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FISCAL IMPACT REPORT

SPONSOR Munoz ORIGINAL DATE 02/19/11
LAST UPDATED _____ HB _____
SHORT TITLE Off-Highway Motor Vehicles on Streets SB 254
ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		See Fiscal Impact				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Transportation (DOT)

SUMMARY

Synopsis of Bill

Senate Bill 254 amends Section 66-3-1011 NMSA of the Off-Highway Motor Vehicle Act to allow an off-highway motor vehicle to be operated on a paved street or highway with a posted speed limit of 35 miles per hour or less.

FISCAL IMPLICATIONS

As currently written, the Off-Highway Motor Vehicle Act does not require the operator of an off-highway motor vehicle to be licensed (see Section 66-3-1010. Licensing. (1985) "Drivers of off-highway motor vehicles are not required to be licensed"). If this proposal is to be adopted, Section 66-3-1010 should be amended to provide that a driver's license is required if the vehicle is operated on a public roadway pursuant to Section 66-3-1011(A)(2). It is not possible to determine the fiscal impact of this bill because there is no data available on the number of off-highway vehicles that might be involved.

SIGNIFICANT ISSUES

The U.S. Consumer Product Safety Commission advises to never drive an all-terrain vehicle (ATV) on paved roads. It also reports that children under the age of 16 should never ride an

adult ATV and that 1/3 of all ATV deaths and injuries involve victims under the age of 16.

The National Highway Traffic Safety Administration (NHTSA) has defined motor vehicles as “vehicles that are driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, or highways.” The ATV is not included in the NHTSA definition of a motor vehicle.

Most ATVs lack a differential making turning difficult. Without a differential, an ATV relies on the strength and skill of the rider. ATVs travel on low pressure tires, and have a high center of gravity, which increases the possibility of a rollover.

The Off-Highway Motor Vehicle Act allows youthful drivers at an age that is below what is allowed in the Motor Vehicle Code.

- Off-Highway vehicle can be operated by a person 10 years of age and older if supervised by a licensed driver over the age of 18;
- The current Graduated Driver Licensing laws with the Motor Vehicle Code do not allow for a permit or a license for any applicant under the age of 15
- Operators 13 years of age may operate an off-highway motor vehicle without supervision if they have a valid motorcycle license and/or off-highway motor vehicle safety permit.

Headlights and taillights are currently only required for an ATV under limited visibility. Off-highway vehicles, such as ATVs, are not designed for operation on paved roads.

RELATIONSHIP

HB 135 “Certain Off-Highway Vehicles on Streets”

HB 445 “Off-Highway Vehicles on Streets & Fees”

SB 457 “Certain Off-Highway Vehicles on Streets”

TECHNICAL ISSUES

Section 66-3-1010.3(A) (7) limits the operating speed of an off-highway vehicle to no more than 10 miles per hour “within two hundred feet of a business, animal shelter, horseback rider, bicyclist, pedestrian, livestock or occupied dwelling, unless the person operates the vehicle on a closed course or track.” This paragraph of Section 66-3-1010.3, Subsection A should also be amended in the bill.

OTHER SUBSTANTIVE ISSUES

According to the New Mexico Department of Transportation, motor vehicle crashes are the leading cause of death for teenagers. Recent New Mexico statistics reflect the following:

- 13% of all drivers in crashes were teenagers;
- Teenagers comprised only 5% of New Mexico drivers;
- In 2008, a teenager was killed in a traffic crash every 12 days, and one was injured every 200 minutes; and
- 24% of crashes involving teenage drivers occurred at night, compared to 21% of all crashes that occurred at night.

A study by the Wisconsin Department of Transportation in 2009 identified various state OHV laws regarding paved street and highway use.

<http://on.dot.wi.gov/wisdotresearch/database/tsrs/tsratvlaws.pdf>

The Wisconsin study showed eight states—Arizona, Idaho, Indiana, Kansas, Minnesota, Montana, North Dakota and South Dakota—allow the public to operate at least some classes of ATVs on some roadways with varying levels of restrictions (for example, states may require a certain engine size, vehicle length or weight, and presence of headlights or taillights; and may require that the operator wear a helmet). Five additional states (Alaska, Missouri, Nevada, Oklahoma and West Virginia) allow more limited travel, such as when a highway is impassable by automobiles due to snow, or on single-lane roadways. Virtually every state allows local municipalities to authorize use of ATVs on local rights-of-way, which may include pavements, shoulders, ditches, and slopes of highways and ditches.

Of the eight states that allow the most ATV travel on roadways:

- Two states (Minnesota and North Dakota) require that ATV operators be a minimum of 16 years old, or in certain circumstances 12 years old; Minnesota also allows 10-year-olds in certain areas. A third, Indiana, requires operators on public lands to be 14, unless supervised. The other five states have no minimum age requirement.
- Two states require operators of a certain age to earn certification in a safety course; Minnesota requires it for ages 12 to 15, and North Dakota for ages 15 and under. Arizona recommends it for all riders, and offers classes for ages 5 and up.
- Four states require ATVs to be titled with a transportation or motor vehicles agency. Four require registration with motor vehicles agencies, and one with the state parks and recreation department.

Across the United States, only a few states restrict the use of ATVs to certain hours of the day, possibly because headlights and taillights have become standard equipment on ATVs. States that require certain equipment on ATVs for use on highways or rights-of-way, or when crossing roadways, include lighting in the requirements. We did not identify any states that restrict use to certain months of the year.

AMENDMENTS

The bill is silent with regard to:

- mandatory insurance requirements;
- vehicle emissions testing requirements;
- safety inspection for paved street/highway use

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