

TRANSPORTATION REVIEW

ALL-TERRAIN VEHICLE SAFETY



By James Hanseen and Douglas Shinkle

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The popularity of all-terrain vehicles (ATVs) continues to rise across the nation as more Americans use them for recreational and agricultural purposes. According to the Centers for Disease Control and Prevention, an estimated 11 million ATVs were in use across the country in 2010. In addition, 225,244 ATVs were sold in 2012, a 1.4 percent sales increase from 2011, according to Power Sports Business. In response to the increase in popularity and use of ATVs, state legislatures are considering several ways to ensure the safety of ATV users and the general public. Specifically, states are regulating highway use, implementing age and safety requirements, amending ATV definitions, designating public land for ATV use and imposing requirements for ATV use on public land.

Definition of ATV

What exactly is an ATV? The acronym stands for “all-terrain vehicle,” although terms such as “off-highway vehicle” (OHV) or “off-road vehicle” (ORV) are used by states to denote the same or similar type of vehicle. The American National Standards Institute (ANSI) defines an ATV as a vehicle that is designed for off-road use that travels on low-pressure tires, has a seat that is straddled by the operator and handlebars for steering control, and is intended for use by a single operator.

Many state definitions of an ATV are similar to ANSI’s, although Connecticut alone specifies that, by definition, an ATV is intended only for single operator use. Virginia’s definition is one of the broadest and most inclusive. It defines an ATV as a motor vehicle having three or more wheels, powered by a motor, and manufactured for off-highway use; it excludes go-carts and riding lawn mowers. More commonly, however, states also include width, weight, tire and engine specifications; 26 states have included these.

Some states have created classifications within ATV definitions based on the vehicle characteristics mentioned above. States often categorize larger vehicles as OHVs and smaller vehicles as ATVs, although similar regulations usually apply to both types. North Dakota is the only state where OHV classification within the definition determines highway use. North Dakota has three classes of OHV based on vehicle size. All classes of OHV may be operated on authorized highways with speed limits less than 55 mph by an individual with either a driver’s license or safety certificate (if under age 16). However, only a class III OHV may be operated on authorized highways with speed limits less than 65 mph, and the individual must be over age 16 and possess a driver’s license.

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Under New York's current law, any vehicle used for agricultural purposes or snowplowing does not fall under the definition of an ATV. Since ATVs are increasingly used in agricultural activities, legislation is pending that would recognize agricultural vehicles as ATVs and create two ATV classifications based on vehicle characteristics; it is not clear what effect the proposed classifications would have on rider use.

At least one state—West Virginia—may be headed in the opposite direction. Instead of further circumscribing ATV specifications and classifications, lawmakers introduced a bill in 2013 that required the Joint Committee on Government and Finance to study the benefits of consolidating the definitions of “ATV” and similar vehicles.

Highway and Roadway Use

On-Road Use

Regulating ATV use on highways and streets continues to be a priority for state legislatures, since 311 fatal accidents occurred on public roadways in 2012 that involved ATVs, killing 304 of the 421 ATV occupants involved, according to the National Highway Traffic Safety Administration's (NHTSA) National Center for Statistics and Analysis. States regulate ATV roadway use in various ways. At one end of the spectrum is Delaware, the only state that expressly prohibits ATV roadway use of any kind, including crossing. In contrast, eight states permit expansive ATV operation on roadways, provided the ATV is street legal (Ariz., Idaho, Ind., Kan., Minn., Mont., N.D. and S.D.). Of these states, Idaho and South Dakota allow ATV use on state highways; the others allow ATV operation only on roadways that are not part of the numbered state highway system. Five additional states (Alaska, Mo., Nev., Okla. and W.V.) allow more limited ATV roadway access, such as permitting use on a one-lane road or when a highway is impassable.¹

In seven states (Ky., Ind., Mo., N.Y., Pa., Wash. and Wis.) local municipalities or their departments of transportation can determine whether ATVs are allowed on highways; Indiana, Missouri and Washington passed such legislation in 2013. Under the new Washington law, on-road ATV use is permitted on roads where the speed limit is less than 35 mph in counties with fewer than 15,000 residents. Counties with a population greater than 15,000 may designate county roads for on-road ATV use, and counties with a population less than 15,000 may forbid use on unsuitable roads. In addition, on-road ATV use is not permitted within city limits unless authorized by the city.

Crossing

Most states prohibit ATV use on highways except for crossing. Eleven states (Ark., Colo., Iowa, Ky., Mass., Neb., N.M., Ore., Texas, Va. and Wis.) provide exceptions for those engaged in agriculture or other specified activity. In Arkansas, which already allowed ATVs to cross highways for hunting and farming, lawmakers enacted a 2013 law to permit emergency and utility personnel to operate an ATV on highways while engaged in official business. In New York, which currently allows ATVs only to cross highways, lawmakers considered a 2013 bill that would allow for up to 25 miles of continuous ATV highway use for the purpose of farming, accessing landfills or transporting an ATV to a repair shop.

Licensing

Six states (Conn., Iowa, Ind., Ky., N.H. and Okla.) require an individual to have a driver's license to operate an ATV on a highway or cross a highway on an ATV. In Michigan and Rhode Island, only those under age 18 must have a driver's license for such use.

Highway Shoulder Use

At least eight states (Ind., Ill., Kan., Ky., La., Maine, Pa. and Utah) authorize ATV operation on a highway shoulder in certain circumstances. In four states (Fla., Ill., Maine and Okla.), a local municipality can determine whether ATVs can operate on highway shoulders. A recently enacted Arkansas law allows those with certified walking disabilities to operate or be a passenger on an ATV on highway shoulders.

Speed

Several states have introduced legislation that would limit ATV highway use in regard to ATV speed capacity and highway speed limits. A new North Dakota law prohibits highway use for ATVs that cannot reach a speed of at least 30 mph. A bill introduced in Maryland in 2013 would allow ATV highway use in Fredrick County, but only on highways with a maximum speed of less than 50 mph. As noted above, a new Washington law allows on-road ATV use on roads where the speed limit is less than 35 mph.

Enforcement

States are taking measures to enforce these regulations. New Jersey lawmakers, for example, considered a bill in 2013 that would increase the penalty for unauthorized ATV use on a highway. The state permits only highway crossing and levies a fine of between \$100 and \$200 for breaking the law. The pending bill would increase the fine to \$500 and require that the ATV be impounded for at least 48 hours. A recently enacted Maryland law imposes a mandatory license suspension for minors who operate an unregistered ATV on a highway. In Maine, however, violating any ATV highway regulation is punishable only by an infraction comparable to a speeding ticket.

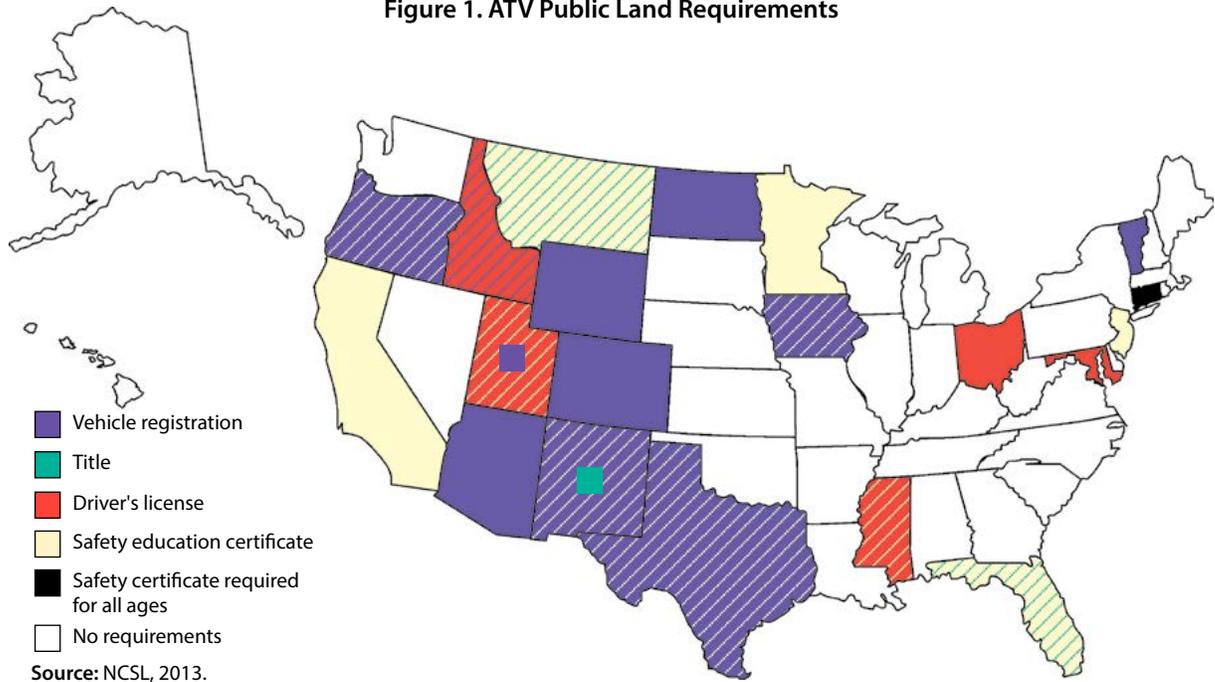
ATVs on Public Land

ATV use on public land continues to be the source of intense debate. It has caused a rift not only between preservationists and recreationists, but also between the federal and local governments (see *San Juan County v. United States*). In the midst of this, states are taking several approaches to balance the demand for ATV access with the need for safe operation.

States have authority to designate public land for ATV use that is not under the federal government's jurisdiction. It appears that every state but Connecticut currently has certain public lands open to ATV operation. Most have adopted regulations that specifically govern ATV use on state land. At least 20 states require either vehicle registration, proof of title, a driver's license or a safety certificate to operate an ATV on public land.² However, Connecticut is the only state that

mandates a safety certificate for riders of all ages on public land, in all other states the certificate is required only for riders under a certain age, usually those younger than 16 or 18.

Figure 1. ATV Public Land Requirements



Eighteen states require ATV operators to use a combination of standard safety equipment (helmet, muffler, lighting and spark arrester requirements) to operate an ATV on public land (Ariz., Calif., Colo., Fla., Idaho, Ky., Md., Minn., Miss., N.H., N.M., N.D., Ohio, Okla., Ore., Pa., S.C. and Texas) The equipment most commonly required in 13 states is a helmet. In eight of the 18 states that require standard safety equipment to operate an ATV on public land, the requirements apply only to riders under a certain age (Ariz., Idaho, Ky., Minn., N.M., Okla., Ore. and S.C.).

At least nine states allow a local municipality or government agency to regulate ATV use on public land. A bill under consideration in New York would provide an exception for handicapped riders. Under the bill, a certified handicapped person would be allowed to enter and exit public lands on an ATV for the purpose of hunting on public land that has not been authorized for regular use by a local municipality or government agency. Connecticut, also one of the nine states, considered legislation that would allow ATV use on public lands; it now is prohibited, in accordance with state Department of Energy and Environmental Protection guidelines. In addition, a recently enacted Connecticut law authorizes any local municipality to impose a \$1,000 fine for a first violation of any local ATV regulation; these generally concern operation hours and zones of use.

States are taking various positions in regard to designating public land for ATV use. New Hampshire, following the success of West Virginia's ATV trail system (discussed below), recently opened 75 miles of new ATV trails in Jericho Mountain State Park; cost to the state for construction was \$3 million. In addition, both Maine and New Jersey designated additional state land for ATV use in 2013. A Wisconsin law created the Off-Road Vehicle Council to study all matters relating to ATV trails and routes within the state, including opening additional routes on public land.

Two states are moving in the opposite direction, however. A Colorado law clarifies that ATV use is banned on federal lands unless explicitly authorized by the controlling federal land agency. Due to ongoing litigation and delayed decision making, uncertainty existed about which trails on federal lands within the state allowed ATV use. In response, the law was enacted to protect federal lands from ATV use until a final agency decision is made. The governor of Connecticut vetoed a bill in 2013 that would have required the Department of Energy and Environmental Protection to study the possibility of opening additional state-owned lands to ATV use.

West Virginia illustrates how a state can balance ATV use and safety on public lands. It is home to the most popular ATV trail system in the nation, the Hatfield-McCoy trail. The trail—which is open year-round and offers more than 600 miles of ATV trails covering nine counties—was authorized by the Legislature in 1996 as a public-private partnership. Because of its popularity, the trail exposed the need for increased safety measures; 250 ATV fatalities occurred in the state between 1999 and 2006, leading the nation in ATV fatalities for riders under age 18. In response, in 2007, the Legislature enacted a law requiring all riders under age 18 to pass a safety education class. Results were immediate. Forty percent fewer fatalities occurred through the first 11 months of 2008 in comparison to 2006 fatalities. In 2013, the Legislature also considered a bill that would require people to register their ATVs and obtain a permit from the Division of Natural Resources for a license to ride an ATV on any public land, state or federal.

Safety/Age Requirements

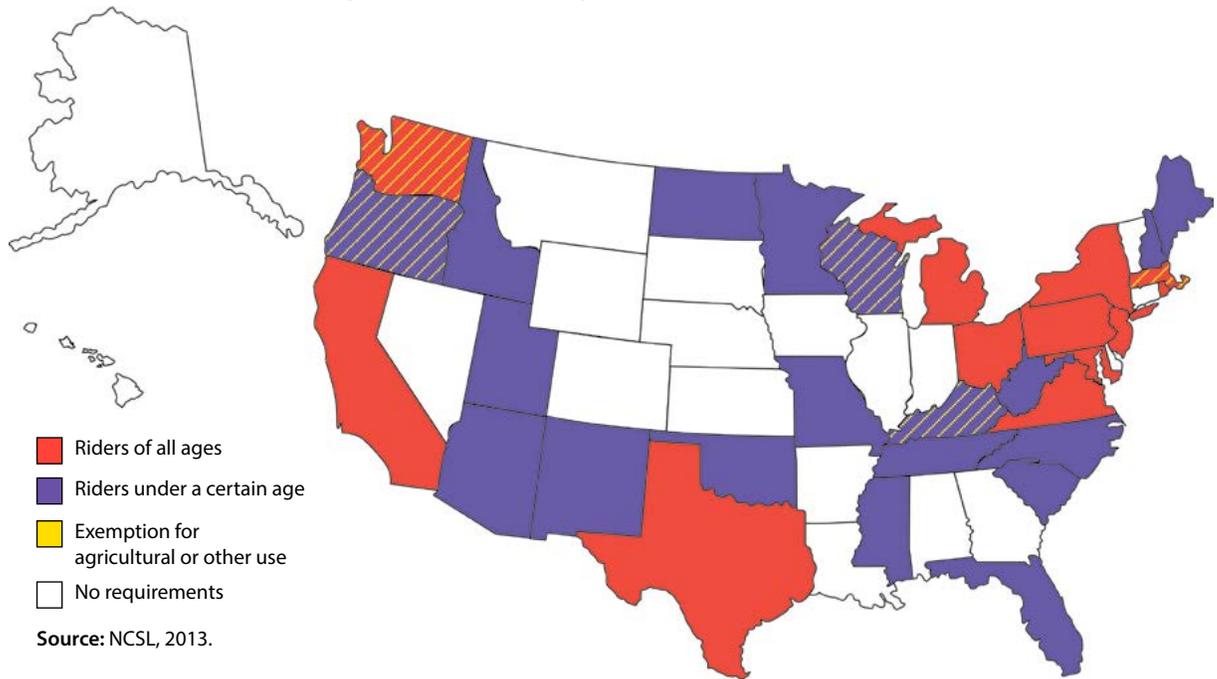
Helmet and Eye Protection

Thirty-one states require ATV riders to wear helmets and eye protection (Figure 2; see also www.svia.org/Downloads/SVIA-Summary-Chart-February-2012.pdf). Of these 31 states, 19 require safety equipment only for riders under a certain age, usually 16 or 18. Five of these states (Ky., Mass., Ore., Wash. and Wis.) exempt riders who are engaged in agriculture or another specified activity from helmet and/or eye protection.

In addition, in 20 of the 31 states where an ATV operator must wear a helmet, a DOT-approved helmet is required. DOT approval is based on impact, visual and mobility standards. A DOT-approved helmet has an authenticating sticker.

Kentucky currently requires an ATV rider under age 16 to wear a helmet when crossing a highway. A bill was introduced in 2013 to allow ATV riders under age 16 to cross a highway without wearing a helmet. On the other hand, Michigan considered a bill the same year that would require all ATV passengers to wear helmets and protective eyewear; under current law only an ATV operator is required to do so.

Figure 2. Helmet and Eye Protection Requirements



Registration and Licensing

Thirty-three states require ATVs to be registered. In 15 of these states, an ATV must be registered by a recreation management agency. The remaining 18 states require ATV registration by a motor vehicle agency. In six of the 33, however, an ATV need not be registered if it is used for agricultural or another specified activities.

Thirteen states require a driver's license to operate an ATV (Conn., Ind., Iowa, Ky., Md., Mich., Miss., N.H., N.D., Ohio, Okla., R.I. and Utah). In eight of these states, a driver's license is required only for on-road use or crossing, and in four states, licenses are required for ATV use on public land. North Dakota is the only state that requires a driver's license for any ATV operation, although underage riders may fulfill this requirement if they have a safety certificate.

Safety Courses

It is common for states to require ATV riders under a certain age to pass a safety course and possess a certificate of completion; 23 states have such regulations. Connecticut is the only state that requires riders of all ages to obtain a safety certificate, although the regulation does not apply to operation on private land. Most of these 23 states provide exceptions to the minor safety certificate requirement.

For example, Wisconsin requires riders under age 16 to possess a safety education certificate to operate an ATV with an exception for land owned by the immediate family of the underage rider. However, a bill recently passed that provides two additional exceptions to the safety education certificate exemption: 1) when property owners give underage riders permission to operate an ATV on their land; and 2) when an underage rider operates an ATV at an ATV demonstration event. Michigan allows the same exceptions to the safety education certificate for minors. Other exceptions include parental supervision, agricultural use and operation on private land.

Under Michigan's current law, a safety education course may be offered by a college, school district, law enforcement agency or other governmental agency; the maximum fee allowed for the safety course cannot exceed \$25. A bill pending in Michigan would allow a private business to offer safety education courses and exempt them from the \$25 maximum fee.

Passengers

Nineteen states have laws regulating or prohibiting ATV passengers, although regulations in 14 of these states apply only if the ATV was not designed to carry a passenger. Connecticut is the only state that does not allow ATV passengers under any circumstances. In six (Calif., Fla., N.M., Ohio, Okla. and Texas) of the 19 states with ATV passenger regulations, they apply only to use on public lands, and in four states (Minn., N.H., N.M. and S.C.), ATV passenger regulations apply only to riders under a certain age.

Under current South Carolina law, an ATV operator younger than age 16 cannot carry a passenger unless he or she has a safety education certificate. However, South Carolina lawmakers are considering a bill that would allow an ATV operator under age 16 who has no safety education certificate to carry a passenger provided that the passenger can place both feet on the floorboard of the ATV while sitting upright, can reach occupant handlebars, and wears a helmet and eye protection. The bill also proposes that, on public land, an ATV operator under age 16 may not carry a passenger in the ATV bed, may not carry more passengers than recommended by the ATV manufacturer, and must ensure that the passenger wears a seat belt.

Current California law prohibits an ATV operator from allowing a passenger to occupy a separate seat location not designed for such use. A bill is pending, however, that would make current law applicable only to ATVs manufactured after 2014. For vehicles manufactured before 2014, seats installed in a location not designed by the manufacturer are permitted if the passenger is fully contained inside the vehicle's roll-over protection mechanism.

As Americans continue to favor ATVs for agricultural and recreational purposes, state legislatures will continue regulate the definition of an ATV, who can operate one, where ATVs can be operated and how they can be operated.

Notes

1. In the entire *Highway and Roadway Use* section the terms “highway” and “roadway” are interchangeable, meaning any paved thoroughfare. However the term “state highway” refers only to roads incorporated by number into the state highway system.

2. This section includes only regulations that are specific to state land; it does not include universal regulations that apply to state land by default.

Resources

“ATV-related Deaths in W.Va. Decline.” *West Virginia Times* (Nov. 19, 2008), <http://timeswv.com/westvirginia/x681689251/ATV-related-deaths-in-W-Va-decline>.

Helmkamp, Jim. “All Terrain Vehicles and Work.” Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health Science Blog, Oct. 24, 2012, <http://blogs.cdc.gov/niosh-science-blog/2012/10/24/atv/>.

Helmkamp, Jim, D. Bixler and A. Hall. “All-Terrain Vehicle Fatalities—West Virginia, 1999-2006.” *Morbidity and Mortality Weekly Report* (March 28, 2008), www.cdc.gov/mmwr/preview/mmwrhtml/mm5712a2.htm.

“Motorcycle/ATV Sales Rise Over 2 Percent in 2012.” Power Sports Business News (Feb. 15, 2013), www.powersportsbusiness.com/news/2013/02/15/motorcycleatv-sales-rise-over-2-percent-in-2012/.

Specialty Vehicle Institute of America (SVIA). “State All-Terrain Vehicle Requirements.” SVIA Government Relations Office (February 2012), www.svia.org/Downloads/SVIA-Summary-Chart-February-2012.pdf.

Teigen, Anne, Douglas Shinkle and James Hanseen. “All Terrain Vehicle Laws by State.” Denver, Colo., National Conference of State Legislatures, July 2013, www.ncsl.org/issues-research/transport/all-terrain-vehicle-safety-laws-by-state.aspx.

Wisconsin Department of Transportation. *Transportation Synthesis Report*, “On-road Operation of ATVs.” CTC & Associates LLC and WisDOT Research and Library Unit, June 25, 2009, <http://wisdo-tresearch.wi.gov/wp-content/uploads/tsratvlaws1.pdf>.



NATIONAL CONFERENCE OF STATE LEGISLATURES

William T. Pound, Executive Director

7700 East First Place
Denver, Colorado 80230
(303) 364-7700

444 North Capitol Street, N.W., #515
Washington, D.C. 20001
(202) 624-5400

www.ncsl.org

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