

REFERENCE TITLE: ATVs; off-highway vehicles

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SB 1208

Introduced by
Senators Pratt; Worsley; Representatives Bowers, Campbell, Cook, John

AN ACT

AMENDING SECTIONS 28-101 AND 28-1177, ARIZONA REVISED STATUTES; RELATING
TO VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-101, Arizona Revised Statutes, is amended to
3 read:

4 28-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Alcohol" means any substance containing any form of alcohol,
7 including ethanol, methanol, propynol and isopropynol.

8 2. "Alcohol concentration" if expressed as a percentage means
9 either:

10 (a) The number of grams of alcohol per one hundred milliliters of
11 blood.

12 (b) The number of grams of alcohol per two hundred ten liters of
13 breath.

14 3. "All-terrain vehicle" means either of the following:

15 (a) A motor vehicle that satisfies all of the following:

16 (i) Is designed primarily for recreational nonhighway all-terrain
17 travel.

18 (ii) Is fifty or fewer inches in width.

19 (iii) Has an unladen weight of one thousand two hundred pounds or
20 less.

21 (iv) Travels on three or more nonhighway tires.

22 (v) Is operated on a public highway.

23 (b) A recreational off-highway vehicle that satisfies all of the
24 following:

25 (i) Is designed primarily for recreational nonhighway all-terrain
26 travel.

27 (ii) Is ~~sixty-five~~ EIGHTY or fewer inches in width.

28 (iii) Has an unladen weight of ~~one~~ TWO thousand ~~eight~~ FIVE hundred
29 pounds or less.

30 (iv) Travels on four or more nonhighway tires.

31 (v) HAS A STEERING WHEEL FOR STEERING CONTROL.

32 (vi) HAS A ROLLOVER PROTECTIVE STRUCTURE.

33 (vii) HAS AN OCCUPANT RETENTION SYSTEM.

34 4. "Authorized emergency vehicle" means any of the following:

35 (a) A fire department vehicle.

36 (b) A police vehicle.

37 (c) An ambulance or emergency vehicle of a municipal department or
38 public service corporation that is designated or authorized by the
39 department or a local authority.

40 (d) Any other ambulance, fire truck or rescue vehicle that is
41 authorized by the department in its sole discretion and that meets
42 liability insurance requirements prescribed by the department.

43 5. "Autocycle" means a three-wheeled motorcycle on which the driver
44 and passengers ride in a fully or partially enclosed seating area that is
45 equipped with a roll cage, safety belts for each occupant and antilock

1 brakes and that is designed to be controlled with a steering wheel and
2 pedals.

3 6. "Aviation fuel" means all flammable liquids composed of a
4 mixture of selected hydrocarbons expressly manufactured and blended for
5 the purpose of effectively and efficiently operating an internal
6 combustion engine for use in an aircraft but does not include fuel for jet
7 or turbine powered aircraft.

8 7. "Bicycle" means a device, including a racing wheelchair, that is
9 propelled by human power and on which a person may ride and that has
10 either:

11 (a) Two tandem wheels, either of which is more than sixteen inches
12 in diameter.

13 (b) Three wheels in contact with the ground, any of which is more
14 than sixteen inches in diameter.

15 8. "Board" means the transportation board.

16 9. "Bus" means a motor vehicle designed for carrying sixteen or
17 more passengers, including the driver.

18 10. "Business district" means the territory contiguous to and
19 including a highway if there are buildings in use for business or
20 industrial purposes within any six hundred feet along the highway,
21 including hotels, banks or office buildings, railroad stations and public
22 buildings that occupy at least three hundred feet of frontage on one side
23 or three hundred feet collectively on both sides of the highway.

24 11. "Certificate of ownership" means a paper or an electronic
25 record that is issued in another state or a foreign jurisdiction and that
26 indicates ownership of a vehicle.

27 12. "Certificate of title" means a paper document or an electronic
28 record that is issued by the department and that indicates ownership of a
29 vehicle.

30 13. "Combination of vehicles" means a truck or truck tractor and
31 semitrailer and any trailer that it tows but does not include a forklift
32 designed for the purpose of loading or unloading the truck, trailer or
33 semitrailer.

34 14. "Controlled substance" means a substance so classified under
35 section 102(6) of the controlled substances act (21 United States Code
36 section 802(6)) and includes all substances listed in schedules I through
37 V of 21 Code of Federal Regulations part 1308.

38 15. "Conviction" means:

39 (a) An unvacated adjudication of guilt or a determination that a
40 person violated or failed to comply with the law in a court of original
41 jurisdiction or by an authorized administrative tribunal.

42 (b) An unvacated forfeiture of bail or collateral deposited to
43 secure the person's appearance in court.

44 (c) A plea of guilty or no contest accepted by the court.

45 (d) The payment of a fine or court costs.

- 1 16. "County highway" means a public road that is constructed and
2 maintained by a county.
- 3 17. "Dealer" means a person who is engaged in the business of
4 buying, selling or exchanging motor vehicles, trailers or semitrailers and
5 who has an established place of business and has paid fees pursuant to
6 section 28-4302.
- 7 18. "Department" means the department of transportation acting
8 directly or through its duly authorized officers and agents.
- 9 19. "Digital network or software application" has the same meaning
10 prescribed in section 28-9551.
- 11 20. "Director" means the director of the department of
12 transportation.
- 13 21. "Drive" means to operate or be in actual physical control of a
14 motor vehicle.
- 15 22. "Driver" means a person who drives or is in actual physical
16 control of a vehicle.
- 17 23. "Driver license" means a license that is issued by a state to
18 an individual and that authorizes the individual to drive a motor vehicle.
- 19 24. "Electric personal assistive mobility device" means a
20 self-balancing device with one wheel or two nontandem wheels and an
21 electric propulsion system that limits the maximum speed of the device to
22 fifteen miles per hour or less and that is designed to transport only one
23 person.
- 24 25. "Farm" means any lands primarily used for agriculture
25 production.
- 26 26. "Farm tractor" means a motor vehicle designed and used
27 primarily as a farm implement for drawing implements of husbandry.
- 28 27. "Foreign vehicle" means a motor vehicle, trailer or semitrailer
29 that is brought into this state other than in the ordinary course of
30 business by or through a manufacturer or dealer and that has not been
31 registered in this state.
- 32 28. "Golf cart" means a motor vehicle that has not less than three
33 wheels in contact with the ground, that has an unladen weight of less than
34 one thousand eight hundred pounds, that is designed to be and is operated
35 at not more than twenty-five miles per hour and that is designed to carry
36 not more than four persons including the driver.
- 37 29. "Hazardous material" means a material, and its mixtures or
38 solutions, that the United States department of transportation determines
39 under 49 Code of Federal Regulations is, or any quantity of a material
40 listed as a select agent or toxin under 42 Code of Federal Regulations
41 part 73 that is, capable of posing an unreasonable risk to health, safety
42 and property if transported in commerce and that is required to be
43 placarded or marked as required by the department's safety rules
44 prescribed pursuant to chapter 14 of this title.

1 30. "Implement of husbandry" means a vehicle that is designed
2 primarily for agricultural purposes and that is used exclusively in the
3 conduct of agricultural operations, including an implement or vehicle
4 whether self-propelled or otherwise that meets both of the following
5 conditions:

6 (a) Is used solely for agricultural purposes including the
7 preparation or harvesting of cotton, alfalfa, grains and other farm crops.

8 (b) Is only incidentally operated or moved on a highway whether as
9 a trailer or self-propelled unit. For the purposes of this subdivision,
10 "incidentally operated or moved on a highway" means travel between a farm
11 and another part of the same farm, from one farm to another farm or
12 between a farm and a place of repair, supply or storage.

13 31. "Limousine" means a motor vehicle providing prearranged ground
14 transportation service for an individual passenger, or a group of
15 passengers, that is arranged in advance or is operated on a regular route
16 or between specified points and includes ground transportation under a
17 contract or agreement for services that includes a fixed rate or time and
18 is provided in a motor vehicle with a seating capacity not exceeding
19 fifteen passengers including the driver.

20 32. "Livery vehicle" means a motor vehicle that:

21 (a) Has a seating capacity not exceeding fifteen passengers
22 including the driver.

23 (b) Provides passenger services for a fare determined by a flat
24 rate or flat hourly rate between geographic zones or within a geographic
25 area.

26 (c) Is available for hire on an exclusive or shared ride basis.

27 (d) May do any of the following:

28 (i) Operate on a regular route or between specified places.

29 (ii) Offer prearranged ground transportation service as defined in
30 section 28-141.

31 (iii) Offer on demand ground transportation service pursuant to a
32 contract with a public airport, licensed business entity or organization.

33 33. "Local authority" means any county, municipal or other local
34 board or body exercising jurisdiction over highways under the constitution
35 and laws of this state.

36 34. "Manufacturer" means a person engaged in the business of
37 manufacturing motor vehicles, trailers or semitrailers.

38 35. "Moped" means a bicycle that is equipped with a helper motor if
39 the vehicle has a maximum piston displacement of fifty cubic centimeters
40 or less, a brake horsepower of one and one-half or less and a maximum
41 speed of twenty-five miles per hour or less on a flat surface with less
42 than a one percent grade.

43 ~~35.~~ 36. "Motorcycle" means a motor vehicle that has a seat or
44 saddle for the use of the rider and that is designed to travel on not more

1 than three wheels in contact with the ground but excludes a tractor and a
2 moped.

3 ~~36.~~ 37. "Motor driven cycle" means a motorcycle, including every
4 motor scooter, with a motor that produces not more than five horsepower.

5 ~~40.~~ 38. "Motorized quadricycle" means a self-propelled motor
6 vehicle to which all of the following apply:

7 (a) The vehicle is self-propelled by an emission-free electric
8 motor and may include pedals operated by the passengers.

9 (b) The vehicle has at least four wheels in contact with the
10 ground.

11 (c) The vehicle seats at least eight passengers, including the
12 driver.

13 (d) The vehicle is operable on a flat surface using solely the
14 electric motor without assistance from the pedals or passengers.

15 (e) The vehicle is a commercial motor vehicle as defined in section
16 28-5201.

17 (f) The vehicle is a limousine operating under a vehicle for hire
18 company permit issued pursuant to section 28-9503.

19 (g) The vehicle is manufactured by a motor vehicle manufacturer
20 that is licensed pursuant to chapter 10 of this title.

21 (h) The vehicle complies with the definition and standards for
22 low-speed vehicles set forth in federal motor vehicle safety standard 500
23 and 49 Code of Federal Regulations sections 571.3(b) and 571.500,
24 respectively.

25 ~~37.~~ 39. "Motor vehicle":

26 (a) Means either:

27 (i) A self-propelled vehicle.

28 (ii) For the purposes of the laws relating to the imposition of a
29 tax on motor vehicle fuel, a vehicle that is operated on the highways of
30 this state and that is propelled by the use of motor vehicle fuel.

31 (b) Does not include a motorized wheelchair, an electric personal
32 assistive mobility device or a motorized skateboard. For the purposes of
33 this subdivision:

34 (i) "Motorized skateboard" means a self-propelled device that has a
35 motor, a deck on which a person may ride and at least two tandem wheels in
36 contact with the ground.

37 (ii) "Motorized wheelchair" means a self-propelled wheelchair that
38 is used by a person for mobility.

39 ~~38.~~ 40. "Motor vehicle fuel" includes all products that are
40 commonly or commercially known or sold as gasoline, including casinghead
41 gasoline, natural gasoline and all flammable liquids, and that are
42 composed of a mixture of selected hydrocarbons expressly manufactured and
43 blended for the purpose of effectively and efficiently operating internal
44 combustion engines. Motor vehicle fuel does not include inflammable
45 liquids that are specifically manufactured for racing motor vehicles and

1 that are distributed for and used by racing motor vehicles at a racetrack,
2 use fuel as defined in section 28-5601, aviation fuel, fuel for jet or
3 turbine powered aircraft or the mixture created at the interface of two
4 different substances being transported through a pipeline, commonly known
5 as transmix.

6 41. "Neighborhood electric vehicle" means a self-propelled
7 electrically powered motor vehicle to which all of the following apply:

8 (a) The vehicle is emission free.

9 (b) The vehicle has at least four wheels in contact with the
10 ground.

11 (c) The vehicle complies with the definition and standards for
12 low-speed vehicles set forth in federal motor vehicle safety standard 500
13 and 49 Code of Federal Regulations sections 571.3(b) and 571.500,
14 respectively.

15 42. "Nonresident" means a person who is not a resident of this
16 state as defined in section 28-2001.

17 43. "Off-road recreational motor vehicle" means a motor vehicle
18 that is designed primarily for recreational nonhighway all-terrain travel
19 and that is not operated on a public highway. Off-road recreational motor
20 vehicle does not mean a motor vehicle used for construction, building
21 trade, mining or agricultural purposes.

22 44. "Operator" means a person who drives a motor vehicle on a
23 highway, who is in actual physical control of a motor vehicle on a highway
24 or who is exercising control over or steering a vehicle being towed by a
25 motor vehicle.

26 45. "Owner" means:

27 (a) A person who holds the legal title of a vehicle.

28 (b) If a vehicle is the subject of an agreement for the conditional
29 sale or lease with the right of purchase on performance of the conditions
30 stated in the agreement and with an immediate right of possession vested
31 in the conditional vendee or lessee, the conditional vendee or lessee.

32 (c) If a mortgagor of a vehicle is entitled to possession of the
33 vehicle, the mortgagor.

34 46. "Pedestrian" means any person afoot. A person who uses an
35 electric personal assistive mobility device or a manual or motorized
36 wheelchair is considered a pedestrian unless the manual wheelchair
37 qualifies as a bicycle. For the purposes of this paragraph, "motorized
38 wheelchair" means a self-propelled wheelchair that is used by a person for
39 mobility.

40 47. "Power sweeper" means an implement, with or without motive
41 power, that is only incidentally operated or moved on a street or highway
42 and that is designed for the removal of debris, dirt, gravel, litter or
43 sand whether by broom, vacuum or regenerative air system from asphaltic
44 concrete or cement concrete surfaces, including parking lots, highways,

1 streets and warehouses, and a vehicle on which the implement is
2 permanently mounted.

3 48. "Public transit" means the transportation of passengers on
4 scheduled routes by means of a conveyance on an individual passenger
5 fare-paying basis excluding transportation by a sightseeing bus, school
6 bus or taxi or a vehicle not operated on a scheduled route basis.

7 49. "Reconstructed vehicle" means a vehicle that has been assembled
8 or constructed largely by means of essential parts, new or used, derived
9 from vehicles or makes of vehicles of various names, models and types or
10 that, if originally otherwise constructed, has been materially altered by
11 the removal of essential parts or by the addition or substitution of
12 essential parts, new or used, derived from other vehicles or makes of
13 vehicles. For the purposes of this paragraph, "essential parts" means
14 integral and body parts, the removal, alteration or substitution of which
15 will tend to conceal the identity or substantially alter the appearance of
16 the vehicle.

17 50. "Residence district" means the territory contiguous to and
18 including a highway not comprising a business district if the property on
19 the highway for a distance of three hundred feet or more is in the main
20 improved with residences or residences and buildings in use for business.

21 51. "Right-of-way" when used within the context of the regulation
22 of the movement of traffic on a highway means the privilege of the
23 immediate use of the highway. Right-of-way when used within the context
24 of the real property on which transportation facilities and appurtenances
25 to the facilities are constructed or maintained means the lands or
26 interest in lands within the right-of-way boundaries.

27 52. "School bus" means a motor vehicle that is designed for
28 carrying more than ten passengers and that is either:

29 (a) Owned by any public or governmental agency or other institution
30 and operated for the transportation of children to or from home or school
31 on a regularly scheduled basis.

32 (b) Privately owned and operated for compensation for the
33 transportation of children to or from home or school on a regularly
34 scheduled basis.

35 53. "Semitrailer" means a vehicle that is with or without motive
36 power, other than a pole trailer, that is designed for carrying persons or
37 property and for being drawn by a motor vehicle and that is constructed so
38 that some part of its weight and that of its load rests on or is carried
39 by another vehicle. For the purposes of this paragraph, "pole trailer"
40 has the same meaning prescribed in section 28-601.

41 54. "State" means a state of the United States and the District of
42 Columbia.

43 55. "State highway" means a state route or portion of a state route
44 that is accepted and designated by the board as a state highway and that
45 is maintained by the state.

1 56. "State route" means a right-of-way whether actually used as a
2 highway or not that is designated by the board as a location for the
3 construction of a state highway.

4 57. "Street" or "highway" means the entire width between the
5 boundary lines of every way if a part of the way is open to the use of the
6 public for purposes of vehicular travel.

7 58. "Taxi" means a motor vehicle that has a seating capacity not
8 exceeding fifteen passengers, including the driver, that provides
9 passenger services and that:

10 (a) Does not primarily operate on a regular route or between
11 specified places.

12 (b) Offers local transportation for a fare determined on the basis
13 of the distance traveled or prearranged ground transportation service as
14 defined in section 28-141 for a predetermined fare.

15 59. "Title transfer form" means a paper or an electronic form that
16 is prescribed by the department for the purpose of transferring a
17 certificate of title from one owner to another owner.

18 60. "Traffic survival school" means a school that offers
19 educational sessions to drivers who are required to attend and
20 successfully complete educational sessions pursuant to this title that are
21 designed to improve the safety and habits of drivers and that are approved
22 by the department.

23 61. "Trailer" means a vehicle that is with or without motive power,
24 other than a pole trailer, that is designed for carrying persons or
25 property and for being drawn by a motor vehicle and that is constructed so
26 that no part of its weight rests on the towing vehicle. A semitrailer
27 equipped with an auxiliary front axle commonly known as a dolly is deemed
28 to be a trailer. For the purposes of this paragraph, "pole trailer" has
29 the same meaning prescribed in section 28-601.

30 62. "Transportation network company" has the same meaning
31 prescribed in section 28-9551.

32 63. "Transportation network company vehicle" has the same meaning
33 prescribed in section 28-9551.

34 64. "Transportation network service" has the same meaning
35 prescribed in section 28-9551.

36 65. "Truck" means a motor vehicle designed or used primarily for
37 the carrying of property other than the effects of the driver or
38 passengers and includes a motor vehicle to which has been added a box, a
39 platform or other equipment for such carrying.

40 66. "Truck tractor" means a motor vehicle that is designed and used
41 primarily for drawing other vehicles and that is not constructed to carry
42 a load other than a part of the weight of the vehicle and load drawn.

1 67. "Vehicle" means a device in, on or by which a person or
2 property is or may be transported or drawn on a public highway, excluding
3 devices moved by human power or used exclusively on stationary rails or
4 tracks.

5 68. "Vehicle transporter" means either:

6 (a) A truck tractor capable of carrying a load and drawing a
7 semitrailer.

8 (b) A truck tractor with a stinger-steered fifth wheel capable of
9 carrying a load and drawing a semitrailer or a truck tractor with a dolly
10 mounted fifth wheel that is securely fastened to the truck tractor at two
11 or more points and that is capable of carrying a load and drawing a
12 semitrailer.

13 Sec. 2. Section 28-1177, Arizona Revised Statutes, is amended to
14 read:

15 28-1177. Off-highway vehicle user fee; indicia; registration;
16 state trust land recreational permit; exception

17 A. A person shall not operate an all-terrain vehicle or an
18 off-highway vehicle in this state without an off-highway vehicle user
19 indicia issued by the department if the all-terrain vehicle or off-highway
20 vehicle meets both of the following criteria:

21 1. Is designed by the manufacturer primarily for travel over
22 unimproved terrain.

23 2. Has an unladen weight of ~~eighteen~~ TWO THOUSAND FIVE hundred
24 pounds or less.

25 B. A person shall apply to the department of transportation for the
26 off-highway vehicle user indicia by submitting an application prescribed
27 by the department of transportation and a user fee for the indicia in an
28 amount to be determined by the director of the department of
29 transportation in cooperation with the director of the Arizona game and
30 fish department and the Arizona state parks board. The user indicia is
31 valid for one year from the date of issuance and may be renewed. The
32 department shall prescribe by rule the design and placement of the
33 indicia.

34 C. When a person pays for an off-highway vehicle user indicia
35 pursuant to this section, the person may request a motor vehicle
36 registration if the vehicle meets all equipment requirements to be
37 operated on a highway pursuant to article 16 of this chapter. If a person
38 submits a signed affidavit to the department affirming that the vehicle
39 meets all of the equipment requirements for highway use and that the
40 vehicle will be operated primarily off of highways, the department shall
41 register the vehicle for highway use and the vehicle owner is not required
42 to pay the registration fee prescribed in section 28-2003. This
43 subsection does not apply to vehicles that as produced by the manufacturer
44 meet the equipment requirements to be operated on a highway pursuant to
45 article 16 of this chapter.

1 D. The director shall deposit, pursuant to sections 35-146 and
2 35-147, seventy ~~per cent~~ PERCENT of the user fees collected pursuant to
3 this section in the off-highway vehicle recreation fund established by
4 section 28-1176 and thirty ~~per cent~~ PERCENT of the user fees collected
5 pursuant to this section in the Arizona highway user revenue fund.

6 E. An occupant of an off-highway vehicle with a user indicia issued
7 pursuant to this section who crosses state trust lands must comply with
8 all of the rules and requirements under a state trust land recreational
9 permit. All occupants of an off-highway vehicle with a user indicia shall
10 obtain a state trust land recreational permit from the state land
11 department for all other authorized recreational activities on state trust
12 land.

13 F. This section does not apply to off-highway vehicles, all-terrain
14 vehicles or off-road recreational motor vehicles that are used off-highway
15 exclusively for agricultural, ranching, construction, mining or building
16 trade purposes.