

**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.)

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Prepared By: The Professional Staff of the Appropriations Committee on Transportation, Tourism, and Economic Development

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BILL: CS/SB 440

INTRODUCER: Transportation Committee and Senator Wright

SUBJECT: Utility Terrain Vehicles

DATE: February 12, 2024      REVISED: \_\_\_\_\_

|    | ANALYST       | STAFF DIRECTOR | REFERENCE  | ACTION             |
|----|---------------|----------------|------------|--------------------|
| 1. | <u>Shutes</u> | <u>Vickers</u> | <u>TR</u>  | <u>Fav/CS</u>      |
| 2. | <u>Wells</u>  | <u>Jerrett</u> | <u>ATD</u> | <u>Pre-meeting</u> |
| 3. | _____         | _____          | <u>FP</u>  | _____              |

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 440 creates a definition for “utility terrain vehicle” (UTV) and authorizes the operation of such vehicles on certain roadways. Specifically, the bill defines a UTV as a vehicle less than 70 inches in width which has at least two seats allowing passengers to sit in a side-by-side manner, is operated by foot controls and a steering wheel, and is equipped with headlamps, stop lamps, turn signals, tail lamps, rearview mirrors, a windshield, seat belts, and a horn. A UTV must comply with specified insurance and registration requirements.

The bill authorizes a UTV to legally operate on two-lane county roads and two-lane municipal streets in which the posted speed limit is less than 55 miles per hour. A UTV may only be operated on a part of the State Highway System necessary to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing can be made. The bill allows the operator to drive the UTV during all hours, however, a UTV may only be operated by a licensed driver or a person possessing a learner’s driver license who is under the direct supervision of a licensed driver.

The bill provides that a county or municipality may enact an ordinance regulating UTV operation and equipment that is more restrictive than statutory requirements. A county or municipality is authorized to prohibit the operation of a UTV on any road under its jurisdiction if the governing body determines that such prohibition is necessary in the interest of safety.

The bill establishes penalties associated with the operation of a UTV. A violation of such is a noncriminal traffic infraction, punishable as a nonmoving violation, as provided in ch. 318, F.S.

The bill will likely have both positive and negative fiscal impacts on private and governmental sectors. *See* Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

## II. Present Situation:

Florida law establishes various regulations governing golf carts, all terrain vehicles and low speed vehicles, among others. These regulations generally address applicable traffic laws, equipment, registration, titling, and insurance. Currently, Florida law does not define a utility terrain vehicle or authorize their operation on public roads.

### Operation of Golf Carts

A golf cart is defined as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.<sup>1</sup> Section 316.212, F.S, provides for the operation of golf carts on certain roadways. Except as provided in statute, the operation of a golf cart upon public roads or streets is prohibited.

A golf cart may be operated upon a county road designated by the county, a municipal street designated by the municipality, or a two-lane county road located within the jurisdiction of a municipality designated by that municipality, for use by golf carts. Prior to making a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or street, the responsible governmental entity must post appropriate signs to indicate that such operation is allowed.<sup>2</sup>

A golf cart may be operated on a part of the State Highway System<sup>3</sup> under the following conditions:<sup>4</sup>

- To cross a portion of the State Highway System which intersects a county road or municipal street that has been designated for use by golf carts if the Florida Department of Transportation (FDOT) has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

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<sup>1</sup> Section 320.01(22), F.S.

<sup>2</sup> Section 316.212(1), F.S.

<sup>3</sup> Section 334.03(24), F.S., defines the term “State Highway System” to mean the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated.

<sup>4</sup> Section 316.212(2), F.S.

- To cross, at midblock, a part of the State Highway System where a golf course is constructed on both sides of the highway if the FDOT has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes.

Upon its determination that golf carts may be operated on a given road, the FDOT must post appropriate signs on the road to indicate that such operation is allowed.<sup>5</sup>

A golf cart may only be operated during the hours between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.<sup>6</sup>

A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.<sup>7</sup>

A golf cart may not be operated on public roads or streets by a person:

- Who is under 18 unless that person has a valid learner's driver license or driver license.
- Who is 18 or older unless that person possesses a valid government-issued photographic identification.<sup>8</sup>

A local governmental entity may enact an ordinance relating to golf cart operation and equipment that is more restrictive than those enumerated in s. 316.212, F.S. However, such an ordinance must apply only to an unlicensed driver. Upon enactment of such ordinance, the local governmental entity must post appropriate signs or otherwise inform the residents that such an ordinance exists and that it will be enforced within the local government's jurisdictional territory.<sup>9</sup>

A violation of age or equipment requirements regarding the use of a golf cart is a noncriminal traffic infraction punishable as a nonmoving violation.<sup>10</sup> A violation of the permissible operation of a golf cart on public roads or a violation of the hours of permissible operation of a golf cart is a noncriminal traffic infraction punishable as a moving violation.<sup>11</sup>

### **All Terrain Vehicles (ATVs)**

Section 316.2123, F.S., provides for the operation of an ATV on certain roadways. An ATV is defined as any motorized off-highway or all-terrain vehicle 55 inches or less in width which has

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<sup>5</sup> *Id.*

<sup>6</sup> Section 316.212(5), F.S.

<sup>7</sup> Section 316.212(6), F.S.

<sup>8</sup> Section 316.212(7), F.S.

<sup>9</sup> Section 316.212(8)(a), F.S.

<sup>10</sup> Section 316.212(9), F.S. Section 318.18, F.S., provides the statutory base fine for a nonmoving violation is \$30 plus court costs and fees, which can increase the total penalty up to \$108.

<sup>11</sup> Section 316.212(9), F.S. Section 318.18, F.S., provides the statutory base fine for a moving violation is \$60 plus court costs and fees, which can increase the total penalty up to \$158.

a dry weight of 1,500 pounds or less, is designed to travel on three or more nonhighway tires, and is manufactured for recreational use by one or more persons.<sup>12</sup>

An ATV is prohibited upon public roads or streets of Florida, except that an ATV may be operated during the daytime on an unpaved roadway where a posted speed limit is less than 35 miles per hour.<sup>13</sup>

A county is exempt from s. 316.2123, F.S., (specifically, the authorization for ATV operation on specified roadways) if the governing body of the county, by a majority vote, following a noticed public hearing, votes to exempt the county from this provision. Alternatively, a county may, by majority vote after such hearing, designate certain unpaved roadways where an ATV may be operated during the daytime as long as each such designated roadway has a posted speed limit of 35 miles per hour or less, and appropriately marked to indicate permissible ATV use.<sup>14</sup>

Any ATV operation that is permitted under s. 316.2123, F.S., may be undertaken only by a licensed driver or a minor, who may be unlicensed, who is under the direct supervision of licensed driver. The operator must provide proof of ownership under ch. 317, F.S., upon the request of a law enforcement officer.<sup>15</sup>

ATVs are titled pursuant to ch. 317, F.S.,<sup>16</sup> but not registered nor provided with a license plate. The manufacturing, distribution, and sale of ATVs is not regulated under ch. 320, F.S., as a motor vehicle and therefore are not required to meet Florida's motor vehicle franchise laws.

### **Low-speed Vehicles and Mini Trucks**

A low-speed vehicle is defined as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122, F.S.<sup>17</sup> A mini-truck is defined as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122, F.S.<sup>18</sup>

A low-speed vehicle or mini truck may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle or mini truck from

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<sup>12</sup> Section 317.0003(1), F.S.

<sup>13</sup> Section 316.2123(1), F.S.

<sup>14</sup> Section 316.2123(2), F.S.

<sup>15</sup> Section 316.2123(3), F.S.

<sup>16</sup> Chapter 317, F.S., provides that the administration of off-highway vehicle titling laws is under the DHSMV, which shall provide for the issuing, handling, and recording of all off-highway vehicle titling applications and certificates, including the receipt and accounting of off-highway vehicle titling fees. Section 317.0002, F.S., states that it is the intent of the Legislature that all off-highway vehicles operated on public lands be titled and issued a certificate of title to allow for easy determination of ownership.

<sup>17</sup> Section 320.01(41), F.S. 49 CFR Part 571 is a set of Federal Motor Vehicle Safety Standards that establish minimum performance requirements for motor vehicles and motor vehicle equipment in the United States. This standard specifies requirements for low-speed vehicles.

<sup>18</sup> Section 320.01(41), F.S.

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, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.<sup>19</sup>

A low-speed vehicle or mini truck must be registered and insured in accordance with s. 320.02, F.S., and titled pursuant to ch. 319, F.S. Any person operating a low-speed vehicle or mini truck must have in his or her possession a valid driver license.<sup>20</sup>

Low-speed vehicles and mini trucks are regulated under ch. 320, F.S., and fall under the manufacturing, distribution, and sales requirements, which are included in Florida's motor vehicle franchise dealer laws.

### Utility Terrain Vehicles (UTVs)

As previously noted, current Florida law does not define a UTV (sometimes referred to as Recreational Off-Highway Vehicles (ROVs)<sup>21</sup> or "side-by-sides"), nor does it allow for UTVs to be operated on public roads or streets. Section 317.0003(6), F.S., defines "OHM" or "Off-highway vehicles" to mean any ATV, two-rider ATV, ROV, or OHM that is used off the roads or highways of this state and that is not registered and licensed for highway use pursuant to ch. 320, F.S.

While there are various definitions used in connection with UTVs, the Recreational Off-Highway Vehicle Association<sup>22</sup> provides the following definition:

- Designed to travel on four or more non-highway tires;
- Intended by the manufacturer for use by one or more persons and having the following characteristics:
  - A steering wheel for steering control;
  - Non-straddle seating;
  - Seatbelts;
  - An occupant protective structure;
  - Engine displacement of up to 1,000 cc;
  - Maximum speed capability greater than 30 miles per hour; and
  - Less than 80 inches in overall width, exclusive of accessories.<sup>23</sup>

Currently, 20 states allow for UTVs (variously defined) to be operated on public roadways, but regulations vary widely from state to state in terms of the requirements for making a UTV street-

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<sup>19</sup> Section 316.2122(1), F.S.

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

<sup>21</sup> Section 317.0003, F.S., provides the following definition for the term "ROV": any motorized recreational off-highway vehicle 80 inches or less in width which has a dry weight of 3,500 pounds or less, is designed to travel on four or more nonhighway tires, and is manufactured for recreational use by one or more persons. The term does not include a golf cart as defined in ss. 316.003 and 320.01, F.S., or a low-speed vehicle as defined in s. 320.01, F.S.

<sup>22</sup> The Recreational Off-Highway Vehicle Association is a national, not-for-profit trade association formed to promote the safe and responsible use of recreational off-highway vehicles manufactured or distributed in the United States. Recreational Off-Highway Vehicle Association, <https://rohva.org/about-us/> (last visited January 26, 2024).

<sup>23</sup> The Recreational Off-Highway Vehicle Association, *What is an ROV?*, <https://rohva.org/what-is-an-rov/> (last visited January 26, 2024)

legal. “Street-legal UTVs are universally required to have brake lights, turn signals, headlights, and hazard lights. Some states require additional equipment before they deem a UTV to be street-legal. Just as each state has different regulations for the equipment that street-legal UTVs must have, each state also has varying regulations for how these vehicles can be operated on public roads. Most states only allow UTVs to be operated on county roads. UTVs are not allowed on interstate highways.”<sup>24</sup>

### III. Effect of Proposed Changes:

The bill creates s. 316.21275, F.S., to define the term “utility terrain vehicle” or “UTV” to mean a vehicle less than 70 inches in width which has at least two seats allowing passengers to sit in a side-by-side manner, operated by foot controls and a steering wheel and which is equipped with headlamps, stop lamps, turn signals, tail lamps, rearview mirrors, a windshield, seat belts, and a horn. The bill defines the term “direct supervision” to mean a person who is in the adjacent front passenger seat of the UTV being operated.

A UTV may only be operated on designated two-lane county roads or two-lane municipal streets in which the posted speed limit is less than 55 miles per hour. Before making such designation, the responsible county or municipality must first determine that a UTV may safely travel on or cross the public road or street, considering factors including speed, volume, and character of motor vehicle traffic using the road or street.

A UTV may be operated only on a part of the State Highway System necessary to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing can be made. The Department of Transportation may prohibit the operation of UTVs on any road in its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

The bill allows the operator to drive the UTV during all hours. A UTV may only be operated by a licensed driver pursuant to s. 322.18, F.S., or a person possessing a learner’s driver license pursuant to s 322.1615, F.S., who is under the direct supervision of a licensed driver.

The owner or operator of a UTV must comply with all of the following requirements and regulations:

- Obey traffic regulations enumerated in ch. 316, F.S., and operate his or her UTV with due care.
- Provide proof of ownership under ch. 317, F.S., upon the request of a law enforcement officer.
- Fulfill all insurance requirements pursuant to s. 324.022, F.S.
- Ensure that the UTV has the proper license plate pursuant to s. 320.0847, F.S.

The bill allows a county or municipality to enact an ordinance regarding UTV operation and equipment which is more restrictive than those requirements enumerated in statute. A county or municipality may also prohibit the use of UTVs on any road under its jurisdiction if the

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<sup>24</sup> World Population Review, *UTV Street Legal States 2024*, [UTV Street Legal States 2024 \(worldpopulationreview.com\)](https://worldpopulationreview.com), (last visited January 24, 2024).

governing body of such county or municipality determines that such prohibition is necessary in the interest of safety.

The bill authorizes penalties associated with operating a UTV. A violation of such is a noncriminal traffic infraction, punishable as a nonmoving violation, as provided in ch. 318.

In order to implement the bill the DHSMV would issue a title to the UTV owner and the operator of a UTV would be required to provide proof of ownership under ch. 317, F.S., upon the request of a law enforcement officer. As a result, UTVs would be titled as an Off-Highway Vehicle, but unlike ATVs that are not registered, UTVs would be registered as an on-highway vehicle (like low-speed vehicles and mini-trucks).<sup>25</sup>

The bill takes effect July 1, 2024.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The reclassification of UTVs will subject owners of such vehicles to existing motor vehicle registration fees.

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<sup>25</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 Senate Bill 440, p. 3, December 12, 2023. (On file with the Senate Committee on Transportation)

**B. Private Sector Impact:**

Manufacturers and dealers of UTVs may be subject to regulation under the state's motor vehicle manufacturer and franchise dealer laws.

**C. Government Sector Impact:**

The DHSMV estimates that the bill will have an indeterminate positive fiscal impact on state government revenue associated with the resulting increase in motor vehicle titling and registration fees.<sup>26</sup>

The DHSMV anticipates the bill will have an indeterminate negative fiscal impact associated with additional expenditures on title stock, registration stock, license plates, and decal inventory.<sup>27</sup>

The DHSMV estimates a negative fiscal impact of \$69,090 associated with new programming and implementation of the bill.<sup>28</sup> These costs can be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In view of the extensive programming, communication, and education requirements associated with the implementation of the bill, the DHSMV recommends changing the effective date to October 1, 2025.<sup>29</sup>

**VIII. Statutes Affected:**

This bill creates section 316.21275 of the Florida Statutes.

This bill substantially amends section 320.0847 of the Florida Statutes.

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

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

**CS by Transportation on January 30, 2024:**

The committee substitute:

- Creates a new section of the Florida Statutes governing the operation of UTVs on certain roadways.

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<sup>26</sup> *Id.* at 5.

<sup>27</sup> *Id.* at 6.

<sup>28</sup> *Id.* at 5.



- Amends the definition of UTV to include foot controls and a steering wheel, and defines the term “direct supervision.”
- Provides that a UTV can only be operated on a two-lane county road or a two-lane municipal street that has a posted speed limit of less than 55 miles per hour that has been designated for UTV use by the appropriate local government.
- Specifies that a UTV may only operate on part of the State Highway System if it is crossing at an angle of approximately a 90 degrees to the direction of the roadway and at a place where a quick and safe crossing can be made. The Department of Transportation is authorized to prohibit the operation of UTVs on any road in its jurisdiction.
- Clarifies that a UTV may only be operated by a licensed driver, or a person possessing a learner’s driver license who is under the direct supervision of a licensed driver.
- Authorizes a county or municipality to enact an ordinance regulating UTV operation and equipment that is more restrictive than statutory requirements. A county or municipality may also prohibit the operation of a UTV on any road under its jurisdiction if it is necessary in the interest of safety.
- Provides that a violation of the newly created UTV section of law is a noncriminal traffic infraction, punishable as a nonmoving violation.

B. Amendments:

None.