

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 659 Off-Highway Vehicles  
**SPONSOR(S):** Hage and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 310

| REFERENCE  | ACTION    | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY<br>CHIEF |
|--|-----------|---------|---|
| 1) Transportation & Infrastructure Subcommittee            | 13 Y, 0 N | Roth    | Vickers                                     |
| 2) Transportation & Tourism Appropriations<br>Subcommittee | 10 Y, 0 N | Hicks   | Davis                                       |
| 3) State Affairs Committee                                 |           |         |   |

### SUMMARY ANALYSIS

An "off-highway vehicle" is any all-terrain vehicle (ATV), recreational off-highway vehicle (ROV), or off-highway motorcycle that is used off the roads or highways of this state and that is not registered and licensed for highway use. An off-highway vehicle that is purchased or owned by a Florida resident and operated on public lands must be titled, but not registered.

An ATV is any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 1,200 pounds or less, designed to travel on three or more nonhighway tires, and manufactured for recreational use by one or more persons. Persons under 16 years of age must wear a helmet when operating or riding on an ATV. An ATV may not operate on public roads, streets, or highways, except that an ATV may be operated during the daytime on an unpaved roadway where the posted speed limit is less than 35 miles per hour.

An ROV is any motorized off-highway vehicle 65 inches or less in width, having a dry weight of 2,000 pounds or less, designed to travel on four or more nonhighway tires, and manufactured for recreational use by one or more persons. The term ROV does not include a golf cart or a low-speed vehicle.

The bill revises the definition of "ATV" by increasing the authorized width from 50 inches or less to 55 inches or less and increasing the dry weight from 1,200 pounds or less to 1,500 pounds or less.

The bill revises the definition of "ROV" by increasing the authorized width from 65 inches or less to 80 inches or less and increasing the dry weight from 2,000 pounds or less to 2,500 pounds or less.

The Department of Highway Safety and Motor Vehicles (DHSMV) estimates an indeterminate positive fiscal impact on revenues deposited into the Highway Safety Operating Trust Fund and the Incidental Trust Fund of the Florida Forest Service administered by the Department of Agriculture and Consumer Services (DACS).

The bill has an effective date of July 1, 2019.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### Off-Highway Vehicle Regulation in Florida

The 2002 Legislature found that off-highway vehicles were becoming increasingly popular in Florida and that the use of these vehicles should be controlled and managed to minimize negative effects on the environment, wildlife habitats, native wildlife, and native flora and fauna.<sup>1</sup> The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act<sup>2</sup> was passed to develop an off-highway vehicle recreational system. The program provides a set of guidelines to follow for developing and maintaining state lands, as well as provides restrictions on vehicles allowed on authorized state lands.<sup>3</sup>

An “off-highway vehicle” is any all-terrain vehicle (ATV), two-rider ATV, recreational off-highway vehicle (ROV), or off-highway motorcycle that is used off the roads or highways of this state and that is not registered and licensed for highway use.<sup>4</sup> An off-highway vehicle that is purchased or owned by a Florida resident and operated on public lands must be titled, but not registered.<sup>5</sup>

For each off-highway vehicle that is titled, there is a \$29 charge (\$2 per title transaction is deposited into the Highway Safety Operating Trust Fund and the remaining \$27 is deposited in the Incidental Trust Fund of the Florida Forest Service). Tax Collectors receive a service charge of \$4.25 for each application for certificate of title. Tax Collectors may also impose an additional service charge of not more than 50 cents per transaction.<sup>6</sup> In Fiscal Year 2017-2018, there were 13,841 off-highway vehicle titles issued statewide.<sup>7</sup>

An “ATV” is any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 1,200 pounds or less, designed to travel on three or more nonhighway tires, and manufactured for recreational use by one or more persons.<sup>8</sup> Persons under 16 years of age must wear a helmet when operating or riding on an ATV.<sup>9</sup> The operator of an ATV that crashes resulting in the death or injury of any person that results in treatment by a physician, must give notice of the crash to law enforcement.<sup>10</sup> An ATV may not operate on public roads, streets, or highways,<sup>11</sup> except that an ATV may be operated during the daytime on an unpaved roadway where the posted speed limit is less than 35 miles per hour.<sup>12</sup>

An “ROV” is any motorized off-highway vehicle 65 inches or less in width, having a dry weight of 2,000 pounds or less, designed to travel on four or more nonhighway tires, and manufactured for recreational use by one or more persons. The term “ROV” does not include a golf cart or a low-speed vehicle.<sup>13</sup>

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<sup>1</sup> Section 261.02(1), F.S.

<sup>2</sup> Section 261.01, F.S.

<sup>3</sup> Section 261.02(3), F.S.

<sup>4</sup> Section 317.0003(6), F.S.

<sup>5</sup> Section 317.0006(1), F.S.

<sup>6</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2019 House Bill 659, p. 4, (February 21, 2019).

<sup>7</sup> *Id.*

<sup>8</sup> Sections 261.03(2), 316.2074(2), & 317.0003, F.S.

<sup>9</sup> Section 316.2074(3), F.S.

<sup>10</sup> Section 316.2074(4), F.S.

<sup>11</sup> Section 316.2074(5), F.S.

<sup>12</sup> Section 316.2123(1), F.S.

<sup>13</sup> Sections 261.03(8) & 317.0003(9), F.S.

## ATV Weight and Width Requirements

Many of the 50 states have certain weight and width dimension restrictions for ATVs that are similar to Florida's requirements. The below chart reflects these restrictions as of August 2018.<sup>14</sup>

### **ATV Weight and Width Restrictions by State**

| <b>State</b>   | <b>Weight (pounds)</b> | <b>Width (inches)</b> |
|----------------|------------------------|-----------------------|
| Alabama        | ≤1200                  | ≤50                   |
| Arizona        | ≤1200                  | ≤50                   |
| Arkansas       |                        | ≤50                   |
| California     | ≤900                   | ≤50                   |
| Connecticut    | ≤600                   | ≤50                   |
| Florida        | ≤1200                  | ≤50                   |
| Georgia        | ≤1200                  | ≤50                   |
| Hawaii         | ≤900                   | ≤50                   |
| Idaho          |                        | ≤50                   |
| Illinois       | ≤1500                  | ≤50                   |
| Indiana        | ≤1200                  | ≤50                   |
| Iowa           | ≤1200                  |                       |
| Kansas         | ≤1500                  | ≤50                   |
| Minnesota      | ≤2000                  | ≤50                   |
| Mississippi    | ≤1000                  | ≤50                   |
| Missouri       | ≤1500                  | ≤50                   |
| Nebraska       | ≤1200                  | ≤50                   |
| New Hampshire  | ≤1000                  | ≤50                   |
| New Mexico     | ≤1000                  | ≤50                   |
| New York       | ≤1000                  | ≤70                   |
| North Carolina |                        | ≤50                   |
| North Dakota   | ≤1200                  | ≤50                   |
| Oklahoma       |                        | ≤50                   |
| Oregon         | ≤1200                  | ≤50                   |
| Pennsylvania   | ≤1200                  | ≤50                   |
| Texas          |                        | ≤50                   |
| Utah           | ≤1500                  | ≤52                   |
| Vermont        | ≤1700                  | ≤64                   |
| Wisconsin      | ≤900                   | ≤50                   |

## Off-Highway Vehicle Safety Concerns

The Consumer Product Safety Commission (CPSC) protects the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the agency's jurisdiction.<sup>15</sup> CPSC estimates that ATVs result in more than 100,000 emergency department visits annually, including more than 30,000 injuries for children under 16 years. Children make up a disproportionate number of ATV injuries.<sup>16</sup>

In response to the increase in popularity and use of ATVs, state legislatures are considering several ways to ensure the safety of ATV users and the general public. Specifically, states are regulating

<sup>14</sup> Specialty Vehicle Institute of America, *State All-Terrain Vehicle Requirements*, (August 2018), available at [https://svia.org/wp-content/uploads/2017/11/Summary\\_Chart\\_February\\_2016.pdf](https://svia.org/wp-content/uploads/2017/11/Summary_Chart_February_2016.pdf) (last visited February 27, 2019).

<sup>15</sup> United States Consumer Product Safety Commission, *About CPSC*, available at <https://www.cpsc.gov/About-CPSC> (last visited February 27, 2019).

<sup>16</sup> National Conference of State Legislatures, *All-Terrain Vehicle Safety Resources*, (July 21, 2016), available at <http://www.ncsl.org/research/transportation/all-terrain-vehicle-safety-resources.aspx> (last visited February 27, 2019).

highway use, implementing age and safety requirements, amending ATV definitions, designating public land for ATV use, and imposing requirements for ATV use on public land.<sup>17</sup>

In response to some of the safety concerns identified by the CPSC, as well as consumer feedback, the off-highway vehicle industry believes that by widening the off-highway vehicle's axle and increasing the vehicle's allowable weight it will result in a lower center of gravity and reduce incidents of rollovers.<sup>18</sup>

### **Proposed Changes**

The bill amends ss. 261.03, 316.2074, and 317.0003, F.S., revising the definition of "ATV" from a width of 50 inches or less to 55 inches or less and the dry weight from 1,200 pounds or less to 1,500 pounds or less.

The bill amends ss. 261.03 and 317.0003, F.S., revising the definition of "ROV" from a width of 65 inches or less to 80 inches or less and the dry weight from 2,000 pounds or less to 2,500 pounds or less.

The bill also makes conforming changes.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 261.03, F.S., relating to definitions.

**Section 2:** Amends s. 316.2074, F.S., relating to all-terrain vehicles.

**Section 3:** Amends s. 317.0003, F.S., relating to definitions.

**Section 4:** Reenacts s. 316.2123, F.S., relating to operation of an ATV on certain roadways.

**Section 5:** Reenacts s. 316.2074, F.S., relating to use of all-terrain vehicles, golf carts, low-speed vehicles, or utility vehicles by law enforcement agencies.

**Section 6:** Provides an effective date of July 1, 2019.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

DHSMV estimates that there may be an indeterminate positive fiscal impact to the Highway Safety Operating Trust Fund and the Incidental Trust Fund of the Florida Forest Service in the event more ATVs and ROVs are purchased or if currently owned vehicles are eligible for title due to the increase in width and weight.<sup>19</sup>

##### **2. Expenditures:**

None.

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<sup>17</sup> *Id.*

<sup>18</sup> Conversation with Stephen Dyal, Dyal Consulting LLC for Polaris, (February 26, 2019).

<sup>19</sup> DHSMV Agency Analysis, *supra*, at FN 6.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Tax Collectors may see an indeterminate positive impact if more of these vehicles are titled.<sup>20</sup>

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Individuals purchasing ATVs and ROVs that were once previously above the width or weight classes will now have to register their off-highway vehicles.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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<sup>20</sup> *Id.*