

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

Senate Bill 705 (Senator Stone)
 Judicial Proceedings

Vehicle Laws - Off-Highway Vehicles - Titling and Registration

This bill creates an Off-Highway Vehicle Fund (OHV Fund) in the Department of Natural Resources (DNR) to support building and maintaining trails for off-highway vehicles (OHV), creates a 14-member Off-Highway Vehicle Trails Advisory Committee, and provides for the registration and titling of OHVs.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues could increase by \$1.7 million and DNR special fund revenues could increase by \$162,400 in FY 2007 from OHV registrations, titling, and motor vehicle excise taxes. General fund revenues would decrease by \$1.5 million in FY 2007 due to loss of sales tax revenues from sales of OHVs. TTF expenditures could increase by \$77,600 and DNR special fund expenditures would increase by \$156,800 to support additional positions at the Motor Vehicle Administration (MVA) and DNR and perform the required functions under the bill. Future year revenue expenditure estimates reflect annualization, additional registration revenue, salary increases, and inflation.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	(\$1,500,000)	(\$2,076,000)	(\$2,154,900)	(\$2,236,800)	(\$2,321,800)
SF Revenue	1,890,000	2,615,800	2,955,200	3,150,500	3,510,200
SF Expenditure	234,800	335,700	584,600	690,600	949,500
Net Effect	\$155,200	\$204,100	\$215,700	\$223,100	\$238,900

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

Local Effect: Local revenues would increase by \$360,000 in FY 2007 from an increase in revenues distributed through the Gasoline and Motor Vehicle Revenue Account (GMVRA) as highway user revenues. Future revenue increases reflect annualization of the bill and increases in the number of registered OHVs.

Small Business Effect: None.

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. Any fund expenditures must 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, revenues from OHV registration fees, investment earnings, money appropriated to the fund in the State budget, gifts, contributions, and grants.

The Off-Highway Vehicle Trails Advisory Committee consists of members from specified interest groups, the Secretary of Transportation or designee, and the Secretary of Natural Resources or designee. DNR and the Maryland Department of Transportation (MDOT) must provide staffing for the committee. The committee must:

- review existing and proposed regulations, standards, and procedures for all OHV trail acquisition, construction, development, and maintenance;
- make recommendations on trail sites, trail site acquisition, and the allocation and use of funds;
- advise as to OHV use and operation on public and private land, including providing for the seasonal designation of trails and innovative recreational trail sharing; and
- make recommendations on any appropriate safety programs or courses that should be required of OHV registration applicants.

OHV is defined as a motor-driven or motor-propelled vehicle that: (1) has a dry weight of up to 1,200 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 OHVs to be titled and registered with specified exemptions. However, titling and registration are not required for an OHV bought before October 1, 2006 until the earlier of: October 1, 2011 or the date the vehicle is first transferred to a new owner after October 1, 2006. The bill also repeals the registration exemption for snowmobiles.

Application for registration of an OHV must be made electronically. The bill requires a person to be at least 18 years old to register an OHV. A vehicle dealer who transfers an OHV to someone other than a licensed dealer must collect and electronically submit all fees required to register the vehicles to the MVA within 30 days of delivery of the vehicle.

The MVA must issue a registration decal for OHVs as a Class O vehicle and must establish the registration fee for Class O vehicles. The bill directs the MVA to adopt a two-year schedule for OHV registration and retain registration revenues necessary to recover administration costs and remit the balance to the Comptroller for deposit into the OHV 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.

MDOT must report to the General Assembly by December 15, 2007, on sales of OHVs in the State and the amount of revenue generated annually by the sale of OHVs since the effective date of the bill. DNR must report annually, beginning on December 15, 2007, on DNR's efforts and status in the acquisition, construction, and maintenance of new and additional trails for OHVs.

Current Law: State law authorizes DNR to regulate the operation, maximum noise levels, and equipment standards of specified OHVs to protect State parks, forests, and other public lands. 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. Investment earnings from these revenues are credited to the general fund, but revenues left over at the end of the fiscal year do not revert to the general fund. DNR is responsible for identifying areas where the public can use motorcycles, all-terrain vehicles, snowmobiles, and other off-road vehicles. No one may sell or lease any OHV 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,

and 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.

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

The excise (or titling) tax 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 at least seven years old and is sold by a person other than a licensed dealer, 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.

OHVs are not currently required to be titled; however, the MVA began titling new OHVs in fiscal 2005 by request of dealers and finance companies. This is a voluntary program. In fiscal 2005, 3,385 OHVs were titled by the MVA, but this does not represent a full year of data.

Titling tax revenue is split between the TTF (76%) and local governments (24%). Registration fee revenue is deposited into the GMVRA; 70% of the revenue is allocated to the TTF, and the remainder is distributed to local governments as highway user revenues.

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 2005, it collected \$73,575. Most 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 2005 survey by the Specialty Vehicle Institute of America, at least 16 states require all-terrain vehicles to be registered with the motor vehicle agency, including three 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 15 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: The MVA advises that it expects the number of new OHVs required by the bill to be registered and titled to be approximately 6,000 in fiscal 2007. In addition, the MVA expects 2,000 resales.

Special fund revenues could increase by \$1.9 million in fiscal 2007, \$2.6 million in fiscal 2008, \$3.0 million in fiscal 2009, \$3.2 million in fiscal 2010, and \$3.5 million in fiscal 2011 due to excise taxes and titling and registration of OHVs. This estimate is based on the following assumptions:

- 6,000 OHVs are sold by dealers in Maryland from July 1, 2006 to June 30, 2007;
- 2,000 OHVs are resold from July 1, 2006 to June 30, 2007;
- 75%, or 6,000 OHVs will be purchased from October 1, 2006 to June 30, 2007, and would therefore be subject to titling and registration requirements in fiscal 2007;
- 3.8% growth annually in sales and resales of OHVs;
- all newly purchased OHVs would be subject to \$63 in total fees for registration (\$40 biennial fee and \$23 one-time titling fee);
- an average price of \$5,000 per vehicle with an average excise tax of \$250 per vehicle;
- 10% of vehicles sold would be assessed a lien fee (\$20); and
- OHVs are exempt from the Maryland Vehicle Emissions Inspection Program.

The TTF would retain 76% of excise taxes and 100% of titling and lien fees. Further, the MVA is directed to retain registration revenues sufficient to cover the administrative costs of registering and titling OHVs.

Accordingly, the TTF would retain \$1.4 million in fiscal 2007, \$1.9 million in fiscal 2008, \$1.9 million in fiscal 2009, \$2.0 million in fiscal 2010, and \$2.1 million in fiscal 2011. Legislative Services advises that this vehicle count does not include snowmobiles; therefore, revenues could be slightly higher.

DNR revenues in the OHV Fund would increase by \$162,403 in fiscal 2007, \$250,925 in fiscal 2008, \$494,351 in fiscal 2009, \$593,058 in fiscal 2010, and \$849,071 in fiscal 2011. Legislative Services notes that revenue from the current \$15 permit issued by DNR would transfer to the fund. It is unclear whether DNR would continue to charge a permit fee if this bill were enacted.

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 \$1.5 million in fiscal 2007, 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. General fund revenues would decline by \$2.1 million in fiscal 2008, \$2.2 million in fiscal 2009, \$2.2 million in fiscal 2010, and \$2.3 million in fiscal 2011.

State Expenditures:

Motor Vehicle Administration Expenditures

TTF expenditures would increase by \$77,597 in fiscal 2007. This estimate reflects the cost of hiring one contractual employee and one full-time customer service agent to title and register OHVs. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$53,994
Registration, Titling, and Promotion Costs	8,440
Start-up Costs	10,270
Operating Expenses	<u>4,893</u>
Total FY 2007 MVA Expenditures	\$77,597

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover for permanent employees and 6.8% turnover for contractual employees; and (2) 1% annual increases in ongoing operating expenses.

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. The MVA advises that it required one full-time and one part-time customer agent for every 10,000 registration transactions. Legislative Services advises that personnel requirements should not be substantial until the out-years, when all OHVs must be registered and titled.

The titling and registration requirements would not apply to off-road vehicles bought before October 1, 2006 until October 1, 2011, except when one is sold or transferred before that time. Sales of OHVs in 2011 and the number of existing OHVs that were previously exempt cannot be forecast at this time. However, revenues for the fund are expected to increase considerably in 2011 and the out-years when all OHVs become

subject to the bill's requirements. Legislative Services advises that more staff or temporary contractual assistance may be necessary when the entire population of OHVs will require registration and titling.

Staffing the committee, reporting requirements, and providing travel reimbursements for members could be handled with existing resources.

The MVA advises that computer programming changes would cost \$270,000. Legislative Services advises that, if other legislation is passed that affects the registration system, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting the MVA system. Further, Legislative Services notes that all expenses associated with the registration and titling of OHVs will be covered by revenues from OHV registrations and titling before the revenue is transferred to the OHV Fund.

Department of Natural Resources Expenditures

OHV Fund expenditures could increase by \$156,763 in fiscal 2007. DNR advises that it would need one additional Natural Resources Planner (grade 14) to administer the program. Although DNR advises that it is not quite sure how the program would be administered, DNR envisions a policy both of leasing and acquiring land through the fund. DNR also advises that it would contract with nonprofit agencies to administer OHV trails for DNR. DNR anticipates spending \$750,000 on leases, contracts, and land purchases in fiscal 2007, and \$1.0 million annually thereafter, adjusted for inflation.

However, based on estimates of expenses for the MVA and other fees, DNR would only be able to spend \$110,000 on leases, contracts, and land purchases in fiscal 2007, \$197,500 in fiscal 2008, \$434,000 in fiscal 2009, \$530,000 in fiscal 2010, and \$775,000 in fiscal 2011. The amount of money DNR would spend on leases, contracts, and land purchases could decrease in fiscal 2007 based on the MVA's expenditures.

Operation of OHV Trails	\$110,000
Salary and Fringe Benefits	38,561
Start-up Costs	5,135
Operating Costs	<u>3,067</u>
Total FY 2007 DNR Expenditures	\$156,763

Future year expenditures reflect: (1) a full salary with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Staffing the committee, reporting requirements, and providing travel reimbursements for members could be handled with existing resources.

Local Revenues: Local government revenues would increase by \$360,000 in fiscal 2007, \$498,240 in fiscal 2008, \$517,173 in fiscal 2009, \$536,826 in fiscal 2010, and \$557,225 in fiscal 2011 due to 24% of titling tax revenues for OHVs distributed through the GMVRA. Legislative Services assumes that the local governments' 30% share of registration fee revenue would not apply under this bill, as all registration revenue except for MVA expenses is to be committed to the OHV Fund.

Additional Information

Prior Introductions: An identical bill, HB 1290, was introduced in the 2005 session but was amended to only establish a task force to study titling and registering OHVs. A similar bill was introduced during the 2004 session but was withdrawn. Another similar bill, SB 561 of 2003, was heard by the Senate Judicial Proceedings Committee, which took no action.

Cross File: HB 1370 (Delegate Weir, *et al.*) – Environmental Matters.

Information Source(s): Washington County, Montgomery County, Prince George's County, Kent County, Worcester County, Department of Natural Resources, Maryland Department of Transportation, Motorcycle Industry Council, Special Vehicle Institute of America, Department of Legislative Services

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