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Item No. 15.1.4
Halifax Regional Council
August 20, 2024

TO: Mayor Savage and Members of Halifax Regional Council
FROM: Cathie O'Toole, Chief Administrative Officer
DATE: July 25, 2024
SUBJECT: **By-law for Road Trails on Portions of HRM Roadways**

ORIGIN

Item 15.1.5 of the March 5, 2024 meeting of Halifax Regional Council:

MOVED by Councillor Hendsbee, seconded by Councillor Kent

THAT Halifax Regional Council direct the Chief Administrative Officer to:

1. Create a By-law to enable the designation and regulation of road trails on portions of HRM roadways; and
2. Upon creation of the By-law, establish a program, consistent with the approach used by the Province to designate road trails on portions of HRM roadways.

MOTION PUT AND PASSED

EXECUTIVE SUMMARY

After undertaking a successful pilot project to assess the appropriateness of allowing off highway vehicles (OHVs) to use portions of public roadways to make connections between designated trails or to access supporting amenities, in September of 2023, the Province proclaimed the *Road Trails Act*. This act provides municipalities with the ability to enact by-laws to designate road trails on roadways under their jurisdiction.

Given the large rural area and many interconnected trail systems within HRM, staff drafted the proposed *Road Trails By-law (R-500)* that would provide the ability for Council to designate road trails on HRM roadways. The proposed legislation, included in Attachment 1, follows the requirements, principles, and framework of the provincial legislation, and aims to ensure as much as possible the safety of all road users and protection of municipal infrastructure.

Whereas the identified risks are considered to be manageable, and there are no financial implications identified, it is recommended that the proposed legislation be adopted.

RECOMMENDATION

It is recommended that Halifax Regional Council adopt By-law R-500, *The Road Trails By-law*, as set out in Attachment 1 to this report.

BACKGROUND

The Province of Nova Scotia launched the Nova Scotia Off-Highway Vehicle Pilot Project (The Pilot) in October of 2018 to test whether off-highway vehicles (OHVs) could safely operate on public roads, both on the shoulder and paved portion, under specific road and safety conditions. The purpose of The Pilot was to allow OHVs to use public roadways, at selected sites, to safely travel between established trails (enhancing trail connectivity), or to access nearby services and amenities (such as gas stations and restaurants) that could support trail users.

Rules were created regarding the safe use of the shoulder and paved portion of the roadway and sites were selected based on safety criteria such as posted speed of 80 km/h or less, low vehicle volume, and good sightlines. As part of the site selection process, attention was given to the high importance of ensuring road safety, while also considering community concerns.

Information obtained through the assessment of The Pilot (Attachment 2) helped to guide decisions around appropriate rules and conditions required to allow continued safe access to public roadways by OHVs and supported a positive outcome. As a result, the Province created the *Road Trails Act* (Attachment 3), allowing the continued use of public roadways within Nova Scotia by OHVs under specific road and safety conditions.

DISCUSSION

The *Road Trails Act*, proclaimed and in force as of September 29, 2023, provides Municipalities with the ability to enact by-laws enabling the designation and regulation of road trails on portions of public roads under their control.

Where HRM encompasses a large rural area with many interconnected trail systems, staff anticipates there will be interest by ATV associations to have road trails created on municipal roads to support enhanced trail connectivity between established trails and access to trail-related amenities and services supporting OHV activities. Staff is recommending that proposed By-law R-500, included in Attachment 1, be adopted to enable the designation / regulation of road trails.

As noted in the background section of this report, The Pilot project looked at specific road and safety conditions when assessing locations to be considered for road trail designations. Therefore, not all roads would be appropriate for use by OHVs. It also needs to be noted that the intent of The Pilot and the resulting *Road Trails Act* is not to enable widespread use of OHVs on all roadways or to create a situation where OHVs would be used as an alternate mode of general transportation. The Pilot and resulting legislation are intended to enhance and support existing off-road activities and associated industries. The general requirements associated with designation / creation of a road trail under proposed by-law R-500 include:

- Requests to designate road trails must be from a non-profit organization.
- The road trail must provide direct connectivity between designated trails or between a designated trail and supporting amenities.
- The highway being considered must have a speed limit not greater than 70 km/h.
- Ability to safely transition from a designated trail to / from the public highway.
- Costs associated with the construction or improvement of any infrastructure required to enable safe access to a roadway would be the responsibility of the non-profit organization requesting the road trail designation.
- Costs associated with the repair or maintenance of any municipal or other infrastructure resulting directly from OHV use of a road trail would be the responsibility of the non-profit organization requesting the road trail.

Where much of the area that would be appropriate for consideration of the application of road trails would be at or very near the interface between HRM and Provincial jurisdiction, a Municipal Road Trails program should be broadly consistent with the Provincial program. Consistency between the two programs would avoid confusion and ensure ease of understanding by those interested in participating as well as by the

public. Staff has been in touch with their counterparts at the Province and it is understood that some conditions and details are still being worked out for their program.

FINANCIAL IMPLICATIONS

There are no financial implications at this time. It is anticipated that the application administration can be accommodated within the current Public Works budget. The proposed By-law does include a provision for payment of application fees should they be necessary. Adding fees would require an amendment to Administrative Order 15. As there are no proposed amendments to Administrative Order 15 as part of the recommendation, there are no financial implications.

RISK CONSIDERATION

The introduction of off-highway vehicles (OHV) onto public roads does represent an increased risk to the safety of OHV operators and other road users. This risk is related to:

- The potential for increased numbers of OHVs operating on/near public roads, increasing the interaction between these vehicles and other road users.
- OHVs are not designed for operation on smooth pavements. OHVs are equipped with tires specifically meant for use on loose, unpaved surfaces, so they do not have the same handling characteristics when operating on paved surfaces.
- OHVs are not designed with the same road safety equipment as motor vehicles intended for operation on the road.

Considering the relatively limited application of potential road trail locations, requirements outlined in the proposed by-law, and associated requirements included in the related Provincial legislation (see Attachment 3), the risks outlined above are manageable.

COMMUNITY ENGAGEMENT

Although there was no municipal led community engagement, community engagement was undertaken by the Province as part of the Provincial Off-Highway Vehicle Pilot project (see Attachment 2).

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Halifax Regional Council could:

1. Refuse to adopt R-500, the *Road Trails By-law*;
2. Adopt R-500, The *Road Trails By-law*, subject to modifications. This may require a supplementary report.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, SNS 2008, c 39

192(e) Without limiting the generality of Section 188, the Council may make by-laws...respecting off-road vehicles on public or private property.

Road Trails Act, SNS 2023, c 4:

5(2) A municipality may, by by-law, designate a highway or part of a highway that is not a road owned by

the Crown in right of the Province as a road trail.

Motor Vehicle Act, RSNS 1989, c 293:

89(1) Subject to such authority as may be vested in the Minister, the Registrar or the Department, traffic authorities in regard to highways under their respective authority may cause appropriate signs to be erected and maintained designating business and residence districts and railway grade crossings and such other signs, markings and traffic control signals as may be deemed necessary to direct and regulate traffic and to carry out the provisions of this Act.

ATTACHMENTS

Attachment 1 – Proposed By-law R-500 -The *Road Trails By-law*

Attachment 2 – Nova Scotia Off-Highway Vehicle Pilot Project Evaluation

Attachment 3 – Provincial Legislation (NS Road Trails Act, NS Off-Highway Vehicles Act)

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Public Works

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER R-500
RESPECTING THE DESIGNATION OF ROAD TRAILS ON MUNICIPAL HIGHWAYS**

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of the *Road Trails Act*, and the *Halifax Regional Municipality Charter*, as follows:

Short Title

1. This By-law may be known as By-law R-500, the *Road Trails By-law*.

Purpose

2. The purpose of this By-law is to designate specific municipal highways, or portions of a highway, as road trails on which off-highway vehicles may be operated to enable connections between designated trails or to access supporting amenities.

Interpretation

3. In this By-law,

- (a) “Act” means the *Road Trails Act*, SNS 2023, c 4.;
- (b) “all-terrain vehicle” means a vehicle as defined by Section 3 of the *Act*;
- (c) “designated trail” means a designated trail as defined by section 3 of the *Act*;
- (d) “ditch” means a ditch as defined by section 3 of the *Act*;
- (e) “Engineer” means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer;
- (f) “highway” means a highway as defined by section 3 of the *Act*;
- (g) “municipal infrastructure” includes surfaces of the highway, curbs and gutters, and shoulders of the highway, and any other infrastructure within or outside the public right-of-way the Municipality is responsible for maintaining;
- (h) “non-profit organization” means,
 - (i) a society incorporated pursuant to the *Societies Act*, RSNS 1989, c 435, as amended,
 - (ii) a not-for-profit corporation incorporated pursuant to the *Canada Not-for-Profit Corporations Act*, SC 2009, c 23, or
 - (iii) a non-profit organization otherwise incorporated pursuant to an Act of the Nova Scotia Legislature;

- (i) “off-highway vehicle” means an off-highway vehicle as defined by section 3 of the *Act*;
- (j) “road trail” means a road trail as defined by section 3 of the *Act*;
- (k) “supporting amenities” means a business providing services directly related to the operation of off-highway vehicles on nearby designated road trails, such as fuel and service stations, convenience stores, restaurants, and accommodations; and
- (l) “vehicle” means a vehicle as defined by section 3 of the *Act*.

Application

4. Council may not designate:
- (a) a highway owned by the Crown in right of the Province; or
 - (b) a controlled-access highway or part of a controlled-access highway, as a road trail under this By-law.
5. (1) The *Act*, *Off Highway Vehicles Act*, and *Motor Vehicle Act*, and any regulations made pursuant to those acts applicable to road trails, shall apply to a road trail designated by Council, including the *Off-highway Vehicles Equipment Regulations* and the *Off-highway Vehicles Insurance and Passenger Regulations*.
- (2) For greater certainty,
- (a) the same traffic rules and restrictions in the *Act* and its regulations shall apply to the operation of off-highway vehicles on a road trail designated by Council, including the *Off-highway Vehicles Equipment Regulations* and the *Off-highway Vehicles Insurance and Passenger Regulations*;
 - (b) in accordance with section 4 of the *Act*, in the event of a conflict between the *Act* and the *Motor Vehicle Act* or the *Off-highway Vehicles Act*, the *Act* prevails; and
 - (c) in accordance with section 4 of the *Act*, the *Motor Vehicle Act* and the regulations made under that Act applicable to motor vehicles shall apply to the operation of an off-highway vehicle on a road trail, except those provisions that by their very nature can have no application.
6. Nothing in this By-law prevents, restricts, or otherwise limits the requirement to comply with any other by-law of the Municipality, including the requirement for an approval, license, or permit of the Municipality, such as a permit under the *Streets By-law*, or a license or a license agreement under the *Encroachment By-law*.

Designation of Road Trails

7. (1) Council hereby designates as road trails those highways, or those portions of highways, shown or identified on the Schedules to this By-law.

(2) Any Schedule to this By-law shall form part of this By-law.

8. Unless otherwise directed by Council, only applications by non-profit organizations will be considered by the Engineer for designation as a road trail.

9. (1) When recommending a highway, or a portion of a highway, to be designated as a road trail to Council, the Engineer shall consider whether the highway, or the applicable portion of the highway, being considered for designation:

(a) provides direct connectivity between:

(i) designated trails, or

(ii) a designated trail and supporting amenities;

(b) has a posted speed limit not greater than 70 kilometers per hour; and

(c) can provide a safe transition to and from the public highway.

(2) For greater certainty, the posted speed limit relates to the speed limit for motor vehicles on the proposed highway, or the portion of the highway, and not the 25 kilometres per hour rate of speed for the operation of off-highway vehicles on a road trail.

Publication

10. (1) Once adopted by Council, this By-law shall be posted to the website of the Municipality.

(2) Any amendments to this By-law adopted by Council shall be consolidated with the By-law and posted to the website of the Municipality.

Application For Designation of a Road Trail

11. The Engineer shall receive applications to designate a highway, or a portion of a highway, as a road trail.

12. (1) The Engineer, or their designate, may review a submitted application to determine if it is complete.

(2) If an application is incomplete, the Engineer, or their designate, may identify the deficiencies in the application and grant the non-profit organization additional time to submit information to resolve those deficiencies.

(3) If additional time is not granted, or the information is not submitted within the additional time granted, the application shall be deemed withdrawn.

13. Unless Council directs otherwise, the Engineer may only consider complete applications that:

- (a) are submitted by a non-profit organization;
- (b) are in writing;
- (c) include the fee, if any, required by Administrative Order Number 15, *the License, Permits and Processing Fees Administrative Order*;
- (d) contains an acknowledgement that the non-profit organization is required to sign the agreement in section 16; and
- (e) satisfies section 14.

14. The application shall include the following information:

- (a) proof, to the satisfaction of the Engineer, or their designate, the organization is registered as a non-profit organization;
- (b) identification of the highway, or a portion of the highway, that is the subject of the application;
- (c) an application for an encroachment license for any structures proposed within the road trail; and
- (d) a plan of any proposed work and on-going maintenance by the applicant to support the incorporation of the road trail.

15. The Engineer, or their designate, may review a completed application and, after completing that review, may forward a report to Council recommending designating the proposed highway, or a portion of the highway, as a road trail.

Agreement

16. (1) The non-profit organization shall agree to sign an Agreement with the Municipality.
- (2) The Agreement shall be in the form determined by the Municipality.
- (3) The Agreement shall include provisions that the non-profit organization agrees:
- (a) to construct and maintain, at their sole expense
 - (i) any encroachments granted under an encroachment license under *By-law E-200*, and
 - (ii) improvements to the area of access to the municipal highway,

that, in the opinion of the Engineer, are required for off-highway vehicles to safely access the road trail and the highway;

(b) to fully reimburse the costs to the Municipality of repairing and maintaining the municipal infrastructure used by off-highway vehicles on the designated road trail to a general state of good repair, as determined by the Engineer;

(c) where Council repeals the road trail designation, to remove, at their sole expense, any infrastructure installed, and to reinstate the area to its original condition prior to designation as a road trail, to the satisfaction of the Engineer; and

(d) to release and hold harmless the Municipality, its servants, employees, officers, Council, and agents from any claims, demands, suits or liability arising from the road trail, including any losses resulting from the revocation of the road trail designation.

(4) No designation of a highway, or portion of a highway, as a road trail shall be effective until all the parties have signed the Agreement under this section.

Delegation for Agreement

17. Council delegates to the Engineer the authority to enter into and sign the agreement under section 16 on behalf of the Municipality, including any amendments to it.

Repeal of Road Trail Designation

18. Council may consider amending or repealing this By-law at any time, including adding or repealing a road trail designation from any Schedule of the By-law.

19. The Engineer may recommend to Council an amendment to add or repeal a designation of a road trail at any time, including where such designation has resulted in the creation of unforeseen safety issues, there is evidence of continued unsafe operation of off-highway vehicle on the designated road trail, or the agreement with the non-profit organization in section 16 has been terminated.

Done and passed this _____ day of _____, 2024.

Mayor

Municipal Clerk

I, Iain MacLean, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above-noted By-Law was passed at a meeting of Halifax Regional Council held on _____, 2024.

Iain MacLean, Municipal Clerk

**Schedule A
Designated Road Trails**

NOVA SCOTIA OFF-HIGHWAY VEHICLE PILOT PROJECT EVALUATION



2022

GROUP ATN CONSULTING INC

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Contents

1	INTRODUCTION	2
1.1	Context.....	2
1.2	Objectives.....	3
1.3	Methodology.....	4
1.3.1	Primary Quantitative Research and Analysis	4
1.3.2	Secondary Quantitative Data Research and Analysis.....	5
1.3.3	Qualitative Research and Analysis	6
2	RESEARCH FINDINGS.....	7
2.1	Jurisdictional Review	7
2.2	Outreach & Engagement	7
2.3	OHV Rider Survey.....	9
2.4	Community Survey.....	10
2.5	Business Survey	11
2.6	Administrative Data	12
3	SUMMARY OF FINDINGS	13
4	FOR FUTURE CONSIDERATION.....	14
	APPENDIX A: SUMMARY OF THE RULES OF THE ROAD FOR OHV PILOT AREAS OLY	16

1 INTRODUCTION

1.1 Context

In October 2018, Nova Scotia launched a Pilot Project to test whether four-wheeled off-highway vehicles¹ (OHVs) could safely use the shoulder and paved roadways. This Project enables OHVs at the selected sites to use provincial roadways to safely travel from one OHV trail to another, or to access amenities such as gas stations and restaurants.

The Pilot Project provides the opportunity to test and evaluate the integration of these four-wheeled OHVs on the province's roadways, for the purpose of connectivity and access to amenities. It will help inform whether a permanent solution is viable and under what conditions, to protect the safety of all road users as much as possible. Data from the Registry of Motor Vehicles (RMV) indicates the number of four-wheeled OHV registrations has been increasing an average of 9% annually since 2015, growing from 25,500 to more than 37,000 in 2020.² It is important to remember that OHVs are called off-highway vehicles for a reason. They are not designed for road use. For example, OHVs are equipped with very rugged, low-pressure tires which are designed for un-paved, loose surfaces and thus do not have the same handling characteristics on smooth pavement. Also, OHVs often lack the same road safety equipment as motor vehicles intended for the road (e.g. signal lights). Ensuring the safest use of the roadways for motorists and other users is critical.

An OHV Pilot Project Steering Committee composed of representatives from the Departments of Public Works (DPW), Natural Resources and Renewables (DNRR), and Environment and Climate Change (DECC) were selected to oversee the Pilot and its evaluation.

Pilot sites were selected based on a series of factors including proven benefit in trail connectivity as recommended by the ATV Association of Nova Scotia (ATVANS), distance needed for road access, average daily traffic on roadways, road speed, priorities of OHV riders, and opportunities for community economic benefit. Highway signage would be installed to indicate the possible use by OHVs of the roadway in the areas designated by DPW.

Seven established trails with designated public roadway access were identified for the OHV Pilot Project:

1. Porters Lake, Halifax Regional Municipality (110 meters of Myra Rd. crossing West Brook bridge)

¹ Pilot only included OHVs that have four or more wheels, the tires of which are all in contact with the ground, and either has a steering wheel or handlebar. It does not include dirt bikes or snowmobiles.

2. New Germany, Lunenburg County (Trunk 10 from Maple Dr. to Varner Rd.)
3. Weymouth, Digby County (Trunk 1 from railway trail near Sissiboo Rd. to railway trail near Riverside Rd.)
4. Walton, Hants County (Bancroft Rd. to Shore Rd. to Rte. 215, then either northwest on Rte. 215 to Odd Fellows Hall Rd. or northeast to Walton Woods Rd. and McBurney (Quarry) Rd.)
5. Sherbrooke, Guysborough County (Trunk 7 from near the west end of Bennett's Loop to Main St. and then either Trunk 7 to Old Road Hill, or Main St. to Court St.)
6. Gabarus, CBRM (Oceanview Rd. south of Gabarus Louisbourg Rd., to Rte. 327 and along Rte. 327 to near Mohawk Rd.; and
7. Ship Harbour, Halifax Regional Municipality (West Ship Harbour Rd. from near Ferry Rd. to Trunk 7 and then along Trunk 7 to Bruce Dr.).

Rules regarding the safe use of the roadway and shoulder of the roadway were established for the Pilot. This included requiring riders to have a valid motor vehicle driver's licence (i.e., not a learner's licence), and the OHV to be insured and have a valid off-highway vehicle permit. Requirements also included time of day restrictions, wearing helmets, keeping speeds to below 25 km/hr, using hand signals to make turns, as well as staying on the shoulder as much as possible and using the road portion only when needed. Passengers below the age of 9 were not permitted, among other considerations.

A full summary of the rules of the road for OHV Pilot sites is provided in **Appendix A**.

1.2 Objectives

The OHV Pilot Project gives government the ability to test and evaluate the integration of OHVs on the province's roadways for the purpose of connectivity and access to amenities. It will help inform whether a safe, permanent solution is viable and under what conditions, to protect the safety of all road users as much as possible.

The evaluation was undertaken to determine if four-wheeled OHVs:

- Can safely integrate with other vehicles
- Impact the roadway infrastructure
- Impact the local economy, and
- Whether the road safety rules of the Pilot are appropriate.

The evaluation will help inform decision-making regarding the rules and conditions associated with the continued access of public highways by four-wheeled OHVs. It will consider the site selection process along with the primacy of ensuring road safety, while giving due consideration to community concerns.

The OHV Pilot Project Evaluation encompasses significant research and multiple lines of evidence supporting the full engagement of stakeholders and community members. The evaluation methodology aligned with the working evaluation plan approved by DPW Senior Management and the OHV Steering Committee. The approach included both secondary data analysis and primary research, including two dedicated surveys (i.e., OHV riders and community members) as well as bilateral interviews with key stakeholders (identified by DPW officials) and business operators in the vicinity of the OHV Pilot sites (identified by DPW officials and additional leads generated through this research).

1.3 Methodology

This study employed several research modalities – both quantitative and qualitative – as part of the multiple lines of evidence approach GATN utilized evaluating the OHV Pilot Project. The various research methods are outlined below.

1.3.1 Primary Quantitative Research and Analysis

Three surveys, each targeting specific stakeholder groups were developed and activated as part of this project.

OHV Rider Survey

The link to the OHV rider online survey was shared on social media by Communications Nova Scotia in January and February 2021. The link was also distributed to the members of:

- ATVANS
- Snowmobile Association of Nova Scotia (SANS)
- Nova Scotia Federation of Hunters and Anglers
- NS Trails; and
- Members of the Legislative Assembly.

The survey generated a total of 2,761 responses from OHV riders, which is believed to be predominantly ATVANS members as they have been active supporters of the Pilot Project and who pushed the survey links out to their membership.

Community Survey

A Community Survey was also posted online, specifically intended for residents of Nova Scotian communities with OHV Pilot sites. Community members were asked to provide details about their recent experiences with OHVs, especially in the vicinity of the Pilot sites. Respondents were recruited through a variety of channels including:

- Social media via Communications Nova Scotia
- Email to individuals the interdepartmental OHV Pilot evaluation project team believed live near the Pilot sites.

- Email to Municipal councillors and members of the legislature for distribution to residents through their community networks; and
- Promoting the survey on multiple Facebook pages, including trail associations, ATV clubs and communities.

Community outreach efforts generated 297 responses in total. As hoped, seven in ten (68%) of community respondents reported living in or near a Pilot community. It should be noted however, that three quarters (74%) of the respondents described themselves as OHV riders. Thus, community responses are somewhat swayed to rider's opinions. However, effort was made to illustrate any differences in the data between community members who were riders from those who were not.

Business Survey

The business survey was conducted through telephone interviews in March 2021. Google Maps and stakeholder interviews identified 45 businesses in the vicinity of the seven Pilot sites. Business contact information was assembled through an online search and each operator was contacted a minimum of three times over a two-week period with the following outcome:

- 18 businesses completed the survey (40%)
- 10 businesses declined to participate (22%)
- 12 businesses were not reached after multiple attempts (27%); and
- 5 businesses could not be contacted due to closure or insufficient contact information available through online and supplementary sources (11%).

1.3.2 Secondary Quantitative Data Research and Analysis

OHV related data from Department of Environment and Climate Change (DECC), Department of Justice (DOJ), Department of Health and Wellness (DHW), and DPW were collected and analyzed as part of the evaluation. Data from these departments, however, include information on all off-road vehicle types, including snowmobiles and dirt bikes. Some of these vehicle types were not included in the Pilot Project, but their data cannot be separated from OHV data. Hence, in the administrative data report, references are typically to the broader inclusion of all off-road vehicles (ORV) rather than the more limited type of OHVs involved in the Pilot. Administrative data from these departments was used to infer the effects of the Pilot Project on the safe operation of OHVs on the highways.

The OHV Pilot Project regulations created penalties under the Motor Vehicle Act (MVA) pertaining to improper driving of an OHV at the Pilot site, such as not wearing a helmet, not using hand signals before turning, and child passengers under 9 years of age. Further

penalties already existed under the Off-Highway Vehicle Act (OHVA), such as operating without appropriate registration, permits or insurance; not displaying an identification number; failing to wear a helmet; being underage and/or without supervision and/or safety training as required, among many others.

For the purposes of the Pilot, offences pertaining largely to the safe operation of OHVs were selected for analysis in both the data provided by DECC and DOJ. The complete list is provided in the Administrative Data Analysis Report.

Conservation officers with DECC patrol the roads and trails for violators under the OHVA. RCMP and municipal police officers are also able to charge violators under the OHVA, as well as the MVA. However, it is noteworthy that in 2020, COVID-19 health protocols and related redeployment hampered the ability of officers to patrol as they typically would and enforce the MVA or OHVA with regards to all ORVs. There were also times ORV riders were not permitted to ride the trails, or at least not as they might normally do so. Hence, data from 2020 was not incorporated in the evaluation analysis.

It should also be noted that serious injuries and deaths due to ORV collisions reported in this evaluation has two sources. DPW collects and tracks data specific to ORV collisions “on” public roadways, while DHW collects information for both “on” and “off” public road collisions resulting in serious injury or death.

1.3.3 Qualitative Research and Analysis

Qualitative outreach and engagement involved eleven bilateral interviews with key stakeholders as outlined below. The interviews provided stakeholders with an opportunity to share feedback on various aspects of the OHV Pilot Project including rules of the road, site selections, and future considerations. The confidential interviews lasted between 45 and 60 minutes.

Key Stakeholders and Staff Interviewed as Part of OHV Pilot Project Evaluation	
Organization	Representative
ATV Association of Nova Scotia (ATVANS)	Corey Robar, Trails Coordinator
Snowmobile Association of Nova Scotia (SANS)	Mike Eddy, General Manger
Nova Scotia Federation of Anglers and Hunters (NSFAH)	Harley Conrad, OHV Committee Chair
Nova Scotia Kayak and ATV Outside Adventure Tours (NSOA)	Chris White, Proprietor
Government Department	Staff

Nova Scotia Department of Public Works	Michael Balsom, Area Manager Basil Pitts, Area Manager Tony Harvey, Area Manager Cody Roland, Area Manager
Nova Scotia Department of Natural Resources and Renewables	Lori Blackburn, Senior Strategist Meagan Mahoney, Senior Strategist
Nova Scotia Department of Environment and Climate Change	Jason Cleaves, Regional Enforcement Manager

2 RESEARCH FINDINGS

2.1 Jurisdictional Review

A jurisdictional review conducted by DPW provides valuable context for the evaluation of Nova Scotia’s OHV Pilot Project. Nova Scotia and Newfoundland and Labrador are the only Canadian provinces that do not allow some road access for OHV operators. PEI is currently conducting an OHV Pilot similar to Nova Scotia’s but only on unpaved, seasonal roads with low traffic volumes and few private residences. Quebec allows OHVs to be operated on roadways where marked by a road sign or signal for a maximum distance of 1 km to reach a trail or service station. British Columbia has a permitting system in place where OHV riders must apply to the RCMP detachment closest to the area they are interested in accessing. Ontario's legislation grants access on all roads unless the road is specifically excluded. Ontario also permits local municipalities to enact by-laws to further outline the operational requirements for OHV riders. New Brunswick, Alberta and Saskatchewan have a process where municipalities can enact a by-law permitting travel for off-road vehicles.

2.2 Outreach & Engagement

Phone interviews were held with 11 key stakeholders knowledgeable about the implementation of the OHV Pilot. Officials from each of the government departments involved, three associations representing OHV riders and one outdoor tour operator were selected. Discussions followed several themes including safety, infrastructure and signage, enhancement opportunities, and next steps regarding OHV use of the roadways.

Safety

The stakeholders generally viewed the Pilot as enhancing safety for both OHV riders and the general public. Safety related protocols set by the Pilot regulations made sense when viewed through a risk management and harm reduction lens as suggested by some stakeholders. OHV riders indicated legalizing risky activities (e.g., using the roadways illegally) was seen to “elevate expectations” and create “positive peer pressure”. As noted by

one government official - with the increase in legal riders associated with the Pilot, illegal practices are decreasing. This view was also shared by enforcement officials. ATVANS and SANS were recognized for their efforts to promote compliance and responsible behavior through their membership and chapter activities. Among the OHV stakeholders, the Pilot was acknowledged to be a privilege and to be respected through responsible behavior. It was suggested that the predominance of legal and responsible OHV behavior means that illegal behavior "is conspicuous as an outlier", elevating the standard. The thoroughness and clarity of DPW's OHV permitting, licensing, and registration rules were credited by several stakeholders for contributing to the success of the Pilot.

Interestingly, the DECC officials noted the Pilot facilitated enforcement. Since much of the surveillance is conducted through patrols on OHVs, the Pilot sites also permitted officers to use the road to connect to the next trail.

Stakeholders were unaware of any collisions or safety incidents associated with the Pilot sites. The only safety related concern raised by one stakeholder regarded the optics of a Pilot site providing OHV riders access to a licensed pub.

Infrastructure and Pilot Site Signage

There were no reports from DPW stakeholders of OHV related wear and tear on the shoulder or asphalt at the Pilot sites. However, one submission from a DOT winter maintenance operator noted evidence of OHVs "rutting out the shoulder". Hence, while the road shoulders may experience some degradation, concerns raised prior to the Pilot related to OHV damage of the road surface was largely alleviated.



Most stakeholders indicated that Pilot signage was adequate, However, a couple of association representatives noted opportunities to improve the signage for both safety and navigation. It was observed that the beginning and end of a Pilot zone was not always signed, and in some cases, it was not clear to OHV drivers where they are to reenter the next trail.

Enhancements for OHV Road Use

Several suggestions to enhance OHV road use rules going forward arose from the interviews with associations representing OHV riders. This included allowing OHVs to exceed 25 km/hr. as they are slowing traffic behind them, and it would reduce the potential frustration of motor vehicle drivers. Also, it was proposed to expand the hours beyond sunrise to sunset to provide consistency and predictability, by setting fixed beginning and end times that remain unchanged year-round. There was also a request to launch a snowmobile pilot. These options were offered in the context of opportunities to enhance the next phase.

It should be noted that there are other references in provincial legislation and regulation using sunrise and sunset as time markers. The OHVA and laws around hunting to name two. Sunrise and sunset references make allowances for the seasonal changes in the amount of daylight, which specifying set hours would not do.

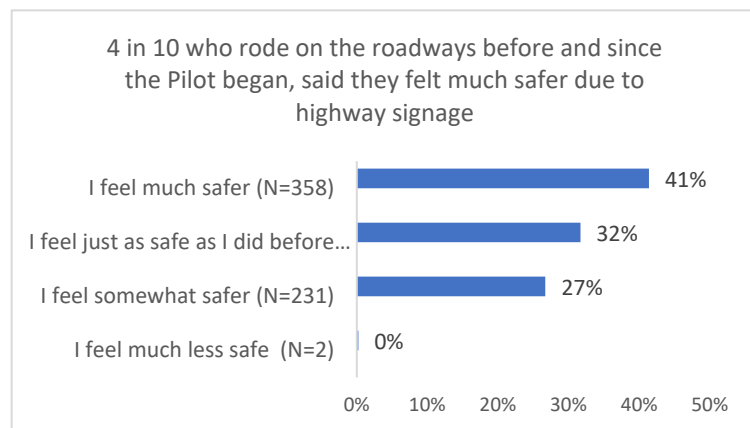
Association representatives suggested that the Pilot facilitated additional organized group rides – including those operated and sanctioned by local clubs/chapters. They also speculated that outdoor tour operator businesses would be bolstered because the Pilot enables them to comply with liability and insurance requirements. One stakeholder offered examples of OHV destinations such as the [Hatfield and McCoy Trail](#) system in West Virginia that the Pilot could help Nova Scotia communities aspire to.

Considerations for Next Steps Regarding OHV Use of the Roadways

In the context of next steps, both government and association stakeholders offered many suggestions to expand and allow other trails to have use of the roadways. A sample of these suggestions included permitting use in Yarmouth (Water Street), Digby (George St.) and “all secondary roads”; as well as extending the areas of existing sites being piloted, such as in Gabarus and New Germany to include more businesses. Similarly, both government and association stakeholders believed that OHV use of more roadways could be done safely. As one government official suggested “the Province’s large network of trails, combined with our low-density population means the Pilot sites are generally not overused”

2.3 OHV Rider Survey

Pilot feedback via the OHV rider survey was very positive. Many riders (41%) who admitted to riding on the road both prior to and since the Pilot began, indicated they felt much safer due to addition of highway signage warning motorists of OHVs at the Pilot area. According to the survey, most OHV riders feel very safe using the public roadway/shoulder at Pilot areas, although several noted that the significantly slower speed they were to travel when on the roads (25 km/hr.) made them feel vulnerable. Many riders also noted that they are currently driving on or along a public roadway that are not part of as Pilot site (83%).



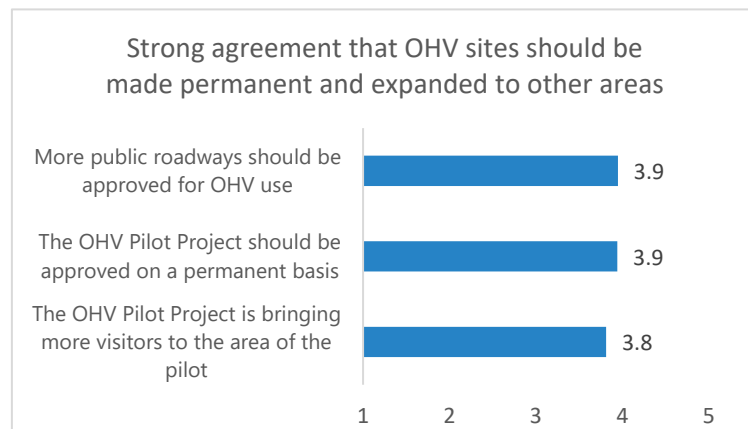
Riders who indicated they did not feel safe using the public roadway/shoulder at Pilot areas cited high traffic volumes, blind crests/bends in the road, poor shoulder conditions, that

sometimes it is not well known that OHVs are allowed on the highway, and the speed at which some OHV riders use the roadways is unsafe (i.e., too fast).

Although half of the riders reported not seeing any OHV highway warning signage for the Pilot, signage at the Pilot sites was considered adequate by riders (ranging from 84% to 94%). Many of the suggestions to improve the highway signage involved improving the visibility of signage by increasing the size and the number of signs. Some respondents commented that signage was inadequate but seemed to be referring to wayfinding issues on the trail instead of the highway. It is possible that there was some confusion as to what signs the riders were assessing.

With regards to the other safety rules, riders noted being aware of the requirements of using a hand signal before turning (90%), and that the maximum speed limit was 25 km/hr. (82%); fewer were aware that children under the age of 9 were not permitted to be passengers when on the roadway (65%).

Average scores on a scale of 1 to 5 indicate there was broad agreement by riders that Pilot areas do create valuable connections to other trails and local amenities. Similarly, there was a strong agreement that the Pilot Project should be made permanent and expanded.



Concerns raised by the riders involved improved signage needed in some areas and the low speed limit while on the roadways being a concern.

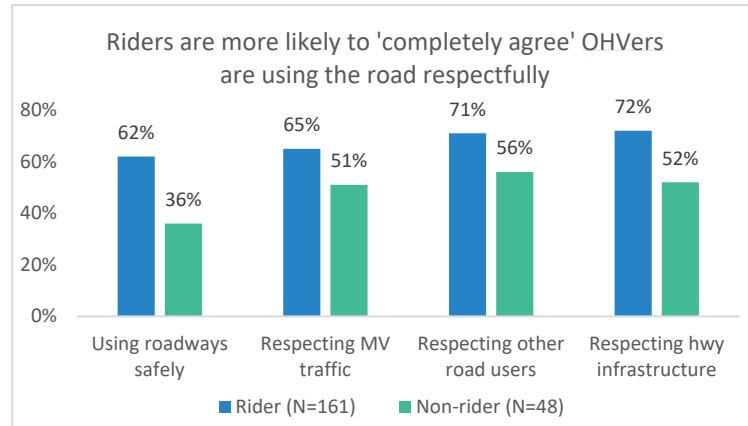
2.4 Community Survey

The community survey was developed to capture input from the general public living near the Pilot sites. Despite outreach efforts through established networks, there was only modest survey uptake among non-OHV rider community members. The survey attracted mostly riders (74% vs 26% non-riders) so there may be some overlap between the respondents of the community survey and the OHV rider survey. Two thirds (68%) of the respondents lived near one of the Pilot communities, and almost half of these lived in or near the Porter’s Lake site specifically. The local municipal councillor’s support in promoting the OHV surveys (e.g., posting on 24 Facebook pages) likely contributed to the geographic concentration of responses.

Overall, there was strong support for the Pilot in the community survey. Both riders and non-riders reported that the Pilot created valuable connections to other trails (97% and 83% respectively) and to local amenities (91% and 75%).

The majority of riders that responded to the community

survey completely agree they are using the roadways safely (62%); and are respecting motor vehicle traffic (65%), other road users such as pedestrians and cyclists (71%), and highway infrastructure (72%). While non-riders do not feel as strongly that OHVs ride safely (36%), more than half still completely agree OHVs are respectful of other traffic (51% motor vehicles, 56% other road users) and the infrastructure (52%).

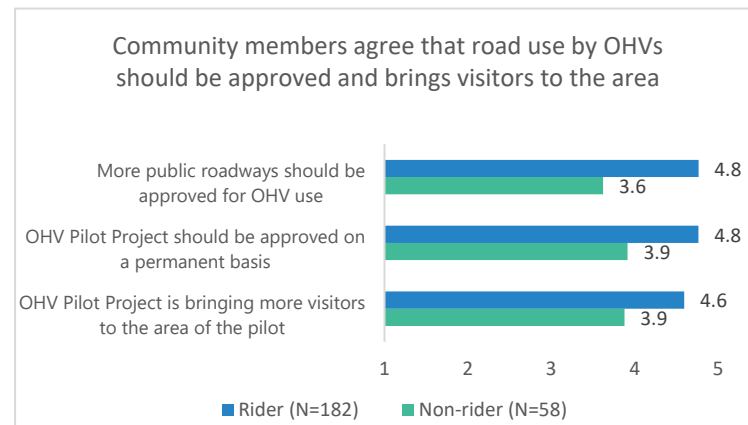


Some community members expressed concerns about safety, property damage, substance use and a lack of enforcement. Suggestions for improvement included increasing the visibility of OHV signage, a better public awareness campaign, adding safety features on OHVs, and stronger enforcement of regulations. A small percentage of community survey respondents (6%) revealed they experienced a 'close call' within a Pilot area.

Average scores on a scale of 1 to 5 indicate there was overall community agreement that the Pilot is bringing visitors to the area; and should be approved on a permanent basis and expanded for more roads by both riders and non-riders.

Concerns raised by community members were related to driver behaviour and attitude

regarding respect for private property by a minority of riders.



2.5 Business Survey

Overall, representatives of local businesses rated OHV drivers and the Pilot Project positively. While most businesses did not report a change in sales, one grocery retailer speculated that the lack of change in sales might be attributed to the fact that OHVs have always been riding their vehicles in the Pilot areas, even before the Pilot was in place.

There was strong support for the Pilot and OHV drivers as noted by businesses approving the OHV Pilot on a permanent and expanded basis (average score of 4.4 and 4.07 respectively on a five-point scale). Businesses found the Pilot to be beneficial because it attracts visitors and rallies to their communities.

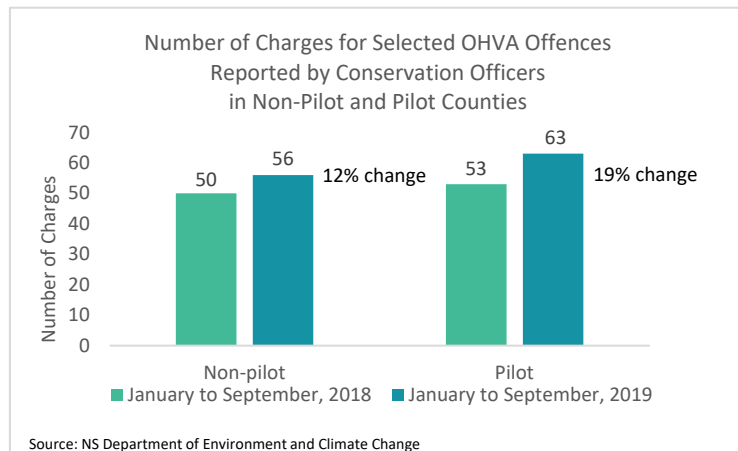


While overall feedback on the Pilot from businesses was very positive, a couple of areas of improvement were noted. Although most businesses did not believe that there were any challenges resulting from the Pilot, 28% were concerned that OHV drivers do not drive safely and 11% wanted to see better enforcement of regulations.

2.6 Administrative Data

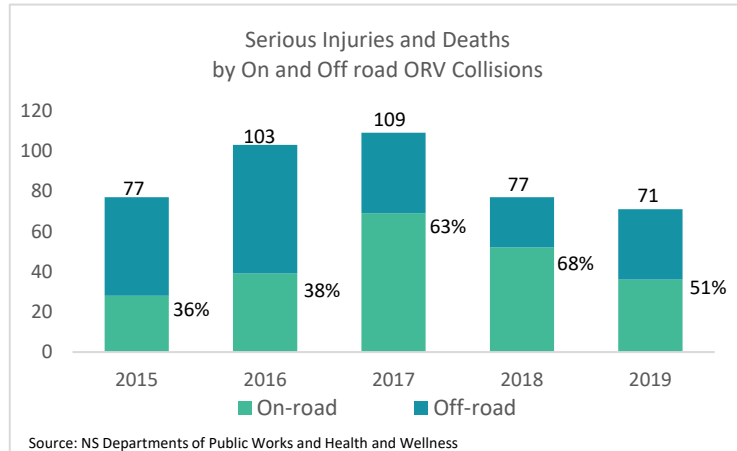
Government’s administrative data provided insights into several trends in OHVA offences and ORV-related serious injuries or deaths.

While warnings issued by Conservation Officers across the provinces decreased by 18%, the number of charges issued increased by 16% when comparing the first nine months of 2018 to same time in 2019. Counties with Pilot sites were more likely to experience a higher increase in the number of charges issued (19%). Data from the Department of Justice reflecting select OHVA charges issued by both RCMP, and the Conservation Officers also increased more in counties with Pilot sites, as compared to counties without a Pilot site (84% vs. 36%).



Whether warnings or charges, the top offences of ORV drivers for January to September of 2018 and 2019 were operating on a highway, shoulder or median; not wearing a helmet; driving without a permit; driving without appropriate insurance; and not displaying an identification number.

Although the number of serious injuries and deaths caused by ORV collisions has decreased in the past couple of years, the proportion that are occurring on-roads has increased. On average over the past five years, 62 serious injuries or deaths occurred annually in Nova Scotia. On average, 45 of these occurred on-roads. Riders in the 36 to 55 age group were most likely to experience serious injury or death overall, while those 16 to 25 were slightly more likely than the other age groups to have serious injuries or death when the ORV collision occurred on-roads.



In summary, the correlation between government’s administrative data and the OHV Pilot is inconclusive. For example, while more charges tended to be issued in counties with a Pilot site and for illegally using the shoulder/road, data constraints preclude directly connecting this to the Pilot. The steady increase in the number of OHVs registered in the province is also a consideration. However, it can be definitively stated that there were no serious collisions at the Pilot sites. This positive outcome could be the combined result of Pilot highway warning signs and road safety conditions related to Pilot site selection criteria and the roadway driving rules set by Public Works.

3 SUMMARY OF FINDINGS

Keeping in mind the data nuances previously noted in the methodology section, the Pilot was largely viewed positively by field staff, businesses, riders and community members. It was seen to enhance trail connectivity and access to services for OHV riders without significant degradation of the pavement surface in most locations.

The Pilot was viewed by many stakeholders to alleviate major safety concerns. The Pilot sites were used appropriately by most OHV riders. Criteria for site selection, highway signage at the Pilot sites, and road safety rules were seen to contribute to the Pilot’s success. Also, there were no charges for road safety violations, or serious injuries or deaths at a Pilot site.

The Pilot was largely endorsed by local businesses. In general, businesses at the sites designed to permit access to amenities, reported benefiting from OHVs visiting their establishments, as did other businesses in the vicinity of all the sites. However, it is challenging to quantify the economic impact on communities through this evaluation due to respondent difficulty in providing precise estimates of changes in business levels.

Although not immediately in the vicinity of the Pilot sites, some tourism businesses in the Province have a strong niche with OHV riders. Further development of OHV activity would enhance tourism business opportunities (e.g. OHV tour companies, accommodations, campgrounds, restaurants, outfitters, etc.). An example of a destination that has more fully developed this niche was noted in the research and provides a reference point for possible outdoor tourism growth.

Overall, the evaluation evidence suggests that, under the conditions of the Pilot Project:

- The criteria for site selection is appropriate for these four-wheeled OHVs
- There was not significant degradation of the roadway at the Pilot sites
- Although not economically quantifiable, most businesses interviewed benefitted and were supportive of OHV use of public highways in their area
- Under the road safety rules of the Pilot OHVs safely integrated with other road users, and
- There is support for creating additional opportunities for road access. Potential options for future sites were raised by stakeholders and survey participants.

4 FOR FUTURE CONSIDERATION

The OHV evaluation analysis offers the following for future consideration.

Designate the Pilot sites with permanent status.

This option was largely supported by the various evaluation participants. While one stakeholder suggested that OHV driver standards may relax if road access at specific sites becomes permanent, others countered that the Pilot has provided adequate time for the “bar to be raised” for responsible OHV use. Considerations, however, include the legislative effort and timeline to amend the *Motor Vehicle Act* and the *Off-Highway Vehicle Act*.

Designate additional sites.

Similar to the above this option was unanimously supported by stakeholders. This approach would scale the benefits – including economic, social, recreational, and quality of life - associated with the initial Pilot sites. Furthermore, expansion would potentially extend the array of businesses in the network to include accommodation and recreation enterprises while increasing the number of fuel and food related businesses. This would enhance the OHV user experience, attract more tourists and elevate the province’s OHV destination status. The outreach and engagement process offered numerous options for expansion consideration. Discontinuance of road access attracted little support through the outreach and engagement discussions.

Support Enhanced Business Measurement.

As noted above, business representatives were unable to attribute quantifiable changes in their business activity to the OHV Pilot. Measuring business impact could be enhanced, if a future study was conducted, by providing businesses with the opportunity to establish a baseline measure of OHV related activity and impacts, along with a tracking tool to capture activity in real time. This would help address feedback where respondents generally found it difficult to quantify their responses, while more precisely connecting business activity with the Pilot. Data collection of this nature could also be configured to enable economic impact measurement of the Pilot specifically, or the OHV sector generally.

APPENDIX A: SUMMARY OF THE RULES OF THE ROAD FOR OHV PILOT AREAS ONLY

Vehicles Permitted – Four Wheeled OHVs

- All-Terrain Vehicles
- Multi-Purpose Off-Highway Utility Vehicle (i.e., utility side by sides); and
- Recreational Off-Highway Vehicle (i.e., recreational side by sides).

Licensing and Registration

- Registration fees and application processes apply as outlined in the Off-Highway Vehicle Act.
- To operate an OHV on the right of way, the operator must hold a valid driver's license under the Motor Vehicle Act. Drivers holding a learner's licence will not be permitted to take part in the Pilot. For non-residents of Nova Scotia, the equivalent of a Class 5 in their jurisdiction of residence will be required.
- Any OHV accessing Pilot areas must have a number plate affixed to the vehicle; and
- OHVs shall be insured in accordance with Section 15B of the Off-Highway Vehicles Act.

Operation

- When operating in Pilot areas OHVs will be operated at speeds of no more than 25km/h.
- OHVs will only be permitted to travel in Pilot areas from the hours of one-half hour before sunrise to one half hour after sunset; and
- OHVs will be permitted to be driven on the shoulder of the designated highway only in the same direction as traffic using the same side of the highway.

OHVs will be permitted to be driven on roadways in the same direction as traffic using the same side of the highway if:

- One or more of the following exists:
 - There is no shoulder.
 - The shoulder is obstructed.
 - They are preparing to make a left turn across the roadway.
 - The shoulder is not wide enough to be driven with all tires completely off the roadway, or
 - When being driven across a level railway crossing.

- When entering the shoulder or roadway of a designated highway OHVs will be required to yield the right of way to any traffic already using the shoulder or roadway. OHVs will be permitted to enter shoulder only when safe to do so.
- Before commencing a left turn the OHV will be required to (without interfering with traffic) move away from the shoulder or right edge of the roadway and be positioned on the roadway in the position to make a left turn. Upon completing a left turn, the OHV will be required to (without interfering with traffic) move back to the right edge of the roadway or shoulder.
- The Off-Highway Vehicle Act prohibits OHVs from being equipped with turn signals. Therefore, prior to commencing any turn OHVs will be required to indicate the intention to turn following the hand signalling instructions provided in the Motor Vehicle Act.
- OHVs will be required to travel in single file on the shoulders and roadways and are not permitted to pass when riding in Pilot areas; and
- The operation of an OHV on the shoulder or roadway with a passenger younger than 9 years old is prohibited in Pilot areas.

Equipment

- OHVs may only carry passengers aged 9 or older in Pilot areas if the OHV is designed by the original equipment manufacturer to carry both a driver and a passenger; and
- In addition to any other provision in the Pilot regulations, no person will be permitted to operate an OHV in a Pilot area unless it meets all equipment requirements in accordance with the Nova Scotia's Off-Highway Vehicle Act and general regulations.

Road Trails Act

CHAPTER 4 OF THE ACTS OF 2023



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Halifax

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CHAPTER 4 OF THE ACTS OF 2023

**An Act Respecting the Operation of
Off-highway Vehicles on Designated Highways**

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Purpose.....	2
Interpretation.....	3
Application of Motor Vehicle Act and Off-highway Vehicles Act.....	4
Designation of road trail.....	5
Operation on road trail.....	6
Due care and caution.....	7
Licence required.....	8
Must carry and present licence.....	9
Third-party liability insurance.....	10
Assumption of risk.....	11
Seat belts required.....	12
Helmets required.....	13
Passengers under 16.....	14
Lighting requirements.....	15
Side mirror required.....	16
Noise level.....	17
Indication of turns.....	18
Required equipment.....	19
Prohibitions respecting operation.....	20
Prohibitions respecting passengers.....	21
Prohibitions respecting blocking trails.....	22
Operation on shoulder and roadway.....	23
No passing.....	24
Procedure for left turn.....	25
Duties where accident.....	26
Duties where accident causing injury, death or damage.....	27
Reports.....	28
Failure to report and false statements.....	29
Registrar may require copies.....	30
Municipal bylaws.....	31
Powers of peace officer.....	32
Peace officer may stop vehicle.....	33
Seizure of vehicle.....	34
Owner of vehicle liable.....	35
Offences and penalties.....	36
Regulations.....	37
Motor Vehicle Act amended.....	38-40
Off-highway Vehicles Act amended.....	41, 42
Effective date.....	43

Short title

1 This Act may be cited as the *Road Trails Act*. 2023, c. 4, s. 1.

Purpose

2 The purpose of this Act is to enable the operation of off-highway vehicles on designated parts of highways to allow for trail and amenity connectivity. 2023, c. 4, s. 2.

Interpretation

3 In this Act,

“all-terrain vehicle” means a vehicle that is

- (a) equipped with four or more wheels, all of which are normally in contact with the ground;
- (b) equipped with a steering wheel or handlebars for steering control; and
- (c) designed for the transportation of persons, property or equipment exclusively on marshland, open country or other unprepared surfaces,

but does not include a snow vehicle;

“conveyance” means any thing in, on or by which any person or property is or may be transported or drawn on a highway and includes

- (a) a vehicle;
- (b) a bicycle;
- (c) a personal transporter;
- (d) a pedicab;
- (e) a rickshaw;
- (f) an animal being ridden, herded, led or driven;
- (g) an off-highway vehicle;
- (h) a recreational apparatus; and
- (i) any other thing prescribed by the regulations,

but does not include a mobility aid;

“designated trail” means a trail or any part of a trail on public or private land designated under subsection 12D(1) of the *Off-highway Vehicles Act*;

“ditch” means the area between the boundary of a highway and the line of the shoulder farthest removed from the travelled portion of the highway;

“driver” includes the operator of an off-highway vehicle and, where applicable, the operator of any vehicle;

“highway” means

- (a) a public highway, street, lane, road, alley, park, beach or place including the bridges thereon; and
- (b) private property that is designed to be and is accessible to the general public for the operation of a motor vehicle;

“Minister” means the Minister assigned responsibility for this Act;

“municipality” means a town, a county or district municipality or a regional municipality;

“off-highway vehicle” means

- (a) an all-terrain vehicle;
- (b) a dirt bike;
- (c) a dune buggy;
- (d) a four-wheel-drive or low-tire-pressure vehicle;
- (e) a snow vehicle; or
- (f) a vehicle belonging to a class of vehicles designated as off-highway vehicles by the regulations,

but does not include a vehicle registered under the *Motor Vehicle Act* or a vehicle or class of vehicles exempted from this Act by the regulations;

“peace officer” includes a member of the Royal Canadian Mounted Police, a police officer appointed by a municipality, a motor vehicle inspector appointed under the *Motor Vehicle Act* or the *Motor Carrier Act* and a conservation officer as defined in the *Forests Act*;

“Registrar” means the Registrar appointed under the *Motor Vehicle Act*;

“road trail” means the shoulder and travelled portion of a highway designated under Section 5 or by a municipal bylaw, but does not include a ditch;

“seat belt” means a device or assembly securely fastened to the off-road vehicle by the vehicle manufacturer, composed of straps, webbing or similar material and includes a pelvic restraint or an upper torso restraint, or both of them, capable of restraining the movement of a person in order to prevent or mitigate injury to the person;

“sheriff” means a sheriff as defined in the *Motor Vehicle Act*;

“snow vehicle” means a vehicle designed for the transportation of persons, property or equipment exclusively or chiefly on snow or ice, or both;

“vehicle” means any vehicle or other conveyance to which the *Motor Vehicle Act* applies. 2023, c. 4, s. 3.

Application of Motor Vehicle Act and Off-highway Vehicles Act

4 (1) Subject to subsection (2), in the event of a conflict between this Act and the *Motor Vehicle Act* or the *Off-highway Vehicles Act*, this Act prevails.

(2) In the event of a conflict between this Act and the regulations made under Section 307 of the *Motor Vehicle Act* authorizing a project, those regulations prevail.

(3) Except as otherwise provided in this Act, the *Motor Vehicle Act* and the regulations made under that Act applicable to motor vehicles apply to

the operation of an off-highway vehicle on a road trail, except those provisions that by their very nature can have no application. 2023, c. 4, s. 4.

Designation of road trail

5 (1) The Minister may by regulation, with the approval of the Minister of Public Works, designate a highway or part of a highway as a road trail.

(2) A municipality may, by bylaw, designate a highway or part of a highway that is not a road owned by the Crown in right of the Province as a road trail.

(3) A designation under subsection (1) or (2) may not include a controlled-access highway or part of a controlled-access highway. 2023, c. 4, s. 5.

Operation on road trail

6 (1) Notwithstanding Section 11 of the *Motor Vehicle Act*, a driver may operate an all-terrain vehicle, a dirt bike, or another off-highway vehicle of a class prescribed by the regulations, on a highway or part of a highway that is designated as a road trail under Section 5, if the driver meets all requirements under this Act and the *Off-highway Vehicles Act*.

(2) For greater certainty, nothing in this Act allows an off-highway vehicle to be operated on the roadway or shoulder of a controlled-access highway. 2023, c. 4, s. 6.

Due care and caution

7 Every driver of an off-highway vehicle on a road trail shall exercise due care and caution at all times when operating the vehicle. 2023, c. 4, s. 7.

Licence required

8 No driver shall operate an off-highway vehicle on a road trail unless that driver is the holder of a valid driver's licence issued under the *Motor Vehicle Act* that is not a learners class driver's licence. 2023, c. 4, s. 8.

Must carry and present licence

9 Every driver shall carry the driver's valid driver's licence at all times when operating an off-highway vehicle on a highway and shall produce the licence at all reasonable times on the demand of a peace officer. 2023, c. 4, s. 9.

Third-party liability insurance

10 (1) No driver shall operate an off-highway vehicle on a road trail unless that driver carries third-party liability insurance in at least the amount required by the regulations.

(2) A driver shall carry proof of insurance at all times while operating an off-highway vehicle on a road trail and shall produce the proof of insurance at all reasonable times on the demand of a peace officer. 2023, c. 4, s. 10.

Assumption of risk

11 (1) Notwithstanding any other enactment, a driver or passenger on an off-highway vehicle on a road trail is deemed to have willingly assumed all risks related to the operation of the vehicle on the road trail.

(2) For greater certainty, neither the Minister, the Crown in right of the Province, nor any department or official of the Government nor any municipality is liable for any damage, death or injury resulting from the operation of an off-highway vehicle on a road trail. 2023, c. 4, s. 11.

Seat belts required

12 (1) Where an off-highway vehicle is equipped with a seat belt, each driver and passenger for whom a seat belt is available shall wear the seat belt at all times while the vehicle is being operated on a road trail, other than when the vehicle is in reverse.

(2) No person shall remove or disable a seat belt on an off-highway vehicle that was installed by the manufacturer as original equipment. 2023, c. 4, s. 12.

Helmets required

13 Every driver and passenger on an off-highway vehicle shall wear a helmet that meets the requirements set out in the regulations and with the chin strap of the helmet securely fastened under the chin at all times while the vehicle is on a road trail. 2023, c. 4, s. 13.

Passengers under 16

14 A driver shall not permit a passenger under the age of 16 years to be a passenger on an off-highway vehicle on a road trail unless the passenger is wearing a seat belt as required by subsection 12(1) and a helmet as required by Section 13. 2023, c. 4, s. 14.

Lighting requirements

15 (1) An off-highway vehicle operated on a road trail must be equipped with headlamps and a rear-facing red light that meet the requirements set out in the regulations.

(2) Headlamps must be activated at all times while an off-highway vehicle is being operated on a road trail.

(3) No off-highway vehicle operated on a road trail may be equipped with front-facing red lights.

(4) Nothing in this Section applies to a vehicle used in an official purpose by

- (a) a police department;
- (b) a fire department;
- (c) the Department of Natural Resources and Renewables;

or

- (d) an entity prescribed by the regulations. 2023, c. 4, s. 15.

Side mirror required

16 An off-highway vehicle must be equipped with a left-hand side mirror that meets the requirements set out in the regulations while the vehicle is being operated on a road trail. 2023, c. 4, s. 16.

Noise level

17 No driver shall operate an off-highway vehicle if the noise level of the vehicle is higher than the level originally set by the manufacturer because of the removal of the muffler or other noise-dampening device or the modification of the muffler or other noise-dampening device so as to increase the noise level. 2023, c. 4, s. 17.

Indication of turns

18 The driver of an off-highway vehicle shall, while the vehicle is on a road trail,

(a) where the vehicle is not equipped with turn signal lights, signify

(i) a left turn by extending the driver's left hand and arm horizontally from the vehicle, and

(ii) a right turn by either

(A) extending the driver's left hand and arm out and upward from the vehicle so that the upper and lower parts of the arm are at right angles, or

(B) extending the driver's right hand and arm out horizontally from the vehicle;

(b) where the vehicle is equipped with signal lights that are visible from behind and in front of the vehicle, signify a right or left turn by either

(i) activating the appropriate turn signal light, or

(ii) extending the driver's hand and arm as described in clause (a); and

(c) signify a stop or decrease in speed by extending the driver's left hand and arm out and downward from the vehicle so that the upper and lower parts of the arm are at right angles, unless the vehicle is equipped with a visible red light at the rear that is activated when the driver operating the vehicle applies the brakes. 2023, c. 4, s. 18.

Required equipment

19 An off-highway vehicle being operated on a road trail must be equipped with any equipment prescribed by the regulations as being required for an off-highway vehicle of its class. 2023, c. 4, s. 19.

Prohibitions respecting operation

20 (1) No driver shall operate an off-highway vehicle on a highway unless the driver is

- (a) operating the vehicle lawfully on a road trail; or
- (b) permitted to operate the vehicle on a highway under the *Off-highway Vehicles Act* or the regulations made under that Act.

(2) Where the use of a road trail is restricted to a class or classes of off-highway vehicle, no driver shall operate an off-highway vehicle of a non-permitted class on the road trail.

(3) Where a road trail is restricted

- (a) for use only at certain times of day or certain times of year; or
- (b) for use by a class or classes of off-highway vehicle only at certain times of day or certain times of year,

no driver shall operate an off-highway vehicle in contravention of those restrictions.

(4) No driver shall travel in a bicycle lane while operating an off-highway vehicle.

(5) No driver shall use an off-highway vehicle to tow another vehicle on a road trail.

(6) No driver shall operate an off-highway vehicle on a road trail at a rate of speed greater than 25 kilometres per hour.

(7) No driver shall operate an off-highway vehicle on a road trail in the period between 30 minutes after sunset and 30 minutes before sunrise. 2023, c. 4, s. 20.

Prohibitions respecting passengers

21 (1) No driver shall operate an off-highway vehicle on a road trail with a passenger who is under nine years of age.

(2) No driver shall use an off-highway vehicle to transport a passenger on a road trail unless the driver and passenger meet all requirements prescribed by the regulations and the vehicle is equipped with the equipment prescribed by the regulations. 2023, c. 4, s. 21.

Prohibitions respecting blocking trails

22 (1) No person shall stand or park any vehicle in a manner that blocks others from accessing or leaving a designated trail or a road trail from a highway.

(2) No person shall erect any barrier, obstacle or structure that blocks others from accessing or leaving a designated trail or a road trail from a highway. 2023, c. 4, s. 22.

Operation on shoulder and roadway

- 23** (1) The driver of an off-highway vehicle on a road trail shall
- (a) drive in the same direction as the traffic using the same side of the highway;
 - (b) drive on the shoulder of the highway, except as provided in subsection (2); and
 - (c) when driving on the shoulder of a highway, drive as close to and parallel with the right edge of the shoulder as is safely and practicably possible.

(2) The driver of an off-highway vehicle may operate the vehicle on a roadway that is a road trail if

- (a) the highway does not have a shoulder;
- (b) the shoulder of the highway is insufficiently wide for the off-highway vehicle to be driven completely off the roadway;
- (c) the shoulder is obstructed; or
- (d) the driver is preparing to make a left turn across the roadway.

(3) When the driver of an off-highway vehicle operates the vehicle on a roadway as permitted under subsection (2), the vehicle must be driven as much on the shoulder as practicably possible and, where the vehicle is on or partially on the roadway, as close to and parallel with the right edge of the roadway as is safely and practicably possible.

(4) When entering a roadway or shoulder, the driver of an off-highway vehicle shall yield the right of way to any traffic already in the roadway or shoulder and may only enter the roadway or shoulder when it is safe to do so.

(5) Except when passing a vehicle, including another off-highway vehicle, the driver of an off-highway vehicle on a road trail shall travel in single file with other vehicles.

(6) Notwithstanding subsections (1) and (2), the driver of an off-highway vehicle shall drive the vehicle on the roadway when crossing a level railway crossing that intersects a road trail. 2023, c. 4, s. 23.

No passing

24 The driver of an off-highway vehicle on a road trail shall not pass any moving vehicle travelling on the same shoulder or the roadway. 2023, c. 4, s. 24.

Procedure for left turn

25 (1) Before beginning a left turn, the driver of an off-highway vehicle on a highway must, without interfering with the flow of traffic travelling in the same direction as the vehicle, move away from the shoulder or the right edge of the roadway and be positioned on the roadway in the position from which the left turn is to be made.

(2) After completing a left turn from a highway to another highway, the driver of an off-highway vehicle shall, without interfering with the movement of traffic travelling in the same direction as the vehicle, move to the right edge of the roadway or the shoulder. 2023, c. 4, s. 25.

Duties where accident

26 (1) The driver of an off-highway vehicle directly or indirectly involved in an accident on a road trail shall immediately stop the vehicle at the scene of the accident.

(2) The driver of an off-highway vehicle involved in an accident on a road trail resulting in injury or death to any person or damage to property shall

(a) give the driver's name, address and the registration number, if any, of the driver's vehicle and exhibit the driver's licence of the driver to the person struck or to the driver or occupants of any vehicle collided with or to a witness; and

(b) render to any person injured in the accident reasonable assistance, including the carrying of the injured person to a physician or surgeon for medical or surgical treatment if it is apparent that treatment is necessary or is requested by the injured person and the vehicle is capable of transporting the injured person in a safe manner without causing additional injury.

(3) When an accident on a road trail results in damage to an unattended vehicle or to property upon or adjacent to a highway or designated trail, the driver of every off-highway vehicle involved in the accident shall

(a) take reasonable steps to locate and notify the owner of, or a person who has control over, the unattended vehicle, or the property, of the circumstances of the accident; and

(b) give to the owner or person the name, address and driver's licence number of the driver and the registration number of the vehicle, if any.

(4) Where the driver of the off-highway vehicle involved in an accident is unable to locate and notify the owner or person who has control over the unattended vehicle or the property, the driver shall within 24 hours after the accident give to the chief of police or any regular member of the police force in the case of an accident occurring in a municipality with a police force, or the nearest detachment of the Royal Canadian Mounted Police in the case of an accident occurring elsewhere, the information required by subsection (3) together with a description of the unattended vehicle or the property. 2023, c. 4, s. 26.

Duties where accident causing injury, death or damage

27 (1) The driver of an off-highway vehicle involved in an accident resulting in injury or death to a person, or property damage to an apparent extent of \$2,000 or more, shall, within 24 hours,

(a) where the accident takes place within a municipality with a police force, forward a written report of the accident, or report the accident in person to the nearest detachment of the Royal Canadian

Mounted Police, or to the chief of police or any regular member of the police force of the municipality; or

(b) where the accident takes place other than within a municipality with a police force, forward a written report of the accident or report the accident in person to the nearest detachment of the Royal Canadian Mounted Police.

(2) Where the driver of the off-highway vehicle is physically incapable of making a report, and there is a passenger of the vehicle, the passenger shall make the report.

(3) Copies of any report made under subsection (1) must be transmitted by the person receiving the report to the Registrar and to the Provincial Traffic Authority within 24 hours of receiving the report.

(4) Any peace officer who is a witness to or who investigates any accident in which an off-highway vehicle upon a highway is involved, whether or not required to be reported under this Section, shall forward to the Registrar, in addition to any other report that may be required under this Section, a report containing

- (a) full particulars of the accident;
- (b) the names and addresses of the persons involved;
- (c) the extent of the personal injuries or property damage, if any;
- (d) whether an information has been laid against a driver in connection with the accident; and
- (e) any other information that may enable the Registrar to determine whether any driver involved in or contributing to the accident should be prosecuted.

(5) The Registrar may require any person involved in an accident, or having knowledge of an accident, or the parties thereto, or of any personal injuries or property damage resulting therefrom, to furnish, and any peace officer to secure, any additional information and make any supplementary reports of the accident as the Registrar may deem necessary to complete the Registrar's records, and to establish, as far as possible, the cause of the accident, the persons responsible, and the extent of the personal injuries and property damage, if any, resulting therefrom.

(6) Except as provided in subsections 28(1) and (3), all reports made under this Section are for the information only of

- (a) the Registrar;
- (b) the Department of Public Works;
- (c) where there is no vehicle safety division of the Department, the vehicle safety division of any department of the Government;
- (d) the police force to which the reports are made; and

(e) the vehicle safety division of the municipality to which the reports are made, and no report or any part thereof or any statement contained therein is open to public inspection or admissible in evidence in any trial, civil or criminal, arising out of the accident except as evidence that the report has been made or in connection with a prosecution for making a false statement therein in violation of Section 28. 2023, c. 4, s. 27.

Reports

28 (1) Where a person, an insurance company or the Crown in right of the Province has paid or may be liable to pay for damages resulting from an accident in which an off-highway vehicle is involved, the person, the insurance company or a public officer responsible for risk management for the Government of the Province, as the case may be, and any solicitor, agent or other representative of the person, company or public officer authorized by the person, company or public officer in writing, may obtain from the Registrar a copy of any report made under this Section and, in furnishing a copy of the report, the Registrar is authorized, subject to subsection (2), to disclose any personal information contained in the report.

(2) Before furnishing a copy of a report under subsection (1), the Registrar shall remove from the report any personal information that the Registrar considers to be appropriate to remove.

(3) The Registrar may provide data derived from reports made under this Section to any person conducting research respecting traffic safety or off-highway vehicle safety.

(4) A medical examiner or other official performing like functions shall make a report to the Registrar with respect to any death found to have been the result of an accident involving an off-highway vehicle on a road trail.

(5) The Registrar may require an insurer or other person who pays damages for injury to person or property caused by an off-highway vehicle on a road trail to report the same to the Department of Public Works within seven days after the date of payment and to furnish proof thereof if required by the Department. 2023, c. 4, s. 28.

Failure to report and false statements

29 (1) Any person who fails to report or furnish any information or written statement required by Section 27 or 28 is guilty of an offence.

(2) Every person who knowingly makes any false statement in any report made under Section 27 or 28 is guilty of an offence. 2023, c. 4, s. 29.

Registrar may require copies

30 Notwithstanding the *Personal Health Information Act*, the Registrar may require copies of medical and other reports relating to any incident that occurs on a highway involving an off-highway vehicle to be provided to the Registrar. 2023, c. 4, s. 30.

Municipal bylaws

31 (1) The council of a municipality may make bylaws regulating the operation of off-highway vehicles on road trails designated under subsection 5(2).

(2) A bylaw made under subsection (1) may

(a) restrict the use of a road trail to a class or classes of off-highway vehicles;

(b) restrict the times of day or times of year a road trail may be used, including restricting the times of day or times of year the road trail may be used by certain classes of off-highway vehicles;

(c) prescribe a maximum rate of speed lower than 25 kilometres per hour for the operation of off-highway vehicles on road trails within the municipality or within a specified area of the municipality;

(d) establish speed and noise restrictions for the operation of off-highway vehicles on road trails within a specified distance of certain buildings, types of buildings or areas;

(e) establish traffic rules and restrictions, not less restrictive than those in this Act or the regulations, respecting the operation of off-highway vehicles on specific roads, intersections and road infrastructure;

(f) create offences and prescribe penalties for the violation of bylaws made under this Section.

(3) A municipality shall publicize any designation made under Section 5 or restriction made under clause (2)(a) or (b) in a matter determined by the municipality. 2023, c. 4, s. 31.

Powers of peace officer

32 (1) A peace officer may enforce this Act on any highway or designated trail.

(2) A peace officer may enforce

(a) any enactment, including the *Motor Vehicle Act*, the *Motor Carrier Act* and the *Off-highway Vehicles Act*; and

(b) any municipal bylaw

that relates to the operation of an off-highway vehicle on a highway or designated trail. 2023, c. 4, s. 32.

Peace officer may stop vehicle

33 (1) A driver shall stop an off-highway vehicle on the direction of a peace officer.

(2) A peace officer may stop an off-highway vehicle for the purpose of determining whether this Act, the *Motor Vehicle Act*, the *Motor Carrier Act*, the *Off-highway Vehicles Act*, the *Liquor Control Act*, the *Cannabis Control Act* or a municipal bylaw has been contravened. 2023, c. 4, s. 33.

Seizure of vehicle

34 (1) A peace officer may seize an off-highway vehicle if the peace officer has reasonable and probable grounds to believe that an offence has been committed under this Act, the *Motor Vehicle Act* or the *Off-highway Vehicles Act* and may detain the vehicle until the final disposition of the case at trial or any charges are otherwise disposed of, if the peace officer has reasonable and probable grounds to believe the seizure and detention is necessary to prevent the continuation or repetition of the offence.

(2) Where an off-highway vehicle is seized and detained under this Act, the costs of impounding and storing it must be paid by the person to whom the vehicle is to be released before it is released.

(3) Where the costs of impounding and storing an off-highway vehicle under this Act have not been paid within 30 days of the final disposition as provided in subsection (1), the sheriff shall sell the vehicle in the same manner and in all respects as other goods are sold under execution.

(4) The sheriff shall pay from the money recovered under subsection (3)

(a) the sheriff's fees, commission and poundage expenses;
and

(b) the costs of impounding and storing the off-highway vehicle,

and any surplus that remains to the person entitled thereto.

(5) Where money is levied upon an execution under this Section, the *Creditors' Relief Act* does not apply to the portion of the money obtained by the levying on and selling of the off-highway vehicle under the execution. 2023, c. 4, s. 34.

Owner of vehicle liable

35 (1) The owner of an off-highway vehicle is liable to incur the penalties provided for a violation of this Act or the regulations unless, at the time of the violation, the off-highway vehicle was in the possession of a person without the owner's consent, either expressed or implied.

(2) Where the owner of an off-highway vehicle is present on or in the vehicle at the time of the violation of a provision of this Act or the regulations by another person operating that vehicle, the owner as well as the operator is guilty of the offence. 2023, c. 4, s. 35.

Offences and penalties

36 (1) A person who violates Section 8 or subsection 15(1) or 22(1) or (2) is guilty of an offence and liable on summary conviction to the penalties provided for a category A offence in the *Summary Proceedings Act*.

(2) A person who violates subsection 12(1) or (2), Section 14 (where the offence relates to a failure to wear or require a person to wear a seat belt), subsection 15(2) or Section 18 is guilty of an offence and liable on summary

conviction to the penalties provided for a category B offence in the *Summary Proceedings Act*.

(3) A person who violates subsection 15(3) or Section 16 or 17 is guilty of an offence and liable on summary conviction to the penalties provided for a category C offence in the *Summary Proceedings Act*.

(4) A person who violates Section 8 or subsection 20(1), (2) or (3) is guilty of an offence and liable on summary conviction to the penalties provided for a category D offence in the *Summary Proceedings Act*.

(5) A person who violates Section 7 or 10, subsection 20(5), (6) or (7) or Section 23 is guilty of an offence and liable on summary conviction to the penalties provided for a category F offence in the *Summary Proceedings Act*.

(6) A person who violates Section 13 or 14 (where the offence relates to a failure to wear or require a person to wear a helmet), or subsection 21(1) or Section 25 is guilty of an offence and liable on summary conviction to double the penalties provided for a category F offence in the *Summary Proceedings Act*.

(7) A person who violates subsection 20(4) or Section 26, 27 or 29 is guilty of an offence and liable on summary conviction to the penalties provided for a category G offence in the *Summary Proceedings Act*.

(8) A person who violates a provision of the regulations is guilty of an offence and liable on summary conviction to the penalties provided for that offence in the regulations. 2023, c. 4, s. 36.

Regulations

- 37 (1) The Minister may make regulations
- (a) designating a highway or part of a highway as a road trail;
 - (b) restricting the use of a road trail to a class or classes of off-highway vehicles;
 - (c) restricting the conditions, times of day or times of year a road trail may be used, including restricting the times of day or times of year a road trail may be used by certain classes of off-highway vehicles;
 - (d) respecting equipment that must be installed on an off-highway vehicle for it to be allowed for use on a road trail, including prescribing different equipment that must be installed on different classes of off-highway vehicle;
 - (e) respecting equipment that must be installed on an off-highway vehicle for the vehicle to be used to transport a passenger on a road trail, including prescribing different equipment that must be installed on different classes of off-highway vehicle;
 - (f) establishing or adopting standards for equipment and helmets required under this Act.

(2) Regulations made under subsection (1) may adopt by reference or otherwise standards or specifications established or approved by the Canadian Standards Association or other testing organization with or without modifications or variations or may require that any equipment conforms to the standards or specifications established or approved by the Canadian Standards Association or other testing organization or bear the approval of the Canadian Standards Association or other testing organization.

(3) The Minister of Public Works must consent to any designation made under clause (1)(a).

(4) The Governor in Council may make regulations

- (a) prescribing a thing as a conveyance;
- (b) designating a class of vehicles as off-highway vehicles;
- (c) designating a class of off-highway vehicles as a class that may be operated on a road trail;
- (d) prescribing additional restrictions on the operation of a class of off-highway vehicles on road trails;
- (e) respecting the operation of off-highway vehicles or classes of off-highway vehicles on municipal roads;
- (f) respecting third-party liability insurance required for the operation of an off-highway vehicle on a road trail;
- (g) prescribing entities to whose vehicles Section 14 does not apply;
- (h) expanding or restricting the powers of municipalities to make bylaws under this Act;
- (i) respecting fines, including setting categories of fines and fines for specific offences against this Act or the regulations;
- (j) defining any term used but not defined in this Act;
- (k) further defining any term defined in this Act;
- (l) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out the purpose of this Act.

(5) The exercise by the Minister or the Governor in Council of the powers contained in this Section is a regulation within the meaning of the *Regulations Act*. 2023, c. 4, s. 37.

Motor Vehicle Act amended

38 to 40 *amendments*

Off-highway Vehicles Act amended

41 and 42 *amendments*

Effective date

43 This Act has effect on such day as the Governor in Council orders and declares by proclamation. 2023, c. 4, s. 43.

Proclaimed - September 27, 2023
In force - September 29, 2023

Off-highway Vehicles Act

CHAPTER 323 OF THE REVISED STATUTES, 1989

as amended by

2002, c. 5, s. 46; 2005, c. 56; 2010, c. 2, s. 136



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CHAPTER 323 OF THE REVISED STATUTES, 1989
amended 2002, c. 5, s. 46; 2005, c. 56; 2010, c. 2, s. 136

**An Act to Regulate
Off-highway Vehicles**

Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation.....	2
Permit.....	3
Prohibition.....	4
Production of permit.....	5
Dealer's permit.....	6
Sale or transfer.....	7
Notice by dealer to Registrar of transfer.....	7A
Proof of payment of sales tax.....	8
Requirement for dealer's licence.....	9
Requirement for helmet.....	10
Operation by persons under 14.....	11
Off-highway vehicle safety training.....	11A
Prohibited operation on highway.....	12
Wetland, watercourse, dune, barren or other sensitive area.....	12A
Beach, core habitat, park or protected or ecological site.....	12B
Wilderness area.....	12C
Designated trails.....	12D
Off-highway vehicle rallies.....	12E
Drinking-water supply area.....	12F
Emergency operations.....	13
Permission of owner or occupier.....	14
Voluntary assumption of risks.....	14A
No prescriptive rights.....	14B
Required and prohibited lamps.....	15
Noise.....	15A
Liability insurance.....	15B
Manner of operation.....	16
Direction of peace officer.....	17
Off-highway Vehicle Infrastructure Fund.....	17A
Offence and penalty.....	18
Seizure and detention.....	19
Failure to identify person in charge.....	20
Liability of registered owner.....	21
Search of records.....	22
Prima facie proof.....	23
Deemed signature.....	24
Regulations.....	25

Short title

1 This Act may be cited as the *Off-highway Vehicles Act*. R.S., c. 323, s. 1.

Interpretation

2 In this Act,

(a) “dealer” means a person who in the ordinary course of business sells off-highway vehicles;

(b) “Minister” means the Minister of Transportation and Public Works or such other member of the Executive Council assigned responsibility for this Act;

(c) “occupier” includes

(i) a person who is in possession of land, or

(ii) a person who has responsibility for and control over land or the activities carried on there, or control over persons allowed to enter land,

and there may be more than one occupier of the same land;

(d) “off-highway vehicle” means a

(i) snow vehicle,

(ii) all-terrain vehicle,

(iii) motorcycle,

(iv) mini bike,

(v) four-wheel-drive or low-tire-pressure vehicle,

(vi) dune buggy, or

(vii) vehicle or class of vehicle designated as an off-highway vehicle by regulation,

but does not include

(viii) a vehicle registered pursuant to the *Motor Vehicle Act*,
or

(ix) a vehicle or class of vehicle exempted from the provisions of this Act by the regulations;

(e) “peace officer” includes a member of the Royal Canadian Mounted Police, a police officer appointed by a city, incorporated town or municipality of a county or district, a motor vehicle inspector appointed pursuant to the *Motor Vehicle Act* and a conservation officer as defined in the *Forests Act*;

(f) “permit” means a permit issued pursuant to this Act and includes a temporary permit and a dealer’s permit;

(g) “prescribed” means prescribed by the regulations;

(h) “registered owner” means the person in whose name an off-highway vehicle is registered with the Registrar pursuant to this Act, including a person deemed to be the registered owner pursuant to this Act, or, if the vehicle is not registered, means the owner;

- (i) “Registrar” means the Registrar of Motor Vehicles. R.S., c. 323, s. 2; 2005, c. 56, s. 1.

Permit

- 3** (1) Every person who
- (a) is of the age of majority or who, being less than the age of majority but at least sixteen years of age, produces written permission from that person’s parent or guardian in the form prescribed;
 - (b) produces prescribed documentation; and
 - (c) pays the prescribed fee,

may apply for an off-highway vehicle permit from the Registrar.

(2) The parent or guardian of an owner of an off-highway vehicle who is less than sixteen years of age may apply for an off-highway vehicle permit to be used for that vehicle, and the parent or guardian is the registered owner of any vehicle to which the permit applies.

(3) Where the Registrar is satisfied that an application meets with the requirements of this Section, the Registrar shall issue

- (a) a permit for an off-highway vehicle containing such information as the Registrar determines; and
- (b) an identification number.

(4) The Minister may authorize a dealer or other person designated by the Minister to issue a temporary permit in the form approved by the Minister and subject to conditions stated in the permit or prescribed. R.S., c. 323, s. 3.

Prohibition

- 4** (1) No person shall operate an off-highway vehicle unless
- (a) a permit has been issued in respect of the vehicle; and
 - (b) an identification number assigned to the owner is displayed on the vehicle in the manner prescribed.

(2) Subsection (1) does not apply to an off-highway vehicle owned by a person who does not ordinarily reside in the Province if the vehicle is not kept in the Province for more than ninety consecutive days. R.S., c. 323, s. 4; 2005, c. 56, s. 2.

Production of permit

5 Every operator of an off-highway vehicle shall produce the vehicle permit within twenty-four hours of a demand by a peace officer. R.S., c. 323, s. 5.

Dealer's permit

6 A dealer may apply to the Registrar for a dealer's permit to be displayed in the prescribed manner on an off-highway vehicle which is being demonstrated for sale or resale, service tested or operated for the purpose of the dealer's business. R.S., c. 323, s. 6.

Sale or transfer

7 (1) Where an off-highway vehicle registered pursuant to this Act is sold or transferred by the owner or by operation of law, the owner or person authorized shall

(a) assign the certificate of registration to the purchaser or transferee and notify the Registrar of the sale or transfer immediately; and

(b) remove the identification number and keep it until the expiry date for re-assignment to another vehicle or return it to the Registrar.

(2) A person to whom a registered off-highway vehicle is sold or transferred shall apply to the Registrar for a certificate of registration and shall accompany the application with the certificate of registration assigned to that person and the prescribed fee.

(3) Where an off-highway vehicle registered pursuant to this Act is sold or transferred by the owner and a valid identification number assigned to the transferee is displayed as prescribed, the vehicle is deemed to be registered in the name of the new owner for a period of thirty days from the time of the sale or transfer unless

(a) an application for other registration of the vehicle is sooner made; or

(b) the vehicle is again sold or transferred during that period.

(4) Where the off-highway vehicle is not registered by the new owner within the period referred to in subsection (3), the registration is revoked.

(5) Subject to subsection (6), in the event of the transfer of the title or interest of an owner in and to an off-highway vehicle by reason of the bankruptcy of the owner, execution sale, repossession or other operation of law, the registration is revoked.

(6) Immediately upon the death of the owner of a registered off-highway vehicle, the vehicle is deemed to be registered in the name of the estate of the deceased owner for a period of sixty days unless

(a) an application for other registration of the vehicle is sooner made; or

(b) the vehicle is sold or transferred during that period.

(7) Where no application for registration is sooner made, the off-highway vehicle of the deceased owner is deemed to be unregistered at the expiration of sixty days following that person's death.

(8) Subsections (6) and (7) do not affect the title or interest of any person in the off-highway vehicle or the protection provided by the *Insurance Act* upon the death of an insured vehicle owner. R.S., c. 323, s. 7.

Notice by dealer to Registrar of transfer

7A (1) Every dealer, upon transferring an off-highway vehicle, whether by sale, lease or otherwise, to any person other than a dealer, shall immediately give written notice of the transfer to the Registrar upon the official form provided by the Registrar.

(2) A notice referred to in subsection (1) shall contain the date of the transfer, the names and addresses of the transferor and transferee and such description of the off-highway vehicle as is required in the official form.

(3) The notice referred to in subsection (1) shall be given weekly, monthly or otherwise as the Registrar determines. 2002, c. 5, s. 46.

Proof of payment of sales tax

8 Where an off-highway vehicle registered pursuant to this Act is sold or disposed of, or the title or interest of an owner in and to such a vehicle is transferred by operation of law, and an application for the registration of the vehicle is made, the Registrar may refuse to register the off-highway vehicle unless the applicant provides proof, in a form satisfactory to the Registrar, that tax required to be paid pursuant to the *Health Services Tax Act* in respect of the vehicle has been paid. R.S., c. 323, s. 8.

Requirement for dealer's licence

9 No person shall act as a dealer for off-highway vehicles unless that person has a dealer's licence issued by the Registrar. R.S., c. 323, s. 9.

Requirement for helmet

10 No person shall operate or be a passenger on a

- (a) snow vehicle;
- (b) all-terrain vehicle;
- (c) motorcycle;
- (d) mini bike; or
- (e) vehicle or class of vehicle designated by the regulations,

or a conveyance of a prescribed class towed by an off-highway vehicle unless that person is wearing a helmet that complies with standards determined by or in accordance with the regulations. R.S., c. 323, s. 10; 2005, c. 56, s. 3.

Operation by persons under 16

11 (1) Except as provided in subsections (2) to (4), no person who is under the age of sixteen years shall operate an off-highway vehicle and no person who owns or has control of an off-highway vehicle shall permit the operation of the off-highway vehicle by a person under the age of sixteen years.

(2) An off-highway vehicle may be operated by a person under the age of sixteen years and not under the age of fourteen years if

(a) that person is under the direct supervision of that person's parent or guardian and within the sight of that parent or guardian; and

(b) both the parent or guardian referred to in clause (a) and the person who is under the age of sixteen years are certified as having successfully completed off-highway vehicle safety training in accordance with the regulations.

(3) An off-highway vehicle, other than an all-terrain vehicle, may be operated on private property or, in the case of a snow vehicle, on a trail designated pursuant to this Act for snow vehicles by a person under the age of fourteen years if

(a) that person is under the direct supervision of that person's parent or guardian and within the sight of that parent or guardian;

(b) both the parent or guardian referred to in clause (a) and the person who is under the age of fourteen years are certified as having successfully completed off-highway vehicle safety training in accordance with the regulations; and

(c) the off-highway vehicle does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person under the age of fourteen years and, in any event, has an engine size of less than that prescribed by the regulations.

(4) An off-highway vehicle of a particular class of off-highway vehicle may be operated under the auspices of an organization accredited by the regulations by a person who is under the age of sixteen years on a closed course designed and maintained for that class of off-highway vehicle if

(a) the person is wearing personal protective equipment as prescribed by the regulations;

- (b) the person is certified as having successfully completed off-highway vehicle safety training appropriate for the person's age in accordance with the regulations;
- (c) course rules are enforced;
- (d) the vehicle is operated in a class based upon the person's age, size and ability;
- (e) that person is under the direct supervision of that person's parent or guardian;
- (f) a trained official is present;
- (g) a trained first-responder is present; and
- (h) the off-highway vehicle does not have an engine size in excess of that recommended by the manufacturer for an operator of the age and weight of the person under the age of sixteen years and, in any event, has an engine size of less than that prescribed by the regulations. R.S., c. 323, s. 11; 2005, c. 56, s. 4.

Off-highway vehicle safety training

11A No person who is of the age of sixteen years or more shall operate an off-highway vehicle unless that person is certified as having successfully completed off-highway vehicle safety training in accordance with the regulations. 2005, c. 56, s. 5.

Prohibited operation on highway

12 (1) Except as provided by this Section or as authorized by the Minister pursuant to Section 13 or 12D, no person shall operate an off-highway vehicle upon a highway, upon the shoulder adjoining the travelled portion of a highway or upon the median of a highway.

(2) For the purpose of loading or unloading an off-highway vehicle from a trailer or other vehicle, a person may operate the off-highway vehicle at the side of a highway immediately adjacent to the place of loading or unloading.

(3) A person may drive an off-highway vehicle across a highway at right angles if

- (a) that person stops the off-highway vehicle at the side of the road and yields to all traffic upon the highway approaching so close as to constitute a hazard;
- (b) there is a clear and unobstructed view along the highway for a distance of five hundred feet in each direction; and
- (c) there are no passengers on the off-highway vehicle.

(4) An off-highway vehicle may be operated upon a highway which is impassable with snow if it is not normally maintained by snow removal or

snow clearance equipment and if it is not within the boundaries of a city, incorporated town or village to which the *Village Service Act* applies.

(5) An off-highway vehicle may be operated during daylight hours between the boundary line of a highway and the line of the shoulder farthest removed from the travelled portion of the highway, namely the area commonly known as the “ditch”, with or against the flow of vehicular traffic, but from sunset to sunrise the off-highway vehicle may only be driven in the same direction as the normal flow of the vehicular traffic on that side of the centre line of the highway.

(6) Except as provided in subsections (4) and (5), no person shall operate an off-highway vehicle upon or across the travelled portion of a highway unless that person is the holder of a valid driver’s license issued pursuant to the *Motor Vehicle Act*.

(7) The *Motor Vehicle Act* does not apply to the operation of an off-highway vehicle upon a highway where such operation is authorized in accordance with this Act. R.S., c. 323, s. 12; 2005, c. 56, s. 6.

Wetland, watercourse, dune, barren or other sensitive area

12A (1) No person shall operate an off-highway vehicle in or on

- (a) a wetland, swamp or marsh;
- (b) a watercourse as defined by the *Environment Act*;
- (c) a sand dune;
- (d) a coastal or highland barren; or
- (e) a sensitive area as designated by or defined in the regulations.

(2) Subsection (1) does not apply to

- (a) peace officers in the performance of their duties;
- (b) a frozen watercourse;
- (c) a coastal or highland barren or wetland, swamp or marsh that is covered by compacted or groomed snow of at least thirty centimetres in depth;
- (d) a wetland, swamp or marsh or a watercourse when use is authorized pursuant to the *Environment Act*;
- (e) a coastal or highland barren, a sand dune or a sensitive area when use is authorized by an order or a licence issued pursuant to this Section.

(3) The Minister may authorize emergency operation of an off-highway vehicle in or on a coastal or highland barren, a sand dune or a sensitive

area by an order providing general authority or by an order issued in specific circumstances.

(4) The Minister may, in accordance with the regulations, issue a licence for the operation of an off-highway vehicle in or on a coastal or highland barren, a sand dune or a sensitive area if

- (a) for non-recreational use;
- (b) required to access private land; or
- (c) on a trail or route that is an essential link with a more extensive off-highway vehicle trail network,

and, in the opinion of the Minister, there is no reasonable alternative for such use and the use will have a minimal environmental impact.

(5) A licence issued pursuant to subsection (4) must designate the specific routes on which the off-highway vehicle may be operated.

(6) A licence issued pursuant to subsection (4) may contain such terms and conditions as the Minister considers necessary or advisable for the protection of the environment. 2005, c. 56, s. 7.

Beach, core habitat, park or protected or ecological site

12B No person shall operate an off-highway vehicle

- (a) on a beach as defined by the *Beaches Act*;
- (b) in a core habitat as defined by the *Endangered Species Act*;
- (c) in a provincial park or park reserve as defined by the *Provincial Parks Act*;
- (d) in a protected site or ecological site designated pursuant to the *Special Places Protection Act*,

except as provided by the *Beaches Act*, the *Endangered Species Act*, the *Provincial Parks Act* or the *Special Places Protection Act* or regulations made pursuant thereto. 2005, c. 56, s. 7.

Wilderness area

12C No person shall operate an off-highway vehicle in a wilderness area as defined in the *Wilderness Areas Protection Act* except in accordance with that Act. 2005, c. 56, s. 7.

Designated trails

12D (1) The Minister may, in accordance with the regulations, designate trails for off-highway vehicles, or a class of off-highway vehicles, for the purpose of this Section.

(2) The Minister may enter into an agreement with any person for the purpose of this Section including, without limiting the generality of the foregoing, the management of a trail designated pursuant to this Section.

(3) No person shall operate an off-highway vehicle on a trail designated pursuant to this Section except as authorized by the regulations.

(4) No person shall operate an off-highway vehicle on a trail designated pursuant to this Section unless a trail permit is displayed or carried in accordance with the regulations.

(5) No person shall operate an off-highway vehicle on a trail designated pursuant to this Section unless insured against third-party liability as required by the regulations. 2005, c. 56, s. 7.

Off-highway vehicle rallies

12E (1) No person shall hold or participate in an off-highway vehicle rally unless a permit for the rally has been issued pursuant to this Section.

(2) The Minister may issue a permit for an off-highway vehicle rally in accordance with the regulations.

- (3) No permit shall be issued pursuant to this Section unless
- (a) written permission has been received from the owners or occupiers of all land used by the rally;
 - (b) all necessary precautions to protect the environment have been taken; and
 - (c) local enforcement authorities have been notified of the rally. 2005, c. 56, s. 7.

Drinking-water supply area

12F (1) At the request of the water works operator for a drinking-water supply area, the Minister of Environment and Labour may, for the protection of water quality in the supply area, make an order, consistent with any applicable source-water protection plan, controlling, prohibiting or regulating off-highway vehicle use in the supply area.

(2) No person shall operate an off-highway vehicle in a drinking-water supply area contrary to an order made pursuant to subsection (1). 2005, c. 56, s. 7.

Emergency operations

13 The Minister may authorize emergency operation of an off-highway vehicle on a highway as defined in the *Motor Vehicle Act*, on the shoulder adjoining the travelled portion of the highway or on a highway median by order issued in spe-

cific circumstances or by general authority defining emergency operation for the purpose of this Section. R.S., c. 323, s. 13.

Permission of owner or occupier

14 (1) No person shall operate an off-highway vehicle on a sidewalk, walkway, school grounds, utility service lane, cultivated land, private forest land, campground, golf course, park, playground or any private property, without the written permission of the owner or occupier.

(2) This Section does not apply to

(a) crossing a sidewalk to leave or enter a permanent driveway;

(b) lawful parking, loading or unloading;

(c) authorized construction or maintenance;

(d) and (e) *repealed 2005, c. 56, s. 8.*

(f) an area where the operation of off-highway vehicles is permitted by

(i) *repealed 2005, c. 56, s. 8.*

(ii) a designation of the area for that purpose by the council of a city, incorporated town or municipality of a county or district made with the consent of the owner or occupier.

(3) Written permission for the purpose of subsection (1) may be given by the owner or occupier of land to an individual or through a recognized club or association. R.S., c. 323, s. 14; 2005, c. 56, s. 8.

Voluntary assumption of risks

14A Notwithstanding the *Occupiers' Liability Act*, a person who owns or operates or who is a passenger on an off-highway vehicle on land, with or without the permission of the owner or occupier of the land, is deemed to have willingly assumed all risks related to the ownership or operation of or carriage on the off-highway vehicle except a danger created by the owner or occupier of the land with the deliberate intent of doing harm or damage to the person or property of the owner, operator or passenger. 2005, c. 56, s. 9.

No prescriptive rights

14B No person who operates or who is a passenger on an off-highway vehicle on land, with or without the permission of the owner or occupier of the land, thereby acquires any property rights with respect to the land. 2005, c. 56, s. 9.

Required and prohibited lamps

15 (1) No person shall operate an off-highway vehicle during the period from sunset to sunrise unless the vehicle is equipped

(a) on the front thereof, with at least one lighted lamp exhibiting a white light visible under normal atmospheric conditions from a distance of at least three hundred feet to the front of the vehicle; and

(b) on the rear thereof, with at least one lighted lamp exhibiting a red light visible under normal atmospheric conditions from a distance of at least two hundred feet to the rear of the vehicle.

(2) The lamps referred to in subsection (1) are the only type of lamps permitted on an off-highway vehicle. R.S., c. 323, s. 15.

Noise

15A No person shall operate an off-highway vehicle if the noise level of the vehicle is higher than the level originally set by the manufacturer because of the removal of the muffler or other noise-dampening device or the modification of the muffler or other noise-dampening device so as to increase the noise level. 2005, c. 56, s. 10.

Liability insurance

15B No person shall operate an off-highway vehicle on any land of which the person is not an owner or occupier unless that person carries third-party liability insurance in at least the amount required by the regulations. 2005, c. 56, s. 10.

Manner of operation

16 (1) No person shall operate an off-highway vehicle

(a) without due care and attention;

(b) without reasonable consideration for other persons, including passengers, or property;

(c) at an excessive rate of speed having regard to the conditions existing at the time;

(d) so as to annoy or worry a domestic or farm animal or wildlife.

(2) *repealed, 2005, c. 56, s. 11.*

R.S., c. 323, s. 16; 2005, c. 56, s. 11.

Direction of peace officer

17 A person shall stop an off-highway vehicle on the direction of a peace officer. R.S., c. 323, s. 17.

Off-highway Vehicle Infrastructure Fund

17A (1) There is hereby established a fund to be known as the Off-highway Vehicle Infrastructure Fund.

(2) The Fund consists of

- (a) money acquired by agreement, gift, donation, bequest or contribution;
- (b) income accruing to the Fund; and
- (c) penalties received by Her Majesty in right of the Province pursuant to this Act.

(3) The Minister may expend, in accordance with the *Finance Act*, money from the Fund for

- (a) trail development and maintenance;
 - (b) funding of off-highway vehicle user organizations;
 - (c) projects relating to off-highway vehicle operator health and safety;
 - (d) education and training for operators of off-highway vehicles;
 - (e) any other purpose related to off-highway vehicles.
- 2005, c. 56, s. 12; 2010, c. 2, s. 136.

Offence and penalty

18 (1) Every person who violates a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a penalty of not less than two hundred and fifty dollars or more than two thousand dollars.

(2) Notwithstanding subsection (1), a person who is guilty of a second or subsequent offence is liable to a fine of not less than five hundred dollars or more than two thousand dollars. R.S., c. 323, s. 18; 2005, c. 56, s. 13.

Seizure and detention

19 (1) A peace officer may seize an off-highway vehicle where the peace officer has reasonable and probable grounds to believe that an offence has been committed under this Act and may detain the same until the final disposition of the case at trial or any charges are otherwise disposed of where the peace officer has reasonable and probable grounds to believe the seizure and detention is necessary to prevent the continuation or repetition of the offence.

(2) Where an off-highway vehicle is seized and detained pursuant to this Act, the costs of impounding and storing it shall be paid by the person to whom the off-highway vehicle is to be released before it is released.

(3) Where the costs of impounding and storing an off-highway vehicle pursuant to this Act have not been paid within thirty days of the final disposition as provided in subsection (1), the sheriff shall sell the vehicle in the same manner and in all respects as other goods are sold under execution.

(4) The sheriff shall pay from the money recovered pursuant to subsection (3)

(a) the sheriff's fees, commission and poundage expenses;
and

(b) the costs of impounding and storing the off-highway vehicle,

and any surplus that remains to the person entitled thereto.

(5) Where money is levied upon such execution, the *Creditors' Relief Act* does not apply to such portion of such money as is obtained by the levying on and selling of the off-highway vehicle under the execution. R.S., c. 323, s. 19; 2005, c. 56, s. 14.

Failure to identify person in charge

20 Where the registered owner of an off-highway vehicle wilfully fails to identify the person in charge of the off-highway vehicle at the time at which it is operated in violation of a provision of this Act or the regulations within forty-eight hours of a demand by a peace officer, the registered owner is guilty of an offence. R.S., c. 323, s. 20.

Liability of registered owner

21 (1) The registered owner of an off-highway vehicle is liable to incur the penalties provided for a violation of this Act or the regulations unless, at the time of the violation, the off-highway vehicle was in the possession of a person without the registered owner's consent, either expressed or implied.

(2) Where the registered owner of an off-highway vehicle is present on or in the off-highway vehicle at the time of the violation of a provision of this Act or the regulations by another person operating that off-highway vehicle, the registered owner as well as the operator is guilty of the offence. R.S., c. 323, s. 21.

Search of records

22 The Registrar, or a person who is authorized by the Registrar to do so, may search the registration records of off-highway vehicles and provide the name and address of the registered owner of an off-highway vehicle to a person who applies and pays the prescribed fee. R.S., c. 323, s. 22.

Prima facie proof

23 A certificate purporting to be under the seal of the Registrar stating that a certificate, licence or permit has or has not been issued to a person or that a

person is or is not the person in whose name a certain off-highway vehicle is registered is proof of the matters contained therein, and the certificate shall be received in evidence without proof of the seal or signature or of the official character of the person appearing to have signed it. R.S., c. 323, s. 23.

Deemed signature

24 Where the Minister or the Registrar is required or authorized to sign a document of any kind, the document is and is deemed to be signed where the signing is done by means of engraving, lithographic, stamp or other facsimile signature. R.S., c. 323, s. 24.

Regulations

- 25 (1)** The Governor in Council may make regulations
- (a) respecting the registration of off-highway vehicles and the suspension or revocation of a registration;
 - (b) respecting identification numbers and number plates, and the manner in which they are to be displayed for a class or classes of vehicle;
 - (c) respecting duplicate certificates or replacement registration forms issued pursuant to this Act or the regulations;
 - (ca) respecting off-highway vehicle safety training and certification;
 - (cb) prescribing the maximum engine size for the purpose of Section 11;
 - (cc) respecting the operation of off-highway vehicles on a closed course by persons under the age of sixteen years;
 - (cd) respecting the accreditation of organizations for the purpose of subsection 11(4);
 - (ce) adopting by reference standards for off-highway vehicle safety training;
 - (cf) designating sensitive areas for the purpose of Section 12A;
 - (cg) respecting licences issued pursuant to Section 12A;
 - (ch) respecting trails for off-highway vehicles;
 - (ci) respecting off-highway vehicle rallies;
 - (cj) respecting the recognition of clubs or associations for the purpose of Section 14;
 - (ck) respecting third-party liability insurance required for the operation of an off-highway vehicle;

- (cl) respecting the Off-highway Vehicle Infrastructure Fund;
- (cm) respecting the publication of a handbook respecting off-highway vehicles;
- (d) prescribing forms to be used pursuant to this Act or the regulations;
- (e) prescribing fees to be paid pursuant to this Act or the regulations;
- (f) prescribing standards or adopting standards for helmets to be worn by operators and passengers of off-highway vehicles;
- (g) respecting or prohibiting operation of an off-highway vehicle upon a controlled access highway, upon the shoulder adjoining the travelled portion of a controlled access highway or upon the median of a controlled access highway;
- (h) respecting licences for dealers and the suspension or revocation of licences;
- (i) respecting the bonding of dealers and specifying the amount and terms or conditions of bonds;
- (j) requiring off-highway vehicles to be safety inspected and providing for such safety inspections;
- (k) exempting a vehicle or class of vehicle used exclusively for non-recreational purposes from any or all of the requirements of this Act and prescribing the terms or conditions, if any, under which a vehicle or class of vehicle is to be exempt;
- (ka) exempting a person or class of persons from any or all of the requirements of this Act and prescribing the terms or conditions, if any, under which a person or class of persons is to be exempt;
- (l) defining any word or expression used and not defined in this Act;
- (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(1A) A regulation may apply to all persons or off-highway vehicles or to a class of persons or vehicles that this Act applies to and there may be different regulations for different classes of such persons or vehicles.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 323, s. 25; 2005, c. 56, s. 15.