

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

Attachment A

9.3.15

BILL 1

LLS NO. 16-0188.01 Jery Payne x2157

INTERIM COMMITTEE BILL

Off-highway Vehicle Interim Committee

A BILL FOR AN ACT

101 CONCERNING THE REGISTRATION OF OFF-HIGHWAY VEHICLES WITH
102 THE DIVISION OF PARKS AND WILDLIFE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Off-highway Vehicle Interim Committee. The bill clarifies that local authorities may require drivers of off-highway vehicles to have driver's licenses and insurance. The local authority must act by resolution or ordinance, publish a map available for use by off-highway vehicles,

Shading denotes HOUSE amendment: Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

and place appropriate signs giving notice of the regulation. A local authority may also enter into cooperative agreements with federal land management agencies.

The bill adds to the current off-highway vehicle registration program a new part that authorizes a person to register an off-highway vehicle with the division of parks and wildlife. The division sets the fee. If an off-highway vehicle is registered and plated in another state, it is deemed registered in Colorado. The registration expires when the vehicle changes ownership.

Upon registering an off-highway vehicle, the person will be issued a license plate, which must be affixed to the rear of the vehicle. The registration program and its associated statutes generally apply on roads, but not on trails, unless a local authority designates a trail as being a road for the purposes of the part.

The new part adds the following requirements for driving an off-highway vehicle on a road:

- A driver must be licensed unless a local authority waives this requirement, but the driver must be at least 10 years of age and accompanied by 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 of more than 45 miles per hour is forbidden, but a driver may cross a road as already authorized by statute.
- The driver must wear eye protection unless the vehicle has a windshield.
- Drivers and passengers under 18 years of age must wear helmets.
- The vehicle must have brakes and, if driven at night, have a head lamp and tail lights.
- The vehicle speed limit must not exceed 40 miles per hour.

Violations are class B traffic infractions.

The bill amends the motor vehicle statutes to define an off-highway vehicle as a vehicle, such as a low power scooter or bicycle. The careless driving and reckless driving statutes are amended to include off-highway vehicles.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 33-14.5-100.2
3 as follows:

4 **33-14.5-100.2. Legislative declaration.** THE GENERAL ASSEMBLY
5 FINDS, DETERMINES, AND DECLARES THAT A FEE FOR REGISTRATION OF

1 OFF-HIGHWAY VEHICLES UNDER THIS ARTICLE IS SEPARATE FROM A
2 REGISTRATION FEE OR OTHER CHARGE WITH RESPECT TO THE OPERATION
3 OF A MOTOR VEHICLE UPON A PUBLIC HIGHWAY.

4 **SECTION 2.** In Colorado Revised Statutes, 33-14.5-101, **amend**
5 (3) introductory portion, (3) (d), and (3) (g); and **add** (2.5) as follows:

6 **33-14.5-101. Definitions.** As used in this article, unless the
7 context otherwise requires:

8 (2.5) "LOCAL AUTHORITY" HAS THE MEANING ESTABLISHED IN
9 SECTION 42-1-102 (48), C.R.S.

10 (3) "Off-highway vehicle" means ~~any~~ A self-propelled vehicle
11 ~~which~~ THAT is designed to travel on wheels or tracks in contact with the
12 ground, ~~which is~~ designed primarily for use off of the public highways,
13 and ~~which is~~ generally and commonly used to ~~transport persons~~ for
14 recreational purposes. "Off-highway vehicle" does not include: the
15 following:

16 (d) Golf ~~carts~~ CARS;

17 (g) MOTOR vehicles registered pursuant to article 3 of title 42,
18 C.R.S.

19 **SECTION 3.** In Colorado Revised Statutes, 33-14.5-102, **add**
20 (10) as follows:

21 **33-14.5-102. Off-highway vehicle registration -**
22 **nonresident-owned or -operated off-highway vehicle permits - fees -**
23 **applications - requirements - exemptions.** (10) WHEN AN OWNER
24 REGISTERS AN OFF-HIGHWAY VEHICLE UNDER THIS SECTION FOR THE FIRST
25 TIME, THE DIVISION SHALL OFFER THE OWNER THE OPPORTUNITY TO ALSO
26 REGISTER THE VEHICLE UNDER SECTION 33-14.5-205.

27 **SECTION 4.** In Colorado Revised Statutes, 33-14.5-108, **amend**

1 (1) introductory portion as follows:

2 **33-14.5-108. Off-highway vehicle operation prohibited on**
3 **streets, roads, and highways.** (1) ~~No~~ A PERSON SHALL NOT DRIVE AN
4 off-highway vehicle ~~may be operated on the public streets, roads, or~~
5 ~~highways of this state~~ A PUBLICLY MAINTAINED RIGHT-OF-WAY USED
6 PRIMARILY BY MOTOR VEHICLES except in the following cases:

7 **SECTION 5.** In Colorado Revised Statutes, 33-14.5-108.5,
8 **amend** (1) as follows:

9 **33-14.5-108.5. Crossing roads, highways, and railroad tracks.**

10 (1) The driver of an off-highway vehicle may directly cross a roadway,
11 including a state highway, at an at-grade crossing to continue using the
12 off-highway vehicle on the other side; except that a person shall not cross
13 a state highway within the jurisdiction of a municipality UNLESS THE
14 MUNICIPALITY AUTHORIZES A PERSON TO CROSS THE STATE HIGHWAY ON
15 AN OFF-HIGHWAY VEHICLE.

16 **SECTION 6.** In Colorado Revised Statutes, 33-14.5-110, **amend**
17 (1) as follows:

18 **33-14.5-110. Regulation by political subdivisions.**

19 (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1),
20 any county, city and county, city, or town acting by its governing body
21 may regulate the operation of off-highway vehicles on public lands,
22 waters, and property under its jurisdiction and on streets and highways
23 within its boundaries by resolution or ordinance of the governing body
24 and by giving appropriate notice thereof OF THE REGULATION if such THE
25 regulation:

26 (I) ~~is not inconsistent~~ DOES NOT CONFLICT with the provisions of
27 this article, and the rules and regulations promulgated pursuant thereto

1 UNDER THIS ARTICLE; AND

2 (II) DOES NOT EXCEED THE POWERS GRANTED TO LOCAL
3 AUTHORITIES TO REGULATE MOTOR VEHICLES AND TRAFFIC UNDER
4 SECTIONS 42-4-110 AND 42-4-111, C.R.S., FOR THE REGULATION OF
5 TRAFFIC AND ROADWAYS.

6 (b) (I) A LOCAL AUTHORITY MAY REQUIRE THE DRIVER OF AN
7 OFF-HIGHWAY VEHICLE TO HAVE A DRIVER'S LICENSE.

8 (II) A LOCAL AUTHORITY MAY AUTHORIZE A PERSON WHO HAS NOT
9 BEEN ISSUED A DRIVER'S LICENSE UNDER ARTICLE 2 OF TITLE 42, C.R.S.,
10 TO DRIVE AN OFF-HIGHWAY VEHICLE. TO AUTHORIZE A PERSON WITHOUT
11 A DRIVER'S LICENSE TO DRIVE AN OFF-HIGHWAY VEHICLE, THE RESOLUTION
12 OR ORDINANCE MUST REQUIRE THE DRIVER TO BE AT LEAST TEN YEARS OF
13 AGE AND BE UNDER THE IMMEDIATE SUPERVISION OF A LICENSED DRIVER.

14 (III) A LOCAL AUTHORITY MAY REQUIRE A DRIVER OF AN
15 OFF-HIGHWAY VEHICLE TO CARRY LIABILITY INSURANCE.

16 (IV) A LOCAL AUTHORITY MAY REQUIRE AN OFF-HIGHWAY
17 VEHICLE TO BE REGISTERED UNDER SECTION 33-14.5-205 TO OPERATE ON
18 A ROADWAY.

19 (c) TO EXERCISE THE POWERS GRANTED LOCAL AUTHORITIES
20 UNDER THIS SECTION, THE GOVERNING BODY OF THE LOCAL AUTHORITY
21 MUST:

22 (I) ACT BY ORDINANCE OR RESOLUTION; AND

23 (II) PUBLISH A MAP OF ALL ROADS AVAILABLE FOR USE BY
24 OFF-HIGHWAY VEHICLES.

25 (d) AN ORDINANCE OR RESOLUTION REGULATING THE USE OF
26 OFF-HIGHWAY VEHICLES DOES NOT TAKE EFFECT UNTIL NOTICE OF THE
27 REGULATION IS PLACED AT THE ENTRANCES OF THE ROADWAY BY MEANS

1 OF OFFICIAL SIGNS OR TRAFFIC CONTROL DEVICES.

2 **SECTION 7.** In Colorado Revised Statutes, 33-14.5-111, **amend**
3 (2) as follows:

4 **33-14.5-111. Enforcement - federal, state, and local**
5 **cooperation.** (2) The division ~~is authorized to~~ AND A LOCAL AUTHORITY
6 MAY enter into cooperative agreements with federal land management
7 agencies for the purpose of regulating off-highway vehicle use on federal
8 lands.

9 **SECTION 8.** In Colorado Revised Statutes, **add** part 2 to article
10 14.5 of title 33 as follows:

11 PART 2

12 REGISTRATION AND ROAD USE

13 **33-14.5-201. Short title.** THE SHORT TITLE OF THIS PART 2 IS THE
14 "REGISTRATION INCREASES DRIVING ENTHUSIASM FOR OFF-HIGHWAY
15 VEHICLES ACT".

16 **33-14.5-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE
17 CONTEXT OTHERWISE REQUIRES:

18 (1) "ALL-TERRAIN VEHICLE" MEANS A THREE- OR FOUR-WHEELED
19 OFF-HIGHWAY VEHICLE THAT TRAVELS ON LOW-PRESSURE TIRES WITH A
20 SEAT THAT IS STRADDLED BY THE RIDER AND WITH HANDLEBARS FOR
21 STEERING CONTROL.

22 (2) "CLASS B TRAFFIC INFRACTION" HAS THE SAME MEANING AS
23 SET FORTH IN SECTION 42-4-1701, C.R.S.

24 (3) "DRIVE" MEANS TO OPERATE AN OFF-HIGHWAY VEHICLE TO
25 CAUSE IT TO CHANGE GEOGRAPHIC LOCATION.

26 (4) "MOTORCYCLE" HAS THE SAME MEANING AS SET FORTH IN
27 SECTION 42-1-102, C.R.S.

1 (5) "GOVERNING BODY" MEANS THE STATE OF COLORADO, THE
2 AGENCIES OF THE STATE OF COLORADO, A COUNTY, A MUNICIPALITY, A
3 CITY, OR A CITY AND COUNTY.

4 (6) "ROAD" MEANS A PUBLICLY MAINTAINED RIGHT-OF-WAY USED
5 PRIMARILY BY MOTOR VEHICLES, AS THAT TERM IS DEFINED BY SECTION
6 42-1-102, C.R.S.

7 (7) "TRAIL" MEANS:

8 (a) A ROUTE ESTABLISHED PRIMARILY FOR OFF-HIGHWAY VEHICLE
9 USE; OR

10 (b) IF ESTABLISHED OR MAINTAINED IN CONNECTION WITH THIS
11 ARTICLE, EACH OF THE FOLLOWING:

12 (I) ROUTES;

13 (II) PARKING AREAS; AND

14 (III) FACILITIES.

15 **33-14.5-203. Applicability. (1) Registration.** THIS PART 2
16 APPLIES ONLY TO OFF-HIGHWAY VEHICLES REGISTERED FOR ROAD USE
17 UNDER SECTION 33-14.5-205.

18 (2) **Roads - exceptions.** (a) EXCEPT AS PROVIDED IN PARAGRAPH
19 (b) OF THIS SUBSECTION (2), THIS PART 2 APPLIES TO DRIVING AN
20 OFF-HIGHWAY VEHICLE ON A ROAD.

21 (b) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION
22 (2), THIS PART 2 DOES NOT APPLY TO TRAILS.

23 (c) EXCEPT AS LIMITED BY SECTION 33-14.5-208, A GOVERNING
24 BODY MAY DESIGNATE A TRAIL OVER WHICH THE BODY HAS JURISDICTION
25 AS A ROAD THAT IS SUBJECT TO THIS PART 2.

26 **33-14.5-204. Driver's licenses requirements. (1) Licenses.** THE
27 DRIVER OF AN OFF-HIGHWAY VEHICLE ON A ROAD SHALL POSSESS A VALID

1 DRIVER'S LICENSE OR MINOR DRIVER'S LICENSE ISSUED UNDER ARTICLE 2
2 OF TITLE 42, C.R.S., UNLESS A GOVERNING BODY HAS AUTHORIZED A
3 PERSON TO DRIVE AN OFF-HIGHWAY VEHICLE ON A ROAD WITHOUT A
4 LICENSE BY ORDINANCE, RESOLUTION, OR RULE. THE ORDINANCE,
5 RESOLUTION, OR RULE MUST REQUIRE AN UNLICENSED DRIVER TO BE AT
6 LEAST TEN YEARS OF AGE AND BE UNDER THE IMMEDIATE SUPERVISION OF
7 A LICENSED DRIVER.

8 (2) **Motorcycle endorsements.** IF AN OFF-HIGHWAY VEHICLE IS
9 ALSO A MOTORCYCLE, THE DRIVER OF THE VEHICLE ON A ROAD SHALL
10 POSSESS A GENERAL MOTORCYCLE ENDORSEMENT ISSUED UNDER ARTICLE
11 2 OF TITLE 42, C.R.S.

12 **33-14.5-205. Registration - rules - fees. (1) Voluntary**
13 **registration.** AN OWNER MAY REGISTER AN OFF-HIGHWAY VEHICLE WITH
14 THE DIVISION. THE REGISTRATION EXPIRES WHEN OWNERSHIP OF THE
15 OFF-HIGHWAY VEHICLE IS TRANSFERRED TO ANOTHER PERSON.

16 (2) **Foreign registration.** FOR THE PURPOSES OF THIS SECTION,
17 REGISTRATION OF AN OFF-HIGHWAY VEHICLE IN A FOREIGN JURISDICTION
18 IS DEEMED REGISTRATION UNDER THIS SECTION IF:

19 (a) THE FOREIGN JURISDICTION HAS ISSUED THE OFF-HIGHWAY
20 VEHICLE EITHER:

21 (I) A FORM OF IDENTIFICATION THAT IS AFFIXED TO THE VEHICLE
22 AND IS AT LEAST AS VISIBLE AS A LICENSE PLATE; OR

23 (II) A LICENSE PLATE; AND

24 (b) THE LICENSE PLATE OR IDENTIFICATION MEETING THE
25 STANDARD OF PARAGRAPH (a) OF THIS SUBSECTION (2) IS AFFIXED TO THE
26 VEHICLE.

27 (3) **Registration under part 1 not superseded.** REGISTERING AN

1 OFF-HIGHWAY VEHICLE UNDER THIS PART 2 DOES NOT SUPERSEDE THE
2 REQUIREMENT TO REGISTER AN OFF-HIGHWAY VEHICLE UNDER SECTION
3 33-14.5-102.

4 (4) **Fees.** THE DIVISION MAY COLLECT A FEE FOR REGISTERING AN
5 OFF-HIGHWAY VEHICLE THAT IS SET BY RULE TO OFFSET THE DIRECT AND
6 INDIRECT COST UNDER THIS PART 2 OF REGISTERING OFF-HIGHWAY
7 VEHICLES, AND ISSUING LICENSE PLATES TO OFF-HIGHWAY VEHICLES.

8 **33-14.5-206. Identification issued.** (1) **License plates.** UPON
9 REGISTRATION OF AN OFF-HIGHWAY VEHICLE UNDER THIS PART 2, THE
10 DIVISION SHALL ISSUE A LICENSE PLATE FOR THE VEHICLE THAT: <*There*
11 *was some talk about calling it some type of vehicle identification. For*
12 *simplicity, I am calling it a license plate until a decision is made as to*
13 *what to call it.*>

14 (a) IS THE SAME SIZE AS A MOTORCYCLE LICENSE PLATE; AND

15 (b) DISPLAYS THE REGISTRATION NUMBER IN NUMERALS OR
16 LETTERS OF AT LEAST ONE AND ONE-HALF INCHES IN HEIGHT.

17 (2) **Reregistration.** THE OWNER OF AN OFF-HIGHWAY VEHICLE
18 NEED NOT:

19 (a) REREGISTER THE VEHICLE SO LONG AS THE ENROLLED
20 OFF-HIGHWAY VEHICLE IS NOT SOLD OR TRANSFERRED TO ANOTHER
21 OWNER; OR

22 (b) OBTAIN VALIDATING STICKERS OR TABS.

23 (3) **Plates affixed to vehicle.** THE OWNER OF AN OFF-HIGHWAY
24 VEHICLE SHALL AFFIX THE LICENSE PLATE TO THE REAR OF THE VEHICLE
25 SO IT IS:

26 (a) HORIZONTAL;

27 (b) CLEARLY READABLE;

- 1 (c) AT LEAST TWELVE INCHES FROM THE GROUND; AND
- 2 (d) FREE FROM FOREIGN MATERIALS OR COVERINGS.

3 (4) **Corrections.** THE DIVISION SHALL OBTAIN LICENSE PLATES TO
4 ISSUE UNDER THIS SECTION DIRECTLY FROM THE DEPARTMENT OF
5 CORRECTIONS.

6 **33-14.5-207. Rules of the road.** (1) A PERSON DRIVING AN
7 OFF-HIGHWAY VEHICLE UPON A ROAD SHALL OBEY THE RULES OF THE
8 ROAD AS DEFINED BY SECTION 42-4-110 (1) (c), C.R.S., AND TRAFFIC
9 CONTROL DEVICES; EXCEPT THAT:

10 (a) THIS SECTION DOES NOT LIMIT AUTHORITY TO USE OR CROSS A
11 ROAD AS OTHERWISE GRANTED BY THIS ARTICLE; AND

12 (b) A DRIVER IS NOT SUBJECT TO THOSE PROVISIONS OF ARTICLE 4
13 OF TITLE 42, C.R.S., THAT BY THEIR NATURE HAVE NO APPLICATION,
14 INCLUDING PARTS 2 AND 3 OF ARTICLE 4 OF TITLE 42, C.R.S.

15 **33-14.5-208. Prohibited roads.** (1) **Limited access highways -**
16 **speed limit of roads.** A PERSON SHALL NOT DRIVE AN OFF-HIGHWAY
17 VEHICLE UPON:

- 18 (a) A LIMITED ACCESS HIGHWAY; OR
- 19 (b) A ROAD WITH A SPEED LIMIT EQUAL TO OR MORE THAN
20 FORTY-FIVE MILES PER HOUR.

21 (2) **Crossing allowed.** PROHIBITING A PERSON FROM DRIVING ON
22 A ROAD DOES NOT PROHIBIT THE PERSON FROM DRIVING ACROSS THE ROAD
23 IN ACCORDANCE WITH SECTION 33-14.5-108.5.

24 **33-14.5-209. Eye protection required.** A PERSON SHALL NOT
25 DRIVE AN OFF-HIGHWAY VEHICLE ON A ROAD UNLESS THE PERSON AND
26 ANY PASSENGER ARE WEARING GOGGLES OR EYEGASSES WITH LENSES
27 MADE OF SAFETY GLASS OR PLASTIC; EXCEPT THAT A DRIVER OR

1 PASSENGER NEED NOT WEAR SAFETY GLASS OR PLASTIC IF THE PERSON IS
2 WEARING A HELMET CONTAINING EYE PROTECTION MADE OF SAFETY
3 GLASS OR PLASTIC OR DRIVING AN OFF-HIGHWAY VEHICLE WITH A
4 WINDSHIELD.

5 **33-14.5-210. Protective helmets. (1) Requirements for people**
6 **under eighteen.** TO DRIVE OR BE A PASSENGER ON AN ALL-TERRAIN
7 VEHICLE OR TWO-WHEELED VEHICLE ON A ROAD, A PERSON UNDER
8 EIGHTEEN YEARS OF AGE SHALL WEAR A PROTECTIVE HELMET THAT
9 CONFORMS TO SUBSECTION (2) OF THIS SECTION AND THAT IS SECURED
10 PROPERLY ON THE PERSON'S HEAD WITH A CHIN STRAP.

11 (2) **Helmet standards.** A PROTECTIVE HELMET REQUIRED BY THIS
12 SECTION MUST:

13 (a) BE DESIGNED TO REDUCE INJURIES TO THE USER RESULTING
14 FROM HEAD IMPACTS AND PROTECT THE USER BY REMAINING ON THE
15 USER'S HEAD, DEFLECTING BLOWS, RESISTING PENETRATION, AND
16 SPREADING THE FORCE OF IMPACT;

17 (b) HAVE A LINING, PADDING, AND CHIN STRAP; AND

18 (c) MEET OR EXCEED THE STANDARDS ESTABLISHED IN THE
19 UNITED STATES DEPARTMENT OF TRANSPORTATION'S FEDERAL MOTOR
20 VEHICLE SAFETY STANDARD NO. 218, 49 CFR 571.218, FOR MOTORCYCLE
21 HELMETS.

22 **33-14.5-211. Equipment. (1) Requirements.** A PERSON SHALL
23 NOT DRIVE AN OFF-HIGHWAY VEHICLE ON A ROAD UNLESS THE VEHICLE IS
24 EQUIPPED WITH THE FOLLOWING IN GOOD WORKING ORDER:

25 (a) BRAKES THAT ENABLE THE OPERATOR TO MAKE THE WHEELS
26 SKID ON DRY, LEVEL, AND CLEAN PAVEMENT;

27 (b) IF DRIVEN AT NIGHT:

1 (I) A HEAD LAMP AIMED AND SUFFICIENTLY INTENSE TO REVEAL
2 PERSONS AND VEHICLES AT A DISTANCE OF ONE HUNDRED FEET AHEAD ON
3 A STRAIGHT, LEVEL ROAD; AND

4 (II) A TAIL LIGHT THAT EMITS A RED LIGHT WHEN THE HEAD LAMP
5 IS LIGHTED AND THAT IS:

6 (A) VISIBLE FROM A DISTANCE OF FIVE HUNDRED FEET TO THE
7 REAR;

8 (B) MOUNTED ON THE REAR OF THE VEHICLE; AND

9 (C) LOCATED AT A HEIGHT OF NOT MORE THAN SEVENTY-TWO
10 INCHES ABOVE THE GROUND NOR LESS THAN TWENTY INCHES ABOVE THE
11 GROUND.

12 (2) **High beam.** IF AN OFF-HIGHWAY VEHICLE HAS A HEAD LAMP
13 WITH A HIGHER AND LOWER BEAM, THE DRIVER SHALL NOT OPERATE THE
14 HIGHER BEAM OR THE HEAD LAMP TO STRIKE THE EYES OF THE DRIVER OF
15 AN APPROACHING VEHICLE.

16 **33-14.5-212. Speed limits.** NOTWITHSTANDING PART 11 OF
17 ARTICLE 4 OF TITLE 42, C.R.S., A PERSON SHALL NOT DRIVE AN
18 OFF-HIGHWAY VEHICLE ON A ROAD AT A SPEED IN EXCESS OF FORTY MILES
19 PER HOUR UNLESS A GOVERNING BODY AUTHORIZES A HIGHER SPEED FOR
20 A SPECIFIC ROAD.

21 **33-14.5-213. Violations. (1) Traffic infractions.** A PERSON WHO
22 VIOLATES THIS PART 2 COMMITS A CLASS B TRAFFIC INFRACTION.

23 (2) **Procedures.** THE PROCEDURES FOR PUNISHING A VIOLATION OF
24 THIS PART 2 ARE GOVERNED BY PART 17 OF ARTICLE 4 OF TITLE 42, C.R.S.

25 (3) **Penalties.** NOTWITHSTANDING THE PENALTIES IMPOSED BY
26 ARTICLE 4 OF TITLE 42, C.R.S., A VIOLATION OF ANY DUTY IMPOSED
27 UNDER ARTICLE 4 OF TITLE 42, C.R.S., BY A DRIVER OF AN OFF-HIGHWAY

1 VEHICLE THAT IS CURRENTLY REGISTERED PURSUANT TO THIS PART 2 IS A
2 CLASS B TRAFFIC INFRACTION UNLESS THE STATUTE SETTING FORTH THE
3 PENALTY FOR THE VIOLATION EXPRESSLY SPECIFIES THAT THE PENALTY
4 APPLIES TO AN OFF-HIGHWAY VEHICLE.

5 **SECTION 9.** In Colorado Revised Statutes, 42-1-102, **amend**
6 (58) (a), (58) (b), and (112) as follows:

7 **42-1-102. Definitions.** As used in articles 1 to 4 of this title,
8 unless the context otherwise requires:

9 (58) (a) "Motor vehicle" means:

10 (I) Any self-propelled vehicle that is designed primarily for travel
11 on the public highways and that is generally and commonly used to
12 transport persons and property over the public highways; or AND

13 (II) A low-speed electric vehicle. ~~except that the term~~

14 (b) "MOTOR VEHICLE" does not include low-power scooters,
15 wheelchairs, or vehicles moved solely by human power. For the purposes
16 of the offenses described in sections 42-2-128, 42-4-1301, 42-4-1301.1,
17 and 42-4-1401, ~~for farm tractors and off-highway vehicles, as defined in~~
18 ~~section 33-14.5-101 (3), C.R.S., operated on streets and highways;~~ "motor
19 vehicle" includes a farm tractor ~~or an off-highway vehicle~~ OPERATED ON
20 STREETS AND HIGHWAYS that is not otherwise classified as a motor
21 vehicle.

22 (112) "Vehicle" means a device that is capable of moving itself,
23 or of being moved, from place to place upon wheels or endless tracks.
24 "Vehicle" includes, without limitation, a bicycle, electrical assisted
25 bicycle, or EPAMD, but does not include a wheelchair, ~~off-highway~~
26 ~~vehicle~~, snowmobile, farm tractor, or implement of husbandry designed
27 primarily ~~or exclusively~~ for use and used in agricultural operations or any

1 device moved exclusively over stationary rails or tracks or designed to
2 move primarily through the air.

3 **SECTION 10.** In Colorado Revised Statutes, 42-4-1402, **amend**
4 (1) as follows:

5 **42-4-1402. Careless driving - penalty.** (1) A person who drives
6 a motor vehicle ~~bicycle, electrical assisted bicycle, or low-power scooter~~
7 OR VEHICLE in a careless and imprudent manner, without due regard for
8 the width, grade, curves, corners, traffic, and use of the streets and
9 highways and all other attendant circumstances, is guilty of careless
10 driving. A person convicted of careless driving of a bicycle, EPAMD,
11 OFF-HIGHWAY VEHICLE, or electrical assisted bicycle ~~shall not be~~ IS NOT
12 subject to ~~the provisions of~~ section 42-2-127.

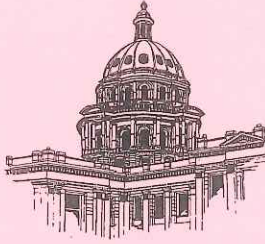
13 **SECTION 11.** In Colorado Revised Statutes, 42-4-1401, **amend**
14 (1) as follows:

15 **42-4-1401. Reckless driving - penalty.** (1) A person who drives
16 a motor vehicle ~~bicycle, electrical assisted bicycle, or low-power scooter~~
17 OR VEHICLE in such a manner as to indicate either a wanton or a willful
18 disregard for the safety of persons or property is guilty of reckless
19 driving. A person convicted of reckless driving of a bicycle, EPAMD,
20 OFF-HIGHWAY VEHICLE, OR electrical assisted bicycle ~~shall not be~~ IS NOT
21 subject to ~~the provisions of~~ section 42-2-127.

22 **SECTION 12. Act subject to petition - effective date -**
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
24 the expiration of the ninety-day period after final adjournment of the
25 general assembly (August 10, 2016, if adjournment sine die is on May 11,
26 2016); except that, if a referendum petition is filed pursuant to section 1
27 (3) of article V of the state constitution against this act or an item, section,

1 or part of this act within such period, then the act, item, section, or part
2 will not take effect unless approved by the people at the general election
3 to be held in November 2016 and, in such case, will take effect on the
4 date of the official declaration of the vote thereon by the governor.

5 (2) This act applies to offenses committed on or after the
6 applicable effective date of this act.



Colorado
Legislative
Council
Staff

Bill 1

PRELIMINARY
FISCAL NOTE

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

Drafting Number: LLS 16-0188
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 DIVISION OF PARKS AND WILDLIFE

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	at least \$288,750	at least \$288,750
State Expenditures	at least \$316,366	at least \$260,026
Cash Funds	311,052	254,649
Centrally Appropriated Costs	5,314	5,377
TABOR Impact	<\$5,000	<\$5,000
FTE Position Change	0.5 FTE	0.5 FTE
Appropriation Required: \$311,052 – Department of Natural Resources (FY 2016-17).		
Future Year Impacts: Are anticipated to be minimal.		

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 Colorado Parks and Wildlife (CPW) in the Department of Natural Resources (DNR) to administer a voluntary registration (licensing) program for off-highway vehicles (OHVs), not to supersede the CPW's existing 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. CPW may set a fee by rule to offset its direct and indirect costs for the new licensing program. 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.

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 Department of Revenue (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

Based on the assumptions noted above, state revenue from fees will increase by at least \$288,750 per year in FY 2016-17 and FY 2017-18.

Colorado Correctional Industries. CCI will receive approximately \$6.82 for every OHV license plate to cover the \$2.82 material fee for the motorcycle-sized license plate and the estimated \$4 for average postage to mail the plate to the OHV user. This will increase state revenue by \$238,700 per year in the first two years of the program.

Colorado Parks and Wildlife. The CPW will add a surcharge to the fee to cover their indirect costs, which the CPW will set by rule. The fiscal note estimates this surcharge will be approximately \$1.41, which is the average of two years of administration fees divided by the estimated number of users. This amount will increase state revenue by \$49,350 per year in the first two years of the program. More information on CPW's indirect costs can be found in the state expenditures section.

Fee impact on OHV users. State law requires legislative service agency review of measures which create or increase any fee collected by a state agency. This is an estimate only; CPW will set the actual fee by rule. Table 1, below, outlines the fee impact of this draft bill in FY 2016-17.

Table 1. Fee Impact on OHV Users under Bill 1 in FY 2016-17		
Type of Fee	Proposed Fee	Number of OHVs
Administrative Costs over 2-Year Period (CPW)	\$1.41	35,000
License Plate (CCi)	2.82	
Postage (CCi)	4.00	
Fee Subtotal	\$8.23	
Subtotal – CPW Retained		49,350
Subtotal – CCi Retained		238,700
TOTAL		\$288,050

Revenue from fines. 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), and 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

Because CPW and CCi are both TABOR-exempt enterprises, all state revenue impacts identified for these entities have no impact on the TABOR limit. 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 \$316,366 in FY 2016-17 and by \$260,026 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 2.

Colorado Parks and Wildlife. Under the bill, CPW is required to purchase plates directly from CCi. CCi will be paid to produce and provide the plates to the CPW. 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.

CPW is currently appropriated 3.0 FTE to manage their OHV registration program. 2.0 FTE work full time; the remaining 1.0 FTE is divided between three seasonal employees. With 170,000 registrations and use permits filed in FY 2014-15, each FTE processed approximately 57,000 applications within the year. Since it is assumed that 35,000 applications will come in during each of the first two years of the program, an additional 0.5 FTE will be required for

two years to offset the initial application impact. It is further assumed that an Administrative Assistant I can fulfill the task. Standard operating expenses and capital outlay are included for this 0.5 FTE.

CPW's computer database, IPAWS, which currently functions as the OHV database, will need to be updated. Based on similar update costs to the CSTARTS database in the DOR, the fiscal note estimates this cost at \$51,500 (500 computer programming hours at the standard rate of \$103), to be performed by the Office of Information Technology.

The following components will go into creating the license plate: plate design by CPW; plate design by CCI; and creation of a numbering system that will not conflict with DOR information in a Department of Public Safety (DPS) database. The fiscal note assumes that the new plate design, if necessary, will be paid for with an OHV grant. CCI charges a design fee of \$200 for every new license plate style. It is expected that DOR and the DPS will work with CPW to inform the plate numbering process, and that this workload impact will be absorbed within existing appropriations.

Cost Components	FY 2016-17	FY 2017-18
License Plate and Postage (CCI)	\$238,700	\$238,700
Personal Services (CPW)	\$15,474	\$15,474
FTE	0.5 FTE	0.5 FTE
Operating Expenses and Capital Outlay Costs (CPW)	5,178	475
Computer Programming (CPW)	51,500	0
License Plate Design Fee (CCI)	200	0
Centrally Appropriated Costs*	5,314	5,377
TOTAL	\$316,366	\$260,026

* Centrally appropriated costs are not included in the bill's appropriation.

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.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Cost Components	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$3,990	\$3,990
Supplemental Employee Retirement Payments	1,324	1,387
TOTAL	\$5,314	\$5,377

Local Government Impact

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.

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 Division of Parks and Wildlife in the Department of Natural Resources requires a cash fund appropriation of \$311,052 from the Off-Highway Vehicle Recreation Fund. Reappropriated funds from the Department of Natural Resources will go to:

- The Office of Information Technology: \$51,500; and
- Colorado Correctional Industries: \$238,900.

State and Local Government Contacts

Agriculture
Clerk and Records
Local Affairs
Public Safety

Counties
Judicial
Municipalities
Sheriffs

Corrections
Law
Natural Resources
Transportation