

PUBLIC CHAPTER NO. 481**SENATE BILL NO. 1994****By Black, Burchett, Kurita****Substituted for: House Bill No. 1974****By Maggart, Hardaway**

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 10; Title 55, Chapter 52 and Title 70, Chapter 9, relative to the use of helmets by children operating or riding off-highway motor vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 52, is amended by adding Sections 2 and 3 of this act as a new Part 2:

SECTION 2. (a) As used in this part, unless the context otherwise requires:

(1) "Appropriate helmet" means, except as provided in subdivisions (A)-(C), a helmet that meets federal motor vehicle safety standards specified in 49 CFR 571.218;

(A) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 ½") in diameter;

(B) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(C) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CPSC), the Southern Impact Research Center (SIRC), or the Snell Foundation;

(2) "Off-highway motor vehicle" means a vehicle as defined in § 55-3-101(c); and

(3) "Relative" means a person or persons in the lineal line of consanguinity to a property owner, a spouse, or person or persons in the lineal line of consanguinity of a spouse, and includes an individual in an adoptive relationship to a property owner or the spouse of the property owner.

(b) (1) Except as provided in subdivisions (2) and (3), it is an offense for any parent or legal guardian of a person under eighteen (18) years of age to permit such a person to operate or be a passenger on an off-highway motor vehicle, unless such person is wearing an appropriate helmet for off-highway vehicles. A parent or legal guardian commits such offense under circumstances indicating that the parent or legal guardian of the person under eighteen (18) years of age knew or should have known that the child is or would be operating, or is or would be a passenger on an off-highway motor vehicle.

(2) The provisions of subdivision (1) do not apply to a parent or legal guardian of a person under eighteen (18) years of age if the off-highway motor vehicle is being operated by a person under eighteen (18) years of age, or such person is a passenger on an off-highway motor vehicle, on the private property of the parent or legal guardian or the private property of a relative.

(3) The provisions of subdivision (1) do not apply to a parent or legal guardian of a person under eighteen (18) years of age if the off-highway motor vehicle is being operated by a person under eighteen (18) years of age who is commuting for the purpose of hunting and is in possession of a valid hunting license.

SECTION 3. (a) Except as provided in subsection (b), a violation of this section is a Class C misdemeanor, subject only to imposition of a fine, not to exceed fifty dollars (\$50.00) and court costs, not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers. No state or local litigation taxes shall be applicable to a case prosecuted under this section.

(b) (1) Upon commission of the first offense, it shall be a defense that the accused has since the date of the commission of the offense purchased or provided an appropriate helmet for the person under eighteen (18) years of age to wear while the person is operating or is a passenger on an off-highway motor vehicle and the parent or legal guardian intends to have such person use or causes the person to use or intends to cause the person to use the same as the law requires.

(2) On or before the court date indicated on the citation issued pursuant to subsection (d), if the parent or legal guardian presents the information contained in subdivision (b)(1) to the court and if the court is satisfied that the parent or legal guardian is serious about complying with the law, the charge against the parent or legal guardian may be dismissed. No court costs shall be assessed against a parent or legal guardian if the charge is dismissed pursuant to this subsection.

(c) In no event shall failure to wear an appropriate helmet for off-highway vehicles be admissible as evidence in a trial of any civil action.

(d) (1) If a law enforcement officer observes a person under eighteen (18) years of age operating or being a passenger on an off-highway motor vehicle where no person eighteen (18) years of age or older is either the

operator or passenger, the law enforcement officer shall obtain the name and address of the parent or legal guardian of the person from the operator of the off-highway motor vehicle for the purpose of issuing and mailing a citation in lieu of arrest pursuant to § 55-10-207 to the parent or legal guardian. It is a violation of § 39-15-502 for the person to knowingly give false information to the law enforcement officer.

(2) If a law enforcement officer observes a person under eighteen (18) years of age as a passenger on an off-highway motor vehicle where the operator is eighteen (18) years of age or older, the law enforcement officer shall issue a citation in lieu of arrest pursuant to § 55-10-207 to the operator if the operator is the parent or legal guardian of the passenger. If the operator is not the parent or legal guardian, the law enforcement officer shall obtain the name and address of the parent from the operator for the purpose of issuing and mailing a citation in lieu of arrest pursuant to § 55-10-207 to the parent or legal guardian. It is a violation of § 39-15-502 for the person to knowingly give false information to the law enforcement officer.

(e) Any incorporated municipality may enact an ordinance which mirrors, substantially duplicates or incorporates by cross-reference the language of Sections 2 and 3 of this act.

SECTION 4. Tennessee Code Annotated, Section 55-10-207(a)(1), is amended by inserting the language "or Section 2 of this act" after the language "or § 55-12-139".

SECTION 5. This act shall take effect July 1, 2007, the public welfare requiring it.

PASSED: June 6, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 21st day of June 2007



PHIL BREDESEN, GOVERNOR