

**Sheriff Anthony Mazzola**  
anthony.mazzola@rbc.us



**Undersheriff Brice Glasscock**  
brice.glasscock@rbc.us

**August 13, 2015**

Madam Chairman and Representatives of the Off-Highway Interim Committee

I have served in law enforcement for over 25 years, all of which was in Rio Blanco County. I have seen the evolution of ATV's to OHV's and how there are being used in our county. During all of this time I can hardly recall an accident in our county that involved an ATV on a county road. I do recall several accidents involving ATV's on the trails in the forest and on BLM roads. The agriculture community has been using ATV's and OHV's ever since they were invented. They use them as implements of husbandry and are able to drive down any road in our county. Their safety track record is exemplary. Then there is the hunters; every years our county in inundated with hunters searching the elusive elk and deer. Most of these hunters bring in ATV's an OHV's to get them back into their camping spots. Again this is a group that started using these vehicles ever since they were invented. For many years we did not allow an ATV on a county road and we would write tickets to these hunters for driving on the road. I had a conflict when it came to enforcing this as there were county roads within the forest service that was more of a trail than a road. Then there were hunters who would go from one trail head to another using a paved county road for a short distance. During all of these years we did not have accidents involving ATV's on the paved roads or even the dirt roads, by far the majority of the accidents came on a trail and we would have to send in Search & Rescue to recover the victim.

As our county has sought ways to attract growth we found we had a resource people wanted to use, our mountains and beautiful scenery. The people wanted to explore using the ATV's and OHV's. The BOCC worked together with all of the departments in the count and came up with a plan to allow ATV and OHV use on the county roads. Together we looked at where would be the most logical places the ATV's would need to be able to travel from the towns to trailheads and from one trailhead to another. We did not open every county road to ATVs as we had roads with heavy industrial use and we did not want to mix the two. We know what roads are safe for ATV travel, CSP, DOT, does not know our roads. We carefully chose the roads and placed a speed limit on the ATVs so they would be operated in a safe manner. In 2011 our county passed a resolution allowing ATV travel on certain roads.

Since the passage of this resolution we have not had an ATV accident on a county road that involved injuries, we have not had an accident from a driver at least 10 years of age on a county road. As a matter of fact our office has not even written a traffic violation to an ATV driver since the passage of the resolution. As I stated earlier we use speed limits and signage to maintain the safe travel of ATVs.

Meeker Office:  
555 Main Street  
P.O. Box 1460

Meeker, Colorado 81641  
970.878.9620  
Fax: 970.878.3127

Rangely Office:  
209 East Main Street

Rangely, Colorado 81648  
970.878.9625  
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**Sheriff Anthony Mazzola**  
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**Undersheriff Brice Glasscock**  
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Colorado State Patrol gave you a quote that they covered 82,469 crashes and of those 26,036 were on county roads. They say 31.6% of their workload is on county roads. They must work all of those accidents on the front range because we have a hard time even getting the State Patrol to cover accidents on the State highways in our county. The last 18 months we had a total of 304 accidents on any given road in our county, of those State Patrol only covered 135 of those; that means we are covering almost three times as many accidents as the State Patrol covers in our county. Of the 304 accidents 156 of those were on a State highway, 55 were on a county road, and 93 were in a town. Guess how many of those accidents involved an ATV - zero. Over the past three years we have had two accidents involving an ATV on a paved road and both of those were inside the town limits (one involved alcohol). CSP did not cover either of those calls.

For the past 4 years we have had an event in the town of Meeker that draws 50 to 75 OHV vehicles from out of town. We break the group up into 10 vehicles each and guide them around the trails in our county. We get a permit from the State Patrol that allows us to open the shoulder of a State Highway to ATV traffic. We use signage and cones to alert the drivers. We have not had one accident on the highway or even a county road paved or dirt during this event.

We have proven that good planning, and working with all the departments can lead to safe operation of an ATV on a county road paved or not, and that the decisions were made at the local level without a one size fits all solution.

Thank you for your time and consideration of our points,

**Anthony Mazzola**  
Sheriff, Rio Blanco County

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555 Main Street  
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## OFF-HIGHWAY VEHICLES ON COUNTY ROADS

Madam Chairman Committee

Thank you for taking the time to seriously consider the matter of OHV registration and their use on county roads.

As stated I am Sheriff Fred Mckee I have been a Colorado State Certified Peace Officer for Thirty Four Years, fifteen of those as Undersheriff and the last twelve as Sheriff of Delta County.

I plan on taking very little of this time and will defer to Sheriff Bruce and Mazzola who have considerable more interaction with OHV issues than we do in Delta County.

Delta County has large portion of the Grand Mesa and a smaller portion of the Uncompahgre National forest both of which are becoming more and more popular with outdoor enthusiast and OHV riders. Both of these national forests have many miles of forest service roads that are equivalent to many of our unpaved county roads. These forest service roads also serve as trails for OHV's. With the assistance of Colorado Parks and Wildlife I was able to identify twenty three OHV accidents in the three counties, Delta Montrose and Mesa, these counties sharing jurisdiction in these forests. These twenty three accidents occurred in a four and a half year period 2011 to June 2015. This equates to a little over five accidents per year. Thirteen of these accidents were on trails or private property where new regulations would not have affected the incident. This leaves ten accidents in a four and a half year period on federal or other public roadways in a three county area.

I have asked several experienced OHV operators their thoughts on age limits. Most of these riders expressed the fact that their children and grandchildren operate OHVs in their early teens and that they were able to do this safely with supervision. The consensus was that if there has to be a law regarding age, 13 years of age would be appropriate but more importantly the law should include

sanctions for adults who fail to provide direct supervision for non licensed drivers. They stressed a need to hold parents or guardians accountable for younger rider's actions.

We agreed that the agriculture exemptions must be left in place and that any registration should be voluntary as many riders may never use county roads.

I agree that stronger local control authority to regulate OHV use on county roads needs to be established. Our BOCCs can and will designate only county roads that can be used safely by riders. Our BOCC can initiate regulations and ordinances that reflect the desires of local citizens and those decisions should only be made locally.

Delta County has very good relationship with CSP and we depend on them to investigate most of our traffic accidents. I do not believe given the history or lack of history regarding OHV accidents that we will realize any significant increase in these types' accidents on our county roads. But yes there will be accidents, however I'm not convinced that the State should create laws that infringe on the enjoyment of the majority who participate safely and conscientiously in this recreational activity, because of the reckless behavior of a few.

A local couple who operate a RV park on the Grand Mesa summed it up pretty good, "if any new laws are going to over regulate the best solution is to just leave us alone".

Fred

**Fred McKee**

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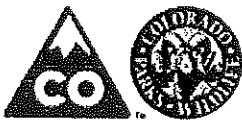
**From:** DNR CPW CORA [dnr\_cpw.cora@state.co.us]  
**Sent:** Thursday, August 06, 2015 5:21 PM  
**To:** Fred McKee  
**Subject:** FW: OHV Accidents Mesa, Montrose, & Delta Counties  
**Attachments:** OHV Accidents - Montrose Delta Mesa -last three years v8.3.15.xls

**Categories:** Red Category

Hi Frank,

Sorry, typed your address wrong the first time...see below. Let me know if I can assist further. Have a good evening.

Manda Walters  
Communications Specialist



**COLORADO**

**Parks and Wildlife**

Department of Natural Resources

P 303-866-3203 X4608 |  
1313 Sherman St Denver, CO 80203  
[manda.walters@state.co.us](mailto:manda.walters@state.co.us) | [www.cpw.state.co.us](http://www.cpw.state.co.us)

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**From:** DNR CPW CORA [mailto:[dnr\\_cpw.cora@state.co.us](mailto:dnr_cpw.cora@state.co.us)]  
**Sent:** Thursday, August 06, 2015 5:17 PM  
**To:** 'f.mckee@deltacounty.com'  
**Subject:** OHV Accidents Mesa, Montrose, & Delta Counties

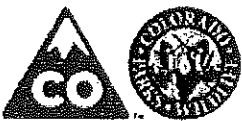
Sherriff McKee,

Thank you for your inquiry. Attached, please find the report for OHV Accidents in Mesa, Montrose, and Delta Counties.

Please know that "Public Land", referred to on this report, represents US Forests and BLM or "federal lands" as well as State or County lands. If the accident took place on private land, it is listed as such.

Please let me know if I can provide any further information.

Manda Walters  
Communications Specialist



**COLORADO**

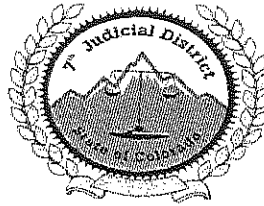
**Parks and Wildlife**

Department of Natural Resources

| Date of Accident<br>YY/MM/DD | Time of Day | Location of Accident        | County   | Primary Location of Accident |
|------------------------------|-------------|-----------------------------|----------|------------------------------|
|                              |             |                             |          |                              |
|                              |             |                             |          |                              |
| 11/06/26                     | 1300pm      | Public Trail                | Mesa     | Trail                        |
| 11/07/09                     | 1800pm      | Public Trail                | Mesa     | Trail                        |
| 11/07/28                     | 1300 pm     | Public Trail                | Mesa     | Trail                        |
| 11/08/12                     | 1145 am     | Public Land                 | Delta    | Park                         |
| 11/10/23                     | 1903 pm     | Public Road                 | Delta    | Roadway                      |
| 11/12/11                     | 1602 pm     | Private Land                | Delta    | Trail                        |
| 12/01/01                     | 1258 am     | Public Road                 | Mesa     | Roadway                      |
| 12/06/16                     | 400 pm      | Public Trail                | Mesa     | Trail                        |
| 12/09/21                     | 930 pm      | Public Land                 | Mesa     | Trail                        |
| 12/06/26                     | 700 pm      | Private Land                | Delta    | unk                          |
| 13/04/20                     | 1418        | Private Land<br>public land | Delta    | Public Road                  |
| 13/06/09                     | pm          | Public Trail                | Delta    | Trail                        |
| 13/07/27                     | 1355pm      | Public Land                 | Delta    | Trail                        |
| 13/07/31                     | 1930pm      | Private Land                | Delta    | Field                        |
| 13/07/31                     | 1930pm      | Public Road                 | Delta    | Roadway                      |
| 13/09/01                     | 1300pm      | Private Land                | Mesa     | Trail                        |
| 13/09/28                     | 1730pm      | Public Road                 | Mesa     | Roadway                      |
| 14/02/05                     | 1019am      | Unk                         | Mesa     | Roadway                      |
| 14/07/04                     | 8:52pm      | Private Land                | Delta    | Unk                          |
| 14/07/06                     | 4:11pm      | Public Trail                | Delta    | Public Trail                 |
| 15/02/09                     | PM          | Private Land                | Montrose | Trail                        |
| 15/04/12                     | 12:30pm     | Public Road                 | Delta    | Roadway                      |
| 15/06/19                     | 7:00 PM     | Public Road                 | Montrose | Roadway                      |

Office of the  
Chief Judge

Gunnison Combined Courts  
Gunnison County Courthouse  
200 East Virginia Avenue  
Gunnison, Colorado 81230



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Seventh Judicial District  
State of Colorado

*J. Steven Patrick*  
Chief Judge

August 25, 2008

Sheriff Ron Bruce  
Hinsdale County Sheriff  
P.O. Box 127  
Lake City, CO 81235

Mike Schottelkotte, Esq.  
P.O. Box 46  
Delta, CO 81416

The Court has received correspondence from the Town Manager. The Court has had inquiries both from the Hinsdale County Sheriff and the local office of the Colorado State Patrol. The Court's recommendations and communications were that the Order is the order and that until it is reversed by a higher court, it is the ruling as to that fact pattern. Further, the parties have been referred to either the City Attorney or the District Attorney with respect to issues concerning prosecution of any fact pattern.

Sincerely,

  
J. Steven Patrick

pc: District Attorney  
Sergeant Ehmsen Colorado State Patrol

JSP/skp

|  |  |
|--|--|
| <b>DISTRICT COURT, HINSDALE COUNTY, COLORADO</b><br><b>317 Henson Street</b><br><b>Lake City, CO 81235</b><br><b>Telephone: (970) 944-2227</b> | <b>Filed in the District Court</b><br>MAY 30 2002 <i>[Signature]</i><br>7th Judicial District, Colorado<br><b>▲ COURT USE ONLY ▲</b> |
| <b>PEOPLE OF THE STATE OF COLORADO,</b><br><b>Plaintiff/Appellant</b><br><br><b>LORAN C. EMRICK, Defendant/Appellee</b>                        | <b>Case No.: 02CV3</b><br><br><b>Div.: 2</b>   |
| <b>ORDER</b>   |  |

This is an appeal arising out of dismissal of four criminal cases. The issue simply stated is whether the Defendants' ATVs, approved and registered for highway use in Arizona and equipped with proper Arizona license plates, are nonetheless off-highway vehicles under Colorado law. All four Defendants were charged with operating off-highway vehicles on a public roadway in violation of C.R.S. §33-14.5-108. Motions to dismiss were filed. The following facts seem undisputed:

1. Defendants are all Arizona residents with Arizona driver's licenses including Class D certification allowing operation of the vehicles in question.
2. The vehicles in question were registered as "MC" for motorcycle in Arizona.
3. Each vehicle was insured.
4. Each vehicle was titled including "MC" designation.
5. Each vehicle was licensed in the State of Arizona.

First, the Court turns to C.R.S. § 33-14.5-101(3): "Off Highway Vehicle" means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways and which is generally and



commonly used to transport persons for recreational purposes.” Off highway” does not include the following: (g) vehicles registered pursuant to Article 3 of Title 42, C.R.S.

§ 42-3-128(1) provides as follows: A non-resident owner, except as otherwise provided in this section, owning any foreign vehicle which has been duly registered for the current registration period in the state, country or other place of which the owner is a resident in which at all times when operated in this state has displayed upon it the number of plate or plates issued for such vehicle in the place of residence of such owner may operate or permit the operation of such vehicle within this state without registering such vehicle or paying any fees to this state.

§ 42-1-102(37) provides: “Foreign Vehicle” means every motor vehicle, trailer or semi-trailer which is brought into this state otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

§ 42-1-102(58) provides: “Motor Vehicle” means any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways and which is generally and commonly used to transport persons and property over the public highways...

The Court has reviewed the briefing and the reporter’s transcript of the oral argument. Briefly summarized, the situation here is that while Colorado would not permit use of this type of ATV on a public road, (§ 33-14.5-101), Arizona apparently has and does. Arizona residents have obtained Arizona license plates and have attempted to operate these ATVs duly licensed in Arizona in Colorado.

The first issue is whether registration in Arizona satisfies the requirement for registration pursuant to Article 3, Title 42. The Court is persuaded that it does. The second issue before the Court is whether either this Court or the Trial Court need reach the question of whether or

not the vehicles in question were designed primarily for travel on public highways. The Court is persuaded that that issue need not be addressed based on the preceding conclusion.

The Court also concludes that the full faith and credit applies. See Article 4, Section 1 of the Constitution of the United States. The appeal is, accordingly, dismissed.

Dated this 30<sup>th</sup> day of May, 2002.

BY THE COURT:



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J. Steven Patrick  
District Judge

xc: Nims; Sagal

5/30/02  
*lmm*

U.S. Constitution - Article 4 Section 1

**Article 4 - The States**

**Section 1 - Each State to Honor all Others**

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

# ATV Ruling Upheld by Appeals Court

ATV question could go to Colorado Supreme Court while Hinsdale Sheriff deals with OHVs on Lake City Streets.

A Hinsdale County court ruling on OHVs has been upheld on appeal from the Colorado Seventh Judicial Court.

The original ruling, made by Hinsdale County Judge Larry Vickers in early 2002, dismissed charges against four Arizona residents who were operating off-highway vehicles (OHVs), licensed and registered in the state of Arizona, on Highway 149.

Colorado State Statute (CRS) 33-145-108, which *continued page 9*

# ATV Ruling, continued from page 1

prohibits operating off-highway vehicles on public roadways.

Judge Vickers ruled that since the vehicles were licensed vehicles in another state, they should be allowed on Colorado roads under the interstate compact agreement, which allows licensed vehicles to travel from state to state without having to comply with individual state laws.

In addition, Vickers' ruling upheld the defendants' attorney's argument that since the vehicles were licensed in another state, they could not be considered OHVs. In Arizona, these vehicles were registered as "MC" for motorcycle.

"The issue simply stated is whether the Defendants' ATVs, approved and registered for highway use in Arizona and equipped with proper Arizona license plates, are nonetheless off-highway vehicles under Colorado law," wrote Judge Stephen Patrick in the appellate ruling.

An exception to CRS 33-145-108 states that "off-highway" does not include vehicles registered "pursuant to Article 3 of Title 42. Title 42, also known as the interstate compact agreement, states that "any non-resident owner...owning any foreign vehicle which has been duly registered for the current registration period in the state... of which the owner is a resident...may operate or permit the operation of such vehicle within the state without registering such vehicles or paying any fees to the state."

Currently 16 state license OHVs under a variety of different stipulations for equipment and safety regulations.

In his appellate ruling, Patrick goes on to state: "Briefly summarized, the situation here is that while Colorado would not permit use of this type of ATV on a public road, (per CRS 33-145-101, which defines off-highway vehicles as any self propelled vehicle which is designed primarily for use off the public highways). Arizona apparently has and does, Arizona residents have obtained Arizona license plates and have attempted to operate these ATVs duly licensed in Arizona in Colorado."

"The first issue is whether registration in Arizona satisfies the requirement for registration pursuant to Article 2, Title 42," Patrick continued. "The Court is persuaded that it does. The second issue before the Court is whether either this Court or the Trial Court need reach the question of whether or not the vehicles in question were designed primarily for travel on public highways. The Court is persuaded that that issue need not be addressed based on the preceding conclusion."

"The appeal is accordingly dismissed."

Hinsdale County Sheriff Bill Denison says enforcement of state laws regarding OHVs will now be difficult because of the new ruling.

"Because of this decision, licensed OHVs are no longer considered unlicensed off-highway vehicles under Colorado law," Denison said. "These licensed vehicles would no longer apply to that law because they are no longer 'OHVs'."

"It is a very confusing situation that will only get worse before it gets better," Denison said.

The sheriff stressed that his officers will not be stopping OHVs driving on local roads unless they are breaking the traffic code or the officer has personal knowledge that the driver does not have a driver's license or is underage, or that the vehicle is unlicensed.

"The problem is each of these licensing states have a different method of licensing, some vehicles will have a license plate, and some will not."

Only OHVs that are breaking traffic laws will be stopped. "If someone calls the office to report an OHV traveling on the road, the first thing we will say is 'what are they doing wrong?'" Denison said.

"We cannot pull over OHVs if a rider looks underage or if we suspect they don't have a license because that gets into profiling," Denison said. In law enforcement, profiling is signaling out someone based on race, color, age or other physical attributes. "Just like we can't pull over every car driver that looks that looks like they might not have a driver's license. That is discrimination. We have to assume any OHV on our streets is doing so legally."

Denison explains that all OHVs riding in Colorado must be registered with a white Colorado registration sticker unless the vehicle is licensed and registered in another state. "If you don't see a white sticker on an OHV operating on a city street, that vehicle must be licensed in another state or it is illegal."

**FAX COVER SHEET**

**DISTRICT ATTORNEY/SEVENTH JUDICIAL DISTRICT  
WYATT B. ANGELO, DISTRICT ATTORNEY  
GEOFFREY R. NIMS, DEPUTY DA  
200 EAST VIRGINIA  
GUNNISON, CO 81230  
PHONE (970) 641-5138  
FAX (970) 641-7697  
E-MAIL: geoff.nims@da7.state.co.us**

TO: Sheriff Denison @ Hinsdale County Sheriff's Department/944-2744

FROM: Geoff Nims

DATE: June 3, 2002

RE: **ATV Ruling**

PAGES (including this cover sheet): 4

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Sheriff, etc.—

Judge Patrick has issued his ruling in the ATV case.

An ATV like Emrick's—licensed, registered, etc., for public highway use in another state—may be used in a similar manner in Colorado.

So ... we lost the appeal, and now have some judicial guidance on the ATV issue.

We could try one more level of appeal, to the Supreme Court level—do you have any thoughts on that?

Thank you—Geoff Nims

## **ATV Committee Hearing Talking Points**

- 1) Nothing I say today is intended to offend anyone, I'm simply speaking from my heart and as pragmatically as possible based on my experience as a rural Colorado Sheriff and as an Arizona State Trooper.**
  
- 2) When the move was underway in Arizona to take ATV/OHVs from simply recreational vehicles and into a registered/titled/licensed motor vehicle, the hue and cry was raised by the Arizona Highway Patrol. Command staff predicted doom and gloom and wholesale slaughter on the highways and streets of Arizona, by people operating those machines. In the end, it simply never happened. Those operators quickly learned to mesh with other traffic. They were and are not interested in tangling with bigger sized vehicles. I have found them to consistently move over and out of the way, yielding to the bigger traffic units. They were not allowed on controlled access highways, i.e. interstates or any other roadway where ingress and egress was controlled by ramps. Agriculture exemptions were kept intact and basically everyone got along. The accident picture did not go off the charts.**
  
- 3) A big deal has been made regarding the warnings on these machines regarding their tires, that they are not suitable for use on pavement, whether asphalt or concrete. That is absolute bunk. I have personally driven**

a basic ATV on a paved highway in Arizona at 60 mph and never once felt that it was unsafe or unstable. The trick is to keep it out of 4 wheel drive and instead in 2 wheel drive. That simply becomes an educational issue. The stickers are put on the machines by the manufacturers in an attempt to avoid liability and nothing else. The lawyers tell them to do this. In my 28 years as an Arizona Trooper, I did not investigate a single ATV/OHV crash on a state highway. In my nearly 9 years as Hinsdale County Sheriff, we have not investigated a single ATV/OHV accident on State Route 149 or in the Town of Lake City, even though we have a court ruling that allows them to be there and they are in fact there in large numbers.

- 4) We all see ATVs/OHVs/UTVs that get bigger and bigger every year. A lot of them are approaching the same size as a 4dr Jeep Wrangler. Certainly they are safer than the license plated motorcycles we see in ever increasing numbers and certainly they are a lot quieter. A licensed dirt bike is currently lawful on our highways. That makes absolutely zero sense when comparing them with any of these four wheeled units.
- 5) Colorado Counties are as varied as the day is long. We have so many different dynamics that it gets tough to come up with a cookie-cutter approach for everyone. Someday, a compromise hopefully can be reached that

**will satisfy all of us. For now, it makes a lot more sense to allow each county to craft rules that works for that particular county.**

**In Hinsdale County we have narrow, rocky and high altitude trails that can be quite unforgiving to the absent minded operator, or, the inexperienced operator. To allow our children to operate these powerful machines on our roads, is an invitation to disaster. We would be asking them to make adult decisions with the minds of children. That is a terrible recipe and our Commissioners saw the hazards therein and decided to do something about it by requiring all operators on county roads to have a valid driver's license. That does in fact fly in the face of State Park's regulations, which are naïve at best in my opinion.**

**6) A significant number of my full-time residents as well as 2<sup>nd</sup> home owners have set up Limited Liability Corporations through attorneys in the State of Montana. In doing so, this allows them to register and license these machines in that state. Their doing so then allows their presence on the State Highways and town streets of San Miguel, Ouray, Hinsdale, Gunnison, Montrose and Delta, based on the ruling handed down by Chief District Judge Steven Patrick of the 7<sup>th</sup> Judicial District in 2002 and re-affirmed in 2008. I have handouts for the Committee that details that ruling. So money that should be staying**



**within the confines of Colorado is finding a home in a state more than willing to accept it.**

**I could go on for a lot longer but will end my portion of this now. Thank you for listening and I encourage you to move forward with solid and intelligent legislation that will encourage our visitors to continue coming to Colorado to recreate with these machines.**