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DATE: February 21, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 103

RELATING TO: Off-highway vehicles

SPONSOR(S): Representative(s) Russell

TIED BILL(S): HB 101

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

- (1) COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 8 NAYS 0
- (2) FISCAL POLICY & RESOURCE (FRC)
- (3) COUNCIL FOR COMPETITIVE COMMERCE
- (4)
- (5)

I. SUMMARY:

HB 103 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 101) 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 that 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.

HB 103 provides rulemaking authority to DACS 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.

HB 103 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.

The House Committee on Agriculture and Consumer Affairs adopted a strike-everything amendment, which is traveling with the bill, on February 21, 2001. Please see section VI, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

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 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 that are used on public lands, with the exception of those that are owned by non-Florida residents or by governmental entities, to be titled and registered by the Department of Highway Safety and Motor Vehicles. The bill also creates a 9-member Off-Highway Vehicle Advisory Committee within the Division of Forestry (division) of the Department of Agriculture and Consumer Services. The duties of the committee and the expanded duties of the division are listed in subsection C., Effects of Proposed Changes.

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 Department of Agriculture and Consumer Services' (DACS) Division of Forestry. The Croom Motorcycle Area sells annual permits for \$25. In 2000, approximately 13,250 permits were sold, totaling more than \$250,000.

Currently, the federal Recreational Trails Program (RTP) has matching funds available for off-highway vehicle recreation programs in each state. In the past three submission cycles, five projects totaling \$99,607 for improvements on the Croom tract have been funded. While more funds are available, the allocations for motorized use have been limited by the availability of match, which has come from private users.

Off-highway vehicles are currently allowed on the United States Forest Service (USFS) lands, which include approximately 1.2 million acres in Florida. The USFS is currently addressing off-highway vehicle uses on these lands to balance use with resource protection. While the current practice allows motorized use unless posted, the goal is to limit additional trail development, motorized or non-motorized, and to consolidate existing trails.

C. EFFECT OF PROPOSED CHANGES:

HB 103, 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:

- 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 amends s. 316.2074, F.S., redefining the term "all-terrain vehicle".

HB 103 requires all off-highway vehicles owned by residents of the state for use on public lands to be titled and registered. An exemption for titling and registration is provided for non-Florida residents and governmental entities. 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.

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, HB 103 gives DHSMV the authority to cancel or 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 Conservation 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;" provides definitions; creates the Off-Highway Vehicle Recreation Advisory Committee to establish policies regarding all aspects of off-highway vehicle recreation programs; provides for rulemaking authority and for the functions and duties of the Department of Agriculture and Consumer Services; provides for the publication and sale of a guidebook; provides for the care and maintenance of the public lands and trails; and provides criteria for recreation areas and trails.

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

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

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

Section 6: Provides definitions.

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

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

Section 9-18: Establishes a \$29 fee for applications for certificates of title and a \$25 fee for annual registration of off-highway vehicles; establishes fees for issuance of duplicate titles, registrations, and mail service handling fees; provides for tax collectors to retain a specified processing fee for

each registration/title processed; and provides for tax collectors to remit proceeds to the DHSMV to be deposited into the Off-Highway Vehicle Revolving Trust Fund.

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

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

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

Section 22: Provides 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: Provides an effective date of October 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

	Fund	Amount Year 1 (FY 01-02)	Amount Year 2 (FY 02-03)	Amount Year 3 (FY 03-04)
1. <u>Revenues:</u>				
Department of Agriculture & Consumer Services:				
Anticipated Recurring Revenues	OHVRTF	\$784,000	\$862,400	\$948,640
Grand Total All Revenues	OHVRTF	<u>\$784,000</u>	<u>\$862,400</u>	<u>\$948,640</u>
2. <u>Expenditures:</u>				
Department of Agriculture & Consumer Services:				
Non-Recurring Costs:				
*OCO Professional Pkg.				
1 FTE @ \$1,500	**OHVRTF	\$ 1,500	\$ -	\$ -
OCO GPS Units/Computers/ Miscellaneous	OHVRTF	2,000	3,000	3,000
Acquisition of Motor Vehicles 4x4 Utility Vehicle	OHVRTF	<u>26,000</u>	-	-
Total Non-Recurring Costs	OHVRTF	29,500	3,000	3,000
Recurring Costs:				
Positions (located in Tallahassee)				
**1 FTE – Environmental				
Specialist II	OHVRTF	35,245	48,403	49,855
Other- OPS (Staff support)	OHVRTF	12,000	12,000	12,000
Expenses – Professional Expense				
Package @ \$9,915	OHVRTF	9,915	9,915	9,915
Travel (Per diem, gas)	OHVRTF	5,000	5,000	5,000
Advisory Committee meetings	OHVRTF	8,000	8,000	8,000
Supplies		5,000	10,000	15,000

Printers		-	50,000	50,000
Contractual Services		50,000	200,000	300,000
Parts/Maintenance		1,000	10,000	20,000
Utilities		<u>1,000</u>	<u>2,000</u>	<u>3,000</u>
Total Recurring Costs	OHVRTF	<u>127,160</u>	<u>355,318</u>	<u>472,770</u>
Grand Total All Costs	OHVRTF	<u>\$156,660</u>	<u>\$358,318</u>	<u>\$475,770</u>

*Other Costs of Operation

**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 are annualized and given a projected 3% pay raise.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

	FUND	AMOUNT Year 1 (FY 01-02)	AMOUNT Year 2 (FY 02-03)	AMOUNT Year 3 (FY 03-04)
1. <u>Revenues:</u>				
Department of Highway Safety & Motor Vehicles:				
Registration service fee (\$2.50 x 4,490)		\$ 11,225	\$ 11,225	\$ 11,225
Title service fee (\$4.25 x 4,490)		<u>19,083</u>	<u>-</u>	<u>-</u>
Total Revenue		30,308	11,225	11,225

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 inspection.

D. FISCAL COMMENTS:

The Florida Off-Highway Vehicle Titling and Registration Act, through the Department of Highway Safety and Motor Vehicles, would require each new off-highway vehicle to be titled in order to help track stolen vehicles. The revenue generated by the titling and registration process will be placed in the newly created Off-Highway Vehicle Revolving Trust Fund. The fund will be used to manage the Off-Highway Vehicle Recreation Program that will be administered by the Division of Forestry. This includes personnel, administrative and operating expenses, expenses related to safety, training, and rider-education, and acquisition of land for trails to be included in the Off-Highway Vehicle Recreation Program.

Revenues were calculated based on a study by the Off-Road Vehicle industry shown below:

Certificate of Title

\$29 fee, less \$2 retained by the Department of Highway Safety.

Study estimates that 12,000 ATV/Off-highway motorcycles will be titled per year.

12,000 x \$27

\$324,000

Certificate of Registration

\$25 fee, less \$2 retained by the Department of Highway Safety.

Study estimated 20,000 off-highway vehicles registered to operate on public lands the first year, and increased 10% the second and third years.

20,000 x \$23	<u>460,000</u>
Total Revenue, first year	<u>\$784,000</u>

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:

HB 103 provides rulemaking authority to the Department of Agriculture and Consumer Services for implementation of the provisions of the section, and to the Department of Highway Safety and 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:

Department of Highway Safety & Motor Vehicles:

This bill should be rewritten within Chapters 319 and 310, Florida Statutes. As a whole, ATV's are not road worthy. They fail to meet all of the safety requirements of Chapter 316 (windshield, seatbelts, braking requirement, etc.). Also, the limited size of an ATV reduces the visibility by other vehicle drivers. This could increase the possibility of an accident occurring.

The speed of an ATV is limited/slow, which could increase the probability of an accident occurring. Another factor to consider is that the Division of Motor Vehicles may have to assign serial numbers to the ATV's if they do not have one already. This would put an additional workload on the compliance examiners if they have to inspect the vehicle before a tag is issued. This could cause a workload impact for ATV's with non-conforming vehicle identification numbers.

Finally, insurance requirements may be an issue to resolve. Therefore, the Department of Highway Safety & Motor Vehicles recommends that they are registered for the purpose of establishing legal ownership; but not be allowed to operate on public roads and highways.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Agriculture and Consumer Affairs

On February 21, 2001, the House Committee on Agriculture and Consumer Affairs approved a strike-everything amendment, offered by Representative Russell. Some of the changes were of a technical nature, such as changing dates that were incorrect due to last year's legislation being used as the basis for this year's bill.

Most of the changes in the amendment addressed issues concerning protection of the environment and maintaining the natural resources. For example, the make-up of the advisory board was changed to include a citizen with scientific expertise in disciplines relating to ecology, wildlife biology, or other environmental sciences. It also allows for grants to be awarded for restoration of natural areas and to provide rider education. The amendment clarifies that lands must be rehabilitated in accordance with best management plans when damaged by off-highway vehicle use.

In addition, the amendment provides a definition for "public lands". At the request of the Department of Highway Safety and Motor Vehicles, language was included prohibiting all-terrain vehicles from operating on public roads, streets, or highways in the state. The amendment also removes the fee for the guidebook to be published by the Department of Agriculture and Consumer Services. And lastly, the amendment clarifies that owners, operators, or managers of off-highway vehicle recreation areas are not prohibited from charging entrance or admission fees.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Debbi Kaiser

Susan Reese