

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 963 (Delegate Weir, *et al.*)
 Environmental Matters

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 (OHVs), 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 \$190,900 in FY 2008 from OHV registrations, titling, and motor vehicle excise taxes. General fund revenues could decrease by \$1.5 million in FY 2008 due to loss of sales tax revenues from sales of OHVs. TTF expenditures could increase by \$79,100 and DNR special fund expenditures would increase by \$97,700 to support additional positions at the Motor Vehicle Administration (MVA) and DNR and perform the required functions under the bill. Future year revenue and expenditure estimates reflect annualization, additional registration revenue, salary increases, and inflation.

| (in dollars) | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|----------------|---------------|---------------|---------------|---------------|---------------|
| GF Revenue | (\$1,500,000) | (\$2,076,000) | (\$2,154,900) | (\$2,236,800) | (\$2,321,800) |
| SF Revenue | 1,920,000 | 2,657,300 | 3,028,300 | 3,236,800 | 3,629,700 |
| SF Expenditure | 176,800 | 352,900 | 627,400 | 767,800 | 1,053,800 |
| Net Effect | \$243,200 | \$228,400 | \$246,000 | \$232,200 | \$254,100 |

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

Local Effect: Local revenues would increase by \$360,000 in FY 2008 from an increase in titling tax 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-assisted or motor-driven 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 requirements are delayed for up to five years for an OHV bought

before the effective date of the bill. The bill also repeals the existing 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 another 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, 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 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, 2008, 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, 2008, 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. Instead, the *Maryland Operating Budget FY 2008* budget books published by the Department of Budget and Management refer to this as special fund revenue. DNR is responsible for identifying areas where the public can use motorcycles, all-terrain

vehicles, snowmobiles, and other off-road vehicles. If a motor-driven off-highway recreational vehicle is not subject to registration, it must meet the noise level standards set by DNR. Otherwise, it cannot be sold, leased, or distributed in the State. Snowmobiles and off-the-road motorcycles are not subject to registration by the State, although counties and Baltimore City may register off-the-road motorcycles.

A person may not pursue wildlife with an off-road vehicle. For purposes of this prohibition, off-road vehicle 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 and 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 off-road vehicle on private property without the owner's or tenant's written permission in his or her possession. Use of an off-road vehicle on public land 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 motor vehicle 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.

A vehicle is defined as a device in, on, or by which an individual or property is or might be transported or towed on a highway. Such vehicles, with some exceptions, must be titled. As OHVs are not intended for highway use, 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. As of February 21, 2007, 7,462 OHVs were titled by the MVA; the MVA estimates that a full year's titling would be between 5,000 and 6,000 OHVs.

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. DNR advises that fee revenue did not substantially increase in fiscal 2006 and is still less than \$75,000. DNR provides trails for off-road vehicles in Garrett, Potomac, Green Ridge, Savage River, and Pocomoke State forests.

According to a 2006 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 4 that only require it if the vehicle operates on public lands. Minnesota, Maine, and Idaho are among the states that direct the registration fees specifically to buying or maintaining trails. Another 14 states, not including Maryland, 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 2008. In addition, the MVA expects 2,000 resales. For purposes of this analysis, it is assumed that all sales and resales are subject to the State sales tax.

Special fund revenues could increase by \$1.9 million in fiscal 2008, \$2.7 million in fiscal 2009, \$3.0 million in fiscal 2010, \$3.2 million in fiscal 2011, and \$3.6 million in fiscal 2012 due to excise taxes and titling and registration of OHVs. This estimate is based on the following assumptions:

- 6,000 new OHVs would be sold by dealers in Maryland from July 1, 2007 to June 30, 2008;
- 2,000 used OHVs would be resold from July 1, 2007 to June 30, 2008;
- 75%, or 6,000 of the total number of OHVs purchased in fiscal 2008 would be purchased between October 1, 2007 and June 30, 2008, and would therefore be subject to titling and registration requirements in fiscal 2008;
- 3.8% growth annually in sales and resales of OHVs;
- all purchased OHVs would be subject to \$68 in total fees for registration (\$45 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.

As the bill only directs registration revenues to the new fund, titling tax revenues and fees would be distributed as under current law. Accordingly, 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 2008, \$1.9 million in fiscal 2009, \$1.9 million in fiscal 2010, \$2.0 million in fiscal 2011, and \$2.1 million in fiscal 2012. Legislative Services advises that this vehicle count does not include snowmobiles; therefore, revenues could be slightly higher.

DNR revenues in the OHV fund due to registration fees would increase by \$190,921 in fiscal 2008, \$289,419 in fiscal 2009, \$562,119 in fiscal 2010, \$673,254 in fiscal 2011, and \$960,132 in fiscal 2012. Legislative Services notes that revenue from the current \$15 permit issued by DNR would transfer to the new fund. Those revenues would still be used to acquire and maintain OHV trails and would still be special funds and have not been accounted for in this estimate.

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 could decline by \$1.5 million in fiscal 2008, accounting for the October 1 effective date. The revenue loss may be less as the estimate does not account for off-road motorcycles that may already be subject to the titling tax or account for person-to-person sales where the sales tax might not be collected. General fund revenues would decline by \$2.1 million in fiscal 2009, \$2.2 million in fiscal 2010, \$2.2 million in fiscal 2011, and \$2.3 million in fiscal 2012.

State Expenditures:

Motor Vehicle Administration Expenditures

TTF expenditures would increase by \$79,079 in fiscal 2008. This estimate reflects the cost of 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 | \$55,696 |
| Registration, Titling, and Promotion Costs | 8,440 |
| Start-up Costs | 9,270 |
| Operating Expenses | <u>5,673</u> |
| Total FY 2008 MVA Expenditures | \$79,079 |
| Regular Positions | 1 |
| Contractual Positions | 1 |

Future year expenditures reflect (1) full salaries with 4.5% 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 requires 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 the effective date of the bill until October 1, 2012, except when one is sold or transferred before that time. Sales of OHVs in 2012 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 fiscal 2013 and the out-years when all OHVs become subject to the bill's requirements. Legislative Services advises that more staff or temporary contractual assistance could 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 \$97,722 in fiscal 2008. 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 consider contracting with nonprofit agencies to administer OHV trails for DNR. DNR advises that it would not start acquiring land until fiscal 2009 and instead would conduct feasibility studies in fiscal 2008 to determine where to place OHV trails.

Based on estimates of expenses for the MVA and other fees, DNR would be able to spend at least \$50,000 on feasibility studies in fiscal 2008. This estimate assumes DNR would spend \$210,000 on leases, contracts, land purchases, and feasibility studies in fiscal 2009, \$470,000 in fiscal 2010, \$600,000 in fiscal 2011, and \$870,000 in fiscal 2011. The amount of money DNR would spend on feasibility studies could decrease in fiscal 2008 based on the MVA's expenditures.

| | |
|---------------------------------------|-----------------|
| Feasibility Studies | \$50,000 |
| Salary and Fringe Benefits | 39,629 |
| Start-up Costs | 4,635 |
| Operating Costs | <u>3,458</u> |
| Total FY 2008 DNR Expenditures | \$97,722 |
| Positions | 1 |

Future year expenditures reflect (1) a full salary with 4.5% 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 2008, \$498,240 in fiscal 2009, \$517,173 in fiscal 2010, \$536,826 in fiscal 2011, and \$557,225 in fiscal 2012 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: Identical bills were introduced during the 2006 session. SB 705 and HB 1370 were heard by the Senate Judicial Proceedings Committee and the House Environmental Matters Committee, respectively, but no further action was taken. Another identical bill, HB 1290 of 2005, was amended to only establish a task force to study titling and registering OHVs. A similar bill was introduced during the 2004 session as HB 1279 but was withdrawn. Another similar bill, SB 561 of 2003, was heard by Judicial Proceedings, which took no action.

Cross File: None.

Information Source(s): Special Vehicle Institute of America, Cecil County, Montgomery County, Prince George's County, Harford County, Department of Natural Resources, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2007
mll/ljm

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