

1 Senator moves to amend S.F. No. 720 as follows:

2 Page 1, line 18, delete the second "subdivision" and insert
3 "subdivisions 1,"

4 Page 2, line 14, before "A" insert "Except as provided in
5 paragraph (c),"

6 Page 2, after line 22, insert:

7 "(c) The restrictions in paragraph (b) do not apply to an
8 off-highway vehicle while competing in a closed-course
9 competition event."

10 Page 2, line 31, after "or" insert "beginning August 1,
11 2008,"

12 Page 2, line 33, delete "95" and insert "96"

13 Page 3, line 23, delete "a section listed in paragraph (a)"
14 and insert "section 84.773; 84.777; 84.90; or 97B.001, while
15 using an off-highway vehicle,"

16 Page 3, line 24, after "one" insert "previous"

17 Page 3, line 28, before "and" insert ", while using an
18 off-highway vehicle,"

19 Page 4, line 12, before the period, insert ", or section
20 97A.315, subdivision 1, paragraph (b), while using an
21 off-highway vehicle"

22 Page 14, line 28, reinstate the stricken language and
23 delete the new language

24 Page 15, line 10, before the semicolon, insert "that was
25 not authorized by the applicant and the applicant took
26 reasonable actions to prevent the unpermitted or unauthorized
27 use"

28 Page 15, line 13, before the semicolon, insert ", and the
29 damage was not caused by the applicant or the applicant's
30 immediate family"

31 Page 21, after line 12, insert:

32 "Sec. 18. Minnesota Statutes 2004, section 84.928,
33 subdivision 1, is amended to read:

34 Subdivision 1. [OPERATION ON ROADS AND RIGHTS-OF-WAY.] (a)
35 Unless otherwise allowed in sections 84.92 to 84.929, a person
36 shall not operate an all-terrain vehicle in this state along or

1 on the roadway, shoulder, or inside bank or slope of a public
2 road right-of-way of a trunk, county state-aid, or county
3 highway other than in the ditch or the outside bank or slope of
4 a trunk, county state-aid, or county highway unless prohibited
5 under paragraph (b).

6 (b) A road authority as defined under section 160.02,
7 subdivision 25, may after a public hearing restrict the use of
8 all-terrain vehicles in the ditch or outside bank or slope of a
9 public road right-of-way under its jurisdiction.

10 (c) The restrictions in paragraphs (a) and (b) do not apply
11 to the operation of an all-terrain vehicle on the shoulder,
12 inside bank or slope, ditch, or outside bank or slope of a
13 trunk, county state-aid, or county highway when the all-terrain
14 vehicle is:

15 (1) owned by or operated under contract with a publicly or
16 privately owned utility; and

17 (2) used for work on utilities.

18 (d) The commissioner may limit the use of a right-of-way
19 for a period of time if the commissioner determines that use of
20 the right-of-way causes:

21 (1) degradation of vegetation on adjacent public property;

22 (2) siltation of waters of the state;

23 (3) impairment or enhancement to the act of taking game; or

24 (4) a threat to safety of the right-of-way users or to

25 individuals on adjacent public property.

26 ~~(d)~~ (e) The commissioner must notify the road authority as
27 soon as it is known that a closure will be ordered. The notice
28 must state the reasons and duration of the closure.

29 ~~(e)~~ (f) A person may operate an all-terrain vehicle
30 registered for private use and used for agricultural purposes on
31 a public road right-of-way of a trunk, county state-aid, or
32 county highway in this state if the all-terrain vehicle is
33 operated on the extreme right-hand side of the road, and left
34 turns may be made from any part of the road if it is safe to do
35 so under the prevailing conditions.

36 ~~(f)~~ (g) A person shall not operate an all-terrain vehicle

1 within the public road right-of-way of a trunk, county
2 state-aid, or county highway from April 1 to August 1 in the
3 agricultural zone unless the vehicle is being used exclusively
4 as transportation to and from work on agricultural lands. This
5 paragraph does not apply to an agent or employee of a road
6 authority, as defined in section 160.02, subdivision 25, or the
7 Department of Natural Resources when performing or exercising
8 official duties or powers.

9 ~~(g)~~ (h) A person shall not operate an all-terrain vehicle
10 within the public road right-of-way of a trunk, county
11 state-aid, or county highway between the hours of one-half hour
12 after sunset to one-half hour before sunrise, except on the
13 right-hand side of the right-of-way and in the same direction as
14 the highway traffic on the nearest lane of the adjacent roadway.

15 ~~(h)~~ (i) A person shall not operate an all-terrain vehicle
16 at any time within the right-of-way of an interstate highway or
17 freeway within this state."

18 Renumber the sections in sequence and correct the internal
19 references


20 Amend the title accordingly

My name is Sarah Carlson. I am a member of the MN 4 Wheel Drive Association, Blue Ribbon Coalition, and two recreational truck clubs- The Backwoods Crawlers, and Team M.U.D.D. I was unable to attend Monday evening's hearing, but was informed that the name of one of the clubs I belong to was the butt end of a joke. I would like to clarify the meaning of our club's name. Originally, when the club was founded in 1990, it stood for **Men and their Unruly Dangerous Dames**. As people and times have changed, the club has adopted a new acronym meaning, **Motorists Utilizing Due Diligence**. We operate solely on private property and public land such as Gilbert. Every year we participate in highway clean up programs, senior citizen events, and contribute the proceeds from all of our events to local charities such as food shelves, schools, fire departments, and senior centers.

I feel very strongly about having appropriate places to ride in our state forests, which is why I opposed SF720. It is very frustrating to continually contribute to a fund meant for activities such as land evaluation, trail planning and enforcement, only to gain nothing in return. By removing all legal places for trucks to ride does nothing to solve the problem of damage to our forests. The renegades who are currently breaking the law will continue to break the law unless they are dealt with accordingly. The members of the clubs that belong to the association, regardless of their name, are not breaking the laws. I believe they are only frustrated by the continued focus on the renegades that are not dealt with, as opposed to the many things we do as clubs for our local economy.

I am in the audience today. Please feel free to approach me after the hearing if you have any questions about my comments.

Thank you very much for your time.



Sarah Carlson

Senators Marty, Ruud, Frederickson and Chaudhary introduced--
S.F. No. 720: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; modifying restrictions
3 on the operation of off-highway vehicles; extending
4 the availability of the off-highway vehicle damage
5 account; providing for seizure and forfeiture of
6 certain off-highway vehicles; requiring certain
7 off-highway vehicle violations to be added to the
8 driving record of the violator; modifying civil
9 penalties; clarifying the requirement for off-road
10 vehicle registration; modifying off-road vehicle
11 account receipts and disposition; requiring plates on
12 all-terrain vehicles; providing for revocation of
13 registration; providing criminal penalties; amending
14 Minnesota Statutes 2004, sections 84.773, subdivision
15 1, by adding a subdivision; 84.775, subdivision 1;
16 84.780; 84.797, subdivisions 6, 12; 84.798,
17 subdivision 1; 84.802; 84.803; 84.804, subdivisions 1,
18 2, 3; 84.922, subdivision 2; 84.928, subdivision 2;
19 97A.315, subdivision 2; proposing coding for new law
20 in Minnesota Statutes, chapter 84; repealing Minnesota
21 Statutes 2004, sections 84.796; 84.805; 84.929;
22 296A.18, subdivision 6.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

24 Section 1. [84.772] [OFF-HIGHWAY VEHICLE TOLL-FREE
25 HOTLINE.]

26 The commissioner of natural resources shall maintain and
27 publicize a toll-free telephone number that allows citizens to:

28 (1) obtain tape-recorded information about trail
29 conditions;

30 (2) report complaints about or violations by operators of
31 off-highway vehicles; and

32 (3) report damage caused by all-terrain vehicles and trail
33 safety concerns.

34 Sec. 2. Minnesota Statutes 2004, section 84.773,

1 subdivision 1, is amended to read:

2 Subdivision 1. [RESTRICTIONS.] (a) A person may not
3 intentionally operate an off-highway vehicle:

4 (1) on a trail on public land that is designated or signed
5 for nonmotorized use only;

6 (2) on restricted areas within public lands that are posted
7 or where gates or other clearly visible structures are placed to
8 prevent unauthorized motorized vehicle access;

9 (3) except as specifically authorized by law or rule
10 adopted by the commissioner, in unfrozen public waters, as
11 defined in section 103G.005; in a state park; in a scientific
12 and natural area; or in a wildlife management area; or

13 (4) in a calcareous fen, as identified by the commissioner.

14 (b) A person may not operate an off-highway vehicle at a
15 speed greater than ten miles per hour:

16 (1) within 100 feet of a person who is not:

17 (i) on an off-highway vehicle, snowmobile, or motorcycle;

18 or

19 (ii) in a motor vehicle;

20 (2) within 100 feet of a fish house, dark house, or any
21 other structure while operating on a frozen public water; or

22 (3) within 150 feet of a home or residential dwelling.

23 Sec. 3. Minnesota Statutes 2004, section 84.773, is
24 amended by adding a subdivision to read:

25 Subd. 1a. [MUFFLERS.] (a) No person shall operate an
26 off-highway vehicle unless it is equipped with a muffler having
27 a spark arrestor approved by the United States Forest Service as
28 described under Code of Federal Regulations, title 36, section
29 261.52, paragraph (j).

30 (b) Off-highway vehicles shall not be sold, offered for
31 sale, or operated in this state unless equipped so that overall
32 noise emission does not exceed a sound level limitation of not
33 more than 95 decibels on the A scale from a distance of 20
34 inches using test procedures and instrumentation as set forth in
35 the Society of Automotive Engineers' Standard, SAE J1287, June
36 1988, or, if different procedures or instrumentation are used, a

1 noise level equivalent to that level.

2 (c) No noise suppressing system or muffler shall be
3 equipped with a cutout, bypass, or similar device and no person
4 shall modify or alter that system or its operation in any manner
5 that will amplify or increase the noise emitted by the vehicle's
6 motor to exceed the noise limits established in this
7 subdivision, except for organized events as authorized by
8 sections 84.795, subdivision 7; 84.804, subdivision 5; and
9 84.928, subdivision 5.

10 Sec. 4. [84.774] [OFF-HIGHWAY VEHICLE CRIMINAL PENALTIES.]

11 (a) Except as provided in paragraph (b), a person who
12 violates a provision of sections 84.773; 84.777; 84.788 to
13 84.795; 84.798 to 84.804; 84.90; or 84.922 to 84.928 or rules of
14 the commissioner relating to off-highway vehicle use is guilty
15 of a misdemeanor.

16 (b) A person is guilty of a gross misdemeanor if the person:

17 (1) knowingly disregards signs prohibiting the use of
18 off-highway vehicles and operates an off-highway vehicle in an
19 area where the use is prohibited;

20 (2) violates section 84.773 or 84.777 after personally
21 being notified by a peace officer not to operate in the area
22 prohibited;

23 (3) violates a section listed in paragraph (a) and has at
24 least one conviction for a violation under those sections in the
25 last three years;

26 (4) violates a section listed in paragraph (a) resulting in
27 the endangerment of another person; or

28 (5) violates section 84.773; 84.777; 84.90; or 97B.001 and
29 the violation results in property damage in excess of 400 square
30 feet or with a cost of repair in excess of \$500.

31 (c) A person convicted of a gross misdemeanor under
32 paragraph (b) is prohibited from operating an off-highway
33 vehicle for a period of two years. The commissioner shall
34 notify the person of the time period during which the person is
35 prohibited from operating an off-highway vehicle.

36 [EFFECTIVE DATE.] This section is effective August 1, 2005,

1 and applies to crimes committed on or after that date.

2 Sec. 5. [84.7741] [OFF-HIGHWAY VEHICLE FORFEITURE.]

3 Subdivision 1. [DEFINITIONS.] (a) As used in this section,
4 the following terms have the meanings given them.

5 (b) "Appropriate agency" means a law enforcement agency
6 that has the authority to make an arrest for a violation of a
7 designated offense.

8 (c) "Claimant" means an owner of an off-highway vehicle or
9 a person claiming a leasehold or security interest in an
10 off-highway vehicle.

11 (d) "Designated offense" means a gross misdemeanor
12 violation under section 84.774, paragraph (b).

13 (e) "Family or household member" means:

14 (1) a parent, stepparent, or guardian;

15 (2) any of the following persons related by blood,
16 marriage, or adoption: brother, sister, stepbrother,
17 stepsister, first cousin, aunt, uncle, nephew, niece,
18 grandparent, great-grandparent, great-uncle, or great-aunt; or

19 (3) persons residing together or persons who regularly
20 associate and communicate with one another outside of a
21 workplace setting.

22 (f) "Off-highway vehicle" and "vehicle" do not include an
23 off-highway vehicle that is stolen or taken in violation of the
24 law.

25 (g) "Owner" means a person legally entitled to possession,
26 use, and control of an off-highway vehicle, including a lessee
27 of an off-highway vehicle if the lease agreement has a term of
28 180 days or more. There is a rebuttable presumption that a
29 person registered as the owner of an off-highway vehicle
30 according to the records of the Department of Public Safety or
31 the Department of Natural Resources is the legal owner. For
32 purposes of this section, if an off-highway vehicle is owned
33 jointly by two or more people, each owner's interest extends to
34 the whole of the vehicle and is not subject to apportionment.

35 (h) "Prosecuting authority" means the attorney in the
36 jurisdiction in which the designated offense occurred, or a

1 designee, who is responsible for prosecuting violations of a
2 designated offense. If a state agency initiated the forfeiture,
3 and the attorney responsible for prosecuting the designated
4 offense declines to pursue forfeiture, the attorney general's
5 office, or its designee, may initiate forfeiture under this
6 section.

7 (i) "Security interest" means a bona fide security interest
8 perfected according to section 168A.17, subdivision 2, based on
9 a loan or other financing that, if an off-highway vehicle is
10 required to be registered under chapter 168, is listed on the
11 vehicle's title.

12 Subd. 2. [SEIZURE.] (a) An off-highway vehicle subject to
13 forfeiture under this section may be seized by the appropriate
14 agency upon process issued by any court having jurisdiction over
15 the vehicle.

16 (b) Property may be seized without process if:

17 (1) the seizure is incident to a lawful arrest or a lawful
18 search;

19 (2) the vehicle subject to seizure has been the subject of
20 a prior judgment in favor of the state in a criminal injunction
21 or forfeiture proceeding under this section; or

22 (3) the appropriate agency has probable cause to believe
23 that the delay occasioned by the necessity to obtain process
24 would result in the removal or destruction of the vehicle. If
25 property is seized without process under this clause, the
26 prosecuting authority must institute a forfeiture action under
27 this section as soon as is reasonably possible by serving a
28 notice of seizure and intent to forfeit at the address of the
29 owner as listed in the records of the Department of Public
30 Safety or Department of Natural Resources.

31 Subd. 3. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY.]
32 All right, title, and interest in an off-highway vehicle subject
33 to forfeiture under this section vests in the appropriate agency
34 upon commission of the conduct resulting in the designated
35 offense giving rise to the forfeiture. Any vehicle seized under
36 this section is not subject to replevin, but is deemed to be in

1 the custody of the appropriate agency subject to the orders and
2 decrees of the court having jurisdiction over the forfeiture
3 proceedings. When an off-highway vehicle is seized under this
4 section, the appropriate agency may:

- 5 (1) place the vehicle under seal;
- 6 (2) remove the vehicle to a place designated by the agency;
- 7 (3) place a disabling device on the vehicle; and
- 8 (4) take other steps reasonable and necessary to secure the
9 vehicle and prevent waste.

10 Subd. 4. [BOND BY OWNER FOR POSSESSION.] If the owner of
11 an off-highway vehicle that has been seized under this section
12 seeks possession of the vehicle before the forfeiture action is
13 determined, the owner may, subject to the approval of the
14 appropriate agency, give security or post bond payable to the
15 appropriate agency in an amount equal to the retail value of the
16 seized vehicle. On posting the security or bond, the seized
17 vehicle may be returned to the owner. The forfeiture action
18 must proceed against the security as if it were the seized
19 vehicle.

20 Subd. 5. [EVIDENCE.] Certified copies of court records and
21 off-highway vehicle and driver's records concerning prior
22 incidents are admissible as substantive evidence where necessary
23 to prove the commission of a designated offense.

24 Subd. 6. [VEHICLE SUBJECT TO FORFEITURE.] An off-highway
25 vehicle is subject to forfeiture under this section if it was
26 used in the commission of a designated offense.

27 Subd. 7. [PRESUMPTIONS; LIMITATIONS ON VEHICLE
28 FORFEITURE.] (a) An off-highway vehicle is presumed subject to
29 forfeiture under this section if:

30 (1) the driver is convicted of the designated offense upon
31 which the forfeiture is based; or

32 (2) the driver fails to appear for a scheduled court
33 appearance with respect to the designated offense charged and
34 fails to voluntarily surrender within 48 hours after the time
35 required for appearance.

36 (b) An off-highway vehicle encumbered by a security

1 interest perfected according to section 168A.17, subdivision 2,
2 or subject to a lease that has a term of 180 days or more, is
3 subject to the interest of the secured party or lessor unless
4 the party or lessor had knowledge of or consented to the act
5 upon which the forfeiture is based. However, when the proceeds
6 of the sale of a seized vehicle do not equal or exceed the
7 outstanding loan balance, the appropriate agency shall remit all
8 proceeds of the sale to the secured party after deducting the
9 agency's costs for the seizure, tow, storage, forfeiture, and
10 sale of the vehicle. If the sale of the vehicle is conducted in
11 a commercially reasonable manner consistent with section
12 336.9-610, the agency is not liable to the secured party for any
13 amount owed on the loan in excess of the sale proceeds. The
14 validity and amount of a nonperfected security interest must be
15 established by its holder by clear and convincing evidence.

16 (c) Notwithstanding paragraph (b), the secured party's or
17 lessor's interest in an off-highway vehicle is not subject to
18 forfeiture based solely on the secured party's or lessor's
19 knowledge of the act or omission upon which the forfeiture is
20 based if the secured party or lessor demonstrates by clear and
21 convincing evidence that the party or lessor took reasonable
22 steps to terminate use of the vehicle by the offender.

23 (d) An off-highway vehicle is not subject to forfeiture
24 under this section if its owner can demonstrate by clear and
25 convincing evidence that the owner did not have actual or
26 constructive knowledge that the vehicle would be used or
27 operated in any manner contrary to law or that the owner took
28 reasonable steps to prevent use of the vehicle by the offender.
29 If the offender is a family or household member of the owner and
30 has three or more prior off-highway vehicle convictions, the
31 owner is presumed to know of any vehicle use by the offender
32 that is contrary to law.

33 Subd. 8. [ADMINISTRATIVE FORFEITURE PROCEDURE.] (a) An
34 off-highway vehicle used to commit a designated offense is
35 subject to administrative forfeiture under this subdivision.

36 (b) When an off-highway vehicle is seized under subdivision

1 2, or within a reasonable time after seizure, the appropriate
2 agency shall serve the driver or operator of the vehicle with a
3 notice of the seizure and intent to forfeit the vehicle.
4 Additionally, when an off-highway vehicle is seized under
5 subdivision 2, or within a reasonable time after that, all
6 persons known to have an ownership, possessory, or security
7 interest in the vehicle must be notified of the seizure and the
8 intent to forfeit the vehicle. For those vehicles required to
9 be registered under chapter 168, the notification to a person
10 known to have a security interest in the vehicle is required
11 only if the vehicle is registered under chapter 168 and the
12 interest is listed on the vehicle's title. Notice mailed by
13 certified mail to the address shown in Department of Public
14 Safety records is sufficient notice to the registered owner of
15 the vehicle. For off-highway vehicles not required to be
16 registered under chapter 168, notice mailed by certified mail to
17 the address shown in the applicable filing or registration for
18 the vehicle is sufficient notice to a person known to have an
19 ownership, possessory, or security interest in the vehicle.
20 Otherwise, notice may be given in the manner provided by law for
21 service of a summons in a civil action.

22 (c) The notice must be in writing and contain:
23 (1) a description of the vehicle seized;
24 (2) the date of the seizure; and
25 (3) notice of the right to obtain judicial review of the
26 forfeiture and of the procedure for obtaining that judicial
27 review, printed in English, Hmong, and Spanish. Substantially,
28 the following language must appear conspicuously: "IF YOU DO
29 NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA
30 STATUTES, SECTION 84.7741, SUBDIVISION 8, YOU LOSE THE RIGHT TO
31 A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY
32 RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT
33 HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE
34 UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR
35 LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT
36 HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS

1 WORTH LESS THAN \$500."

2 (d) Within 30 days following service of a notice of seizure
3 and forfeiture under this subdivision, a claimant may file a
4 demand for a judicial determination of the forfeiture. The
5 demand must be in the form of a civil complaint and must be
6 filed with the court administrator in the county in which the
7 seizure occurred, together with proof of service of a copy of
8 the complaint on the prosecuting authority having jurisdiction
9 over the forfeiture and the standard filing fee for civil
10 actions unless the petitioner has the right to sue in forma
11 pauperis under section 563.01. If the value of the seized
12 property is \$7,500 or less, the claimant may file an action in
13 conciliation court for recovery of the seized vehicle. A copy
14 of the conciliation court statement of claim must be served
15 personally or by mail on the prosecuting authority having
16 jurisdiction over the forfeiture within 30 days following
17 service of the notice of seizure and forfeiture under this
18 subdivision. If the value of the seized property is less than
19 \$500, the claimant does not have to pay the conciliation court
20 filing fee. No responsive pleading is required of the
21 prosecuting authority and no court fees may be charged for the
22 prosecuting authority's appearance in the matter. Pleadings,
23 filings, and methods of service are governed by the Rules of
24 Civil Procedure.

25 (e) The complaint must be captioned in the name of the
26 claimant as plaintiff and the seized vehicle as defendant and
27 must state with specificity the grounds on which the claimant
28 alleges the vehicle was improperly seized, the claimant's
29 interest in the vehicle seized, and any affirmative defenses the
30 claimant may have. Notwithstanding any law to the contrary, an
31 action for the return of an off-highway vehicle seized under
32 this section may not be maintained by or on behalf of any person
33 who has been served with a notice of seizure and forfeiture
34 unless the person has complied with this subdivision.

35 (f) If the claimant makes a timely demand for a judicial
36 determination under this subdivision, the forfeiture proceedings

1 must be conducted according to subdivision 9.

2 Subd. 9. [JUDICIAL FORFEITURE PROCEDURE.] (a) This
3 subdivision governs judicial determinations of the forfeiture of
4 an off-highway vehicle used to commit a designated offense. An
5 action for forfeiture is a civil in rem action and is
6 independent of any criminal prosecution. All proceedings are
7 governed by the Rules of Civil Procedure.

8 (b) If no demand for judicial determination of the
9 forfeiture is pending, the prosecuting authority may, in the
10 name of the jurisdiction pursuing the forfeiture, file a
11 separate complaint against the vehicle, describing it,
12 specifying that it was used in the commission of a designated
13 offense, and specifying the time and place of its unlawful use.

14 (c) The prosecuting authority may file an answer to a
15 properly served demand for judicial determination, including an
16 affirmative counterclaim for forfeiture. The prosecuting
17 authority is not required to file an answer.

18 (d) A judicial determination under this subdivision must
19 not precede adjudication in the criminal prosecution of the
20 designated offense without the consent of the prosecuting
21 authority. The district court administrator shall schedule the
22 hearing as soon as practicable after adjudication in the
23 criminal prosecution. The district court administrator shall
24 establish procedures to ensure efficient compliance with this
25 subdivision. The hearing is to the court without a jury.

26 (e) There is a presumption that an off-highway vehicle
27 seized under this section is subject to forfeiture if the
28 prosecuting authority establishes that the vehicle was used in
29 the commission of a designated offense. A claimant bears the
30 burden of proving any affirmative defense raised.

31 (f) If the forfeiture is based on the commission of a
32 designated offense and the person charged with the designated
33 offense appears in court as required and is not convicted of the
34 offense, the court shall order the property returned to the
35 person legally entitled to it upon that person's compliance with
36 the redemption requirements of subdivision 12.

1 (g) If the lawful ownership of the vehicle used in the
2 commission of a designated offense can be determined and the
3 owner makes the demonstration required under subdivision 7,
4 paragraph (d), the vehicle must be returned immediately upon the
5 owner's compliance with the redemption requirements of
6 subdivision 12.

7 (h) If the court orders the return of a seized vehicle
8 under this subdivision, it must order that filing fees be
9 reimbursed to the person who filed the demand for judicial
10 determination. In addition, the court may order sanctions under
11 section 549.211. Any reimbursement fees or sanctions must be
12 paid from other forfeiture proceeds of the law enforcement
13 agency and prosecuting authority involved and in the same
14 proportion as distributed under subdivision 10, paragraph (b).

15 Subd. 10. [DISPOSITION OF FORFEITED VEHICLE.] (a) If the
16 vehicle is administratively forfeited under subdivision 8, or if
17 the court finds under subdivision 9 that the vehicle is subject
18 to forfeiture under subdivisions 6 and 7, the appropriate agency
19 shall:

20 (1) sell the vehicle and distribute the proceeds under
21 paragraph (b); or

22 (2) keep the vehicle for official use. If the agency keeps
23 a forfeited off-highway vehicle for official use, the agency
24 shall make reasonable efforts to ensure that the off-highway
25 vehicle is available for use by the agency's officers who
26 participate in off-highway vehicle enforcement or education
27 programs.

28 (b) The proceeds from the sale of forfeited vehicles, after
29 payment of seizure, towing, storage, forfeiture, and sale
30 expenses and satisfaction of valid liens against the property,
31 must be distributed as follows:

32 (1) 70 percent of the proceeds must be forwarded to the
33 appropriate agency for deposit as a supplement to the state or
34 local agency's operating fund or similar fund for use in
35 purchasing equipment for off-highway vehicle enforcement,
36 training, and education; and

1 (2) 30 percent of the money or proceeds must be forwarded
2 to the prosecuting authority that handled the forfeiture for
3 deposit as a supplement to its operating fund or similar fund
4 for prosecutorial purposes.

5 Subd. 11. [SALE OF FORFEITED VEHICLE BY SECURED
6 PARTY.] (a) A financial institution with a valid security
7 interest in or a valid lease covering a forfeited off-highway
8 vehicle may choose to dispose of the vehicle under this
9 subdivision, in lieu of the appropriate agency disposing of the
10 vehicle under subdivision 10. A financial institution wishing
11 to dispose of an off-highway vehicle under this subdivision
12 shall notify the appropriate agency of its intent, in writing,
13 within 30 days after receiving notice of the seizure and
14 forfeiture. The appropriate agency shall release the vehicle to
15 the financial institution or its agent after the financial
16 institution presents proof of its valid security agreement or of
17 its lease agreement and the financial institution agrees not to
18 sell the vehicle to a family or household member of the
19 violator, unless the violator is not convicted of the offense on
20 which the forfeiture is based. The financial institution shall
21 dispose of the vehicle in a commercially reasonable manner as
22 defined in section 336.9-610.

23 (b) After disposing of the forfeited vehicle, the financial
24 institution shall reimburse the appropriate agency for its
25 seizure, storage, and forfeiture costs. The financial
26 institution may then apply the proceeds of the sale to its
27 storage costs, to its sale expenses, and to satisfy the lien or
28 the lease on the vehicle. If any proceeds remain, the financial
29 institution shall forward the proceeds to the state treasury,
30 which shall credit the appropriate fund as specified in
31 subdivision 10.

32 Subd. 12. [REDEMPTION REQUIREMENTS.] (a) If an off-highway
33 vehicle is seized by a peace officer for a designated offense,
34 the seized vehicle must be released only:

35 (1) to the registered owner, a person authorized by the
36 registered owner, a lienholder of record, or a person who has

1 purchased the vehicle from the registered owner, who provides
2 proof of ownership of the vehicle, proof of valid Minnesota
3 driving privileges, and proof of insurance required by law to
4 cover the vehicle;

5 (2) if the vehicle is subject to a rental or lease
6 agreement, to a renter or lessee with valid Minnesota driving
7 privileges who provides a copy of the rental or lease agreement
8 and proof of insurance required by law to cover the vehicle; or

9 (3) to an agent of a towing company authorized by a
10 registered owner if the owner provides proof of ownership of the
11 vehicle and proof of insurance required by law to cover the
12 vehicle.

13 (b) The proof of ownership and insurance or, if applicable,
14 the copy of the rental or lease agreement required under
15 paragraph (a) must be provided to the law enforcement agency
16 seizing the vehicle or to a person or entity designated by the
17 law enforcement agency to receive the information.

18 (c) No law enforcement agency, local unit of government, or
19 state agency is responsible or financially liable for any
20 storage fees incurred due to a seizure under this section.

21 [EFFECTIVE DATE.] This section is effective August 1, 2005,
22 and applies to crimes committed on or after that date.

23 Sec. 6. [84.7742] [RECORD OF VIOLATIONS.]

24 Subdivision 1. [COURT ADMINISTRATOR DUTIES.] (a) Every
25 court administrator shall keep a full record of every case in
26 which a person is charged with an off-highway vehicle gross
27 misdemeanor under section 84.774, paragraph (b).

28 (b) Within ten days after the conviction or forfeiture of
29 bail of a person upon a charge of a gross misdemeanor
30 off-highway violation, the court administrator of the court in
31 which the conviction was had or bail was forfeited shall
32 immediately forward to the Department of Public Safety an
33 abstract of the record of the court covering the case in which
34 the person was convicted or forfeited bail. The abstract must
35 be certified by the person required to prepare it to be true and
36 correct.

1 (c) The abstract must be made upon a form furnished by the
 2 Department of Public Safety and shall include the name and
 3 address of the party charged, the driver's license number of the
 4 person involved, the nature of the offense, the date of hearing,
 5 the plea, the judgment or whether bail was forfeited, and the
 6 amount of the fine or forfeiture, as the case may be.

7 (d) Every court shall also forward a report to the
 8 Department of Public Safety reporting the conviction of any
 9 person of manslaughter or other felony in the commission of
 10 which an off-highway vehicle was used.

11 Subd. 2. [INCLUSION ON DRIVING RECORD.] The commissioner
 12 of public safety shall file all records received under this
 13 section for licensed drivers on the driving record of the
 14 licensed driver according to section 171.12.

15 Sec. 7. Minnesota Statutes 2004, section 84.775,
 16 subdivision 1, is amended to read:

17 Subdivision 1. [CIVIL CITATION; AUTHORITY TO ISSUE.] (a) A
 18 conservation officer or other licensed peace officer may issue a
 19 civil citation to a person who operates:

20 (1) an off-highway motorcycle in violation of sections
 21 84.773; 84.777; 84.788 to 84.795; or 84.90;

22 (2) an off-road vehicle in violation of sections 84.773;
 23 84.777; 84.798 to 84.804; or 84.90; or

24 (3) an all-terrain vehicle in violation of sections 84.773;
 25 84.777; 84.90; or 84.922 to 84.928.

26 (b) A civil citation shall require restitution for public
 27 and private property damage and impose a penalty of:

28 (1) ~~\$100~~ \$250 for the first offense;

29 (2) ~~\$200~~ \$500 for the second offense; and

30 (3) ~~\$500~~ \$1,000 for third and subsequent offenses.

31 (c) If the peace officer determines that there is damage to
 32 property requiring restitution, the commissioner must send a
 33 written explanation of the extent of the damage and the cost of
 34 the repair by first class mail to the address provided by the
 35 person receiving the citation within 15 days of the date of the
 36 citation.

1 Sec. 8. Minnesota Statutes 2004, section 84.780, is
2 amended to read:

3 84.780 [OFF-HIGHWAY VEHICLE DAMAGE ACCOUNT.]

4 (a) The off-highway vehicle damage account is created in
5 the natural resources fund. Money in the off-highway vehicle
6 damage account is appropriated to the commissioner of natural
7 resources for:

8 (1) the repair or restoration of property damaged by the
9 operation of off-highway vehicles in an unpermitted area after
10 August-17-2003;

11 (2) the repair or restoration of driveways that have been
12 damaged from the legal operation of off-highway vehicles within
13 a public road right-of-way; and

14 for (3) the costs of administration for this section.

15 (b) Before the commissioner may make a payment from this
16 account, the commissioner must determine whether the damage to
17 the applicant's property was caused by the unpermitted use of
18 off-highway vehicles, that the applicant has made reasonable
19 efforts to identify the responsible individual and obtain
20 payment from the individual, and that the applicant has made
21 reasonable efforts to prevent recurrence. By June 30, 2005,
22 the commissioner of finance must transfer the remaining balance
23 in the account to the off-highway motorcycle account under
24 section 84.794, the off-road vehicle account under section
25 84.803, and the all-terrain vehicle account under section
26 84.927. The amount transferred to each account must be
27 proportionate to the amounts received in the damage account from
28 the relevant off-highway vehicle accounts or by the legal
29 operation of off-highway vehicles within a public road
30 right-of-way.

31 (c) Determinations of the commissioner under this
32 section may be made by written order and are exempt from the
33 rulemaking provisions of chapter 14. Section 14.386 does not
34 apply.

35 (e) This section expires July 1, 2005.

36 Sec. 9. Minnesota Statutes 2004, section 84.797,

1 subdivision 6, is amended to read:

2 Subd. 6. [OFF-ROAD.] "Off-road" means on ~~trails~~-or
3 nonpublic roads or for cross-country travel on natural terrain.
4 For purposes of sections 84.797 to ~~84-805~~ 84.804, nonpublic
5 roads include state forest roads, county forest roads, and other
6 roads ~~and-trails~~ that are not operated by a public road
7 authority as defined in section 160.02, subdivision 25.

8 Sec. 10. Minnesota Statutes 2004, section 84.797,
9 subdivision 12, is amended to read:

10 Subd. 12. [OFF-ROAD VEHICLE STAGING AREA.] "Off-road
11 vehicle staging area" means a parking lot, ~~trail-head~~,
12 campground, or other location to or from which an off-road
13 vehicle is transported by truck, trailer, or other motor vehicle
14 so that it may be placed into operation or removed from
15 operation on public lands. Off-road vehicle staging area does
16 not include a location to which an off-road vehicle is
17 transported primarily for servicing, maintenance, repair,
18 storage, or sale.

19 Sec. 11. Minnesota Statutes 2004, section 84.798,
20 subdivision 1, is amended to read:

21 Subdivision 1. [GENERAL REQUIREMENTS.] Unless exempted
22 under subdivision 2, after January 1, 1995, a person may not
23 operate and an owner may not give permission for another to
24 operate ~~a-vehicle-off-road, nor may a person have an off-road~~
25 ~~vehicle not-registered-under-chapter-168-in-possession-at-an~~
26 ~~off-road-vehicle-staging-area, or~~ in designated trail-or-area
27 areas on lands administered by the commissioner or on off-road
28 vehicle grant-in-aid areas funded under section 84.803, unless
29 the vehicle has been registered under this section.

30 Sec. 12. Minnesota Statutes 2004, section 84.802, is
31 amended to read:

32 84.802 [YOUTHFUL OPERATORS; PROHIBITIONS.]

33 (a) A person under 16 years of age may not operate an
34 off-road vehicle.

35 (b) ~~Except-for-operation-on-public-road-rights-of-way-that~~
36 ~~is-permitted-under-section-84-804~~, A driver's license issued by

1 the state or another state is required to operate an off-road
2 vehicle ~~along-er~~ on a public road right-of-way.

3 (c) An owner of an off-road vehicle may not knowingly allow
4 it to be operated in violation of this section.

5 Sec. 13. Minnesota Statutes 2004, section 84.803, is
6 amended to read:

7 84.803 [OFF-ROAD VEHICLE ACCOUNT; RECEIPTS AND
8 ALLOCATIONS.]

9 Subdivision 1. [REGISTRATION REVENUE.] Fees from the
10 registration of off-road vehicles ~~and-unrefunded-gasoline-tax~~
11 ~~attributable-to-off-road-vehicle-use-under-section-296A-18~~ must
12 be deposited in the state treasury and credited to the off-road
13 vehicle account in the natural resources fund.

14 Subd. 2. [PURPOSES.] Subject to appropriation by the
15 legislature, money in the off-road vehicle account may only be
16 spent for:

17 (1) administration, enforcement, and implementation of
18 sections 84.773 to ~~84-805~~ 84.804;

19 (2) acquisition, maintenance, and development of off-road
20 vehicle ~~trails-and~~ use areas;

21 (3) grant-in-aid programs to counties and municipalities to
22 construct and maintain off-road vehicle ~~trails-and~~ use areas;

23 (4) grants-in-aid to local safety programs; and

24 (5) enforcement and public education grants to local law
25 enforcement agencies.

26 Sec. 14. Minnesota Statutes 2004, section 84.804,
27 subdivision 1, is amended to read:

28 Subdivision 1. [OPERATION ON PUBLIC ROAD RIGHTS-OF-WAY.]

29 ~~(a)~~ A person may not operate a an off-road vehicle off-road
30 within a public road right-of-way in this state ~~except-on-a~~
31 ~~trail-designated-by-the-commissioner-and-approved-by-the-unit-of~~
32 ~~government-having-jurisdiction-over-the-right-of-way.~~

33 ~~(b)-A-person-may-not-operate-a-vehicle-off-road-within-a~~
34 ~~public-road-right-of-way-between-the-hours-of-one-half-hour~~
35 ~~after-sunset-to-one-half-hour-before-sunrise,-except-on-the~~
36 ~~right-hand-side-of-the-right-of-way-and-in-the-same-direction-as~~

1 ~~traffic-on-the-nearest-lane-of-the-road.~~

2 ~~(c)-A-person-may-not-operate-an-off-road-vehicle-within-the~~
3 ~~right-of-way-of-an-interstate-highway.~~

4 Sec. 15. Minnesota Statutes 2004, section 84.804,
5 subdivision 2, is amended to read:

6 Subd. 2. [CROSSING PUBLIC ROAD RIGHTS-OF-WAY.] (a) An
7 ~~off-road-vehicle-not-registered-under-chapter-168-may-make-a~~
8 ~~direct-crossing-of-a-public-road-right-of-way-for-the-purpose-of~~
9 ~~continuing-on-a-designated-off-road-trail-if:~~

10 ~~(1)-the-crossing-is-made-at-an-angle-of-approximately-90~~
11 ~~degrees-to-the-direction-of-the-road-and-at-a-place-where-no~~
12 ~~obstruction-prevents-a-quick-and-safe-crossing;~~

13 ~~(2)-the-vehicle-is-brought-to-a-complete-stop-before~~
14 ~~crossing-the-shoulder-or-main-traveled-way-of-the-road;~~

15 ~~(3)-the-driver-yields-the-right-of-way-to-all-traffic;~~

16 ~~(4)-in-crossing-a-divided-road,-the-crossing-is-made-only~~
17 ~~at-an-intersection-of-the-road-with-another-public-road,-and~~

18 ~~(5)-if-the-crossing-is-made-between-the-hours-of-one-half~~
19 ~~hour-after-sunset-to-one-half-hour-before-sunrise-or-in~~
20 ~~conditions-of-reduced-visibility,-only-if-both-front-and-rear~~
21 ~~lights-are-on.~~

22 (b) An off-road vehicle not registered under chapter 168
23 may be operated on a bridge, other than a bridge that is part of
24 the main traveled lanes of an interstate highway, or a roadway
25 shoulder or inside bank of a public road right-of-way when
26 required to avoid obstructions to travel and no other method of
27 avoidance is possible, provided that the vehicle is operated in
28 the farthest right-hand lane, the entrance to the roadway is
29 made within 100 feet of the bridge or obstacle, and the crossing
30 is made without undue delay.

31 (c) (b) A person may not operate an off-road vehicle on a
32 public street or highway unless the off-road vehicle is equipped
33 with at least one headlight and one taillight, each of minimum
34 candlepower as prescribed by rules of the commissioner, and with
35 brakes conforming to standards prescribed by rule of the
36 commissioner, and all of which are subject to the approval of

1 the commissioner of public safety.

2 ~~(d)~~ (c) Chapter 169 applies to the operation of off-road
3 vehicles on streets and highways, except that those provisions
4 that by their nature have no application and those provisions
5 relating to required equipment do not apply to vehicles not
6 registered under chapter 168. Chapter 169A applies to the
7 operation of off-road vehicles anywhere in the state and on the
8 ice of boundary waters.

9 ~~(e)-A-road-authority, as defined in section 160.02,~~
10 ~~subdivision 25, may, with the approval of the commissioner,~~
11 ~~designate access trails on public road rights-of-way for gaining~~
12 ~~access to established off-road vehicle trails.~~

13 Sec. 16. Minnesota Statutes 2004, section 84.804,
14 subdivision 3, is amended to read:

15 Subd. 3. [OPERATION GENERALLY.] A person may not drive or
16 operate a an off-road vehicle off-road:

17 (1) at a rate of speed greater than is reasonable under the
18 surrounding circumstances;

19 (2) in a careless, reckless, or negligent manner which may
20 endanger or cause injury or damage to the person or property of
21 another;

22 (3) without a functioning stoplight if so equipped;

23 (4) in a tree nursery or planting in a manner that damages
24 or destroys growing stock;

25 (5) without a brake operational by either hand or foot; or

26 (6) on forest lands under the authority of the
27 commissioner, as defined in section 89.001, subdivision 13,
28 other than inventoried forest roads; or

29 (7) in a manner that violates rules adopted by the
30 commissioner.

31 Sec. 17. Minnesota Statutes 2004, section 84.922,
32 subdivision 2, is amended to read:

33 Subd. 2. [APPLICATION, ISSUANCE, REPORTS.] (a) Application
34 for registration or continued registration shall be made to the
35 commissioner of natural resources, the commissioner of public
36 safety or an authorized deputy registrar of motor vehicles in a

1 form prescribed by the commissioner. The form must state the
2 name and address of every owner of the vehicle.

3 (b) A person who purchases an all-terrain vehicle from a
4 retail dealer shall make application for registration to the
5 dealer at the point of sale. The dealer shall issue a temporary
6 ten-day registration permit to each purchaser who applies to the
7 dealer for registration. The dealer shall submit the completed
8 registration application and fees to the deputy registrar at
9 least once each week. No fee may be charged by a dealer to a
10 purchaser for providing the temporary permit.

11 (c) Upon receipt of the application and the appropriate
12 fee, the commissioner or deputy registrar shall issue to the
13 applicant, or provide to the dealer, a 60-day temporary receipt
14 and shall assign a registration number that must be affixed to
15 the vehicle in a manner prescribed by the commissioner. A
16 dealer subject to paragraph (b) shall provide the registration
17 materials and temporary receipt to the purchaser within the
18 ten-day temporary permit period. The commissioner shall use the
19 snowmobile registration system to register vehicles under this
20 section.

21 (d) Each deputy registrar of motor vehicles acting under
22 section 168.33, is also a deputy registrar of all-terrain
23 vehicles. The commissioner of natural resources in agreement
24 with the commissioner of public safety may prescribe the
25 accounting and procedural requirements necessary to assure
26 efficient handling of registrations and registration fees.
27 Deputy registrars shall strictly comply with the accounting and
28 procedural requirements.

29 (e) In addition to other fees prescribed by law, a filing
30 fee of \$4.50 is charged for each all-terrain vehicle
31 registration renewal, duplicate or replacement registration
32 card, and replacement decal and a filing fee of \$7 is charged
33 for each all-terrain vehicle registration and registration
34 transfer issued by:

35 (1) a deputy registrar and shall be deposited in the
36 treasury of the jurisdiction where the deputy is appointed, or

1 retained if the deputy is not a public official; or

2 (2) the commissioner and shall be deposited to the state
3 treasury and credited to the all-terrain vehicle account in the
4 natural resources fund.

5 (f) The registration numbers and decal must be displayed on
6 plates that are not less than six inches high and 12 inches
7 wide, clearly visible on the front and back of the vehicle, and
8 at least 12 inches from the ground. The plates, registration
9 numbers, and registration decal must be maintained in a clear
10 and legible condition. Letters and numbers on the plates shall
11 be at least three inches high and not less than one-half inch
12 wide.

13 Sec. 18. Minnesota Statutes 2004, section 84.928,
14 subdivision 2, is amended to read:

15 Subd. 2. [OPERATION GENERALLY.] A person may not drive or
16 operate an all-terrain vehicle:

17 (1) at a rate of speed greater than reasonable or proper
18 under the surrounding circumstances;

19 (2) in a careless, reckless, or negligent manner so as to
20 endanger or to cause injury or damage to the person or property
21 of another;

22 (3) without headlight and taillight lighted at all times if
23 the vehicle is equipped with headlight and taillight;

24 (4) without a functioning stoplight if so equipped;

25 (5) in a tree nursery or planting in a manner that damages
26 or destroys growing stock;

27 (6) without a brake operational by either hand or foot;

28 (7) with more persons on the vehicle than it was designed
29 for, except as allowed under section 84.9257;

30 (8) on public lands or public waters with an air-intake
31 pipe that is more than six inches above the manufacturer's
32 original air-intake pipe;

33 (9) after December 31, 2006, on public lands with tires
34 that have a tread depth of greater than one inch;

35 (10) at a speed exceeding ten miles per hour on the frozen
36 surface of public waters within 100 feet of a person not on an

1 all-terrain vehicle or within 100 feet of a fishing shelter; or
2 ~~(9)~~ (11) in a manner that violates operation rules adopted
3 by the commissioner.

4 Sec. 19. Minnesota Statutes 2004, section 97A.315,
5 subdivision 2, is amended to read:

6 Subd. 2. [LICENSE REVOCATIONS.] (a) If a person is
7 convicted of trespassing under subdivision 1 while exercising or
8 attempting to exercise an activity licensed under the game and
9 fish laws ~~or, requiring off-highway motorcycle registration~~
10 under section 84.788, requiring off-road vehicle registration
11 under section 84.798, requiring snowmobile registration under
12 section 84.82, or requiring all-terrain vehicle registration
13 under section 84.922, the applicable license and registration
14 are null and void.

15 (b) A person convicted of a gross misdemeanor under
16 subdivision 1, paragraph (b), may not be issued a license to
17 take game for two years after the conviction.

18 Sec. 20. [REVISOR'S INSTRUCTION.]

19 In each section of Minnesota Statutes referred to in column
20 A, the revisor of statutes shall delete the reference in column
21 B and insert the reference in column C.

	<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
22			
23	<u>84.777</u>	<u>84.805</u>	<u>84.804</u>
24	<u>84.777</u>	<u>84.929</u>	<u>84.928</u>
25	<u>84.787, subd. 1</u>	<u>84.796</u>	<u>84.795</u>
26	<u>84.788, subd. 9</u>	<u>84.796</u>	<u>84.795</u>
27	<u>84.791, subd. 4</u>	<u>84.796</u>	<u>84.795</u>
28	<u>84.794, subd. 2</u>	<u>84.796</u>	<u>84.795</u>
29	<u>84.795, subd. 8</u>	<u>84.796</u>	<u>84.795</u>
30	<u>84.797, subd. 1</u>	<u>84.805</u>	<u>84.804</u>
31	<u>84.798, subd. 8</u>	<u>84.805</u>	<u>84.804</u>
32	<u>84.804, subd. 6</u>	<u>84.805</u>	<u>84.804</u>
33	<u>84.92, subd. 1</u>	<u>84.929</u>	<u>84.928</u>
34	<u>84.922, subd. 9</u>	<u>84.929</u>	<u>84.928</u>
35	<u>84.925, subd. 3</u>	<u>84.929</u>	<u>84.928</u>
36	<u>84.9256, subd. 4</u>	<u>84.929</u>	<u>84.928</u>

1 84.927, subd. 2 84.929 84.928
2 84.928, subd. 1 84.929 84.928
3 84.928, subd. 6 84.929 84.928

4 Sec. 21. [REPEALER.]

5 Minnesota Statutes 2004, sections 84.796; 84.805; 84.929;
6 and 296A.18, subdivision 6, are repealed.

APPENDIX
Repealed Minnesota Statutes for 05-1981

84.796 PENALTIES.

(a) A person who violates a provision of section 84.788, 84.789, 84.793, or 84.795 is guilty of a misdemeanor.

(b) A person who violates a provision of a rule adopted under section 84.79 is guilty of a petty misdemeanor.

84.805 PENALTIES.

A person who violates any provision of sections 84.797 to 84.804 is guilty of a misdemeanor.

84.929 PENALTIES.

Any person who violates any provision of sections 84.92 to 84.928 or rules of the commissioner is guilty of a misdemeanor.

296A.18 APPORTIONMENT OF TAX; DEPOSIT OF PROCEEDS.

Subd. 6. Off-road vehicle. Approximately 0.164 of one percent of all gasoline received or produced in or brought into this state, except gasoline used for aviation purposes, is being used for the off-road operation of off-road vehicles, as defined in section 84.797, in this state, and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than aviation purposes, 0.164 of one percent is the amount of tax on fuel used for off-road operation of off-road vehicles in this state.