

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HOUSE BILL 2365

AN ACT

AMENDING SECTIONS 28-1171, 28-1173 AND 33-1551, ARIZONA REVISED STATUTES;
RELATING TO OFF-HIGHWAY VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-1171, Arizona Revised Statutes, is amended to
3 read:

4 28-1171. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Access road" means a multiple use corridor that meets all of the
7 following criteria:

8 (a) Is maintained for travel by two-wheel vehicles.

9 (b) Allows entry to staging areas, recreational facilities, trail
10 heads and parking.

11 (c) Is determined to be an access road by the appropriate land
12 managing authority.

13 2. "Closed course" means a maintained facility that uses department
14 approved dust abatement and fire abatement measures.

15 3. "Highway" means the entire width between the boundary lines of
16 every way publicly maintained by the federal government, the department, a
17 city, a town or a county if any part of the way is generally open to the use
18 of the public for purposes of conventional two-wheel drive vehicular
19 travel. Highway does not include routes designated for off-highway vehicle
20 use.

21 4. "Mitigation" means the rectification or reduction of existing
22 damage to natural resources, including flora, fauna and land or cultural
23 resources, including prehistoric or historic archaeological sites, if the
24 damage is caused by off-highway vehicles.

25 5. "Off-highway recreation facility" includes off-highway vehicle use
26 areas and trails designated for use by off-highway vehicles.

27 6. "Off-highway vehicle":

28 (a) Means a motorized vehicle when operated primarily off of highways
29 on land, water, snow, ice or other natural terrain or on a combination of
30 land, water, snow, ice or other natural terrain.

31 (b) Includes a two-wheel, three-wheel or four-wheel vehicle,
32 motorcycle, four-wheel drive vehicle, dune buggy, amphibious vehicle, ground
33 effects or air cushion vehicle and any other means of land transportation
34 deriving motive power from a source other than muscle or wind.

35 (c) Does not include a vehicle that is either:

36 (i) Designed primarily for travel on, over or in the water.

37 (ii) Used in installation, inspection, maintenance, repair or related
38 activities involving facilities for the provision of utility or railroad
39 service OR USED IN THE EXPLORATION OR MINING OF MINERALS OR AGGREGATES AS
40 DEFINED IN TITLE 27.

41 7. "Off-highway vehicle special event" means an event that is
42 endorsed, authorized, permitted or sponsored by a federal, state, county or
43 municipal agency and in which the event participants operate off-highway
44 vehicles on specific routes or areas designated by a local authority pursuant
45 to section 28-627.

1 8. "Off-highway vehicle trail" means a multiple use corridor that is
2 both of the following:

- 3 (a) Open to recreational travel by an off-highway vehicle.
4 (b) Designated or managed by or for the managing authority of the
5 property that the trail traverses for off-highway vehicle use.

6 9. "Off-highway vehicle use area" means the entire area of a parcel of
7 land, except for approved buffer areas, that is managed or designated for
8 off-highway vehicle use.

9 Sec. 2. Section 28-1173, Arizona Revised Statutes, is amended to read:

10 28-1173. Enforcement

11 All peace officers of this state and counties or municipalities of this
12 state and other duly authorized state employees ~~shall only~~ MAY enforce this
13 article. ~~on land that is either of the following:~~

14 ~~1. Solely under the jurisdiction of this state or a county or~~
15 ~~municipality of this state.~~

16 ~~2. Open as indicated by federal law.~~

17 Sec. 3. Section 33-1551, Arizona Revised Statutes, is amended to read:

18 33-1551. Duty of owner, lessee or occupant of premises to
19 recreational or educational users; liability;
20 definitions

21 A. A public or private owner, easement holder, lessee, tenant, manager
22 or occupant of premises is not liable to a recreational or educational user
23 except on a showing that the owner, easement holder, lessee, tenant, manager
24 or occupant was guilty of wilful, malicious or grossly negligent conduct that
25 was a direct cause of the injury to the recreational or educational user.

26 B. This section does not limit the liability that otherwise exists for
27 maintaining an attractive nuisance, except with respect to dams, channels,
28 canals and lateral ditches used for flood control, agricultural, industrial,
29 metallurgical or municipal purposes.

30 C. For the purposes of this section:

31 1. "Educational user" means a person to whom permission has been
32 granted or implied without the payment of an admission fee or any other
33 consideration to enter premises to participate in an educational program,
34 including the viewing of historical, natural, archaeological or scientific
35 sites. A nominal fee that is charged by a public entity or a nonprofit
36 corporation to offset the cost of providing the educational or recreational
37 premises and associated services does not constitute an admission fee or any
38 other consideration as prescribed by this section.

39 2. "Grossly negligent" means a knowing or reckless indifference to the
40 health and safety of others.

41 3. "Park" includes outdoor school grounds that are open to
42 recreational users, excluding swimming pools and other aquatic features.

43 4. "Premises" means agricultural, range, open space, park, flood
44 control, mining, forest, water delivery, water drainage or railroad lands,
45 and any other similar lands, wherever located, that are available to a

1 recreational or educational user, including paved or unpaved multiuse trails
2 and special purpose roads or trails not open to automotive use by the public
3 and any building, improvement, fixture, water conveyance system, body of
4 water, channel, canal or lateral, road, trail or structure on such lands.

5 5. "Recreational user" means a person to whom permission has been
6 granted or implied without the payment of an admission fee or any other
7 consideration to travel across or to enter premises to hunt, fish, trap,
8 camp, hike, ride, engage in off-highway vehicle, off-road recreational motor
9 vehicle or all-terrain vehicle activity, operate aircraft, exercise, swim or
10 engage in other outdoor recreational pursuits. The purchase of a state
11 hunting, trapping or fishing license, an off-highway vehicle user indicia or
12 a state trust land recreational permit **OR PAYMENT BY AN AGENCY OF THIS STATE**
13 **TO AN OWNER, EASEMENT HOLDER OR LESSEE FOR PUBLIC RECREATIONAL ACCESS TO THE**
14 **PREMISES** is not the payment of an admission fee or any other consideration as
15 provided in this section. A nominal fee that is charged by a public entity
16 or a nonprofit corporation to offset the cost of providing the educational or
17 recreational premises and associated services does not constitute an
18 admission fee or any other consideration as prescribed by this
19 section. Recreational user does not include a student who is registered at a
20 school during designated times that the student is allowed to be on the
21 school grounds as determined by district personnel or who is participating in
22 a school-sanctioned activity.

23 6. "School" has the same meaning prescribed in section 15-101.