WEST VIRGINIA CODE CHAPTER 17F

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§17F-1-1. Acts prohibited by operator; penalties for violations.

(a) No all-terrain vehicle may be operated in this state:

(1) On any interstate highway except by public safety personnel responding to emergencies;

(2) On any road or highway with a center line or more than two lanes except for the purpose of crossing the road, street or highway, 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 vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;

(C) The operator yields his or her right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(D) Both the headlight and taillight are illuminated when the crossing is made if the vehicle is so equipped;

(3) With more than one passenger unless more passengers are allowed under manufacturers' recommendations;

(4) With a passenger under the age of eighteen, unless the operator has at a minimum a level two intermediate driver's license or its equivalent or is eighteen years of age or older;

(5) Unless riders under the age of eighteen are wearing size appropriate protective helmets that meet the current performance specifications established by the American National Standards Institute standard, z 90.1, the United States Department of Transportation federal motor vehicle safety standard no. 218 or Snell safety standards for protective headgear for vehicle users;

(6) Anytime from sunset to sunrise without an illuminated headlight or lights and taillights;

(7) Without a manufacturer-installed or equivalent spark arrester and a manufacturer-installed or equivalent muffler in proper working order and properly connected to the vehicle's exhaust system; or

(8) Unless operating in compliance with the provisions of section two of this article.

(b) An all-terrain vehicle may be operated upon the shoulder, or as far to the right on the pavement as possible when there is not enough shoulder to safely operate, on any road, street or highway referred to in subdivision (2), subsection (a) of this section other than an interstate highway for a distance not to exceed ten miles to travel between a residence or lodging and off-road trails, fields and areas of operation, including stops for food, fuel,

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supplies and restrooms, if:

(1) The vehicle is operated at speeds of twenty-five miles per hour or less; and

(2) The vehicle is operated at any time from sunset to sunrise the all-terrain vehicle must be equipped with headlights and taillights which must be illuminated.

(c) Operation of an all-terrain vehicle in accordance with subsection (b) shall not constitute operation of a motor vehicle on a road or highway of this state as contemplated by the provisions of section seven of this article.

(d) Notwithstanding any provision of this chapter to the contrary, a municipality, county or other political subdivision of the state may authorize the operation of all-terrain vehicles on certain specified roads, streets or highways which are marked with centerline pavement markings, other than interstate highways, to allow participation in parades, exhibitions and other special events, in emergencies or for specified purposes.

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§17F-1-2. Safety awareness courses.

(a) The Commissioner of Motor Vehicles shall offer a free all-terrain vehicle rider safety awareness course, and may approve other all-terrain vehicle rider safety awareness courses, to meet the reasonably anticipated needs of the public. The commissioner shall offer free safety awareness course materials to authorized dealers of all-terrain vehicles for use by purchasers and potential purchasers free of charge.

(b) The commissioner shall issue certificates of completion to persons who satisfactorily complete the requirements of an approved course. The commissioner may authorize a dealer of all-terrain vehicles and other approved providers to issue the certificates of completion. The commissioner may authorize a state institution of higher education, which is the operator, owner, trainer or promoter of an all-terrain vehicle rider safety awareness course approved by the commissioner, pursuant to subsection (a) of this section, to issue the certificates of completion on behalf of the commissioner.

(c) No person under the age of eighteen may operate an all-terrain vehicle without a certificate of completion of a vehicle rider safety awareness course as offered or approved by the commissioner.

(d) The provisions of subsection (c) of this section do not apply to the operation of an all-terrain vehicle on any private or public recreational trail or area or affiliated trail or area operated by a person or entity which has in place a safety program.

(e) No state institution of higher education, which operates, owns, trains or promotes an all-terrain vehicle rider safety awareness course approved by the commissioner, pursuant to this section, is liable for personal injuries to, or for the death of, a rider that may occur during an approved all-terrain vehicle rider safety awareness course, unless an employee or agent of the state institution of higher education's acts or omissions are with malicious purpose, in bad faith, or undertaken in a wanton or reckless manner.

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§17F-1-3. Local government authority to regulate.

Notwithstanding any provision of this article to the contrary:

(1) The governing body of a municipality may regulate in any manner or prohibit, by lawfully enacted ordinance, the operation of all-terrain vehicles upon any street, road or avenue within the municipal corporate limits.

(2) Homeowner associations may petition the county commission of the county in which the area regulated by the homeowner association is located for an ordinance to regulate or prohibit the operation of all-terrain vehicles upon any street, road or avenue within the area regulated by the homeowner association. County commissions are hereby authorized, upon receipt of a petition authorized by the provisions of this section, to enact an ordinance regulating or prohibiting the operation of all-terrain vehicles.

(3) The county commission of any county which has in effect and is operating under a countywide comprehensive plan may by lawfully enacted ordinance regulate or prohibit the operation of all-terrain vehicles on any road in the county, except interstate highways: Provided, That any county which enacts any such ordinance shall notify the West Virginia state police and all law-enforcement agencies in the county of its action in writing, together with a copy of the ordinance.

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§17F-1-4. All-terrain vehicle rental dealers required to provide safety equipment.

Any person or entity renting or leasing all-terrain vehicles for recreational purposes must provide protective helmets as defined by the provisions of subdivision (5), subsection (a), section one of this article, to all persons using such vehicles who are under the age of eighteen and offer protective helmets to all persons eighteen and older using the rented or leased vehicles: Provided, That for the provisions of this section to be applicable, the age and identity of the users of the all-terrain vehicle must be disclosed to the person or entity providing the rented or leased vehicle.

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§17F-1-5. Private property exemption.

Except as provided by the provisions of subdivisions (3), (4) and (5), subsection (a), section one of this article, and except as provided by the provisions of section two of this article, the provisions of this article do not apply if the all-terrain vehicle is operated exclusively on lands owned or leased by the vehicle owner or on private lands of others with the owner's permission.

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§17F-1-6. Exemption for farm, commercial use; current regulations.

(a) Except as provided by the provisions of subdivisions (4) and (5), subsection (a), section one, nothing in this article may be construed to preclude or limit the use or operation of all-terrain vehicles for lawful nonrecreational commercial purposes, including, but not limited to, farm use, oil and gas operations, timbering, surveying and public utilities access.

(b) Nothing in this chapter may be construed to supersede or contravene the provisions of any agreement between the State of West Virginia and any private or governmental entity entered into prior to the effective date of this chapter, or any lawfully promulgated legislative rule, including any emergency legislative rule, regulating the operation of all-terrain vehicles.

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§17F-1-7. Applicability of rules of operation.

(a) Every person operating an all-terrain vehicle upon a public road or highway of this state shall be subject to all of the duties applicable to the driver of a vehicle by the provisions of chapter seventeen-c of this code except where inconsistent with the provisions of this article and except as to those provisions of chapter seventeen-c of this code which by their nature can have no application.

(b) Notwithstanding the provisions of subsection (a) of this section, a motor vehicle operator's license is not required of an operator of an all-terrain vehicle when he or she is operating said vehicle in conformity with the provisions of subdivision (2), subsection (a) or subsection (b), section one of this chapter except when the operator is under the age of eighteen and is transporting a passenger under the age of eighteen.

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§17F-1-8. Criminal penalties.

(a) Except as provided in the provisions of subsection (b) of this section and in addition to any other legal remedy for violation of civil or criminal provisions of this code, any person who violates the provisions of this article or municipal or county ordinance enacted pursuant to the provisions of section three of this article or who owns or has control over an all-terrain vehicle and knowingly permits it to be used in violation of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100.

(b) Any parent, legal guardian or person who has actual responsibility for a child under eighteen years of age who knows or should have known the child is operating or is a passenger on an all-terrain vehicle without a helmet as required by the provisions of section one of this article is guilty of a misdemeanor and, shall, upon conviction, be subject to the following penalties:

(1) For a first offense, a fine of not less than $50 nor more than $100 or not more than ten hours of community service, or both;

(2) For a second offense, a fine of not less than $100 nor more than $200 or not more than twenty hours of community service, or both;

(3) For a third or subsequent offense, a fine of not less than $200 nor more than $500 or not more than one hundred hours of community service, or both.

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§17F-1-9. Definition of all-terrain and utility terrain vehicle.

(a) As used in this chapter:

(1) “All-terrain vehicle” or “ATV” means any motor vehicle designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer to be used by a single operator or by an operator and no more than one passenger.

(2) “Utility-terrain vehicle” means any motor vehicle with four or more low-pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control.

(3) “Motorcycle” means any motor vehicle manufactured with no more than two wheels and having a seat or a saddle for the use of the operator.

(4) “Off-highway vehicle” means a vehicle intended for off-highway use and includes all-terrain vehicles, utility-terrain vehicles, motorcycles and off-road vehicles;

(5) “Off-road vehicle” means a vehicle that is suitable for off-road use. It includes a four-wheel drive vehicle such as a Jeep, pickup or sport utility vehicle. It also includes a specially designed, modified or customized off-road vehicle that is of a similar size to a vehicle manufactured for highway use.

(b) As used in this article, “all-terrain vehicle” and “vehicle”, or the plural, mean all-terrain vehicles, utility-terrain vehicles, motorcycles and off-highway vehicles.

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