as provided in section 60-505.

Sec. 8. (1) Any person who violates sections 2 to 7 of this act shall be guilty of a Class III misdemeanor, except that if such person is convicted of a second or subsequent offense within any period of one year, he or she shall be guilty of a Class II misdemeanor.

(2) Any violation of sections 2 to 7 of this act which is also a violation under Chapter 39 or Chapter 60 may be punished under the penalty provisions of such chapter.

(3) Any peace officer of the state or of any political subdivision, including conservation officers of the Game and Parks Commission, shall be charged with the enforcement of the provisions of sections 2 to 7 of this act.

Sec. 9. That section 60-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-301. As used in ~~sections 60-301 to 60-344~~ Chapter 60, article 3, unless the context otherwise requires:

(1) Motor vehicles shall include all vehicles propelled by any power other than muscular power, except (a) mopeds, (b) farm tractors, (c) self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, (d) vehicles which run only on rails or tracks, (e) off-road designed vehicles, including, but not limited to, golf carts, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles as defined in section 1 of this act, snowmobiles, and minibikes, and (f) road and general-purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or property, including, but not limited to,

ditchdigging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, crawler tractors, and self-propelled invalid chairs;

(2) Highways shall include public streets, roads, turnpikes, parks, parkways, drives, alleys, and other public ways used for the passage of road vehicles;

(3) Trucks shall include motor vehicles equipped or used for the transportation of property;

(4) Trailer shall include every vehicle without motor power designed for carrying persons or property and being pulled by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(5) Semitrailer shall mean every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle;

(6) Cabin trailer shall mean every vehicle without motive power designed for living quarters and for being drawn by a motor vehicle, and not exceeding eight feet in width, ~~or~~ forty feet in length, or thirteen and one half feet in height;

(7) Truck-tractor shall mean every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load being drawn;

(8) Owner shall mean a person, firm, or corporation who holds a legal title of a vehicle. In ~~or in~~ the event (a) a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, ~~or in the event~~ (b) while a vehicle is subject to a lease of thirty days or more with an immediate right of possession vested in the lessee, or ~~in the event~~ (c) a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, or mortgagor shall be deemed the owner for the purpose of ~~sections 60-301 to 60-344~~ sections 60-301 to 60-344 Chapter 60, article 3. For ~~the such~~ such purpose, of ~~sections 60-301 to 60-344~~ sections 60-301 to 60-344, there are hereby adopted and incorporated by reference the provisions of Article XI, International Registration Plan, adopted by the American Association of Motor Vehicle Administrators, as revised November 1976;

(9) Vehicle shall mean every device in, upon,

or by which any person or property is, or may be transported or drawn upon a public highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks;

(10) Fleet shall include one or more apportionable vehicles;

(11) Transporter shall mean every person lawfully engaged in the business of transporting vehicles, not his or her own, solely for delivery thereof, (a) by driving singly, or (b) by driving in combinations by the towbar, fullmount, or saddlemount methods; or any combinations thereof, or where (c) when a truck or tractor draws a semitrailer or tows a trailer; ~~solely for delivery thereof~~;

(12) Self-propelled mobile home shall mean a vehicle with motive power designed for living quarters;

(13) Total fleet miles shall mean the total number of miles operated in all jurisdictions during the preceding year by the vehicles in such fleet during such year;

(14) In-state miles shall mean total miles operated (a) in the State of Nebraska during the preceding year by the motor vehicle or vehicles registered and licensed for fleet operation; and (b) in noncontracting reciprocity states by vehicles that are base-plated in Nebraska;

(15) Local trucks shall mean trucks having a gross weight of less than twenty-five tons and operated wholly and exclusively within an incorporated city or village, or within ten miles of the corporate limits, where they are owned and operated, which trucks shall carry on their license plates, in addition to the registration number, designation of local plate;

(16) Farm trucks shall mean trucks, including combinations of trucks or truck-tractors and trailers or semitrailers, of farmers or ranchers, used wholly and exclusively to carry their own supplies, farm equipment, and household goods to or from the owner's farm or ranch, used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce, to or from storage or market, or used by farmers or ranchers in exchange of service in such hauling of such supplies or agricultural products, livestock, and produce, or used occasionally to carry camper units, which trucks shall carry on their license plates, in addition to the registration number, the designation farm; and ~~beginning when new plates are issued pursuant to section 60-311 after August 26, 1983, the words NOT FOR HIRE;~~

(17) Agricultural products shall mean field

crops; and horticultural, viticultural, forestry, nut, dairy, livestock, poultry, bee, and farm products, including sod grown on the land owned or rented by the farmer, and the byproducts derived from any of them;

(18) Utility trailer shall mean a trailer having a gross weight, including load thereon, of nine thousand pounds or less; attached to a motor vehicle and used wholly and exclusively to carry miscellaneous items of personal property, which trailers shall carry on their license plate, in addition to the registration number, the letter X;

(19) Local commercial truck shall mean a truck and combinations of trucks, truck-tractors, or trailers, or semitrailers having a gross weight of twenty-five tons or more and operated solely within an incorporated city or village, or within five miles of the corporate limits, which trucks shall carry on their license plates, in addition to the registration number, the letters LC;

(20) Farm trailer shall include any trailer or semitrailer used wholly and exclusively to carry a farmer's or rancher's own supplies, farm equipment, and household goods to or from the owner's farm or ranch, or used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce to or from storage and market, and attached to a passenger car or farm-licensed vehicle, or used by a farmer or rancher to carry his or her own agricultural products, livestock, and produce to and from market, which trailers shall carry on their license plate, in addition to the registration number, the letter X, but farm trailer shall not include a trailer so used when attached to a farm tractor;

(21) Motorcycle shall mean every motor vehicle, except a tractor or an all-terrain vehicle as defined in section 1 of this act, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground;

(22) Fertilizer trailer shall mean any trailer, including gooseneck applicators or trailers, designed and used exclusively to carry or apply agricultural fertilizer or agricultural chemicals and having a gross weight including load thereon of twenty thousand pounds or less, which trailers shall carry on their license plate, in addition to the registration number, the letter X;

(23) Apportionable vehicle shall mean any vehicle used in two or more jurisdictions that allocate or proportionally register vehicles and are used for the

transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, except that such term shall not include any recreational vehicle, vehicle displaying restricted plates, vehicle not required to be licensed as a commercial vehicle, bus used in the transportation of chartered parties, or government-owned vehicle. Such vehicle shall either (a) have a gross vehicle weight in excess of twenty-six thousand pounds, (b) have three or more axles, regardless of weight, or (c) be used in combination when the weight of such combination exceeds twenty-six thousand pounds gross vehicle weight. Vehicles, or combinations thereof, having a gross vehicle weight of twenty-six thousand pounds or less and two-axle vehicles may be proportionally registered at the option of the registrant;

(24) Noncontracting reciprocity state shall mean any state which is not a party to any type of contracting agreement between the State of Nebraska and one or more other jurisdictions for registration purposes on commercial vehicles; and does not require and, as a condition to operate on the highways of that state, (a) does not require any type of vehicle registration or allocation of vehicles for registration purposes; or (b) does not impose any charges based on miles operated, other than those that might be assessed against fuel consumed in that state, on any vehicles which are part of a Nebraska-based fleet;

(25) Passenger car shall mean a motor vehicle designed and used to carry ten passengers or less and not used for hire;

(26) Moped shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters, which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than thirty miles per hour on level ground; and

(27) Minibike shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen inches; or an engine-rated capacity of less than forty-five cubic centimeters displacement.

Sec. 10. That section 60-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-401. The following words and phrases, when used in sections 60-401 to 60-440, shall, for the purposes of said sections, have meanings respectively

ascribed to them as follows For purposes of sections 60-401 to 60-430.06, unless the context otherwise requires: (1) Motor vehicle includes all vehicles propelled by any power other than muscular power; except (a) self-propelled invalid chairs, (b) farm tractors, (c) farm tractors used occasionally outside of general farm usage, (d) road rollers, and (e) any vehicles which run only on rails or tracks, and (f) all off-road vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles as defined in section 1 of this act, and snowmobiles; (2) person includes every natural person, firm, partnership, association, or corporation; (3) operator includes every person who is in the actual physical control of a motor vehicle upon a highway; (4) owner includes a person who holds legal title to a motor vehicle, a mortgagor entitled to the possession of a vehicle, or the conditional vendee or lessee of a vehicle which is the subject of an agreement for the conditional sale or lease thereof; with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee; (5) nonresident includes every person who is not a resident of this state; (6) street or highway includes the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right or easement, for purposes of vehicular traffic; (7) the director shall be the Director of Motor Vehicles of the State of Nebraska; (8) superintendent means the Superintendent of Law Enforcement and Public Safety, who may be known and designated as State Sheriff, appointed by and responsible to the Governor, who is charged with the administration and enforcement of the laws pertaining to the Nebraska State Patrol and, under the direction of the Governor, is further charged with the duty and responsibility of enforcing the laws of the state relating to felonies as provided in section 84-106 and with the enforcement of laws pertaining to criminal investigation, criminal identification, and radio communications; and (9) the term this act shall be construed as referring exclusively to sections 60-401 to 60-440 60-430.06.

Sec. 11. That section 60-501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-501. The following words or phrases, when used in For purposes of sections 60-501 to 60-569,

shall, for the purposes of sections 60-501 to 60-569, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning unless the context otherwise requires:

(1) Department means Department of Motor Vehicles;

(2) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, (a) upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle; for damages, including damages for care and loss of services, because of bodily injury to or death of any person; or for damages because of injury to or destruction of property, including the loss of use thereof, or (b) upon a cause of action on an agreement of settlement for such damages;

(3) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(4) Motor vehicle means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, except (a) mopeds, (b) traction engines, (c) road rollers, (d) farm tractors, (e) tractor cranes, (f) power shovels, and (g) well drillers, and (h) every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, and (i) off-road designed vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles as defined in section 1 of this act, and snowmobiles;

(5) Nonresident means every person who is not a resident of this state;

(6) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle, or the use of a motor vehicle owned by him or her, in this state;

(7) Operator means every person who is in actual physical control of a motor vehicle;

(8) Owner means a person who holds the legal title of a motor vehicle, or in the event (a) a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in

the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event (b) a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of sections 60-501 to 60-569;

(9) Person means every natural person, firm, partnership, association, or corporation;

(10) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said such proof, arising out of the ownership, maintenance, or use of a motor vehicle, (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, (b) subject to said such limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(11) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(12) State means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(13) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Sec. 12. That section 60-2102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2102. Minibikes and all off-road vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, ~~all-terrain vehicles~~ and snowmobiles, shall be exempt from the provisions of ~~this act sections 60-2101.01 to 60-2108~~ during any public emergency or while being used in parades by regularly organized units of any recognized charitable, social, educational, or community service organization.

Sec. 13. That original sections 60-301, 60-401, 60-501, and 60-2102, Reissue Revised Statutes of Nebraska, 1943, are repealed.