

**The Florida Senate  
BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Agriculture Committee

BILL: CS/SB 798  
 INTRODUCER: Senator Baker  
 SUBJECT: Off-Highway Vehicles  
 DATE: March 10, 2009 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Leal	Poole	AG	Fav/CS
2.			TR	
3.			WPSC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes  
 B. AMENDMENTS.....  Technical amendments were recommended  
 Amendments were recommended  
 Significant amendments were recommended

**I. Summary:**

There are a number of vehicles designed for off-highway use currently on the market that exceed the size and weight limits, or otherwise do not fall within the current statutory definitions of all-terrain vehicles (ATV) and off-highway vehicles (OHV). The bill amends the basic definition of "ATV" and "off-highway vehicle" and creates the statutory definition of "ROV."

The new definitions will allow for a greater variety of vehicles to be regulated under Chapters 261, 316, and 317, Florida Statutes. Consequently, these vehicles, upon being titled would be eligible to be ridden at state and federal parks and other designated riding areas. In addition, ROV's would have to comply with the safety requirements found in current statutes.

This bill substantially amends the following sections of the Florida Statutes: s. 261.03, s. 316.2074, and s. 317.0003.

**II. Present Situation:**

*Chapter 261, Florida Statutes:*

In 2002 the legislature passed into law the “T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act.” This act created Chapter 261, Florida Statutes. Due to the increased popularity of OHV’s Chapter 261, Florida Statutes, was enacted to facilitate the maintenance of existing OHV trails and recreation areas and to create new OHV trails and recreation areas in a manner that would sustain both long-term use and the environment. The act created the OHV Recreation Program which provides the State of Florida with a set of guidelines to follow for developing and maintaining state lands for OHV users.

Chapter 261, Florida Statutes, creates an OHV Recreation Advisory Committee within the Department of Agriculture and Consumer Services’ (DACS) Division of Forestry. The Committee is directed:

- To establish policies to guide DACS regarding the OHV Recreation Program and the system of OHV recreation areas and trails;
- Review and make recommendations annually regarding DACS proposed budget of Expenditures from the trust fund;
- Make recommendations regarding all capital outlay expenditures from the trust fund;
- Review grant applications requesting moneys from the trust fund to create, operate, manage or improve OHV recreation areas within the state.

*OHV Recreation Program:*

Under Chapter 261, Florida Statutes, DACS is responsible for the administration of the OHV Recreation Program; this includes approval for grant applications. The grant program provides financial assistance to public agencies statewide in order to improve riding opportunities on state lands. Funding for the competitive grant program comes from fees derived from the titling of OHV’s.

*OHV Titling:*

Chapter 317, Florida Statutes, provides for OHV titling by the Department of Highways Safety and Motor Vehicles (DHSMV). DHSMV may adopt rules and prescribe the forms necessary for the titling and registering of OHV’s by residents of the state. Any OHV that is purchased by a resident of this state and that is operated on public land must be titled. Chapter 317, Florida Statutes, exempts from the titling and registration requirements non-Florida residents, governmental entities, vehicles used for agriculture, and OHV’s rented from a franchisee of a public entity that controls a public beach.

*ATV and OHV Safety Requirements:*

Chapters 261 and 316, Florida Statutes, provide guidelines for the safe operation of ATV’s and OHV’s in the state. Section 316.2074, Florida Statutes, requires anyone under the age of sixteen years of age who is operating or riding on an ATV to wear a safety helmet. In addition, section 316.2074, Florida Statutes, prohibits the operation of ATV’s on any public roads of the state, except as otherwise permitted by the managing state or federal agency. A violation of section 316.2074 is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in Chapter 318, Florida Statutes.

Section 261.20, Florida Statutes, restricts the operation of OHV's on public lands. Anyone under 16 years of age operating an OHV on public lands must be supervised by an adult. In addition, anyone under 16 years of age must complete an approved OHV safety course in order to operate an OHV on public lands. All OHV's must be equipped with a spark arrester, a braking system, a muffler, and silencer or other device which limits sound emissions. It is a violation of Section 261.20, Florida Statutes, for a person under 16 years of age to operate an OHV without wearing eye protection, over the ankle-boots, and a safety helmet. Any person who violates this section is subject to a fine not less than \$100.00 and may have his or her privilege to operate an ATV on public lands revoked.

*ATV Defined:*

Chapters 261, 316, and 317, Florida Statutes, define "ATV" 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. "Two-rider ATV" is defined as any ATV that is specially designed for a single operator and one passenger. ATV and two-rider ATV are both considered OHV's under the current statutory definition of OHV found in Chapters 261 and 317, Florida Statutes.

There are a number of vehicles designed for off-highway use currently on the market that exceed the size and weight limits, or otherwise do not fall within the current statutory definitions of ATV and OHV because of the vehicle's design. Vehicles not meeting the statutory definitions are not required to comply with the safety and titling requirements for OHV's, and they are also not eligible to be ridden at state and federal parks and other designated riding areas.

### **III. Effect of Proposed Changes:**

The bill amends the basic definition of "ATV" and "off-highway vehicle" and creates the statutory definition of "ROV." In order for a vehicle to be classified as an ROV it must:

- Be 60 inches or less in width and weigh 1,500 pounds or less;
- Be designed to travel on four or more nonhighway tires;
- Have nonstraddle seating and a steering wheel;
- Be manufactured for recreational use by one or more persons.

The statutory definition of "ROV" excludes golf carts and low-speed vehicles.

The bill amends the statutory definition of "ATV" by increasing the dry weight from "900 pounds or less" to "1,500 pounds or less" and by requiring that it be designed to travel on three or more "nonhighway" tires, rather than three or more "low pressure tires." The statutory definition of "off-highway vehicle" is amended to include ROV's.

#### **Other Potential Implications:**

None.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The titling of ROV's may lead to an increase in the amount of titling fees received by DHSMV. The \$29.00 fee, less an administrative cost of \$2.00 is deposited by DHSMV into the Incidental Trust Fund of the Division of Forestry of DACS. In addition to the title fee, DHSMV may issue a validation sticker whose fees are established in sections 320.03(5), 320.031 and 320.04, Florida Statutes. According to DHSMV, the number of vehicles that will pay the \$29.00 title application fee and possible validation sticker fee is undeterminable.

**B. Private Sector Impact:**

In order to operate on "public lands" vehicles meeting the new definition of ROV will be required to pay a \$29.00 title application fee. In addition, ROV's will have to be equipped with a spark arrester, a braking system, a muffler, and silencer or other device which limits sound emissions.

The bill will allow for ROV's to be regulated under Chapters 261, 316 and 317, Florida Statutes. Consequently, these vehicles, upon being titled would be eligible to be ridden at state and federal parks and other designated riding areas and would have to comply with certain safety requirements.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Agriculture on March 10, 2009:**

The Committee Substitute deletes all language after the enacting clause and new language is inserted. The Committee Substitute makes the following changes:

- Maintains the current width and design requirements of the current statutory definition of “ATV;”
- Modifies the tire requirements in the current statutory definition of “ATV;”
- Creates the statutory definition of “ROV,” which is defined as an off-highway vehicle with four or more tires, that has nonstraddle seating and a steering wheel;
- Maintains the statutory definition of “two-rider ATV” and maintains “two-rider ATV” as part of the definition of “off-highway vehicle.”
- Modifies the definition of “off-highway vehicle” to include “ROV.”

**B. Amendments:**

None.