

# **ALL-TERRAIN VEHICLES LAWS**

STATE SEAL HERE

**2003 - 2004**

**Issued by the  
Texas Department of Public Safety  
Austin, Texas**

This guide to Texas All-Terrain Vehicle Laws is provided as a reference to laws governing all-terrain vehicles in Texas. It is intended only to provide information about all-terrain vehicle laws.

For specific references to these laws, see Texas Transportation Code Chapter 663, Chapter 502, Sections 502.006, 502.169, and Parks and Wildlife Code Chapter 90, Sections 90.001, 90.002, 90.003, 90.004, 90.010 and 90.011.

For more information, contact the DPS Motorcycle Safety Unit at 512/424-2021 (in Austin) or 1-800-292-5787 (toll-free in Texas).

Visit the Motorcycle Safety Unit's Web site at [www.txdps.state.tx.us/msb](http://www.txdps.state.tx.us/msb).

### **NOTES TO USER:**

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*The **DPS Motorcycle Safety Unit** administers a statewide Motorcycle Operator Training and Safety Program and an All-Terrain Vehicle Education and Certification Program.*

*The Unit contracts with a variety of entities to provide the Basic and Advanced Motorcycle Operator Training Courses. The basic course is for new or inexperienced riders or those wishing to obtain a motorcycle license. The Advanced course is designed to sharpen cornering, braking and swerving skills.*

*Through a letter of agreement with the All-Terrain Vehicle Safety Institute, the Unit provides for courses related to the safe operation of All-Terrain Vehicles.*

*For more information on the course or locations, call:*

DPS Motorcycle Safety Unit

512-424-2021 (in Austin)

1-800-292-5787 (toll-free in Texas)

web site: [www.txdps.state.tx.us/msb](http://www.txdps.state.tx.us/msb)

e-mail: [motorcycle.safety@txdps.state.tx.us](mailto:motorcycle.safety@txdps.state.tx.us)

## **HOW TO IDENTIFY UNSAFE MOTORCYCLE HELMETS**

*It's clear--helmets save lives. According to the National Highway Traffic Safety Administration, motorcycle riders who do not wear helmets are 40 percent more likely to incur fatal head injuries than riders who do. From 1984 through 1990, helmets saved the lives of more than 4,740 motorcyclists. To help protect the lives of motorcycle riders, the US Department of Transportation (DOT) requires that all motorcycle helmets sold in the United States meet Federal Motor Vehicle Safety Standard (FMVSS) 218. Each year, DOT conducts compliance testing of a variety of motorcycle helmets to determine whether helmets being sold in the U.S. meet the federal safety standard. Because helmets add such a critical margin of safety for motorcycle riders, many states now have laws requiring the use of helmets that meet FMVSS 218 requirements. Increasingly though, motorcycle riders are violating these state laws by wearing cheap and unsafe helmets that do not meet FMVSS 218. Most of these helmets are sold as novelty items by unscrupulous merchants to circumvent the FMVSS 218 requirements. In some cases, people purchase these helmets in the mistaken belief that they offer protection. However, many people who wear these novelty helmets know that they are unsafe--but wear them anyway. The following information will tell you how to spot these unsafe novelty helmets and how to distinguish them from helmets that meet the federal safety standard.*

### **HERE'S WHAT TO CHECK FOR:**

#### **DOT STICKER**

*Helmets that meet FMVSS 218 must have a sticker on the outside back of the helmet with the letters DOT, placed there certifying that the helmet meets or exceeds FMVSS 218. It is important to note that some sellers of novelty helmets provide DOT stickers separately for*

*motorcyclists to place on noncomplying helmets. In this case, the DOT sticker is invalid and does not certify compliance.*

*The symbol "DOT" constitutes the manufacturer's certification that the helmet conforms to the applicable Federal Motor Vehicle Safety Standards. This symbol shall appear on the outer surface, in a color that contrasts with the background, in letters at least 3/8 inch high, centered laterally approximately 1 1/4 inches from the bottom edge of the posterior portion of the helmet.*

*An Interpretation Letter from the National Highway Traffic Safety Administration states the requirement that helmets be permanently labeled prohibits the use of labels that can be removed by hand, without tools or chemicals. Therefore, a sticker that falls off the helmet would not appear to be in compliance within the meaning of Standard No. 218.*

### **SNELL OR ANSI STICKER**

*In addition to the DOT sticker, labels located inside the helmet showing that a helmet meets the standards of private organizations like Snell or the American National Standards Institute (ANSI) are a good indicator that the helmet meets the federal safety standard. To date, we have never seen a novelty helmet that has a phony DOT sticker plus a phony Snell or ANSI sticker.*

### **MANUFACTURER'S LABELLING**

*Manufacturers are required by FMVSS 218 to place a label on or inside the helmet stating the manufacturer's name, model, size, month and year of manufacture, construction materials, and owner information. A cheap helmet that does not meet the federal safety standard usually does not have such a label.*

### **THICK INNER LINER**

*Helmets meeting the minimum federal safety standard have an inner liner--usually about one inch thick--of firm polystyrene foam. Sometimes the inner liner will not be visible, but you should still be able to feel its thickness. Unsafe helmets normally contain only soft foam padding or a bare plastic shell with no foam at all.*

### **STURDY CHIN STRAP AND RIVETS**

*Helmets meeting the DOT safety standard have sturdy chin straps with solid rivets.*

### **WEIGHT OF HELMET**

*Depending on design, unsafe helmets weigh only one pound or less--helmets meeting FMVSS218 weigh about three pounds. Become familiar with the weight of helmets that comply with the federal safety standard. They feel more substantial.*

### **DESIGN/STYLE OF HELMET**

*The DOT safety standard does not allow anything to extend further than two tenths of an inch from the surface of a helmet. For example, while visor fasteners are allowed, a spike or other protruding decoration indicates an unsafe helmet.*

*A design such as the German Army style or skullcap style may be a clue to an unsafe helmet. Unsafe helmets are noticeably smaller in diameter and thinner than one meeting the DOT standard. However, some German Army style helmets may meet federal requirements. You'll need to check for weight, thickness, sturdy chin straps, as well as the "DOT" and manufacturer's labels to make sure the helmet meets the federal safety standard.*

*Try to become familiar with brand names and designs of helmets that comply with DOT requirements. For example, a full-face design is a*

*good indicator of a safe helmet. We have never seen a full-face design novelty helmet.*

**SUMMARY**

*Remember, a DOT sticker on the back of the helmet and proper inside labelling do not necessarily prove that a helmet meets all DOT requirements. Many helmets have phony DOT stickers and a limited few also have manufacturer's labelling. But the design and weight of a helmet, thickness of the inner liner, and quality of the chin strap and rivets are extra clues to help distinguish safe helmets from noncomplying ones.*

**FOR MORE INFORMATION CONTACT:**

*The National Highway Traffic Safety Administration  
Safety Countermeasures Division  
NTS-23  
400 Seventh Street, SW  
Washington, DC 20590  
202-366-1739*

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**CHAPTER 2**  
**ALL-TERRAIN VEHICLES**  
**TRANSPORTATION CODE**

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**TRC CH. 663**  
**ALL-TERRAIN VEHICLES**

**Subch. A. General Provisions**

**TRC §663.001. DEFINITIONS.** In this chapter:

- (1) "All-terrain vehicle" means a motor vehicle that is:
- (A) equipped with a saddle for the use of:
    - (i) the rider; and
    - (ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;

(B) designed to propel itself with three or four tires in contact with the ground;

(C) designed by the manufacturer for off-highway use by the operator only; and

(D) 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.

**TRC §663.002. NONAPPLICABILITY OF CERTAIN OTHER LAWS.** (a) Except as provided by Section 663.037, Chapter 521 does not apply to the operation or ownership of an all-terrain vehicle registered for off-highway operation.

(b) Chapter 332, Acts of the 60th Legislature, Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), does not apply to instruction in the operation of an all-terrain vehicle provided under the operator education and certification program established by this chapter.

### **Subch. B. All-Terrain Vehicle Operator Education And Certification**

#### **TRC §663.011. DESIGNATED DIVISION OR STATE AGENCY.**

The governor shall designate a division of the governor's office or a state agency to establish and administer an all-terrain vehicle operator education and certification program.

#### **TRC §663.012. PURPOSE OF PROGRAM.**

The purpose of the all-terrain vehicle operator education and certification program is to make available 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 educational program requirements or pass a test established under the program.

**TRC §663.013. ALL-TERRAIN VEHICLE SAFETY COORDINATOR.** (a) The designated division or state agency shall employ an all-terrain vehicle safety coordinator.

(b) The coordinator shall supervise the all-terrain vehicle operator education and certification program and shall determine:

- (1) locations at which 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.

**TRC §663.014. CONTRACTS.** To administer the education program and certify all-terrain vehicle operators, the designated division or state agency may contract with nonprofit safety organizations, nonprofit educational organizations, or agencies of local governments.

**TRC §663.015. TEACHING AND TESTING METHODS.** (a) If the all-terrain vehicle safety coordinator determines that vehicle operation is not feasible in a program component or at a particular program location, the operator education and certification program for persons who are at least 14 years of age may use teaching or testing methods that do not involve the actual operation of an all-terrain vehicle.

(b) An operator safety certificate may not be issued to a person younger than 14 years of age unless the person has successfully completed a training course that involves the actual operation of an all-terrain vehicle.

**TRC §663.016. FEE FOR COURSE.** A person may charge, for a course under the all-terrain vehicle operator education and certification program, a fee that is reasonably related to the costs of administering the course.

**TRC §663.017. DENIAL, SUSPENSION, OR CANCELLATION OF APPROVAL.** (a) The designated division or state agency may deny, suspend, or cancel its approval for a program sponsor to conduct or for an instructor to teach a course offered under this chapter if the applicant, sponsor, or instructor:

(1) does not satisfy the requirements established under this chapter to receive or retain approval;

(2) permits fraud or engages in fraudulent practices with reference to an application to the division or agency;

(3) induces or countenances fraud or fraudulent practices by a person applying for a driver's license or permit;

(4) permits or engages in a fraudulent practice in an action between the applicant or license holder and the public; or

(5) fails to comply with rules of the division or agency.

(b) Before the designated division or agency may deny, suspend, or cancel the approval of a program sponsor or an instructor, notice and opportunity for a hearing must be given as provided by:

(1) Chapter 2001, Government Code; and

(2) Chapter 53, Occupations Code

**TRC §663.018. RULES.** The designated division or state agency may adopt rules to administer this chapter.

**TRC §663.019. EXEMPTIONS.** The designated division or state agency by rule may temporarily exempt the residents of any county from Section 663.015 or from Section 663.031(a)(1) until the appropriate education and certification program is established at a location that is reasonably accessible to the residents of that county.

**Subch. C. Operation Of All-Terrain Vehicles**

**TRC §663.031. SAFETY CERTIFICATE REQUIRED.** (a) A person may not operate an all-terrain vehicle on public property unless the person:

(1) holds a safety certificate issued under this chapter or under the authority of another state;

(2) is taking a safety training course under the direct supervision of a certified all-terrain vehicle safety instructor; or

(3) is under the direct supervision of an adult who holds a safety certificate issued under this chapter or under the authority of another state.

(b) A person to whom a safety certificate required by Subsection (a) has been issued shall:

(1) carry the certificate when the person operates an all-terrain vehicle on public property; and

(2) display the certificate at the request of any law enforcement officer.

**TRC §663.032. OPERATION BY PERSON YOUNGER THAN 14.**

A person younger than 14 years of age who is operating an all-terrain vehicle must be accompanied by and be under the direct supervision of:

(1) the person's parent or guardian; or

(2) an adult who is authorized by the person's parent or guardian.

**TRC §663.033. REQUIRED EQUIPMENT; DISPLAY OF LIGHTS.**

(a) An all-terrain vehicle that is operated on public property must be equipped with:

(1) a brake system maintained in good operating condition;

(2) an adequate muffler system in good working condition; and

(3) a United States Forest Service qualified spark arrester.

(b) An all-terrain vehicle that is operated on public property must display a lighted headlight and taillight:

(1) during the period from one-half hour after sunset to one-half hour before sunrise; and

(2) at any time when visibility is reduced because of insufficient light or atmospheric conditions.

(c) A person may not operate an all-terrain vehicle on public property if:

(1) the vehicle has an exhaust system that has been modified with a cutout, bypass, or similar device; or

(2) the spark arrester has been removed or modified, unless the vehicle is being operated in a closed-course competition event.

(d) The coordinator may exempt all-terrain vehicles that are participating in certain competitive events from the requirements of this section.

**TRC §663.034. SAFETY APPAREL REQUIRED.** A person may not operate, ride, or be carried on an all-terrain vehicle on public property unless the person wears:

(1) a safety helmet that complies with United States Department of Transportation standards; and

(2) eye protection.

**TRC §663.035. RECKLESS OR CARELESS OPERATION PROHIBITED.** A person may not operate an all-terrain vehicle on public property in a careless or reckless manner that endangers, injures, or damages any person or property.

**TRC §663.036. CARRYING PASSENGERS.** A person may not carry a passenger on an all-terrain vehicle operated on public property unless the all-terrain vehicle is designed by the manufacturer to transport a passenger.

**TRC §663.037. OPERATION ON PUBLIC ROADWAY PROHIBITED.** (a) A person may not operate an all-terrain vehicle on a public street, road, or highway except as provided by this section.

(b) The operator of an all-terrain vehicle may drive the vehicle across a public street, road, or highway that is not an interstate or limited-access highway, if the operator:

(1) brings the vehicle to a complete stop before crossing the shoulder or main traveled way of the roadway;

(2) yields the right-of-way to oncoming traffic that is an immediate hazard; and

(3) makes the crossing:

(A) at an angle of approximately 90 degrees to the roadway;

(B) at a place where no obstruction prevents a quick and safe crossing; and

(C) with the vehicle's headlights and taillights lighted.

(c) The operator of an all-terrain vehicle may drive the vehicle across a divided highway other than an interstate or limited access highway only at an intersection of the highway with another public street, road, or highway.

(d) The operator of an all-terrain vehicle may drive the vehicle on a public street, road, or highway that is not an interstate or limited-access highway if:

(1) the transportation is in connection with the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products, as defined by Section 52.002, Agriculture Code;

(2) the operator attaches to the back of the vehicle on top of an eight-foot-long pole a triangular orange flag;

(3) the vehicle's headlights and taillights are illuminated;

(4) the operator holds a driver's license, as defined by Section 521.001;

(5) the operation of the all-terrain vehicle occurs in the daytime; and

(6) the operation of the all-terrain vehicle does not exceed a distance of 25 miles from the point of origin to the destination.

Provisions of this code regarding helmet and eye protection use, safety certification, and other vehicular restrictions do not apply to this subsection.

(e) The director of the Department of Public Safety shall adopt standards and specifications that apply to the color, size, and mounting position of the flag required under Subsections (d)(2) and (g)(2).

(f) Except as provided by Subsection (g), this section does not apply to the operation of an all-terrain vehicle that is owned by the state, a county, or a municipality by a person who is an authorized operator of the vehicle.

(g) A peace officer may operate an all-terrain vehicle on a public street, road, or highway that is not an interstate or limited-access highway only if:

(1) the transportation is in connection with the performance of the officer's official duty;

(2) the officer attaches to the back of the vehicle on top of an eight-foot-long pole a triangular orange flag;

(3) the vehicle's headlights and taillights are illuminated;

(4) the officer holds a driver's license, as defined by Section 521.001; and

(5) the operation of the all-terrain vehicle does not exceed a distance of 25 miles from the point of origin to the destination.

**TRC §663.038. VIOLATION OF CHAPTER; OFFENSE.** (a) A person commits an offense if the person violates a provision of this chapter.

(b) Except as otherwise provided by Title 6 or this title, an offense under this section is a Class C misdemeanor.

**TRC CH. 502**  
**REGISTRATION OF VEHICLES**

**Subch. A. GENERAL PROVISIONS**

\* \* \* \* \*

**TRC §502.006. ALL-TERRAIN VEHICLES.** (a) Except as provided by Subsection (b), a person may not register an all-terrain vehicle, with or without design alterations, for operation on a public highway.

(b) The state, a county, or a municipality may register an all-terrain vehicle for operation on a public beach or highway to maintain public safety and welfare.

(c) The owner of an all-terrain vehicle that is not authorized to operate on a public beach or highway and that is used or to be used on public property shall apply each year to the department, through the assessor-collector of the county in which

the person resides, for off-highway registration of the vehicle for the registration year in which the application is made or the succeeding registration year.

(d) For off-highway registration of an all-terrain vehicle, the department shall issue:

(1) a registration certificate; and

(2) a number decal or sticker of appropriate size and

design as determined by the department, in lieu of a license plate.

(e) Section 502.172 does not apply to an all-terrain vehicle.

\* \* \* \* \*

**TRC §502.169. FEE: ALL-TERRAIN VEHICLE.** (a) The fee for a registration year for off-highway registration of an all-terrain vehicle is \$6.

(b) At the time of registration, the county assessor-collector shall also collect from the registered owner of the vehicle an annual all-terrain vehicle safety fee of \$6.

\* \* \* \* \*

CHAPTER 3
MISCELLANEOUS LAWS

PARKS AND WILDLIFE CODE

Table with 2 columns: SECTION and PAGE. Rows include §90.001 DEFINITIONS, §90.002 OPERATION OF MOTOR VEHICLE IN PROTECTED FRESHWATER AREA PROHIBITED, §90.003 EXEMPTIONS, §90.004 LOCAL RIVER ACCESS PLAN, §90.010 ENFORCEMENT, and §90.011 PENALTY.

PWC CH. 90

ACCESS TO PROTECTED FRESHWATER AREAS

SUBTITLE I. PROTECTED FRESHWATER AREAS

PWC §90.001. DEFINITIONS. In this chapter:

(1) "Emergency" means a condition or circumstance in which a person reasonably believes that an individual has sustained serious bodily injury or is in imminent danger of serious bodily injury or that property has sustained significant damage or destruction or is in imminent danger of significant damage or destruction.

(2) "Motor vehicle" means any wheeled or tracked vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used to transport a person or thing.

(3) "Navigable river or stream" means a river or stream that retains an average width of 30 or more feet from the mouth or confluence up.

(4) "Protected freshwater area" means that portion of the bed, bottom, or bank of any navigable river or stream that lies at or below the gradient boundary of the river or stream. The term does not include that portion of a bed, bottom, or bank that lies below tidewater limits.

**PWC §90.002 . OPERATION OF MOTOR VEHICLE IN PROTECTED FRESHWATER AREA PROHIBITED.** Except as provided by Section 90.003 or 90.004, a person may not operate a motor vehicle in or on a protected freshwater area on or after January 1, 2004.

**PWC §90.003. EXEMPTIONS.** (a) Section 90.002 does not apply to:

- (1) a state, county, or municipal road right-of-way;
- (2) a private road crossing established on or before December 31, 2003; or
- (3) operation of a motor vehicle by:
  - (A) a federal, state, or local government employee if operation of a motor vehicle is necessary for conducting official business;
  - (B) a person if operation of a motor vehicle is necessary for reasonable purposes related to usual and customary agricultural activities;
  - (C) a person if operation of a motor vehicle is necessary to and is authorized by a mineral lease;
  - (D) a person if operation of a motor vehicle is necessary to and authorized by a crossing easement granted by the General Land Office under the Natural Resources Code;
  - (E) a person if operation of a motor vehicle is necessary to an activity authorized by Chapter 86;
  - (F) a person in response to an emergency;
  - (G) a person if operation of a motor vehicle is necessary for the lawful construction, operation, or maintenance of equipment, facilities, or structures used for:
    - (i) the production, transportation, transmission, or distribution of electric power;
    - (ii) the provision of telecommunications services or other services delivered through a cable system;

(iii) the transportation of aggregates, oil, natural gas, coal, or any product of oil, natural gas, or coal;

(iv) the production, treatment, or transportation of water or wastewater; or

(v) dredge material disposal placement;

(H) an owner of the uplands adjacent to a protected freshwater area, the owner's agent, lessee, sublessee, or the lessee or sublessee's agent, representative, licensee, invitee, or guest for reasonable purposes related to usual and customary operation of:

(i) a camp regulated under Chapter 141, Health and Safety Code; or

(ii) a retreat facility owned and operated by a nonprofit corporation chartered under the laws of this state before January 1, 1970; or

(l) an owner of the adjacent uplands on both sides of a protected freshwater area and the owner's agents, employees, representatives, and lessees only for the purpose of accessing the owner's property on the opposite side of the protected freshwater area when no reasonable alternate access is available.

(b) This chapter does not apply to any river with headwaters in a state other than Texas and a mouth or confluence in a state other than Texas.

(c) A person exempt under this section who operates a motor vehicle in or on a protected freshwater area shall do so in a manner that avoids, to the extent reasonably possible, harming or disturbing vegetation, wildlife, or wildlife habitat within the protected freshwater area. A person exempt under this section who is crossing a protected freshwater area shall cross by the most direct feasible route.

**PWC §90.004. LOCAL RIVER ACCESS PLAN.** (a) A county, municipality, or river authority may adopt a written local plan to provide access to a protected freshwater area located within the county's geographical boundaries or the river authority's or municipality's jurisdiction.

(b) A local plan adopted under Subsection (a) may:

(1) notwithstanding Section 90.002, allow limited motor vehicle use in a protected freshwater area;

(2) provide for the county, municipality, or river authority to collect a fee from a person accessing a protected freshwater area, the amount of which may not exceed the estimated cost that the county, municipality, or river authority incurs by allowing the limited use of motorized vehicles in protected freshwater areas within its jurisdiction; or

(3) establish other measures consistent with the policy and purposes of this chapter.

(c) Before a local plan adopted under Subsection (a) may take effect, a county, municipality, or river authority must file the plan with the department. A local plan does not take effect until the plan is approved in writing by the department.

(d) The department may approve, disapprove, or modify a local plan filed under Subsection (c). In determining whether to approve, disapprove, or modify a local plan, the department shall consider whether the plan:

(1) protects fish, wildlife, water quality, and other natural resources;

(2) protects public safety;

(3) provides for adequate enforcement;

(4) coordinates with adjacent and overlapping jurisdictions;

(5) provides for and publicizes adequate public access to a protected freshwater area;

(6) provides for adequate public services relating to access to a protected freshwater area; and

(7) protects private property rights.

(e) The department by rule may adopt additional criteria or procedures to govern approval of local plans. Lack of rules adopted under this section alone is not a sufficient basis for rejecting a local plan.

(f) The department may conduct periodic reviews of a local plan filed under Subsection (c) to monitor the effectiveness of the plan.

(g) A person who has reason to believe that a local plan filed under Subsection (c) does not comply with this section may file a petition for revocation of the plan with the department.

(h) The department shall revoke approval of a local plan if the department finds, as a result of a periodic review conducted under Subsection (f) or a petition for revocation filed under Subsection (g), that the plan as implemented fails to meet any of the criteria for approval established by Subsection (d).

(i) The department may adopt rules necessary to implement this section and Section 90.002, including rules relating to locations from which a person may launch or retrieve a vessel by trailer from the banks of a protected freshwater area. For purposes of this subsection, "vessel" has the meaning assigned by Section 12.101.

\* \* \* \* \*

**PWC §90.010. ENFORCEMENT.** All peace officers of this state shall enforce the provisions of this chapter.

**PWC §90.011. PENALTY.** (a) A person commits an offense if the person violates Section 90.002 or 90.008.

(b) Except as provided by Subsection (c), an offense under Subsection (a) is a Class C misdemeanor.

(c) If it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under

Section 90.002 or 90.008, on conviction the defendant shall be punished for a Class B misdemeanor.

(d) Each violation under this section is a separate offense.

(e) Notwithstanding Section 12.403 of this code, Subchapter B, Chapter 12, Penal Code, applies to punishments under this section.

\* \* \* \* \*

CHAPTER 4
ADMINISTRATIVE RULES

TITLE 37, TEXAS ADMINISTRATIVE RULES

(current with Texas Administrative Rules adopted through May 2004)

Table with 2 columns: SECTION and PAGE. Rows include §21.8 ALL TERRAIN VEHICLE (ATV) WARNING FLAG, §33.1 DEFINITIONS, §33.2 OPERATOR EDUCATION PROGRAM, §33.3 OPERATOR EDUCATION PROGRAM SPONSOR AND INSTRUCTORS, §33.4 NOTICE OF HEARING REQUIREMENTS, and §33.5 OPERATOR CERTIFICATION REQUIREMENTS.

CH. 21.
EQUIPMENT AND VEHICLE STANDARDS

§21.8. ALL TERRAIN VEHICLE (ATV) WARNING FLAG. A person who operates an ATV on a public highway pursuant to Texas Transportation Code, §663.037 must have affixed thereto a warning flag that meets the following standards:

- (1) The warning flag is comprised of a fluorescent orange colored triangular shaped flag, a staff or pole, and a mounting apparatus;
(2) The flag must measure not less than 7 1/2 inches nor more than 10 inches across the base and not less than 16 inches nor more than 24 inches from the base to the point of the triangle and must be constructed of a coated fabric or other material sufficient to render it resistant to deterioration by the elements;
(3) The staff or pole must measure not less than 8 feet nor more than 9 feet from the mounting surface to the tip, must be not less than 1/4 inch nor more than 1/2 inch in diameter, and must be constructed of a material or in such a manner as to allow it to flex or bend as much as 45 degrees without breaking and return to a vertical position; and,

(4) The mounting apparatus must be sufficient to attach it securely at the base to the rear area of the vehicle and in an upright position.

### CH. 33.

## ALL-TERRAIN VEHICLE OPERATOR EDUCATION AND CERTIFICATION PROGRAM

**§33.1. DEFINITIONS.** The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) All-terrain vehicle (ATV) -- 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) All-terrain Vehicle Safety Institute (ASI) -- A not-for-profit operating division of the Specialty Vehicle Institute of America (SVIA), which was formed in 1988 to implement an expanded national program of ATV safety education and awareness. SVIA was founded in 1983 by the four leading United States distributors of all-terrain vehicles to promote the safe and responsible use of speciality vehicles.

(3) Department -- Texas Department of Public Safety.

(4) Director -- The executive director of the Texas Department of Public Safety.

(5) Program -- The ATV Operator Education and Certification Program providing basic training and safety skills for ATV operation.

(6) Program sponsor -- The entities with which the Department of Public Safety enters into an agreement to administer the ATV Operator Education and Certification Program.

(7) Public property -- Property owned or leased by the State of Texas or a political subdivision of the state.

**§33.2. OPERATOR EDUCATION PROGRAM.** (a) The all-terrain vehicle (ATV) operator education course curriculum shall consist of the Texas Department of Public Safety's approved training program and the distribution of information about Texas laws which pertain to ATVs. The department approves and adopts the most current version of the ATV Safety Institute's hands-on ATV RiderCourse.

(b) Copies of the course curriculum may be obtained from the ATV Safety Institute, Education Department, 2 Jenner Street, Suite 150, Irvine, California 92618-3806. The course curriculum may be reviewed at Texas Department of Public Safety Headquarters, Motorcycle Safety Unit, 5805 North Lamar Boulevard, Austin.

(c) Classes attended by children under age 16 shall be modified for class size and composition according to the most current standards set out by the ATV Safety Institute.

(d) All all-terrain vehicles used for training shall be no greater than the recommended size for the individual in accordance with the age/size recommendations of the ATV manufacturer.

(e) A parent or guardian of children under the age of 18 must provide his or her signed written consent granting his or her permission for the child to participate as a student in the course on a form which includes the appropriate age recommendations for ATVs consistent with the age recommendations listed in the most current ATV Safety Institute Instructor Guide.

(f) The course will be offered at no charge to all persons and members of their immediate families who have purchased a new ATV since December 30, 1986; provided, however, that such persons meet the minimum age required for the vehicle purchased. A fee of not more than \$35 or the amount approved by the department, whichever is more, may be charged other persons. The pro-

gram sponsor will be notified of the amount approved by the department if the fee is modified.

(g) The course locations will be determined by the program sponsor based, in part, upon the quantity of ATV training requests.

**§33.3. OPERATOR EDUCATION PROGRAM SPONSOR AND INSTRUCTORS.** (a) The department will enter into an agreement with the All-Terrain Vehicle Safety Institute (ASI), which represents the manufacturers, to operate the training program, to serve as program sponsor, to administer the program, and to train instructors.

(b) The department approves and adopts the most current version of the ASI's instructor preparation curriculum and standards as identified in the most current edition of the ATV Safety Institute ATV RiderCourse Chief Instructor's Guide.

(c) Upon written application to the department, persons who successfully complete the approved all-terrain vehicle instructor preparation course, enter into an instructor license agreement with ASI, and meet the minimum qualifications as contained in these rules will be approved to teach the course in Texas for the period stated in their license.

**§33.4. NOTICE OF HEARING REQUIREMENTS.** (a) The department 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 chapter if the applicant, instructor, or program sponsor:

(1) does not meet the requirements established under Texas Transportation Code, Chapter 663, to receive or retain approval;

(2) permits fraud or engages in any fraudulent practices with reference to an application to the department, induces or countenances fraud or fraudulent practices on the part of any application for a driver's license or permit, or permits or engages in any other

fraudulent practice in any action between the applicant or licensee or the public;

(3) does not comply with the rules and regulations of the department; or

(4) is convicted under the laws of this state, another state, or the United States, of any felony or offense involving moral turpitude, tampering with a governmental record, driving while intoxicated or driving under the influence of drugs, or an offense committed as a result of the person's criminally negligent operation of a motor vehicle:

(A) these particular crimes relate to the conducting and teaching courses because the program sponsor and instructors are required to be of good reputation, character, moral conduct, and to deal honestly with members of the public. Program sponsors and instructors are required to keep records on behalf of the department and are required to recognize the importance of, encourage, and practice safe driving techniques;

(B) a conviction for an offense other than a felony will not be considered by the department, under this paragraph, if a period of more than five years has elapsed since the date of the conviction or of the release of the person from the confinement or supervision imposed for that conviction, whichever is the later date. For the purposes of this section, a person is convicted of an offense when an adjudication of guilt on an offense is entered against the person by a court of competent jurisdiction, whether or not:

(i) the sentence is subsequently probated and the person is discharged from probation;

(ii) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence;

(C) in determining the present fitness of a person who has been convicted of a crime and in determining whether a criminal conviction directly relates to an occupation, the department shall consider those factors stated in Occupations Code, Chapter 53;

(5) does not enter into any license agreement required by these rules or any such agreement is revoked, transferred, assigned, or is subject to revocation because of the actions of the applicant or instructor.

(b) When there is cause to deny, suspend, or cancel the approval of a program sponsor or instructor, the director shall, no less than 30 days before refusal, suspension, or revocation action is taken, notify the person in writing, in person, or by certified mail at the last address supplied to the department, of the impending refusal, suspension, or revocation, the reasons for taking this action, the effective date of the action, and of his/her right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the director.

(c) The director, without a hearing, may suspend, revoke, or refuse to issue approval for a program sponsor to conduct a course or for an instructor to teach courses if, within 20 days after actual notice or the notice has been deposited in the United States mail, the person has not made a written request to the director for this administrative hearing.

(d) On receipt by the director of a written request for an administrative hearing within the 20-day period, an opportunity for an administrative hearing shall be afforded as early as is practicable.

(e) The administrative hearing shall be before the director or his designee.

(f) On the basis of the evidence submitted at the hearing, the director, acting for himself or upon the recommendation of his designee, may refuse or revoke the approval.

(g) A program sponsor or instructor may waive the right to an administrative hearing in writing by completing the Voluntary Waiver of Administrative Hearing form that accompanies the department's notice of intent to suspend, revoke, or refuse to approve a program sponsor or instructor.

(h) The procedure of the administrative hearing shall comply with §§29.1-29.49 of this title (relating to Practice and Procedure), except where otherwise provided.

**§33.5 . OPERATOR CERTIFICATION REQUIREMENTS.** (a) The program sponsor will provide names to the department, in a format which meets the department's approval, of all persons who successfully complete the course no later than 45 days after the date of completion of the course.

(b) The department shall issue an all-terrain vehicle safety course completion certificate within 30 days of receiving verification of course completion from the ATV Safety Institute. The All-terrain Vehicle Safety Institute (ASI) completion card issued by the instructor immediately following completion of the class, shall serve as a temporary completion certificate to meet the requirements for operation on public land until the student receives the department's completion certificate.

(c) A person who resides in a county in which the course is not being offered is exempted from the requirement to hold a safety certificate for operation on public land while operating the all-terrain vehicle in that county until such times as the course is available in that county.

(d) If an all-terrain vehicle safety certificate is lost, mutilated, or destroyed, the department will issue a duplicate certificate. The person to whom the certificate was issued must make a request for a duplicate certificate in writing to the department including his or her name, address, and date of class. There is no fee required.

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**CHAPTER 5  
MISCELLANEOUS RULES**

**TEXAS DEPARTMENT OF PUBLIC SAFETY RULES AND  
REGULATIONS MANUAL FOR OPERATION OF OFFICIAL  
VEHICLE INSPECTION STATIONS**

**CH. 4**

**INSPECTION PROCEDURES**

**§15.04 . MINATURE VEHICLES.** These miniature vehicles (mini-bikes, go-carts, or toy class vehicles) must pass the inspection requirements and obtain an inspection certificate before being operated on the streets and highways of this state.

Such vehicles with not more than three wheels in contact with the ground will be inspected as motor-driven cycles. All others will be inspected as passenger cars.

Before an inspection certificate is issued to one of these vehicles, be absolutely sure that it meets all inspection requirements for the class vehicle and is equipped with acceptable lighting devices that meet Department standards.

All-Terrain Vehicles (ATV) cannot be inspected regardless of how equipped. This class vehicle is not designed for use on public roads.

(motorcycle graphic here)

**TEXAS DEPARTMENT OF PUBLIC SAFETY**  
**MOTORCYCLE SAFETY UNIT**  
**PO BOX 4087**  
**AUSTIN, TEXAS 78773-0257**  
**1-512-424-2021** (in Austin)  
**1-800-292-5787** (toll free in Texas)  
**E-Mail: [Motorcycle.Safety@txdps.state.tx.us](mailto:Motorcycle.Safety@txdps.state.tx.us)**  
**www: [txdps.state.tx.us/msb](http://txdps.state.tx.us/msb)**



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