

**Department of Legislative Services**  
 Maryland General Assembly  
 2005 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1279 (Delegate Weir, *et al.*)  
 Environmental Matters

**Vehicle Laws - Off-Highway Vehicles - Titling and Registration**

This bill creates an Off-Highway Vehicle Fund in the Department of Natural Resources (DNR) to support building and maintaining trails for off-highway vehicles (OHV) and provides for the registration and titling of OHVs.

**Fiscal Summary**

**State Effect:** Transportation Trust Fund (TTF) revenues would increase by an estimated \$2.2 million from titling fees and vehicle excise tax in FY 2005. General fund revenues would decrease by \$2.6 million in FY 2005 as OHVs would no longer be subject to the State sales tax. Annual revenues reflect growth in OHV sales and annualization. Special fund revenues for the Off-Highway Vehicle Fund could be as much as \$1.3 million in FY 2005 from registration fee revenues, assuming a \$100, five-year registration fee. TTF expenditures associated with implementing the bill will be approximately \$88,500 in FY 2005. Special fund revenues and expenditures are expected to increase at a faster rate beginning in FY 2009 when all OHVs must be titled and registered.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	(\$2,641,300)	(\$3,521,800)	(\$3,655,600)	(\$3,794,500)	(\$3,938,800)
SF Revenue	3,534,800	4,398,300	4,566,300	4,739,900	4,920,000
SF Expenditure	88,500	98,300	103,600	109,300	115,300
Net Effect	\$805,000	\$778,200	\$807,100	\$836,100	\$865,900

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local government revenues would increase by an estimated \$845,220 in FY 2005 due to the additional number of vehicles estimated to be subject to the titling tax. Annual revenues will increase according to the growth of new vehicle sales.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** The bill creates a nonlapsing, special fund to build and maintain trails for OHVs to be administered by the Secretary of Natural Resources. The bill describes procedures for investing and administering the fund and requires any fund expenditures to be made in accordance with the State budget. The fund consists of the permit fee now collected by DNR for OHV use of State parks, and revenues from OHV registration fees, investment earnings, money appropriated to the fund in the State budget, gifts, contributions, and grants.

OHV is defined as a self-propelled vehicle that: (1) has a dry weight of up to 1,000 pounds; (2) travels on at least three low-pressure tires; (3) is designed to carry only the driver on a seat or saddle designed to be straddled; and (4) is commonly known as an all-terrain vehicle. Snowmobiles and motorcycles designed for off-road operation and not eligible to be registered as a Class D vehicle (also known as dirt bikes) are also considered OHVs. The bill excludes farm vehicles, as well as any vehicle used on residential property for landscaping, gardening, or lawn care.

The bill requires that all OHVs be titled and registered. However, titling and registration are not required for an OHV bought before October 1, 2004 until the earlier of: October 1, 2009 or the date the vehicle is first transferred to a new owner after October 1, 2004. The bill also repeals the registration exemption for snowmobiles.

The bill requires a person to be at least 18 years old to register an OHV and requires a vehicle dealer who transfers an OHV to someone other than a licensed dealer to either: (1) collect and send all fees required to register the vehicles to the Motor Vehicle Administration (MVA) within 20 days of delivery of the vehicle; or (2) transmit the application and fees electronically to the MVA. The MVA must issue a registration decal for OHV as a Class O vehicle and must establish the registration fee for Class O vehicles. The bill directs the MVA to retain registration revenues necessary to recover administration costs and remit the balance to the Comptroller for deposit into the Off-Highway Vehicle Fund.

The bill repeals provisions of law related to minibikes and off-the-road motorcycles and requires any dealer or seller of an OHV to disclose certain legal requirements to the buyer. The bill also prohibits OHVs from being operated on a controlled access highway or on a highway except to cross the highway at a right angle. The driver of an OHV must get written permission from the owner of private property before operating it on that property.

The bill defines the fair market value of a new or used OHV (for determining the vehicle excise tax) as the total purchase price verified to the MVA's satisfaction by a bill of sale or other acceptable documentation.

**Current Law:** State law authorizes DNR to make rules and regulations to protect State parks and forests and other public lands, including the operation, maximum noise levels, and equipment standards for off-road vehicles. Every OHV used on lands under DNR's control must be registered with the agency for an annual fee; the revenues from that fee must be used to acquire and maintain areas for OHVs. DNR is responsible for identifying areas where the public can use motorcycles, snowmobiles, and other off-road vehicles. No one may sell or lease any off-highway recreation vehicle that is not subject to registration under the Maryland Vehicle Law and exceeds the maximum sound level set by DNR.

A person may not pursue wildlife with an OHV. For purposes of this prohibition, OHV is defined as a motorized vehicle designed for cross-country travel on land, water, snow, ice, marsh, swampland, or other natural terrain, including amphibious machines, trucks, automobiles, motorcycles or related two-wheel vehicles, four-wheel drive or low-pressure-tire vehicles, and ground-effect and air-cushion vehicles. The definition also includes lawn mowers, snowblowers, boats, golf carts, farm-type tractors, and earth-moving equipment.

State criminal law has a similar definition of an OHV. A person may not use an OHV on private property without the owner or tenant's written permission in his or her possession. Use of an OHV on public property is also prohibited. Violators are guilty of a misdemeanor and, upon conviction, are subject to imprisonment of up to 90 days and/or a fine of up to \$500.

Vehicle owners must apply for a certificate of title from the MVA. Vehicles exempt from the titling requirement include bicycles, certain trailers, those owned by non-Maryland residents, and self-propelled wheelchairs or tricycles used by invalids. Every motor vehicle, trailer, semitrailer, and pole trailer driven on a highway must be registered, unless exempted, and is subject to the biennial registration fee charged for that class of vehicle. The State also assesses a \$13.50 registration surcharge that is deposited into the Maryland Emergency Medical System Operations Fund.

The excise tax, or titling tax as it is often referred to, is paid at the time of application for an original or subsequent title to a vehicle. Applicants pay 5% of the fair market value of the vehicle. Fair market value is defined as the total purchase price of any new or used vehicle sold by a licensed dealer. For a used vehicle that is sold by a person other than a licensed dealer and is seven years old or older, the fair market value is the greater of the

total purchase price or \$640. The total purchase price means the price of a vehicle agreed on by the buyer and the seller, including any dealer processing charge, with no allowance for trade-in or other nonmonetary consideration.

Titling tax revenue is split between the TTF (76%) and local governments (24%). Registration fee revenue is deposited into the Gasoline and Motor Vehicle Revenue Account, 70% of the revenue is allocated to the TTF, and the remainder is distributed to local governments.

**Background:** DNR collects a \$15 permit fee on all-terrain vehicles that operate on DNR lands for its maintaining off-road vehicle trails; in fiscal 2003, it collected \$59,127. The bulk of these vehicles were in Western Maryland where much of the State forests and off-road vehicle trails exist. DNR provides trails for off-road vehicles in Garrett, Potomac, Green Ridge, Savage River, and Pocomoke State forests.

According to a survey by the Specialty Vehicle Institute of America, at least 17 states require all-terrain vehicles to be registered with the motor vehicle agency, including four that only require it if the vehicle operates on public lands. Minnesota, Maine, and Idaho are among the states that direct the registration fee funds specifically for buying or maintaining trails. Another dozen states require registration with the recreational management agency. Of the states neighboring Maryland, only Delaware requires an off-road vehicle to be registered with the motor vehicle department. Several states, including Kentucky, Hawaii, Kansas, Mississippi, Virginia, and South Carolina, do not have any registration requirements for off-road vehicles.

**State Revenues:** TTF revenue increases from application of the vehicle excise tax on OHVs are difficult to forecast because of the variances in prices of OHVs, inflation, and future sales. The average cost of a dirt bike, for example, is \$6,000, yet an all-terrain vehicle ranges from \$1,800 to \$7,500. Assuming an average price of \$5,000 per vehicle and 14,087 OHVs sold in calendar 2004, TTF titling tax revenues (76% of the \$2,641,313 total) would increase by \$2,007,398 in fiscal 2005.

Most of the OHVs that would become subject to the 5% titling tax under the bill are currently subject to the 5% State sales tax. Sales subject to the titling tax are not subject to the sales tax. Accordingly, general fund revenues would decline by \$2,641,313 in fiscal 2005, accounting for the October 1 effective date. The revenue loss may be slightly less as the estimate does not account for off-road motorcycles that may already be subject to the titling tax.

TTF revenues due to one-time titling (\$20) and lien fees (\$23) would increase by an estimated \$235,455 in fiscal 2005, accounting for the October 1 effective date. This estimate assumes 14,087 OHVs sold in Maryland in calendar 2003, based on the national

sales growth estimated by the Motorcycle Industry Council and that 10% of the vehicles will be assessed a lien fee. The Department of Legislative Services (DLS) advises that this vehicle count does not include snowmobiles and therefore revenues could be slightly higher. Future revenues assume a 3.8% growth in annual sales, which is the projected growth of OHVs nationwide.

The MVA advises that it would charge a five-year \$100 registration fee. Total registration revenues payable to the Off-Highway Vehicle Fund would be approximately \$1,291,980 in fiscal 2005, less the amount retained by the MVA for costs. Annual revenues would fluctuate according to the five-year registration cycle. DLS notes that revenue from the current \$15 permit issued by DNR will transfer to the fund. It is unclear whether DNR would continue to charge a permit fee if this bill is enacted.

**State Expenditures:** The MVA's expenditures for personnel and administrative costs would be \$88,529 for additional personnel and supplies in fiscal 2005. The MVA advises that it needs four full-time staff, including a consumer service investigator and an internal auditor, as well as three contractual employees, to handle the additional workload imposed by the bill. In 2003, the MVA indicated that it required one full-time and one part-time customer agent for every 10,000 transactions if that transaction involves titling a vehicle.

DLS advises that personnel requirements should not be substantial until the out-years, when all OHVs must be registered and titled. Furthermore, the five-year registration cycle reduces the level of walk-in customer traffic. However, the bill could generate substantial call traffic. Accordingly, a contractual employee is included in the estimate, in addition to one full-time and one-part agent. This estimate does not include computer programming changes estimated by the MVA to cost \$140,000.

The titling and registration requirements will only apply to off-road vehicles bought before October 1, 2004 until October 1, 2009 except when one is sold or transferred before that time. Sales of OHVs in 2009 and the number of existing OHVs that were previously exempt cannot be forecasted at this time. However, revenues for the fund are expected to increase considerably in 2009 and the out-years when all OHVs become subject to the bill's requirements. DLS advises that more staff or temporary contractual assistance may be necessary when the entire population of OHVs will require registration and titling.

*The Department of Natural Resources did not provide a response in time for this fiscal note.*

**Local Revenues:** Local government revenues would increase by \$633,915 due to titling tax revenues for OHVs in fiscal 2005; annual revenues would presumably increase as sales grow. Revenue boosts would be larger beginning in fiscal 2009, when the titling requirements apply to all OHVs. DLS assumes that the local governments' 30% share of registration fee revenue would not apply under this bill.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced as SB 561 in 2003. It was heard by the Judicial Proceedings Committee, which took no action.

**Cross File:** None.

**Information Source(s):** Maryland Department of Transportation, Motorcycle Industry Council, Department of Legislative Services

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Analysis by: Ann Marie Maloney

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510