

promoting off-highway vehicle safety and education. The department may also use the fund to make grants to law enforcement agencies for the purpose of enforcing laws applicable to off-highway vehicles and to the use of off-highway vehicle facilities and use areas.

**39-29-06. Transfer or termination of off-highway vehicle ownership - Change of address of owner.**

Within fifteen days after the transfer of any ownership interest in an off-highway vehicle, other than a security interest, or the destruction or abandonment of any off-highway vehicle, or a change of address of the owner as listed with the application for registration, written notice of the fact must be given by the new owner to the director in the form the director requires.

**39-29-07. Licensing by political subdivisions.**

Political subdivisions of this state may not require licensing or registration of off-highway vehicles.

**39-29-08. Rules.**

1. The department shall adopt rules for the registration of off-highway vehicles and display of registration numbers.
2. The director, in the interest of public health, welfare, and safety, may regulate, by rule, the operation of off-highway vehicles on state highways. The director's authority to prohibit the use of off-highway vehicles is limited to the roadways, shoulders, inslopes, and medians within the right of way, except where such action is necessary to avoid an obstacle. Notwithstanding the racing prohibitions in section 39-08-03.1, the director may, on a case-by-case basis, permit organized and bona fide off-highway vehicle races on the ditch bottoms, backslopes, and the top of the backslopes of the state highway rights of way. The planning, organization, route selection, and safety precautions of any race are the sole responsibility of the person obtaining the permit. The director, the department, and the department's employees do not incur any liability for permitting races.
3. The director of the parks and recreation department shall adopt rules to regulate use of off-highway vehicles in state parks and other state-owned land under the supervision of the director of the parks and recreation department.
4. The governing bodies of political subdivisions may adopt rules to regulate use of off-highway vehicles in areas under their jurisdiction. The governing body of a city or county may, by ordinance, regulate, restrict, and prohibit the use of off-highway vehicles operated in the city limits or within the county in areas under the exclusive jurisdiction of the city or county.

**39-29-09. Operation of off-highway vehicles.**

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, an individual may not operate an off-highway vehicle within the right of way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles [88.51 kilometers] per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles [104.61 kilometers] per hour. An individual may not operate an off-highway vehicle on a paved highway if the vehicle is unable to attain a speed, on a paved level surface, of at least thirty miles [48.28 kilometers] per hour.
2. The operator of an off-highway vehicle may make a direct crossing of a street or highway only if:

- a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
  - b. The off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
  - c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
  - d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
3. Unless an individual is operating a class I off-highway vehicle, an individual may not operate an off-highway vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director, except when under the direct supervision of an off-highway vehicle instructor teaching a certified off-highway vehicle safety training course, the requirement for a headlamp and taillamp may be waived.
4. The emergency conditions under which an off-highway vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
5. An individual may not operate an off-highway vehicle in the following ways, which are declared to be unsafe and a public nuisance:
  - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
  - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to another person or the property of another person.
  - c. While under the influence of intoxicating liquor or a controlled substance.
  - d. Without a lighted headlamp and taillamp except when used by an off-highway vehicle instructor during a certified off-highway vehicle safety training course.
  - e. In any tree nursery or planting in a manner that damages growing stock.
  - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system.
  - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of these signs at or on all gates through the fence or enclosure.
6. Except as provided in section 39-29-10, an individual may not operate an off-highway vehicle without having in possession a valid driver's license or permit.
7. When an off-highway vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the off-highway vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the off-highway vehicle.
8. An individual may not operate an off-highway vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the off-highway vehicle by a hinged swivel and secure hitch.
9. An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an off-highway vehicle unless the person wears a safety helmet meeting United States department of transportation standards.
10. An operator of an off-highway vehicle may not carry a passenger while operating the vehicle unless the off-highway vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.

11. Unless otherwise provided by law, an off-highway vehicle may be operated on an aggregate road surface only when designated as part of an active off-highway vehicle trail by the managing entity.
12. A person who is performing pest control or survey work for a political subdivision may operate an all-terrain vehicle on the bottom, backslope, inside slope, and shoulder of a highway other than a controlled-access highway.

#### **39-29-09.1. Equipment.**

To operate an off-highway vehicle on a paved highway or gravel, dirt, or loose surface roadway under subsection 1 of section 39-29-09, the off-highway vehicle must be equipped with a mirror in compliance with section 39-27-09, a horn in compliance with section 39-27-15, a speedometer and odometer in compliance with section 39-27-16, a brake light, a lighted headlamp in compliance with section 39-27-17.1, and a motor of at least three hundred fifty cubic centimeters.

#### **39-29-10. Operation by persons under age sixteen.**

Except as otherwise provided in this section, an individual under sixteen years of age who is not in possession of a valid operator's license or permit to operate an off-highway vehicle may not, except upon the lands of the individual's parent or guardian or as a participant in an organized sporting event that involves the use of off-highway vehicles, operate an off-highway vehicle. An individual at least twelve years of age may operate an off-highway vehicle if the individual has completed an off-highway vehicle safety training course prescribed by the director of the parks and recreation department and has received the appropriate off-highway vehicle safety certificate issued by the director of the parks and recreation department. The failure of an operator to exhibit an off-highway vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that that person does not hold a certificate. Fees collected from each individual receiving certification must be deposited in the off-highway vehicle trail tax fund for off-highway vehicle safety education and training programs.

#### **39-29-11. Enforcement.**

Only peace officers of this state and their respective duly authorized representatives may enforce this chapter.

#### **39-29-12. Penalties.**

Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of fifty dollars must be assessed. Violation of section 39-29-02 or subsection 2 of section 39-29-04 is an infraction, for which a fee of fifty dollars must be assessed. If the individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of twenty dollars must be assessed.