

189.281 Local government pilot program for off-highway vehicles.

After June 29, 2021, and until July 1, 2024:

(1) As used in this section:

- (a) "Local government" means a city, county, charter county government, urban-county government, consolidated local government, or unified local government that is located within the boundaries of a regional authority, or the Kentucky Mountain Regional Recreation Authority established under KRS 148.0222, acting on behalf of a local government that is part of the authority;
- (b) "Off-highway vehicle" or "OHV" means a motorized vehicle that:
 - 1. Is designed to be primarily used for recreational purposes;
 - 2. Has a maximum speed that is greater than thirty-five (35) miles per hour;
 - 3. Is equipped with the following:
 - a. Four (4) to six (6) highway or nonhighway tires;
 - b. A steering wheel or steering mechanism;
 - c. Brakes;
 - d. Headlamps;
 - e. Tail lamps;
 - f. Brake lights;
 - g. One (1) red reflex reflector on each side as far to the rear as practicable and one (1) red reflex reflector on the rear;
 - h. A working muffler;
 - i. A parking brake;
 - j. A spark arrestor; and
 - k. For multi-passenger vehicles, an exterior mirror mounted on the driver's side of the vehicle, either an interior mirror or an exterior mirror mounted on the passenger's side of the vehicle, and for each designated seating position, a seatbelt assembly that conforms to the federal motor vehicle safety standard provided in 49 C.F.R. sec. 571.209; and
- (c) "Regional authority" means:
 - 1. The Kentucky Mountain Regional Recreation Authority established in KRS 148.0222; and
 - 2. Any other authority established in Kentucky Revised Statutes, prior to June 29, 2021, that oversees lands in two (2) or more contiguous counties, on which there is a system of recreational trails, including streams, rivers, and other waterways, and appurtenant facilities, including trailhead centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities in Kentucky and designated by the regional authority.

- (2) (a) The legislative body of a local government that is currently or formerly located within the boundaries of a regional authority, or which currently operates a public OHV trail system, may establish a pilot program, by ordinance, to authorize and regulate the operation of an OHV on any public roadway or any section of city or county roadway for which it bears responsibility.
 - (b) Prior to enacting an OHV ordinance under paragraph (a) of this subsection, the legislative body of a local government shall notify the public of its plans to allow OHV use on roadways under its jurisdiction. Public notice under this paragraph shall:
 1. Notify the public of the time, subject, and location of the public meeting and shall be posted in both a local newspaper, if any, and a newspaper of general circulation in the county;
 2. Include a list and map of all roadways and connecting trails that the local government intends to designate for OHV use; and
 3. Be placed on the Web site of the local government.
 - (c) A local government may petition the Transportation Cabinet to include, in an OHV ordinance adopted under paragraph (a) of this subsection, state-maintained roadways or sections of state-maintained roadways located within the local government's jurisdictional boundaries. The local government shall submit the following to the Transportation Cabinet for approval:
 1. The minutes from the public meeting or meetings held prior to adoption of an OHV ordinance under this subsection;
 2. A list and map of all roadways and connecting trails that the local government intends to designate for OHV use;
 3. An enforcement plan to ensure that all OHVs operating on roadways under this section meet all of the requirements established under this section, including verification of required insurance coverage;
 4. A plan to notify the public and OHV users of the operation of OHVs on state and local roadways within the boundaries of the local government;
 5. A safety plan for OHV roadway use; and
 6. Any other requirements established by the Transportation Cabinet under subsection (16) of this section.
 - (d) The Transportation Cabinet shall, within ninety (90) days of receipt of a petition and all information required in paragraph (c) of this subsection, respond to the local government with approval or denial of the request submitted.
 - (e) Any OHV ordinance adopted under this section shall be adopted at a public meeting.
- (3) A fully controlled access highway shall not be designated for OHV use under this section.
 - (4) A local government that has enacted an OHV ordinance under this section shall

notify the Transportation Cabinet of any collision involving an OHV that occurred on any roadway approved for OHV use under this section.

- (5) A person may operate an OHV on a public roadway pursuant to subsection (2) of this section if the:
 - (a) Operator is eighteen (18) years of age or older;
 - (b) Operator has a valid operator's license in his or her possession;
 - (c) OHV is insured by the owner or operator, for the payment of tort liabilities in the same form and amounts as set forth in KRS 304.39-110 for motorcycles;
 - (d) Proof of insurance is inside the OHV at all times of operation on a public roadway; and
 - (e) OHV is equipped with all safety equipment required under this section.
- (6) Any person operating an OHV on a public roadway under this section shall be subject to the same traffic regulations of this chapter as a motor vehicle, including KRS 189.520 prohibiting the operation of a vehicle that is not a motor vehicle, while under the influence of intoxicants or substances which may impair driving.
- (7) A person shall not operate an OHV under this section on any public roadway:
 - (a) Between one (1) hour after sunset and one (1) hour before sunrise, unless the person can demonstrate cause for driving, including but not limited to emergencies; or
 - (b) While carrying passengers on a trailer or any other towed unit.
- (8) Any passenger of an OHV that is under the age of sixteen (16) shall be required to wear a helmet that meets the national standards prescribed by the United States Department of Transportation.
- (9) An operator and any passengers shall wear eye protection when operating or riding an OHV that is not equipped with a windshield.
- (10)
 - (a) The Transportation Cabinet shall be responsible for the cost, placement, and maintenance of signage denoting state highways that have been authorized for OHV use under this section.
 - (b) The local government shall be responsible for the cost, placement, and maintenance of signage denoting local roadways that have been designated for OHV use under this section.
 - (c) The local government shall be responsible for monthly inspection of state and local OHV signage.
- (11) An OHV operating on a public roadway designated by a local government under subsection (2) of this section is not considered to be a motor vehicle and shall be exempt from:
 - (a) Vehicle registration requirements of KRS 186.050; and
 - (b) Emissions compliance certificates pursuant to KRS 224.20-720.
- (12) A local government may adopt more stringent local ordinances governing OHV safety equipment and operation than specified in this section.
- (13) If deemed in the interest of public safety, the Transportation Cabinet may:

- (a) Prohibit the operation of an OHV on any public roadway designated under subsection (2) of this section that crosses a state-maintained roadway; or
 - (b) Rescind approval given under subsection (2)(d) of this section.
- (14) This section shall not apply to:
- (a) An OHV operated on any private or public recreational trail or area;
 - (b) An OHV operating under the exemptions for highway use under KRS 189.515; or
 - (c) A publicly owned and operated OHV used for wildlife management, law enforcement, emergency services, or other governmental purposes.
- (15) Nothing in this section shall be interpreted or construed to require an insurance company to provide OHV insurance coverage.
- (16) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement this section, including but not limited to:
- (a) Prescribing of any forms or applications needed;
 - (b) Establishing criteria for OHV ordinances;
 - (c) Establishing OHV enforcement requirements;
 - (d) Establishing criteria for rescinding approval pursuant to subsection (13) of this section;
 - (e) Establishing OHV safety requirements;
 - (f) Establishing OHV safety equipment verification protocol; and
 - (g) Establishing OHV safety plan requirements.

Effective: June 29, 2021

History: Created 2021 Ky. Acts ch. 186, sec. 6, effective June 29, 2021.

Legislative Research Commission Note (6/29/2021). This statute was created by Section 6 of 2021 Ky. Acts ch. 186. Section 9 of that Act provides that "Sections 6 to 8 of this Act are part of a pilot program and shall sunset on July 1, 2024."