

723-155AX-02

Bill No. CS/HB 1781

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Barreiro offered the following:

**Amendment (with directory language and title amendments)**

On page 3, line 22 through page 9, line 3,  
remove: all of said lines

and insert:

261.03 Definitions.--As used in this chapter, the term:

(1) "Advisory committee" means the Off-Highway Vehicle Recreation Advisory Committee created by s. 261.04.

(2) "ATV" means any motorized off-highway or all-terrain vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger.

(3) "Department" means the Department of Agriculture and Consumer Services.

(4) "Division" means the Division of Forestry of the

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1 Department of Agriculture and Consumer Services.

2 (5) "OHM" or "off-highway motorcycle" means any motor  
3 vehicle used off the roads or highways of this state that has  
4 a seat or saddle for the use of the rider and is designed to  
5 travel with not more than two wheels in contact with the  
6 ground, but excludes a tractor or a moped.

7 (6) "Off-highway vehicle" means any ATV or OHM that is  
8 used off the roads or highways of this state for recreational  
9 purposes and that is not registered and licensed for highway  
10 use under chapter 320.

11 (7) "Program" means the Off-Highway Vehicle Recreation  
12 Program.

13 (8) "Public lands" means lands within the state that  
14 are available for public use and that are owned, operated, or  
15 managed by a federal, state, county, or municipal governmental  
16 entity.

17 (9) "System" means the off-highway vehicle recreation  
18 areas and trails on public lands within the state.

19 (10) "Trust fund" means the Incidental Trust Fund of  
20 the Division of Forestry of the Department of Agriculture and  
21 Consumer Services.

22 261.04 Off-Highway Vehicle Recreation Advisory  
23 Committee; members; appointment.--

24 (1) Effective July 1, 2003, the Off-Highway Vehicle  
25 Recreation Advisory Committee is created within the Division  
26 of Forestry and consists of nine members, all of whom are  
27 appointed by the Commissioner of Agriculture. The appointees  
28 shall include one representative of the Department of  
29 Agriculture and Consumer Services, one representative of the  
30 Department of Highway Safety and Motor Vehicles, one  
31 representative of the Department of Environmental Protection's

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1 Office of Greenways and Trails, one representative of the Fish  
 2 and Wildlife Conservation Commission, one citizen with  
 3 scientific expertise in disciplines relating to ecology,  
 4 wildlife biology, or other environmental sciences, one  
 5 representative of a licensed off-highway vehicle dealer, and  
 6 three representatives of off-highway vehicle recreation  
 7 groups. In making these appointments, the commissioner shall  
 8 consider the places of residence of the members to ensure  
 9 statewide representation.

10 (2) The term of office of each member of the advisory  
 11 committee is 2 years. The members first appointed shall  
 12 classify themselves by lot so that the terms of four members  
 13 expire June 30, 2005, and the terms of five members expire  
 14 June 30, 2006.

15 (3) In case of a vacancy on the advisory committee,  
 16 the commissioner shall appoint a successor member for the  
 17 unexpired portion of the term.

18 (4) The members shall elect a chair among themselves  
 19 who shall serve for 1 year or until a successor is elected.

20 (5) The members of the advisory committee shall serve  
 21 without compensation, but shall be reimbursed for travel and  
 22 per diem expenses as provided in s. 112.061, while in the  
 23 performance of their official duties.

24 261.05 Duties and responsibilities of the Off-Highway  
 25 Vehicle Recreation Advisory Committee.--

26 (1) The advisory committee shall establish policies to  
 27 guide the department regarding the Off-Highway Vehicle  
 28 Recreation Program and the system of off-highway vehicle  
 29 recreation areas and trails.

30 (2) The advisory committee shall make recommendations  
 31 to the department regarding off-highway vehicle safety and

1 training and education programs in the operation of such  
2 vehicles.

3 (3) The advisory committee must be informed regarding  
4 all governmental activities affecting the program.

5 (4) The advisory committee must be informed regarding  
6 off-highway vehicle impacts and effects on the environment,  
7 wildlife habitats, and native flora and fauna and shall make  
8 recommendations to avoid or minimize adverse environmental  
9 impacts and promote sustained long-term use.

10 (5) The advisory committee must be fully informed  
11 regarding the inventory of off-highway vehicle access and  
12 opportunities.

13 (6) The advisory committee shall meet at various times  
14 and locations throughout the state to receive public comments  
15 on the implementation of the program and shall take these  
16 public comments into consideration when making its  
17 recommendations.

18 (7) The advisory committee shall review and make  
19 recommendations annually regarding the department's proposed  
20 budget of expenditures from the designated off-highway vehicle  
21 funds in the trust fund, which may include providing funds to  
22 match grant funds available from other sources.

23 (8) The advisory committee shall make recommendations  
24 regarding all capital outlay expenditures from the trust fund  
25 proposed for inclusion in the budget and shall identify  
26 additional funding sources for management, enforcement,  
27 education, rehabilitation, and other duties of the land  
28 management agencies related to the system.

29 (9) The advisory committee shall review grant  
30 applications submitted by any governmental agency or entity or  
31 nongovernmental entity requesting moneys from the trust fund

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1 to create, operate, manage, or improve off-highway vehicle  
2 recreation areas or trails within the state, protect and  
3 restore affected natural areas in the system, or provide  
4 off-highway vehicle driver education. The advisory committee  
5 shall recommend to the department approval or denial of such  
6 grant applications based upon criteria established by the  
7 advisory committee.

8 261.06 Functions, duties, and responsibilities of the  
9 department.--The following are functions, duties, and  
10 responsibilities of the department through the division:

11 (1) Coordination of the planning, development,  
12 conservation, and rehabilitation of state lands in and for the  
13 system.

14 (2) Coordination of the management, maintenance,  
15 administration, and operation of state lands in the system and  
16 the provision of law enforcement and appropriate public safety  
17 activities.

18 (3) Management of the trust fund and approval of the  
19 advisory committee's budget recommendations.

20 (4) Implementation of the program, including the  
21 ultimate approval of grant applications submitted by  
22 governmental agencies or entities or nongovernmental entities.

23 (5) Coordination to help ensure compliance with  
24 environmental laws and regulations of the program and lands in  
25 the system.

26 (6) Implementation of the policies established by the  
27 advisory committee.

28 (7) Provision of staff assistance to the advisory  
29 committee.

30 (8) Preparation of plans for lands in, or proposed to  
31 be included in, the system.

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1           (9) Conducting surveys and the preparation of studies  
2 as are necessary or desirable for implementing the program.

3           (10) Recruitment and utilization of volunteers to  
4 further the program.

5           (11) Rulemaking authority to implement the provisions  
6 of ss. 261.01-261.10.

7           (12) In consultation with the Department of  
8 Environmental Protection, the Fish and Wildlife Conservation  
9 Commission, the environmental community, and the off-highway  
10 vehicle industry and user groups, review of the inventory of  
11 public lands to determine the feasibility of providing public  
12 access for off-highway vehicle recreation and trails. The  
13 department shall provide a report to the Governor and the  
14 presiding officers of the Legislature by January 1, 2003. The  
15 report must include at least two appropriate locations for  
16 public access for off-highway vehicle recreational use and the  
17 applicable cost of providing each facility. The cost section  
18 of the report shall fully explain the fiscal approach of  
19 renovating, maintaining, and operating each site and include a  
20 recommended fee structure to support the ongoing maintenance  
21 and operation of the program. The report shall also include  
22 the benefits and risks of offering each site for off-highway  
23 vehicle recreational use. The recommendations contained within  
24 the report shall be implemented to the extent enacted or  
25 appropriated by the Legislature. This subsection shall expire  
26 July 1, 2003.

27           261.07 Publication and distribution of guidebook;  
28 contents.--In consultation with the advisory committee, the  
29 department shall publish a guidebook that includes the text of  
30 this chapter, other laws and regulations relating to the  
31 program, and maps of areas and trails of the system. The

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1 guidebook may include other public areas, trails, and  
2 facilities for the use of off-highway vehicles. The guidebook  
3 must include information regarding the responsibilities of  
4 users of the system and must set forth pertinent laws, rules,  
5 and regulations including particular provisions and other  
6 information intended to prevent trespass and damage to public  
7 or private property. The guidebook must be prepared at minimal  
8 cost to facilitate the broadest possible distribution and must  
9 be available for distribution no later than October 1, 2003.

10 261.08 Repair, maintenance, and rehabilitation of  
11 areas, trails, and lands.--

12 (1) The protection of public safety, the appropriate  
13 use of lands in the system, and the conservation of the  
14 environment, wildlife habitats, native wildlife, and native  
15 flora and fauna in the system are of the highest priority in  
16 the management of the system. Accordingly, the public land  
17 managing agency shall avoid or minimize adverse impacts to the  
18 environment, promptly repair and continuously maintain areas  
19 and trails, anticipate and prevent accelerated erosion, and  
20 rehabilitate lands to the extent damaged by off-highway  
21 vehicle use in accordance with the management plans of the  
22 public land managing agency.

23 (2) The public land managing agency shall monitor the  
24 condition of soils and wildlife habitat in each area of the  
25 system to determine whether there is compliance with  
26 applicable environmental laws and regulations and shall take  
27 appropriate action as necessary.

28 (3) The public land managing agency may regulate or  
29 prohibit, when necessary, the use of off-highway vehicles on  
30 the public lands of the state in order to prevent damage or  
31 destruction to said lands.

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1           261.09 Contracts and agreements.--The public land  
2 managing agency may contract with private persons or entities  
3 and enter into cooperative agreements with other public  
4 agencies for the care and maintenance of lands in the system,  
5 including contracts for law enforcement services with public  
6 agencies having law enforcement powers.

7           261.10 Criteria for recreation areas and  
8 trails.--Publicly owned or operated off-highway vehicle  
9 recreation areas and trails shall be designated and maintained  
10 for recreational travel by off-highway vehicles. These areas  
11 and trails need not be generally suitable or maintained for  
12 normal travel by conventional two-wheel-drive vehicles and  
13 should not be designated as recreational footpaths. State  
14 off-highway vehicle recreation areas and trails must be  
15 selected and managed in accordance with this chapter.

16           261.11 Penalties.--No off-highway vehicle may be  
17 operated upon the public roads, streets, or highways of this  
18 state, except as otherwise permitted by the managing local,  
19 state, or federal agency. A violation of this section is a  
20 noncriminal traffic infraction, punishable as provided in  
21 chapter 318.

22           261.12 Designated off-highway vehicle funds within the  
23 Incidental Trust Fund of the Division of Forestry of the  
24 Department of Agriculture and Consumer Services.--

25           (1) The designated off-highway vehicle funds of the  
26 trust fund shall consist of deposits from the following  
27 sources:

28           (a) Fees paid to the Department of Highway Safety and  
29 Motor Vehicles for the titling and registration of off-highway  
30 vehicles.

31           (b) Revenues and income from any other sources



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1 required by law or as appropriated by the Legislature to be  
2 deposited into the trust fund as designated off-highway  
3 vehicle funds.

4 (c) Donations from private sources that are designated  
5 as off-highway vehicle funds.

6 (d) Interest earned on designated off-highway vehicle  
7 funds on deposit in the trust fund.

8 (2) Designated off-highway vehicle funds in the trust  
9 fund shall be available for recommended allocation by the  
10 Off-Highway Vehicle Recreation Advisory Committee and the  
11 Department of Agriculture and Consumer Services and upon  
12 annual appropriation by the Legislature, exclusively for the  
13 following:

14 (a) Implementation of the Off-Highway Vehicle  
15 Recreation Program by the Department of Agriculture and  
16 Consumer Services, which includes personnel and other related  
17 expenses; administrative and operating expenses; expenses  
18 related to safety, training, rider education programs,  
19 management, maintenance, and rehabilitation of lands in the  
20 Off-Highway Vehicle Recreation Program's system of lands and  
21 trails; and, if funds are available, acquisition of lands to  
22 be included in the system and the management, maintenance, and  
23 rehabilitation of such lands.

24 (b) Approved grants to governmental agencies or  
25 entities or nongovernmental entities that wish to provide or  
26 improve off-highway vehicle recreation areas or trails for  
27 public use on public lands, provide environmental protection  
28 and restoration to affected natural areas in the system,  
29 provide enforcement of applicable regulations related to the  
30 system and off-highway vehicle activities, or provide  
31 education in the operation of off-highway vehicles.

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1 == D I R E C T O R Y L A N G U A G E A M E N D M E N T ==

2 And the directory language is amended as follows:

3 On page 2, line 19, after "261.03,"

4

5 insert: 261.04, 261.05,

6

7

8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 1, lines 6-9,

11 remove: all of said lines

12

13 and insert:

14 and intent; providing definitions; creating the  
15 Off-Highway Vehicle Recreation Advisory  
16 Committee effective July 1, 2003; providing  
17 membership, duties, and responsibilities of the  
18 committee; providing functions, duties, and  
19 responsibilities of the Department of  
20 Agriculture and Consumer Services; requiring  
21 the department to review certain public lands  
22 and make a report to the Governor and the  
23 Legislature; providing rulemaking authority;

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