

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: Criminal Justice Committee

BILL: CS/SB 1676

INTRODUCER: Criminal Justice Committee and Senator Oelrich

SUBJECT: Off-road Vehicles/Law Enforcement

DATE: April 10, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/1 amendment
2.	Erickson	Cannon	CJ	Fav/CS
3.				
4.				
5.				
6.				

I. Summary:

Current statute does not permit law enforcement agencies to utilize all-terrain vehicles (ATVs) or low-speed vehicles on most public roads and permits only municipalities to utilize golf carts and utility vehicles by municipal employees for municipal purposes.

This bill creates s. 316.21265, F.S., to allow the use of ATVs, golf carts, low-speed vehicles, or utility vehicles by law enforcement agencies. The bill specifies vehicles must be clearly marked as law enforcement and may be equipped with certain equipment authorized for use on law enforcement vehicles. The operators and passengers of such vehicles must wear safety gear.

The bill has no fiscal impact on state or local governments and is effective July 1, 2007.

This bill creates section 316.21265 of the Florida Statutes.

II. Present Situation:

All-Terrain Vehicles (ATV)

Sections 316.2074(2) and 317.0003(1), F.S., define "ATV" to mean 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. In addition, s. 316.2074, F.S., provides that, for the purpose of this section, ATV includes two-rider ATV's.

Section 316.2074(5), F.S., with a few exceptions, prohibits the operation of an ATV on the public roads, streets, or highways of the state, except by law enforcement personnel in certain circumstances, or as otherwise permitted by the managing state or federal agency. In 2006, House Bill 7079 created s. 316.2123, F.S., which allows licensed drivers to operate ATVs on all unpaved public roads with speed limits less than 35 miles per hour during daylight hours.¹ The statute further provides 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. A county government may continue to prohibit the operation of ATVs on all roads within the county by opting out of the section's provisions, by 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 316.2074(6), F.S., allows a four-wheel ATV to be used by police officers on public beaches designated as public roadways for the purpose of enforcing state traffic laws. ATVs may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach.

Section 316.2074(7), F.S., allows a four-wheel ATV to be used by law enforcement officers on public roads within public lands while in the course and scope of their duties.

Section 317.0006(1), F.S., requires all ATVs to be titled with the Department of Highway Safety and Motor Vehicles (DHSMV) if purchased after July 1, 2002.

Golf Carts

Section 320.01(22), F.S., defines "golf cart" to mean a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and not capable of exceeding speeds of 20 miles per hour.

Golf carts are exempt from registration and license taxes under s. 320.105, F.S., and pursuant to s. 322.04, F.S., golf cart drivers are not required to have a driver's license or insurance.

According to s. 316.212, F.S., operation of a golf cart on a public road or street is prohibited, with the following exceptions:

- Operation of a golf cart is allowed on a county road that has been designated by a county, or a municipal street that has been designated by a municipality, for use by golf carts.
- Operation of a golf cart is allowed on a part of the State Highway System under the following conditions:
 - To cross a portion of the State Highway System which intersects a county or municipal road that has been designated for use by golf carts if the location and design of the crossing are approved by the Florida Department of Transportation (FDOT).

¹ Ch. 2006-290, L.O.F.

- To cross a portion where a golf course is constructed on both sides of the highway if the location and design of the crossing are approved by FDOT.
 - A road that has been designed for transfer to a local government unit pursuant to s. 335.0415, F.S.
- Operation of a golf cart is allowed for the purpose of crossing a street or highway where a single mobile home park is located on both sides of the street (applies to mobile home park residents and guests only).
 - Operation of a golf cart is permitted only during the hours between sunrise and sunset, unless the responsible governmental entity allows operation between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.

Section 316.2125, F.S., provides for the reasonable operation of a golf cart within any self-contained retirement community unless:

- A county or municipality prohibits the operation of golf carts on any street or highway under its jurisdiction when the governing body of the county or municipality determines such prohibition is necessary in the interest of safety.
- The FDOT prohibits the operation of golf carts on any street or highway under its jurisdiction when it determines such prohibition is necessary in the interest of safety.

In addition, s. 316.2126, F.S., authorizes municipalities to use golf carts on any state, county, or municipal roads located within the corporate limits of such municipalities, if the golf carts:

- Comply with operational and safety requirements and are only operated by municipal employees who possess a valid driver's license, for municipal purposes, including, but not limited to, police patrol, traffic enforcement, and inspection of public facilities.
- Are equipped with sufficient lighting and turn signal equipment.
- Are operated on state roads having a posted speed limit of 30 miles per hour or less.

A golf cart may not be operated by any person under the age of 14. Local government entities may enact an ordinance regarding golf cart operation which is more restrictive than state law. Public notification of such regulation is required and must apply only to unlicensed drivers.

Low-Speed Vehicles

Section 320.01(42), F.S., defines a "low-speed vehicle" to mean any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.

Section 316.2122, F.S., authorizes the use of low-speed vehicles on public roads and streets of this state with the following restrictions:

- A low-speed vehicle may only be operated on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

- A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.
- A low-speed vehicle must be registered and insured in accordance with s. 320.02, F.S.
- Any person operating a low-speed vehicle must have in their possession a valid driver's license.
- A county or municipality may prohibit the operation of low-speed vehicles on any street or highway under its jurisdiction if the governing body of the county or municipality determines such prohibition is necessary in the interest of safety.
- The FDOT may prohibit the operation of low-speed vehicles on any street or highway under its jurisdiction if it determines such prohibition is necessary in the interest of safety.

Utility Vehicles

Section 320.01(43), F.S., defines a "utility vehicle" to mean a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of person or property on a street or highway, or a golf cart, or an ATV vehicle as defined in s. 316.2074, F.S.

Section 316.2127, F.S., prohibits operation of a utility vehicle by a homeowners' association, or its agents, with the following exceptions:

- Operation is allowed on a county road that has been designated by a county, or a city street that has been designated by a city, for use by utility vehicles for general maintenance, security, and landscaping purposes.
- Operation is allowed on a portion of the State Highway System to cross a portion which intersects a county road or a city street, to cross a portion where the highway bisects property controlled or maintained by the homeowners' association, or to travel on a state road that has been designated for transfer to a local government unit pursuant to s. 335.0415, F.S., if approved by FDOT.
- Operation is permitted only during the hours between sunrise and sunset, unless the responsible governmental entity allows operation between sunset and sunrise and the utility vehicle is equipped with headlights, brake lights, turn signals, and a windshield.

In addition, s. 316.2126, F.S., authorizes municipalities to use utility vehicles on any state, county, or municipal roads located within the corporate limits of such municipalities, if the utility vehicles:

- Comply with operational and safety requirements and are only operated by municipal employees who possess a valid driver's license, for municipal purposes, including, but not limited to, police patrol, traffic enforcement, and inspection of public facilities.
- Are equipped with sufficient lighting and turn signal equipment.
- Are operated on state roads having a posted speed limit of 30 miles per hour or less.

A utility vehicle may not be operated by any person under the age of 14.

III. Effect of Proposed Changes:

This bill creates s. 316.21265, F.S., to allow any law enforcement agency in this state to operate ATVs, golf carts, low-speed vehicles, or utility vehicles on any street, road, or highway in this state while carrying out its official duties. Currently, law enforcement officers are utilizing these vehicles at the municipal, county, and state level to carry out activities. The rural areas of the state have become especially reliant on ATVs to cover the large areas of unpaved land in their jurisdictions. For example, Putnam County currently uses ATVs in marijuana eradication activities and would like to use them in door-to-door notification of persons located within one mile of sexual predators. Some officers use the vehicles to search for missing persons. According to the Florida Sheriffs Association, each county in the state utilizes at least one of these vehicles. This bill would specifically authorize such utilization by municipal, county, and state law enforcement agencies.

The bill also specifies the off-road vehicles used by law enforcement agencies must be clearly marked as law enforcement vehicles and may be equipped with approved law enforcement equipment, such as special warning lights and signaling devices.

In addition, the bill directs the vehicle operator and any passengers to wear the safety equipment which is required for use by operators or passengers, such as safety helmets.

The bill takes effect on July 1, 2007.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

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:

To the extent local and state agencies already own off-road vehicles, there will be no direct fiscal impact for being authorized to use them on any street, road, or highway. Some law enforcement agencies may choose to purchase additional off-road vehicles with the specific authorization provided by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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