

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 184**  
**HOUSE BILL 2342**

AN ACT

AMENDING SECTIONS 17-261, 28-1171, 28-1176, 28-1177 AND 28-1178, 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 17-261, Arizona Revised Statutes, is amended to  
3 read:

4 17-261. Game and fish fund

5 On or before the fifth day of each month the department shall  
6 deposit, pursuant to sections 35-146 and 35-147, the monies received FROM  
7 SECTION 28-1177, from licenses, from the sale of goods or services at  
8 locations other than at shooting ranges that the commission owns and  
9 operates or from any other source under this title in a special fund known  
10 as the game and fish fund, which is set aside, appropriated and made  
11 available to the commission in carrying out the provisions of this title  
12 AND IN ADMINISTERING THE OFF-HIGHWAY VEHICLE USER INDICIA PROGRAM PURSUANT  
13 TO TITLE 28, CHAPTER 3, ARTICLE 20, and the monies shall be used for no  
14 other purpose. Expenditures of the monies shall be under control of the  
15 budget laws of this state and no monies shall be expended from the fund  
16 except:

17 1. By the annual budget and to match federal grants for wildlife  
18 restoration as provided for by the legislature.

19 2. For emergency purposes not to exceed twenty-five thousand  
20 dollars in any one fiscal year when authorized by the governor and the  
21 department of administration.

22 Sec. 2. Section 28-1171, Arizona Revised Statutes, is amended to  
23 read:

24 28-1171. Definitions

25 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

3           6. "Off-highway vehicle":

4           (a) Means a motorized vehicle ~~when~~ THAT IS operated primarily off  
5 of highways ~~on land, water, snow, ice or other natural terrain or on a~~  
6 ~~combination of land, water, snow, ice or other natural terrain~~ AND THAT IS  
7 DESIGNED, MODIFIED OR PURPOSE-BUILT PRIMARILY FOR RECREATIONAL NONHIGHWAY  
8 ALL-TERRAIN TRAVEL.

9           (b) Includes a ~~two-wheel, three-wheel or four-wheel vehicle~~ TRACKED  
10 OR WHEELED VEHICLE, UTILITY VEHICLE, ALL-TERRAIN VEHICLE, motorcycle,  
11 four-wheel drive vehicle, dune buggy, SAND RAIL, amphibious vehicle,  
12 ground effects or air cushion vehicle and any other means of land  
13 transportation deriving motive power from a source other than muscle or  
14 wind.

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

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

17           (ii) Used in installation, inspection, maintenance, repair or  
18 related activities involving facilities for the provision of utility or  
19 railroad service or used in the exploration or mining of minerals or  
20 aggregates as defined in title 27.

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

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

28           (a) Open to recreational travel by an off-highway vehicle.

29           (b) Designated or managed by or for the managing authority of the  
30 property that the trail traverses for off-highway vehicle use.

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

34           Sec. 3. Section 28-1176, Arizona Revised Statutes, is amended to  
35 read:

36           28-1176. Off-highway vehicle recreation fund; annual reports;  
37 definition

38           A. An off-highway vehicle recreation fund is established. The fund  
39 consists of:

40           1. Monies appropriated by the legislature.

41           2. Monies deposited pursuant to sections 28-1177 and 28-5927.

42           3. Federal grants and private gifts.

43           B. Monies in the off-highway vehicle recreation fund are  
44 appropriated to the Arizona state parks board solely for the purposes  
45 provided in this article. Interest earned on monies in the fund shall be

1 credited to the fund. Monies in the off-highway vehicle recreation fund  
2 are exempt from the provisions of section 35-190 relating to lapsing of  
3 appropriations.

4 C. The Arizona game and fish department shall spend thirty-five ~~per~~  
5 ~~cent~~ PERCENT of the monies in the off-highway vehicle recreation fund for:

6 1. Informational and educational programs related to safety, the  
7 environment and responsible use with respect to off-highway vehicle  
8 recreation. ~~and~~

9 2. Law enforcement activities relating to this article. ~~and for~~

10 3. THE ADMINISTRATION OF THE INDICIA PROGRAM.

11 4. Off-highway vehicle law enforcement pursuant to title 17,  
12 chapter 4, article 3, including seven full-time employees to enforce this  
13 article and title 17, chapter 4, article 3.

14 D. The state land department shall spend five ~~per cent~~ PERCENT of  
15 the monies in the off-highway vehicle recreational fund to allow occupants  
16 of off-highway vehicles with RESIDENT OR NONRESIDENT OFF-HIGHWAY VEHICLE  
17 user indicia to cross state trust land on existing roads, trails and  
18 designated routes. The state land department shall use these monies for  
19 costs associated with off-highway vehicle use of lands within its  
20 jurisdiction, to mitigate damage to the land, for necessary environmental,  
21 historical and cultural clearance or compliance activities and to fund  
22 enforcement of off-highway vehicle laws.

23 E. The Arizona state parks board shall spend sixty ~~per cent~~ PERCENT  
24 of the monies in the off-highway vehicle recreation fund for the following  
25 purposes:

26 1. No more than twelve ~~per cent~~ PERCENT to fund staff support to  
27 plan and administer the off-highway vehicle recreation fund.

28 2. To establish an off-highway vehicle program based on the  
29 priorities established in the off-highway vehicle recreational plan.

30 3. To designate, construct, maintain, renovate, repair or connect  
31 off-highway vehicle routes and trails and to designate, manage and acquire  
32 land for access roads, off-highway vehicle recreation facilities and  
33 off-highway vehicle use areas. After expenditures pursuant to paragraph 1  
34 of this subsection, the Arizona state parks board shall not spend more  
35 than thirty-five ~~per cent~~ PERCENT of the remaining monies received  
36 pursuant to this subsection for construction of new off-highway vehicle  
37 trails.

38 4. For enforcement of off-highway vehicle laws.

39 5. For off-highway vehicle related informational and environmental  
40 education programs, information, signage, maps and responsible use  
41 programs.

42 6. For the mitigation of damages to land, revegetation and the  
43 prevention and restoration of damages to natural and cultural resources,  
44 including the closure of existing access roads, off-highway vehicle use  
45 areas and off-highway vehicle routes and trails.

1           7. For necessary environmental, historical and cultural clearance  
2 or compliance activities.

3           F. The allocation of the monies in subsection E, paragraphs 3  
4 through 7 of this section and the percentages allocated to each of the  
5 purposes prescribed in subsection E, paragraphs 3 through 7 of this  
6 section shall be based on an off-highway vehicle recreational plan.

7           G. Monies in the off-highway vehicle recreation fund shall not be  
8 used to construct new off-highway vehicle trails or routes on  
9 environmentally or culturally sensitive land unless the appropriate land  
10 management agency determines that certain new trail construction would  
11 benefit or protect cultural or sensitive sites. For the purposes of this  
12 subsection, "environmentally or culturally sensitive land" means areas of  
13 lands that are either:

14           1. Administratively or legislatively designated by the federal  
15 government as any of the following:

16           (a) A national monument.

17           (b) An area of critical environmental concern.

18           (c) A conservation area.

19           (d) An inventoried roadless area.

20           2. Determined by the applicable land management agency to contain  
21 significant natural or cultural resources or values.

22           H. The Arizona state parks board shall examine applications for  
23 eligible projects and determine the amount of funding, if any, for each  
24 project. In determining the amount of monies for eligible projects, the  
25 Arizona state parks board shall give preference to applications for  
26 projects with mitigation efforts and for projects that encompass a large  
27 number of purposes described in subsection E, paragraphs 3 through 7 of  
28 this section.

29           I. Beginning September 1, 2011, and on or before September 1 of  
30 each subsequent year, each agency that receives monies from the off-  
31 highway vehicle recreation fund shall submit an off-highway vehicle report  
32 to the president of the senate, the speaker of the house of  
33 representatives, the chairperson of the senate natural resources and rural  
34 affairs committee, or its successor committee, and the chairperson of the  
35 house of representatives natural resources and public safety committee, or  
36 its successor committee. The report shall be made available to the  
37 public. The report shall include information on all of the following if  
38 applicable:

39           1. The amount of monies spent or encumbered in the fund during the  
40 preceding fiscal year for the purposes of off-highway vehicle law  
41 enforcement activities.

42           2. The amount of monies spent from the off-highway vehicle  
43 recreation fund during the preceding fiscal year for employee services.

1           3. The number of full-time employees employed in the preceding  
2 fiscal year in connection with off-highway vehicle law enforcement  
3 activities.

4           4. The amount of monies spent from the off-highway vehicle  
5 recreation fund during the preceding fiscal year for information and  
6 education.

7           5. The number and specific location of verbal warnings, written  
8 warnings and citations given or issued during the preceding fiscal year.

9           6. A specific and detailed accounting for all monies spent in  
10 accordance with this section for construction of new off-highway vehicle  
11 trails, mitigation of damages to lands, revegetation, the prevention and  
12 restoration of damages to natural and cultural resources, signage, maps  
13 and necessary environmental, historical and cultural clearance or  
14 compliance activities.

15           J. For the purposes of this section, "off-highway vehicle  
16 recreational plan" means a plan that is maintained by the Arizona state  
17 parks board pursuant to section 41-511.04.

18           Sec. 4. Section 28-1177, Arizona Revised Statutes, is amended to  
19 read:

20           28-1177. Off-highway vehicle user fee; indicia; registration;  
21 state trust land recreational permit; exception

22           A. A person shall not operate ~~OR ALLOW THE OPERATION OF~~ an  
23 all-terrain vehicle or an off-highway vehicle in this state without ~~an~~  
24 ~~EITHER A RESIDENT OR NONRESIDENT~~ off-highway vehicle user indicia issued  
25 by the department if the all-terrain vehicle or off-highway vehicle meets  
26 both of the following criteria:

27           1. Is designed by the manufacturer primarily for travel over  
28 unimproved terrain.

29           2. Has an unladen weight of eighteen hundred pounds or less.

30           B. A person shall apply to the department of transportation for ~~the~~  
31 ~~A RESIDENT OR NONRESIDENT~~ off-highway vehicle user indicia by submitting  
32 an application prescribed by the department of transportation and a user  
33 fee for the indicia in an amount to be determined by the director of the  
34 department of transportation in cooperation with the director of the  
35 Arizona game and fish department and the Arizona state parks board. The  
36 ~~RESIDENT OR NONRESIDENT OFF-HIGHWAY VEHICLE~~ user indicia is valid for one  
37 year from the date of issuance and may be renewed. The department shall  
38 prescribe by rule the design and placement of the indicia.

39           C. When a person pays for ~~an~~ ~~A RESIDENT~~ off-highway vehicle user  
40 indicia pursuant to this section, the person may request a motor vehicle  
41 registration if the vehicle meets all equipment requirements to be  
42 operated on a highway pursuant to article 16 of this chapter. If a person  
43 submits a signed affidavit to the department affirming that the vehicle  
44 meets all of the equipment requirements for highway use and that the  
45 vehicle will be operated primarily off of highways, the department shall

1 register the vehicle for highway use and the vehicle owner is not required  
2 to pay the registration fee prescribed in section 28-2003. This  
3 subsection does not apply to vehicles that as produced by the manufacturer  
4 meet the equipment requirements to be operated on a highway pursuant to  
5 article 16 of this chapter.

6 D. The director shall deposit, pursuant to sections 35-146 and  
7 35-147, seventy ~~per cent~~ PERCENT of the user fees collected pursuant to  
8 this section in the off-highway vehicle recreation fund established by  
9 section 28-1176 and thirty ~~per cent~~ PERCENT of the user fees collected  
10 pursuant to this section in the Arizona highway user revenue fund.

11 E. THE ARIZONA GAME AND FISH DEPARTMENT MAY PROVIDE FOR THE  
12 PURCHASE OF NONRESIDENT OFF-HIGHWAY VEHICLE USER INDICIA AND MAY IMPOSE AN  
13 ADDITIONAL SERVICE FEE IN AN AMOUNT TO BE DETERMINED BY THE ARIZONA GAME  
14 AND FISH COMMISSION BY RULE. THE ARIZONA GAME AND FISH DEPARTMENT SHALL  
15 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE SERVICE FEES  
16 COLLECTED PURSUANT TO THIS SUBSECTION IN THE GAME AND FISH FUND  
17 ESTABLISHED BY SECTION 17-261.

18 ~~F.~~ F. An occupant of an off-highway vehicle with a RESIDENT OR  
19 NONRESIDENT OFF-HIGHWAY VEHICLE user indicia issued pursuant to this  
20 section who crosses state trust lands must comply with all of the rules  
21 and requirements under a state trust land recreational permit. All  
22 occupants of an off-highway vehicle with a RESIDENT OR NONRESIDENT  
23 OFF-HIGHWAY VEHICLE user indicia shall obtain a state trust land  
24 recreational permit from the state land department for all other  
25 authorized recreational activities on state trust land.

26 ~~F.~~ G. This section does not apply to off-highway vehicles,  
27 all-terrain vehicles or off-road recreational motor vehicles that are used  
28 off-highway exclusively for agricultural, ranching, construction, mining,  
29 MINING EXPLORATION or building trade purposes.

30 H. IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, THE  
31 ARIZONA GAME AND FISH DEPARTMENT MAY ADOPT RULES NECESSARY TO IMPLEMENT  
32 THIS SECTION.

33 Sec. 5. Section 28-1178, Arizona Revised Statutes, is amended to  
34 read:

35 28-1178. Operation of off-highway vehicles: exceptions

36 A person may operate an all-terrain vehicle or an off-highway  
37 vehicle in this state without ~~an~~ A RESIDENT OR NONRESIDENT off-highway  
38 vehicle user indicia issued pursuant to section 28-1177 if any of the  
39 following applies:

- 40 1. The person is participating in an off-highway special event.
- 41 2. The person is operating an all-terrain vehicle or an off-highway  
42 vehicle on private land.
- 43 3. The person is loading or unloading an all-terrain vehicle or an  
44 off-highway vehicle from a vehicle.

1           4. During a period of emergency or if the operation is directed by  
2 a peace officer or other public authority.

3           ~~5. All of the following apply:~~

4           ~~(a) The person is not a resident of this state.~~

5           ~~(b) The person owns the vehicle.~~

6           ~~(c) The vehicle displays a current off-highway vehicle user indicia  
7 or registration from the person's state of residency.~~

8           ~~(d) The vehicle is not in this state for more than thirty  
9 consecutive days.~~

10           5. THE VEHICLE DISPLAYS A VALID DEALER LICENSE PLATE THAT THE  
11 DEPARTMENT ISSUES PURSUANT TO SECTION 28-4533.

APPROVED BY THE GOVERNOR APRIL 11, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2018.