

## CHAPTER 260

## S.B. No. 939

## AN ACT

relating to the registration and regulation of all-terrain vehicles; providing criminal penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 1, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-1, Vernon's Texas Civil Statutes), is amended by adding Subsections (w) and (x) to read as follows:

(w) *"All-terrain vehicle" means any motor vehicle having a saddle for the use of the rider, designed to propel itself with three or four tires in contact with the ground, designed by the manufacturer for off-highway use by the operator only, and not designed by the manufacturer for farming or lawn care.*

(x) *"Public property" means property owned or leased by the state or a political subdivision of the state.*

SECTION 2. Subsection (a), Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-2, Vernon's Texas Civil Statutes), is amended to read as follows:

(a). Every owner of a motor vehicle, trailer or semitrailer, *other than an all-terrain vehicle*, used or to be used upon the public highways of this State shall apply each year to the State ~~[Highway]~~ Department of *Highways and Public Transportation* through the County Tax Collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion thereof; provided, that where a public highway separates lands under the dominion or control of the owner, the operation of such a motor vehicle by such owner, his agent or employee, across such highway shall not constitute a use of such motor vehicle upon a public highway of this State. *An all-terrain vehicle, with or without design alterations, may not be registered for operation on public highways. In lieu of highway motor vehicle registration, the owner of an all-terrain vehicle used or to be used on public property in this State shall apply each year to the State Department of Highways and Public Transportation through the County Tax Collector of the county in which he resides for off-highway registration of each vehicle owned or controlled by him for the ensuing or current calendar year or unexpired portion of the calendar year.*

SECTION 3. Chapter 3, Acts of the 43rd Legislature, 2nd Called Session, 1934 (Article 6675a-3e, Vernon's Texas Civil Statutes), is amended by adding Section 6a to read as follows:

*6a. (a) On off-highway registration of an all-terrain vehicle, the State Department of Highways and Public Transportation shall issue a registration certificate and, in lieu of license number plates, a number decal or sticker of appropriate size and design as determined by the Department.*

*(b) A person commits an offense if the person operates an all-terrain vehicle, other than a vehicle that is owned by a nonresident and that is currently registered under the laws of the owner's home state, on public property without having a number*

*sticker or decal that is valid for the current registration period attached to the vehicle at the location specified by the Department. An offense under this subsection is a Class C misdemeanor.*

SECTION 4. Section 5, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-5, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

*(c) The annual license fee for off-highway registration of an all-terrain vehicle is Six Dollars (\$6). At the time of registration, the County Tax Collector shall also collect from each registered owner of the vehicle an annual all-terrain vehicle safety fee of Six Dollars (\$6).*

SECTION 5. Section 10, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a-10, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (d), by redesignating Subsection (c-1), as added by Section 2, Chapter 822, Acts of the 68th Legislature, Regular Session, 1983, and by adding Subsection (c-3) to read as follows:

(a) Except as provided by *Subsections [Subsection] (c-1), (c-2), and (c-3)* of this section, on Monday of each week each County Tax Collector shall deposit in the County Depository of his County to the credit of the County Road and Bridge Fund an amount equal to one hundred per cent (100%) of net collections made hereunder during the preceding week until the amount so deposited for the current calendar year shall have reached a total sum of Fifty Thousand Dollars (\$50,000) plus Three Hundred and Fifty Dollars (\$350) for each mile of county road, not to exceed five hundred (500) miles, maintained by the County according to the latest data available from the State Department of Highways and Public Transportation.

*(c-2) [(c-1)]* On Monday of each week each County Tax Collector in a County imposing a fee under Section 9a of this Act shall deposit in the County Depository of the County to the credit of the County Road and Bridge Fund, an amount equal to ninety-seven per cent (97%) of the extra fees collected under Section 9a of this Act. The County Tax Collector shall remit to the Department the remaining three per cent (3%) to defray costs incurred by the Department in administering its duties under Section 9a of this Act.

*(c-3) On Monday of each week each County Tax Collector shall remit to the State Department of Highways and Public Transportation for deposit in the all-terrain vehicle safety fund in the State Treasury an amount equal to one hundred per cent (100%) of the all-terrain vehicle safety fees collected under Subsection (c) of Section 5 of this Act with a carbon copy of the receipt issued for payment of the fees.*

(d) Except as provided by *Subsections [subsection] (c-1), (c-2), and (c-3)* of this section, the County Tax Collector may defer remittance to the Department of fees collected under this Act if the fees are deposited in an interest-bearing account or certificate in the County Depository. The County Tax Collector shall remit to the Department fees so deposited no later than the thirty-fourth (34th) day after the due dates set forth in Subsections (b) and (c) of this section.

SECTION 6. Title 116, Revised Statutes, is amended by adding Article 6701c-5 to read as follows:

**Art. 6701c-5. ALL-TERRAIN VEHICLES**

**Sec. 1. DEFINITIONS.** *In this article:*

(1) "All-terrain vehicle" means a motor vehicle having a saddle for the use of the rider, designed to propel itself with three or four tires in contact with the ground, designed by the manufacturer for off-highway use by the operator only, and not designed by the manufacturer for farming or lawn care.

(2) "Public property" means property owned or leased by the state or a political subdivision of the state.

**Sec. 2. ALL-TERRAIN VEHICLE OPERATOR EDUCATION AND CERTIFICATION.** (a) *The governor shall designate either a division of the governor's staff or a state agency to establish and administer an all-terrain vehicle operator education and certification program. The purpose of the program is to make available to*

*all-terrain vehicle operators in this state courses in basic training and safety skills relating to the operation of all-terrain vehicles and to issue safety certificates to operators who successfully complete the education program or pass a test established under the program.*

*(b) The designated division or agency may contract with nonprofit safety or education organizations or agencies of local governments to administer the education program and certify operators.*

*(c) The designated division or agency may deny, suspend, or cancel its approval for a program sponsor to conduct a course or for an instructor to teach courses offered under this article, if the applicant, instructor, or program sponsor:*

*(1) does not meet the requirements established under this article to receive or retain approval;*

*(2) permits fraud or engages in fraudulent practices with reference to an application to the designated division or agency, induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee and the public; or*

*(3) does not comply with the rules and regulations of the designated division or agency.*

*(d) If there is cause to deny, suspend, or cancel the approval of a program sponsor or instructor, notice and an opportunity for hearing must be given as provided by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); Article 6252-13c, Revised Statutes; and Sections 2-5, Chapter 267, Acts of the 67th Legislature, Regular Session, 1981 (Article 6252-13d, Vernon's Texas Civil Statutes).*

*(e) The designated division or agency may adopt rules that it determines are necessary to effectively administer this article.*

*(f) The designated division or agency may by rule temporarily exempt the residents of any county or counties from the requirement of Section 5 of this article to hold a safety certificate or from the requirement of Section 3 of this article to complete a course involving actual operation of an all-terrain vehicle until such times as the appropriate education and certification program needed to meet those requirements is established at a location reasonably accessible to the residents of that county.*

**Sec. 3. ALL-TERRAIN VEHICLE SAFETY COORDINATOR.** *(a) The division or agency administering the program shall employ an all-terrain vehicle safety coordinator.*

*(b) The coordinator is responsible for supervising the program, including determining:*

*(1) locations at which the courses will be offered;*

*(2) fees for the courses;*

*(3) qualifications of instructors;*

*(4) course curriculum; and*

*(5) standards for operator safety certification.*

*(c) In establishing standards for instructors, curriculum, and operator certification, the coordinator shall consult and be guided by standards established by recognized all-terrain vehicle safety organizations.*

*(d) The operator education and certification program provided for persons 14 years of age or older may utilize teaching or testing methods which do not involve the actual operation of an all-terrain vehicle if the coordinator determines that vehicle operation is not feasible in that program component or at a particular program location, but no operator safety certificate may be issued to a person younger than 14 years of age unless and until that person has successfully completed a training course involving the actual operation of an all-terrain vehicle.*

*Sec. 4. FUNDING. (a) The all-terrain vehicle safety fund is established in the State Treasury. Except as provided by Subsection (c) of this section, money in the fund may be spent only to defray the costs of administering the all-terrain vehicle operator education and certification program.*

*(b) At the time of annual registration of an all-terrain vehicle, each registered owner of the vehicle shall pay an all-terrain vehicle safety fee that shall be deposited to the credit of the all-terrain vehicle safety fund in accordance with Subsection (c-3), Section 10, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-10, Vernon's Texas Civil Statutes).*

*(c) The unexpended and unencumbered balance in the fund at the end of each fiscal year may be appropriated for the all-terrain vehicle operator education and certification program or for any other purpose relating to acquiring, maintaining, or policing all-terrain vehicle trails or user-areas.*

*(d) A fee may be charged for a course under the program that is reasonable in relation to the costs of administering the course.*

*Sec. 5. SAFETY CERTIFICATE REQUIRED. (a) A person may not operate an all-terrain vehicle on public property unless the person satisfies one of the following conditions:*

*(1) the person is taking a prescribed safety training course under the direct supervision of a certified all-terrain vehicle safety instructor;*

*(2) the person is under the direct supervision of an adult who holds an appropriate safety certificate issued under this article or under the authority of another state; or*

*(3) the person holds an appropriate safety certificate issued under this article or under the authority of another state.*

*(b) A person younger than 14 years of age who is operating an all-terrain vehicle must also be accompanied by and under the direct supervision of a parent or guardian or an adult who is authorized by the parent or guardian of the person who is operating the all-terrain vehicle.*

*(c) The safety certificate required by this section shall be carried by the person to whom the certificate was issued at all times while operating an all-terrain vehicle on public property and shall be displayed upon the request of any law enforcement officer.*

*Sec. 6. CROSSING HIGHWAYS. (a) Except as provided by this section, an all-terrain vehicle may not be driven or operated on any public street, road, or highway of this state.*

*(b) A person driving or operating an all-terrain vehicle may cross a public street, road, or highway, other than an interstate or limited access highway, if:*

*(1) the crossing is made at an angle of approximately 90 degrees to the highway and at a place where an obstruction does not prevent a quick and safe crossing;*

*(2) the vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;*

*(3) the operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;*

*(4) in crossing a divided highway, the crossing is made only at an intersection of the highway with another public street, road, or highway; and*

*(5) any headlights and taillights are lighted when the crossing is made.*

*Sec. 7. RULES FOR OPERATION. (a) A person may not operate an all-terrain vehicle on public property in a careless or reckless manner so as to endanger or to cause injury or damage to any person or property.*

*(b) A person may not operate, ride, or be otherwise propelled on an all-terrain vehicle on public property unless the person wears a safety helmet that meets U.S. Department of Transportation standards and wears eye protection.*

(c) A person may not operate an all-terrain vehicle with a passenger on public property.

Sec. 8. **EQUIPMENT.** (a) An all-terrain vehicle operated on public property during hours of darkness must display a lighted headlight and taillight. These lights must be in operation during the period of 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.

(b) An all-terrain vehicle operated on public property must be equipped with a brake system maintained in good operating condition.

(c) An all-terrain vehicle operated on public property must be equipped with an adequate muffler system in good working condition and a United States Forest Service qualified spark arrester.

(d) A person operating an all-terrain vehicle on public property may not:

(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 modified with a cutout, bypass, or similar device; or

(3) operate an all-terrain vehicle with the spark arrester removed or modified except for use in closed-course competition events.

(e) All-terrain vehicles participating in certain competitive events may be exempted from this section at the discretion of the coordinator.

Sec. 9. **EXEMPTIONS.** (a) The provisions of Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), relating to drivers' licenses do not apply to the operation or ownership of an all-terrain vehicle.

(b) The provisions of Chapter 332, Acts of the 60th Legislature, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), relating to commercial driver training schools do not apply to instruction in the operation of an all-terrain vehicle provided under the operator education and certification program established by this article.

Sec. 10. **PENALTIES.** (a) A person who violates a provision of this article commits an offense.

(b) Except as provided by other articles of this title, an offense under this article is a Class C misdemeanor.

SECTION 7. This Act takes effect January 1, 1988.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 30, 1987, by a viva-voce vote. Passed the House on May 15, 1987, by a non-record vote.

Approved May 28, 1987.

Effective Jan. 1, 1988.