

HOUSE BILL 1974

By Maggart

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

(2) "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 subdivision (2), 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 a helmet that meets the United States department of transportation standards for off-highway motor 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.

SECTION 3.

(a) A violation of Section 2 (b) is a Class C misdemeanor punishable by a fine only of two dollars (\$2.00) and court costs, except as provided in subsection (b).

(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 a helmet which meets the United States department of transportation standards 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.

(c) In no event shall failure to wear a helmet that meets the United States department of transportation standards 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; provided that the maximum penalty imposed for a violation of such ordinance is a civil fine and shall not be in excess of the fine specified in Section 3(a).

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.