

STORAGE NAME: h0777s2.grr

DATE: April 7, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES & REGULATIONS
ANALYSIS**

BILL #: CS/CS/HB 777

RELATING TO: Off-highway Vehicles

SPONSOR(S): Committee on Governmental Rules & Regulations, Committee on Agriculture, Representative Goode, and others

TIED BILL(S): HB 1155

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE YEAS 8 NAYS 0
 - (2) GOVERNMENTAL RULES & REGULATIONS YEAS 7 NAYS 1
 - (3) FINANCE & TAXATION
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

CS/HB 777 creates the "Florida Off-Highway-Vehicle Safety Recreation Act", which provides for the expanded, managed use of off-highway vehicles on public lands. An Off-Highway-Vehicle Revolving Trust Fund (HB 1155) is also created. The trust fund will be funded through moneys generated from the titling and registering of all off-highway vehicles in the state which are used on public lands.

A 9-member Off-Highway-Vehicle Recreation Advisory Committee is created within the Division of Forestry of the Department of Agriculture and Consumer Services (DACS) to:

- establish policies to guide DACS regarding the off-highway-vehicle recreational program and the system of off-highway-vehicle recreation areas and trails;
- make recommendations to DACS regarding off-highway-vehicle safety, training, and rider-education programs;
- review and make recommendations regarding DACS' proposed budget of expenditures from the trust fund;
- make recommendations regarding all capital outlay expenditures from the trust fund; and
- review grant applications requesting moneys from the trust fund to create, operate, manage, or improve off-highway-vehicle recreation areas or trails within the state.

CS/CS/HB 777 provides rulemaking authority to the Department of Agriculture & Consumer Services for implementation of the provisions of the section, and to the Department of Highway Safety & Motor Vehicles for off-highway vehicle titling and registration. The bill also provides a fee structure to be administered by the Department of Highway Safety and Motor Vehicles.

The bill exempts the Off-Highway-Vehicle Revolving Trust Fund from certain service charges due to the General Revenue Fund.

The fiscal impact of this legislation to the state is minimal.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government

The bill requires all off-highway vehicles which are used on public lands to be titled and registered by the Department of Highway Safety and Motor Vehicles.

A 9-member Off-Highway-Vehicle Recreation Advisory Committee is created within the Division of Forestry (division) of the Department of Agriculture and Consumer Services. See II.C., Effects of Proposed Changes for duties of this committee and expanded duties of the division.

Lower Taxes

The bill assesses fees for titling and registering off-highway vehicles used on public lands.

B. PRESENT SITUATION:

The only facility on state land currently allowing off-highway vehicles is the Croom Motorcycle Area within the Withlacoochee State Forest. This facility is managed by the Division of Forestry within the Department of Agriculture and Consumer Services (DACs). The Croom Motorcycle Area sells annual permits for \$25. In 1999, approximately 11,000 permits were sold, totaling approximately \$200,000.

Currently, the federal Recreational Trails Program has matching funds available for off-highway vehicle recreation programs in each state. Florida, however, does not qualify for these funds because the state has no off-highway vehicle recreation program.

Off-highway vehicles are currently allowed in the national forests, however legislation is being considered to control and restrict their usage in the national forests.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 777, also known as the "Florida Off-Highway Vehicle Safety and Recreation Act" (act), creates the Off-Highway Vehicle Recreation Advisory Committee (committee) within the Department of Agriculture and Consumer Services' Division of Forestry. The 9-member committee is to be composed of the following:

STORAGE NAME: h0777s2.grr

DATE: April 7, 2000

PAGE 3

- 4 representatives of off-highway vehicle recreation groups,
- a licensed off-highway vehicle dealer,
- a representative of the Department of Highway Safety and Motor Vehicles (DHSMV),
- a representative of the Department of Environmental Protection's Office of Greenways and Trails,
- a representative of the Florida Fish and Wildlife Conservation Commission, and
- a representative of DACS.

The committee is directed to accomplish the following:

- establish policies to guide DACS regarding the off-highway-vehicle recreational program and the system of off-highway-vehicle recreation areas and trails;
- make recommendations to DACS regarding off-highway-vehicle safety, training, and rider-education programs;
- review and make recommendations regarding DACS' proposed budget of expenditures from the trust fund;
- make recommendations regarding all capital outlay expenditures from the trust fund; and
- review grant applications requesting moneys from the trust fund to create, operate, manage, or improve off-highway-vehicle recreation areas or trails within the state.

DACS duties, with regards to the act, will include the following:

- the planning, acquisition, development, construction, conservation, and rehabilitation of lands in and for the system;
- the management, maintenance, administration, and operation of lands in the system, and the provision of law enforcement and appropriate public safety activities;
- management of the trust fund and approval of the advisory committee's budget recommendations;
- implementation of the programs, including the ultimate approval of grant applications submitted by governmental agencies;
- ensuring compliance with environmental laws and regulations of the programs and lands in the system;
- implementation of the policies established by the committee;
- staff assistance to the committee;
- preparation of plans for lands in, or proposed to be included in, the system;
- conducting surveys and the preparation of studies as are necessary or desirable for implementing the program;
- recruitment and utilization of volunteers to further the program; and
- publication and sale of a guidebook, which will include information regarding the responsibility of users of the system, pertinent laws, rules, and regulations, as well as other information.

The bill allows DACS to contract or enter into cooperative agreements with private persons or other public agencies for the care and maintenance of lands in the system, including law enforcement services. The bill also defines the criteria to be used for recreation areas and trails. The bill amends s. 316.2074, F.S., redefining the term "all-terrain vehicle".

CS/HB 777 requires all off-highway vehicles owned by residents of the state to be used on public lands to be titled and registered. The administration of the titling and registering of the off-highway vehicles shall be the responsibility of DHSMV. The bill allows DHSMV to adopt rules and prescribe forms necessary for the titling and registering of off-highway vehicles.

STORAGE NAME: h0777s2.grr

DATE: April 7, 2000

PAGE 4

The bill establishes a \$29 fee for applications for certificates of title and a \$25 fee for annual registration of an off-highway vehicle. Rates are also established for issuance of duplicate titles, registrations, and mail service handling fees. The bill also provides for the tax collector to retain a portion of the fee for each titling and registration transaction. DHSMV shall deposit all funds received for titling and registration, less administrative costs, into the Off-Highway Vehicle Revolving Trust Fund.

When justified, due to an applicant giving false information during application for a certificate of title or registration or failing to comply with the provisions of said title/registration, CS/CS/HB 777 gives DHSMV the authority to cancel or to refuse to issue a title or registration. Persons committing crimes relating to certificates of title and registration decals are guilty of a third degree felony, punishable by a term of imprisonment not exceeding 5 years, a fine of \$5,000, or in the case of a habitual felony offender, a term of imprisonment not to exceed 10 years. The bill also provides for punishment of certain offenses if not otherwise provided for as a second degree misdemeanor, punishable by a term of imprisonment not to exceed 60 days or a fine of \$500.

The bill amends s. 215.22, F.S., exempting the Off-Highway-Vehicle Revolving Trust Fund from the service charge usually paid to the General Revenue Fund. And lastly, the bill authorizes the Florida Fish and Wildlife Commission to register off-road vehicles not registered pursuant to the Florida Off-Highway Vehicle Titling and Registration Act.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 215.22, F.S., exempting the Off-Highway-Vehicle Revolving Trust Fund from the service charge usually paid to the General Revenue Fund.

Section 2: Creates Chapter 261, F.S., creating the "Florida Off-Highway-Vehicle Safety and Recreation Act;" providing definitions; creating the Off-Highway-Vehicle Recreation Advisory Committee, which will establish policies regarding all aspects of off-highway-vehicle recreation programs; providing for rulemaking authority and for the functions and duties of the Department of Agriculture and Consumer Services; providing for the publication and sale of a guidebook; providing for the care and maintenance of the public lands and trails; and providing criteria for recreation areas and trails.

Section 3: Amends s. 316.2074, F.S., redefining the term "all-terrain vehicle".

Section 4: Providing for the creation of the "Florida Off-Highway-Vehicle Titling and Registration Act", within Chapter 316, F.S.

Section 5: Providing legislative intent for all off-highway vehicles to be titled and registered; providing for revenue generated from titling and registration to be used for trail creation, maintenance and management.

Section 6: Providing definitions.

Section 7: Designating the Department of Highway Safety and Motor Vehicles (DHSMV) to administer the off-highway vehicle titling and registration laws.

Section 8: Authorizing DHSMV to adopt rules and prescribe forms to carry out the provisions of this bill.

Sections 9-18: Establishing a \$29 fee for applications for certificates of title and a \$25 fee for annual registration of off-highway vehicles; establishing fees for issuance of duplicate titles, registrations, and mail service handling fees; providing for tax collectors to retain a specified processing fee for each registration/title processed; and providing for tax collectors to remit proceeds to the DHSMV to be deposited into the Off-Highway Vehicle Revolving Trust Fund.

Section 19: Providing authority to DHSMV to refuse or cancel a certificate of title or registration.

Section 20: Providing penalties for crimes relating to certificates of title and registration decals.

Section 21: Providing for punishment of certain offenses, if not otherwise provided for, as second degree misdemeanors.

Section 22: Providing for registration of off-road vehicles operated on public lands not registered pursuant to the Florida Off-Highway Vehicle Titling and Registration Act.

Section 23: Providing an effective date of October 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

	Amount Year 1 <u>FY 2000-01</u>	Amount Year 2 <u>FY 2001-02</u>	Amount Year 3 <u>FY 2002-03</u>
1. <u>Revenues:</u>			
Recurring:			
Department of Agriculture and Consumer Services:			
Anticipated Revenue* (OHVRTF**)	<u>\$784,000</u>	<u>\$862,400</u>	<u>\$948,640</u>
Total Recurring Revenue	<u>\$784,000</u>	<u>\$862,400</u>	<u>\$948,640</u>
2. <u>Expenditures:</u>			
Non-Recurring:			
Department of Agriculture and Consumer Services:			
(1) FTE - Professional package (OHVRTF)	\$ 2,000	\$ -	\$ -
Department of Highway Safety and Motor Vehicles:			
Data Processing (General Revenue)	<u>67,750</u>	-	-
Total Non-Recurring Expenditures	\$ 69,750	-	-

Recurring:

Department of Agriculture and Consumer Services:

(1) FTE - Environmental Specialist II***
(Paygrade 22 @ \$45,966)

(OHVRTF)	\$ 34,475	\$ 47,345	\$ 48,765
OPS (OHVRTF)	8,000	8,000	8,000
Professional Expense Package (OHVRTF)	9,302	9,302	9,302
	Amount	Amount	Amount
	Year 1	Year 2	Year 3
	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>

Travel (Per diem, gas) (OHVRTF)	5,000	5,000	5,000
Advisory Committee Meetings (OHVRTF)	<u>8,000</u>	<u>8,000</u>	<u>8,000</u>
	\$64,777	\$ 77,647	\$ 79,067

Department of Highway Safety and Motor Vehicles:

	<u>-</u>	<u>-</u>	<u>-</u>
Total Recurring Expenditures	<u>64,777</u>	<u>77,647</u>	<u>79,067</u>
Total Expenditures	<u>\$134,527</u>	<u>\$ 77,647</u>	<u>\$ 79,067</u>

*Revenues were calculated based on the following information from the Off-Road Vehicle Industry:

Certificate of Title:
12,000 titles issued @ \$29 each,
less \$2/title retained by the DHSMV \$324,000

Certificate of Registration:
20,000 registrations issued @ \$25 each,
less \$2/registration retained by the DHSMV,
with a 10% increase in the 2nd and 3rd years 460,000

Total Revenue (first year) \$784,000

**Off-Highway Vehicle Revolving Trust Fund

***Position entered at 10% above minimum with a 25% lapse for first year start-up. Second and third year salaries annualized and given a projected 3% pay raise.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There is a \$4.25 service fee for each title transaction and a \$2.50 service fee for each registration transaction is proposed that county tax collectors would collect if application is not handled directly from the department.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of off-highway vehicles would pay \$29 to have their off-highway vehicle titled and \$25 for the annual registration.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

CS/CS/HB 777 provides rulemaking authority to the Department of Agriculture & Consumer Services for implementation of the provisions of the section, and to the Department of Highway Safety & Motor Vehicles to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., pertaining to the implementation of off-highway vehicle titling and registration.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 2000, the Committee on Agriculture Committee adopted the following three amendments and reported the bill favorably as a committee substitute:

- The membership of the Off-Highway Vehicle Recreation Advisory Committee was increased from seven to nine with the addition of representatives from the Department of Environmental Protection's Office of Greenways and Trails and the Florida Fish and Wildlife Conservation Commission.
- Sections 375.315 and 375.313(2), F.S., were reinstated. Also, in s. 375.315, F.S., the Florida Fish and Wildlife Conservation Commission is authorized to register all off-road vehicles not required to be registered by the Department of Highway Safety and Motor Vehicles.
- The effective date was changed from upon becoming law to October 1, 2000.

On April 5, 2000, the Committee on Governmental Rules & Regulations adopted the following amendments and voted the bill favorably as a committee substitute for committee substitute:

Amendment 1 - Provided the Department of Agriculture & Consumer Services (DACS) with rulemaking authority.

Amendment 2 - Directed DACS to take appropriate action as necessary when monitoring adherence with environmental laws.

Amendment 3 - Revised service charges regarding titles of off-highway vehicles.

Amendment 4 - Revised service charges regarding registration certificates for off-highway vehicles.

Amendment 5 - Doubled amount of time an applicant has for reissuance of a lost certificate of title from 90 days to 180 days.

Amendment 6 - Changed "shall" to "may" when authorizing the department to charge a mail service charge for registration or reregistration.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Debbi Kaiser

Staff Director:

Susan D. Reese

STORAGE NAME: h0777s2.grr

DATE: April 7, 2000

PAGE 9

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

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Shari Z. Whittier

David M. Greenbaum