

## **Off-Highway Vehicle Interim Committee**

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Senator Ray Scott, Vice-Chair

Senator Randy Baumgardner  
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***November 2015***



# Off-Highway Vehicle Interim Committee

## Committee Charge

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Pursuant to Legislative Council Executive Committee approval of Interim Committee Letter 2015-7, the Off-Highway Vehicle (OHV) Interim Committee was permitted to meet up to six times at the Capitol during the 2015 interim and to recommend up to three bills for Legislative Council approval. Specific issues to be studied include: safety issues, access issues, and regulation necessary to operate off-highway vehicles on roads. Interested parties to work with the committee were also identified, including, but not limited to:

- representatives from the Agricultural and Natural Resources and Finance committees;
- the Colorado State Patrol in the Department of Public Safety;
- county commissioners;
- the Division of Parks and Wildlife in the Department of Natural Resources;
- the environmental community;
- hunting outfitter associations;
- off-road recreation clubs or associations;
- powersports dealers;
- Colorado sheriffs; and
- rural municipalities.

## Committee Activities

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The committee held five meetings during the 2015 interim in order to receive stakeholder input and request and approve bill drafts. Briefings and presentations were made by Colorado Counties, Inc. (CCI), the Colorado State Patrol, the Colorado Municipal League, the Department of Revenue's Division of Motor Vehicles, the American Insurance Association, County Sheriffs of Colorado, the Associated Governments of Northwest Colorado, Trout Unlimited, Children's Hospital Colorado, the Off-Highway Vehicle Coalition, Colorado Parks and Wildlife (CPW), the Colorado Auto Dealers Association, county commissioners, and the Colorado Cross-Disability Coalition on a wide range of subjects, including:

- local control over local OHV use;
- fixing existing issues in statewide regulation;
- safety standards;
- identification and licensing;
- environmental concerns surrounding OHV use;
- statutory definitions of an OHV versus a motor vehicle;
- keeping registration fee revenue exempt from Taxpayer's Bill of Rights (TABOR) limits; and
- exemptions for agricultural and other specific uses.

The following subsections discuss the committee's activities during the 2015 interim.

**Local control.** The committee heard from representatives of CCI, the Colorado Municipal League (CML), County Sheriffs of Colorado, and the Associated Governments of Northwest Colorado about the importance of allowing counties to control and approve OHV use on local roads, set rider age, and set insurance requirements. Discussion covered how OHVs

are a major economic driver for some counties, how counties have proven safety records in regards to OHV use of local roads, and how different counties have unique terrains and driving conditions that warrant individual rules and regulations.

**Fixing statewide regulation issues.** County commissioners and representatives of the Off-Highway Vehicle Coalition addressed the committee on issues that had arisen surrounding statutory regulation of OHVs and rules promulgated by CPW under its statutory authority. The committee heard that a resolution was needed to address a 7th Judicial District court ruling that allows out-of-state licensed OHVs to ride on Colorado roads, even in counties that have not approved OHV use of local roads, which prompted many Colorado users to set up limited liability corporations in other states that license OHVs. The committee also heard about the need for a clear mandate from the state on the authority of a county to regulate OHVs within its jurisdiction, due to CPW Regulation 504 that hinders the Alpine Loop trail system in Southwest Colorado from receiving OHV Trail Grant moneys for their Alpine Ranger program because of certain measures taken by the member counties to address user age and experience on their trail system. Finally, the committee was briefed on the need for regulatory uniformity across counties, due to differing regulations across counties being confusing for OHV users, especially on forest service land, which does not have signage on trails to indicate county lines.

The committee was also briefed by CPW on its OHV program, which provides designated trails statewide for OHV users on public lands and funds much of the cost of maintaining these trails. CPW registered 170,000 OHVs in FY 2014-15 (approximately 135,000 of these were in-state users) and granted \$4.2 million for on-the-ground trail projects. Registration under this program costs \$25.25 per year, per OHV.

**Safety standards.** The committee heard from representatives of Colorado State Patrol (CSP) within the Department of Public Safety, Children's Hospital Colorado, and county commissioners on the need for increased safety standards for OHV use. These standards include: a minimum age limit for users, maximum speed limits, equipment requirements, a requirement to possess a driver's license, license plates on OHVs, and a user proficiency test for OHV riders. Information was also provided on OHV-related accidents involving adults and children, how OHVs are not designed for use on paved roads, how some trail systems in the state are very technical and not suitable for children, and how effective OHV injury prevention comes down to education, engineering, and enforcement.

**Licenses.** Representatives of Trout Unlimited, Colorado State Patrol, CCI, and county commissioners discussed the need for license plates on OHVs, which would be more visible than the current CPW decal issued to trail users, and would help address environmental and safety concerns associated with OHV use.

**Environmental concerns.** A representative of Trout Unlimited told the committee how OHV use can have a negative impact on public land health, such as vegetation and wetlands damage, soil erosion, deterioration of water quality, and the spreading of invasive weeds. The committee heard how programs that designate appropriate routes for OHV use, encourage education for responsible operation, and enforce rules and regulations are important.

**Definition of OHVs and motor vehicles.** The committee heard from a representative of the OHV Coalition about the importance of keeping OHVs outside the definition of a motor vehicle to avoid confusion on where OHVs are permitted to operate and to ensure they are not allowed on limited access highways. Auto dealers warned the committee that two-tiered emissions and safety standards could develop between motor vehicles and OHVs as the result

of on-road OHV registration legislation because OHVs do not quite fit the definition of a motor vehicle, but are capable of producing a similar amount of emissions.

**TABOR.** The committee discussed the importance of keeping any state-implemented OHV fee revenue exempt from Taxpayer's Bill of Rights (TABOR) limits, to avoid having to refund moneys collected under an on-road OHV registration program.

**Exemptions.** The committee heard from a number of groups on the need to maintain existing registration exemptions for OHVs used in certain circumstances, such as on private land or for agriculture purposes. A representative of the Colorado Cross-Disability Coalition explained to the committee that it would like to see an exemption from OHV trail permit fees and on-road registration fees for veterans and persons with disabilities (PWD). The committee heard how the PWD community uses mobility devices in lieu of walking, and should not be charged for using trails or roads with their mobility devices, as it is difficult for them to access trailheads without using a county road.

**Other.** Operator safety courses were recommended by several entities, and the American Insurance Association suggested that OHVs not be subject to the same auto insurance laws as on-road vehicles.

## **Committee Recommendations**

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As a result of committee discussion and deliberation, the Off-Highway Vehicle Interim Committee recommends the following bill for consideration in the 2016 legislative session.

**Bill A Registration of OHVs with County Clerks.** The committee recommends Bill A, which requires county clerk and recorder offices to administer a voluntary, one-time registration program for OHV use on county roads, to work alongside the CPW's existing OHV trails registration program. With this new license, OHVs may be driven on certain roads where approved by local authorities, and any ordinance or resolution adopted by a county supersedes the rules of the CPW. The following requirements apply to driving an OHV on roads, not trails, unless a local authority designates a trail as 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, which approval takes effect when the regulation is posted at the entrances of roadways through official signage or traffic control devices and in conjunction with publication of 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.

A class B traffic infraction is created for violating any registration or road use provision in the bill. OHVs used under certain circumstances, such as for agriculture, or during special OHV events, are exempt from the program.

The committee also considered, but did not recommend, a bill that would have required the OHV registration program to have been administered by CPW in conjunction with its trails program.