

2018 Regular Session

SENATE BILL NO. 441

BY SENATOR MORRELL

CRIME/PUNISHMENT. Provides penalties for reckless operation of certain all-terrain vehicles on public roadways. (8/1/18)

1 AN ACT

2 To enact R.S. 14:99.2, relative to criminal acts; to create the crime of reckless operation of
3 an off-road vehicle; to provide for elements of the offense; to provide for penalties;
4 to provide for forfeiture of the vehicle; to provide for exceptions; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:99.2 is hereby enacted to read as follows:

8 **§99.2. Reckless operation of an off-road vehicle**

9 **A. Reckless operation of an off-road vehicle is the operation of any**
10 **off-road vehicle in a criminally negligent or reckless manner upon any public**
11 **roadway or right of way.**

12 **B.(1) For purposes of this Section, "off-road vehicle" shall include but**
13 **not be limited to three-wheelers, four-wheelers, dirt bikes, or other all-terrain**
14 **vehicles that are not specifically designed for use on public roads and highways.**

15 **(2) For the purposes of this Section, acts which may constitute reckless**
16 **operation of an off-road vehicle shall include but not be limited to operating the**
17 **vehicle on a public roadway or right of way in a manner that:**

1 **(a) Forces another vehicle to leave the roadway.**

2 **(b) Collides with another vehicle or person.**

3 **(c) Exceeds the posted speed limit.**

4 **(d) Travels against the flow of traffic.**

5 **(e) Disregards traffic control devices.**

6 **(f) Drives around or between standing or moving vehicles without regard**
7 **to lanes of traffic.**

8 **(g) Impedes traffic flow.**

9 **(h) Travels off the roadway and back on to the roadway deliberately.**

10 **(3) For purposes of this Section, reckless operation of an off-road vehicle**
11 **shall also include operating the vehicle on a public roadway or right of way:**

12 **(a) While performing stunts of showmanship, such as riding wheelies or**
13 **acrobatic stunts.**

14 **(b) While harassing the drivers of other vehicles or pedestrians by verbal**
15 **taunting or making threatening gestures.**

16 **(c) While corralling an occupied vehicle or a pedestrian.**

17 **C. It shall be unlawful for a person to solicit or to assist in soliciting**
18 **participation in any rally, ride, or gathering that encourages the violation of this**
19 **Section by the use of a computer online service, internet service, or any other**
20 **means of electronic communication, including but not limited to a local bulletin**
21 **board service, internet chat room, electronic mail, social media, or online**
22 **messaging service.**

23 **D. Any drivers of motor vehicles participating in or traveling in support**
24 **of persons in violation of this Section shall be considered in violation of this**
25 **Section. Persons who are directly participating in this activity by photographing**
26 **or filming violations of this Section to document the activity for the riders shall**
27 **also be considered in violation of this Section. This Section shall not apply to**
28 **individuals who are not participating in the violation of this Section and who are**
29 **filming or photographing.**

1 **E.(1) Whoever commits a violation of this Section shall be fined not more**
2 **than five hundred dollars, or imprisoned for not more than ninety days, or both.**

3 **(2) In addition to any other sentence, the court shall order, upon motion**
4 **of the prosecuting district attorney, that the off-road vehicle being operated by**
5 **the offender at the time of the offense be seized and impounded and destroyed**
6 **when:**

7 **(a) The driver was wearing a hood, mask, or disguise of any kind with**
8 **the intent to hide or conceal his identity during the commission of the crime of**
9 **reckless operation of an off-road vehicle.**

10 **(b) It is a second or subsequent conviction for the offender pursuant to**
11 **this Section.**

12 **(c) The driver has a previous conviction in this state or under a similar**
13 **law in another state for:**

14 **(i) R.S. 14:96, aggravated obstruction of a highway of commerce.**

15 **(ii) R.S. 14:97, simple obstruction of a highway of commerce.**

16 **(iii) R.S. 14:99, reckless operation.**

17 **(iv) R.S. 14:108, resisting an officer.**

18 **(3) Notwithstanding the provisions of Paragraph (2) of this Subsection,**
19 **the off-road vehicle shall not be destroyed if it was stolen, or if the driver of the**
20 **off-road vehicle at the time of the violation was not the owner and the owner did**
21 **not know that the driver was operating the off-road vehicle in violation of this**
22 **Section. However, the off-road vehicle shall not be released from impoundment**
23 **until such time as towing and storage fees have been paid. In addition, the**
24 **off-road vehicle shall not be destroyed if the towing and storage fees are paid by**
25 **a valid lien holder.**

26 **(4) If the district attorney elects to seize and impound the off-road**
27 **vehicle, he shall file a written motion at least five days prior to sentencing,**
28 **stating his intention to destroy the off-rode vehicle. When the district attorney**
29 **elects to seize, impound, and destroy the off-road vehicle, the court shall order**

- 1 **it seized and impounded. The court shall also order the vehicle destroyed unless**
 2 **the provisions of Paragraph (3) of this Subsection are applicable.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Dawn Romero Watson.

DIGEST

SB 441 Engrossed

2018 Regular Session

Morrell

Proposed law creates the crime of reckless operation of an off-road vehicle. Provides that reckless operation of an off-road vehicle is the operation of any off-road vehicle in a criminally negligent or reckless manner upon any public roadway or right of way.

Proposed law defines "off-road vehicles" as three-wheelers, four-wheelers, dirt bikes, or other all-terrain vehicles that are not specifically designed for use on public roads and highways.

Proposed law provides various acts that may constitute reckless operation of an off-road vehicle. Provides that it shall also be unlawful for a person to solicit or to assist in soliciting participation in any rally, ride, or gathering that encourages the violation of proposed law by the use of a computer online service, internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, internet chat room, electronic mail, social media, or online messaging service.

Proposed law provides that any drivers of motor vehicles participating in or traveling in support of persons in violation of proposed law shall be considered in violation of proposed law, including persons who directly participate by photographing or filming violations of proposed law to document the activity for the riders.

Proposed law provides penalties of a fine not more than \$500, or imprisonment for not more than 90 days, or both.

Proposed law provides that in addition, the court shall order, upon motion of the prosecuting district attorney, that the off-road vehicle being operated by the offender at the time of the offense be seized and impounded and destroyed when:

- (1) The driver was wearing a hood, mask, or disguise of any kind with the intent to hide or conceal his identity during the commission of the crime of reckless operation of an off-road vehicle.
- (2) It is a second or subsequent conviction for the offender.
- (3) The driver has a previous conviction in this state or under a similar law in another state for aggravated obstruction of a highway of commerce, simple obstruction of a highway of commerce, reckless operation, or resisting an officer.

Proposed law provides an exception to the off-road vehicle being destroyed if it was stolen, or if the driver of the off-road vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the off-road vehicle in violation of proposed law. Provides however, that the off-road vehicle shall not be released from impoundment until towing and storage fees have been paid. Also provides that the off-road vehicle shall not be destroyed if the towing and storage fees are paid by a valid lien holder.

Proposed law allows the district attorney, if he chooses, to file a written motion at least five days prior to sentencing, indicating his intention to have the off-road vehicle seized, impounded and destroyed. In such instances, proposed law requires the court to order the

seizure and impoundment and, unless the exception in proposed law applies, the destruction.

Effective August 1, 2018.

(Adds R.S. 14:99.2)