

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: SB 1562

INTRODUCER: Senator Saunders

SUBJECT: Operation of All-Terrain Vehicles

DATE: April 14, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	Favorable
2.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	Favorable
3.	<u>Molloy</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill permits counties to allow the daytime use of all-terrain vehicles (ATVs) on designated unpaved roads where speed limits are posted and the road is appropriately marked for ATV use.

This bill substantially amends s. 316.2123 of the Florida Statutes:

II. Present Situation:

An ATV is defined in ss. 261.03, 316.2074, and 317.0003, F.S., as 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 and with no passenger. Sections 261.03 and 317.03, F.S., also include separate definitions for two-rider ATVs. Section 316.2074, F.S., prohibits ATVs from being operated upon public roads, streets, or highways except by law enforcement personnel in certain circumstances, or as otherwise permitted by the managing state or federal agency.

The 2006 Legislature enacted chapter 2006-290, Laws of Florida, which created s. 316.2123, F.S., allowing licensed drivers to operate ATVs on all unpaved public roads with speed limits less than 35 miles per hour during daylight hours. A minor under the supervision of a licensed driver may also operate an ATV under such conditions. Since licensed drivers need not be adults, supervision could be performed without an adult present. Any county can prohibit the operation of ATVs on all roads within the county by opting out of the section's provisions through a majority vote of the county's governing body after a public hearing. A number of counties have

opted out of the provisions of the section, effectively prohibiting the operation of ATVs on all public roads, streets, and highways within those counties.

Section 261.20, F.S., establishes requirements for the operation of ATVs on public lands which are defined as lands “available for public use and that are owned, operated, or managed by a federal, state, county, or municipal governmental entity.” The section requires operational brakes, a spark arrester, and a muffler capable of reducing noise to specified levels. Beginning July 1, 2008, ATV operators under the age of 16 must possess evidence of the satisfactory completion of an approved off-highway vehicle safety course. The section also establishes that it is a violation:

- To carry a passenger unless the machine is specifically designed by the manufacturer to carry an operator and a single passenger.
- To operate an ATV while under the influence of alcohol, a controlled substance, or any prescription or over-the-counter drug that impairs vision or motor condition.
- For a person who has not attained 16 years of age, to operate an off-highway vehicle without wearing eye protection, over-the-ankle boots, and a safety helmet.
- To operate an ATV in a careless or reckless manner that endangers or causes injury or damage to another person or property.

Violations are noncriminal infractions, subject to a fine of not less than \$100 and revocation of the privilege to operate an ATV on public lands. Any second or subsequent violations, or violations with the intent to defraud, can result in a fine of not less than \$500 and revocation of the privilege to operate an ATV on public lands.

III. Effect of Proposed Changes:

This bill allows counties, by a majority vote of the governing body, to permit the daytime use of ATVs on designated unpaved roads within the county. The designated unpaved roads must have posted speed limits of less than 35 miles per hour and must be marked for ATV use. ATVs operated on such designated roads may only be operated by licensed drivers or by minors under the supervision of a licensed driver. The operator must provide proof of ownership upon request of a law enforcement officer.

The act takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Effective supervision could be problematic since the statute relies upon the definition of ATV found in s. 317.0003, F.S., which states the vehicle is “intended for use by a single operator and with no passenger.” Since s. 317.0003, F.S., also includes a definition of “Two-rider ATV”, these vehicles would be excluded by omission from the provisions of this bill.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
