



**Colorado
Legislative
Council
Staff**

Bill 2

**PRELIMINARY
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0189
Prime Sponsor(s): Rep. Brown
Sen. Donovan

Date: September 14, 2015
Bill Status: Off-Highway Vehicle Interim
Committee Bill Request
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: REGISTRATION OF OHVS WITH COUNTY CLERKS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	<\$5,000	<\$5,000
State Expenditures	<u>at least \$290,400</u>	<u>at least \$238,700</u>
Cash Funds*	at least 290,400	at least 238,700
TABOR Impact	<\$5,000	<\$5,000
FTE Position Change		
Appropriation Required: \$290,400 – Departments of Revenue and Corrections (FY 2016-17).		
Future Year Impacts: Are anticipated to be minimal.		

* \$238,700 per year of these costs will be paid from revenues collected by county clerks. See the State Expenditures and Local Government Impact sections for more information.

This fiscal note should be considered preliminary. It will be updated if more information becomes available.

Summary of Legislation

This draft bill, **requested by the Off-Highway Vehicle Interim Committee**, requires the County Clerks and Recorders offices (clerks) to administer a voluntary registration (licensing) program for off-highway vehicles (OHVs) in collaboration with the Department of Revenue (DOR). This program does not supersede the existing Colorado Parks and Wildlife OHV registration program. With this new license, OHVs may drive on certain roads where approved by local authorities. The licensing program and associated safety standards generally apply on roads, not trails, unless a local authority designates a trail as a road. The following requirements apply for driving an OHV on a road:

- A driver must be licensed, unless the local authority waives the requirement, in which case the driver must be at least 10 years old and under the supervision of a licensed driver;
- A driver must obey the rules of the road;
- Driving on a limited access highway or a road with a speed limit over 45 MPH is prohibited, but a driver may cross these roads where already authorized by statute;
- The driver must wear eye protection, unless the vehicle has a windshield;

- Helmets must be worn by drivers and passengers 18 years of age or under;
- The OHV must have brakes;
- If driven at night, the OHV must be equipped with a headlamp and taillights; and
- The vehicle speed limit must not exceed 40 MPH, unless a governing body authorizes a higher speed for a specific road.

Local authorities, acting by ordinance or resolution, may:

- approve OHV use on roads — this approval takes effect when the regulation is posted at the entrances of roadways through official signage or traffic control devices and the local authority is also required to publish a map of roads available for OHV use;
- waive the driver's license requirement for OHV drivers, in which case the driver must be at least 10 years old and under the supervision of a licensed driver; and
- require an OHV driver to carry liability insurance.

The bill also extends the authority to enter into cooperative agreements with a federal land management agencies to local governments, which was previously granted only to the state.

Under the bill, an OHV license plate is one-time, unless the vehicle changes ownership, and no validating stickers or tabs are required. Clerks may assess and retain a \$4 fee for their service, and pass on the direct cost of the license plate to the OHV user. License plates are to be purchased directly from Colorado Correctional Industries (CCi) in the Department of Corrections (DOC). OHVs are not subject to the specific ownership tax or motor vehicle registration fees required for other types of vehicles. If an OHV is registered and plated in another state, it is deemed licensed in Colorado. Clerks must forward registration information to the DOR and the DOR may promulgate rules, if necessary.

A class B traffic infraction is created for violating any registration or road use provision in the bill. No license suspension can be issued for careless or reckless driving of an OHV. The bill amends the motor vehicle statutes to define an OHV as a "vehicle." The bill also allows municipalities to authorize an OHV to cross a state highway within its jurisdiction.

Background

OHV registration and titling programs. Under current law, the CPW's OHV registration program issues registrations for OHVs — specifically all-terrain vehicles, utility vehicles, 3-wheelers, dirt bikes, jeeps, and dune buggies — and use permits so that these vehicles may use public lands or trails in Colorado. The OHV registration program is a component of the CPW's State Trails Program. The DOR does not register OHVs; however, as of July 1, 2014, it titles OHVs and snowmobiles purchased from powersports vehicle dealerships and, optionally, through private party sales. As of August 2015, there are about 12,000 OHVs titled in the state (excluding snowmobiles). The CPW requires proof of ownership upon registration and keeps a record of the manufacturer's numbers for all OHVs, a list of which is provided to the DOR on a monthly basis. The DOR maintains a computerized list in order to aid in the recovery of stolen OHVs.

The OHV registration program is cash funded. The CPW charges \$25.25 annually for registrations and use permits. A portion of this fee covers administrative costs, but the majority of the fee benefits the OHV Trail Grant Program. Grants are awarded to promote OHV awareness, trail maintenance and construction, trailheads and parking areas, trail signs, maps, and land acquisition projects.

Under current law, the penalty for not displaying the decal that CPW provides to prove annual registration or use permit fees were paid is a class 2 petty offense, with a fine of \$25. The penalty for not having registration on one's person is also a class 2 petty offense, with a fine of \$50.

OHV registration exemptions. Under current law, the OHVs are exempt from registration when:

- used for agricultural purposes;
- owned by a governmental entity;
- used strictly on private property;
- used for training purposes;
- participating in special events; and
- licensed or registered in another state and not domiciled Colorado for more than 30 consecutive days.

Assumptions

The fiscal note assumes that 35,000 OHV owners will choose to voluntarily license their vehicles in both FY 2016-17 and FY 2017-18. This assumption is based on two factors:

- In FY 2014-15, CPW registered 135,000 OHVs through their OHV registration program. This number does not include the OHVs CPW registered for use permits only (approximately 35,000 additional OHVs), because these vehicles already display either in-state license plates or are licensed by their home state.
- It is assumed that between 15 to 20 counties will pass an ordinance or resolution to approve OHV use on roads within their jurisdictions (and some already have). These counties will be primarily located on the western slope where the OHV trail system is the most robust.

It is assumed that the majority of licensing will occur during the first two years of the program, although a smaller amount of licensing is anticipated to occur in future years. As of this writing, impacts beyond the first two years have not been estimated.

State Revenue

State revenue will increase by up to \$5,000 per year beginning in FY 2016-17. This bill creates a penalty for violating any OHV registration or road use provision in the bill, making such violations a Class B traffic infraction with a penalty assessment of \$15 to \$100 credited to the Highway Users Tax Fund (HUTF). HUTF monies are allocated to the State Highway Fund within the Department of Transportation and to cities and counties. This bill is expected to increase revenue from fines by less than \$5,000 per year, beginning in FY 2016-17.

TABOR Impact

This bill may increase state revenue from traffic infraction fines, which will increase the amount required to be refunded under TABOR. As of this writing, this amount is anticipated to be minimal and less than \$5,000 per year.

State Expenditures

This bill increases state cash fund expenditures by \$290,400 in FY 2016-17 and by \$238,700 in FY 2017-18. Future year impacts may occur but have not been identified as of this writing. State expenditures are described below and outlined further in Table 1, below.

Colorado Correctional Industries. Under the bill, clerks are required to purchase plates directly from CCI, the agency that manufactures all state license plates. CCI will be paid to produce and provide the plates to the clerks. CCI charges \$2.82 for the motorcycle license plate size, and estimates \$4 for average postage to mail the plate to the OHV user. This will increase state expenditures by \$238,700 per year in the first two years of the program. In addition, CCI charges a design fee of \$200 for every new license plate style. It is expected that DOR and the Department of Public Safety (DPS) will work together to inform the plate numbering process, and that this workload impact will be absorbed within existing appropriations.

Department of Revenue. One-time cash fund expenditures in the DOR in the amount of \$51,500 in FY 2016-17 will be incurred from the Colorado State Titling and Registration System (CSTARS) Special Purpose Account. This amount is required to pay for an anticipated 500 hours of computer programming at the rate of \$103 per hour in the central motor vehicle database (VIPER) to accept a file transfer of OHV registration from the counties. The Office of Information Technology will perform the computer programming. While the bill allows DOR additional rule-making authority, this is expected to be absorbed within regular rule-making and does not require additional legal services.

Cost Components	FY 2016-17	FY 2017-18
License Plate and Postage (CCI)	\$238,700	\$238,700
Computer Programming (DOR)	51,500	0
License Plate Design Fee (CCI)	200	0
TOTAL	\$290,400	\$238,700

Department of Public Safety. The Colorado State Patrol (CSP) provides traffic enforcement on county roads in all but three counties. Any increase in OHV incidents on county roads will increase workload for the CSP. This increase is anticipated to be minimal.

Judicial Department. While an increase in OHVs on roads and new safety standards may cause an increase in Class B traffic infractions, this impact is expected to be minimal can be absorbed within current Judicial Department workloads.

Local Government Impact

Conditional upon their decision to adopt ordinances that permit OHVs to access county roads, this bill increases revenue, expenditures, and workload for counties in a variety of ways.

Fee impact on OHV users. Based on the assumptions identified above, Table 2, below, outlines the fee impact of this draft bill in FY 2016-17.

Table 2. Fee Impact on OHV Users under Bill 2 in FY 2016-17		
Type of Fee	Proposed Fee	Number of OHVs
Clerk Fee (County)	\$4.00	35,000
License plate (CCi)	2.82	
Postage (CCi)	4.00	
Fee Subtotal	\$10.82	
Subtotal – County Retained		140,000
Subtotal – CCi Retained		238,700
TOTAL		\$378,700

County clerk and recorders. Clerks are expected to retain \$140,000 in revenue to their offices in FY 2016-17 and FY 2017-18 through collection of the \$4 fee on each OHV licensing transaction. These funds will be used to offset administrative costs for the program. The fiscal note assumes that each OHV licensing transaction will take clerks approximately 11 minutes, adding 6,416 hours of workload among the 64 clerks offices in the state — the equivalent of 3.0 FTE.

Other local impacts. Counties and municipalities that adopt ordinances or resolutions to allow OHVs on roads will experience administrative workload impacts, as well as costs associated with the production of signs and maps. To the extent that Class B traffic infractions occur, HUTF revenue to local governments and court workload may also increase. Finally, for counties that provide traffic enforcement on county roads, workload will increase for sheriff offices. These impacts are anticipated to be minimal.

Comparable Crime

State law requires Legislative Council Staff to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill creates a new Class B traffic infraction for violations of OHV registration or road use provisions. Under current law, it is a Class B traffic infraction for low power scooters and other toy vehicles to violate the safety requirements contained in statute. There is no record of such violations over the last five years, therefore, this bill is expected to result in a minimal impact on the number traffic infractions issued.

Technical Issues

The fiscal note is written to the effective date of the bill, August 10, 2016. However, due to the complex implementation requirements — which include license plate design and manufacture, hiring and training, computer programming, and outreach — a January 1, 2017, implementation date may be required.

Page 9, Lines 3 through 6 of the bill state that "the county clerks shall forward the registration information to the DOR, which shall register the OHV." Based on this language, the fiscal note assumes that a mechanism is required to transfer the information to the DOR to register the OHV, prompting the computer programming costs; however, clerks currently have the ability to enter this information into CSTARs. Further clarification may be required.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2016-17, the following adjustments in appropriations are required:

- the Department of Revenue requires a cash fund appropriation of \$51,500 from the Colorado State Titling and Registration System (CSTARS) Special Purpose Account. The Office of Information Technology requires \$51,500 in reappropriated funds from the Department of Revenue; and
- the Department of Corrections requires cash fund spending authority of \$238,900 from the Correctional Industries Account.

State and Local Government Contacts

Agriculture
Clerk and Records
Local Affairs
Public Safety

Counties
Judicial
Municipalities
Sheriffs

Corrections
Law
Natural Resources
Transportation