

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

House Bill 960 (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 to support the building and maintaining of trails for off-highway vehicles, creates an Off-Highway Vehicle Trails Advisory Committee, and requires the registration and titling of OHVs.

**Fiscal Summary**

**State Effect:** Transportation Trust Fund revenues could increase by \$2.2 million and DNR special fund revenues could increase by \$161,900 in FY 2009 from OHV registrations, title and lien fees, and motor vehicle excise taxes. General fund revenues could decrease by \$1.7 million in FY 2009 due to loss of sales tax revenues from sales of OHVs. TTF expenditures could increase by \$222,100 to handle the additional title and registration requirements, and DNR special fund expenditures would increase by \$161,900 to support additional positions and perform the required functions under the bill, assuming it expends all new revenues generated for the program. Future year revenue and expenditure estimates reflect annualization, additional registration revenue, salary increases, growth in OHV sales, and inflation.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	(\$1,683,000)	(\$2,329,300)	(\$2,417,900)	(\$2,509,600)	(\$2,605,000)
SF Revenue	2,379,000	3,292,500	4,113,800	4,510,800	5,378,200
SF Expenditure	384,000	531,500	935,700	1,104,100	1,530,000
Net Effect	\$312,000	\$431,700	\$760,200	\$897,100	\$1,243,200

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

**Local Effect:** Local revenues could increase by \$360,000 in FY 2009 and by approximately \$500,000 or more annually thereafter due to an increase in titling tax revenues distributed through the Gasoline and Motor Vehicle Revenue Account as

highway user revenues. To the extent local governments currently regulate their fee, revenues would decrease under the bill. Local expenditures would not be affected.

**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 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 • has a dry weight of up to 1,200 pounds; • travels on at least three low-pressure tires; • is designed to carry only the driver on a seat or saddle designed to be straddled or else just the driver and one passenger; and • 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 MVA within 30 days of delivery of the vehicle. The bill requires any dealer or seller of an OHV to disclose certain legal requirements to the buyer.

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 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 authorizing local regulation (including registration) of off-the-road motorcycles (more commonly known as “dirt bikes”). 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 is required to obtain 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 MVA’s satisfaction by a bill of sale or other acceptable documentation.

MDOT must report to the General Assembly by December 15, 2009, on sales of OHVs in the State and the amount of revenue generated annually by the sale of OHVs following the effective date of the bill. DNR must report annually, beginning on December 15, 2009, 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, it is considered 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 earthmoving 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.

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, they are not currently required to be titled.

In addition to any other charge required by the Maryland Vehicle Law, an excise tax is imposed on each original and subsequent certificate of title issued in this State for a motor vehicle, trailer, or semitrailer. Except for vehicles engaged in interstate operation registered or titled in another state, excise taxes imposed on a vehicle owner are paid to MVA before the issuance of a certificate of title for that vehicle. The excise tax is based on the fair market value of the vehicle which, except in the case of a used trailer, is equal to the total purchase price of the vehicle, or \$640, whichever is greater. Any person who fails to pay the excise tax is guilty of a misdemeanor and on conviction, subject to a fine of up to \$1,000.

Beginning July 1, 2008, the vehicle excise (titling) tax will be distributed one-third to TTF and two-thirds to the Gasoline and Motor Vehicle Revenue Account. Of the two-thirds distributed to GMVRA, 70% is retained within TTF and the balance is distributed to local governments as highway user revenues. In effect, 80% of vehicle excise taxes are retained by TTF and 20% are distributed to local jurisdictions. In addition, beginning July 1, 2008, a portion of sales tax revenue (6.5%) is shared with TTF but is not subject to distribution through GMVRA.

**Background:** DNR collects a \$15 permit fee on all-terrain vehicles that operate on DNR lands for its maintaining off-road vehicle trails. 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:** 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 2009. In addition, MVA expects 2,000 resales. For purposes of this analysis, it is assumed that all sales and resales are currently subject to the State sales tax.

#### *Special Fund Revenues*

Special fund revenues could increase by \$2.4 million in fiscal 2009, \$3.3 million in fiscal 2010, \$4.1 million in fiscal 2011, \$4.5 million in fiscal 2012, and \$5.4 million in fiscal 2013 due, to excise taxes and titling and biennial registration of OHVs. As **Exhibit 1** shows, these totals include TTF monies, a portion of which would be distributed to local governments as highway user revenues, and excess registration monies that would be credited to the new OHV Fund.

---

### **Exhibit 1 Distribution of Newly Generated Special Fund Revenues in Fiscal 2009**

<b><u>Fund</u></b>	<b><u>FY 2009</u></b>
Total Special Funds	\$2,379,000
Total TTF	2,217,106
State Share	1,857,106
Local Share	360,000
New OHV Fund	161,894

---

TTF would retain at the State level 80% of excise taxes and 100% of titling and lien fees as well as sufficient registration revenue to cover its administrative costs. Thus, in fiscal 2009, of the total \$2.2 million TTF monies generated, the State would keep \$1.9 million. DNR revenues in the new OHV Fund due to excess registration fees would

increase by \$161,894 in fiscal 2009. Future years reflect annualization and growth in sales, and beginning in fiscal 2011, the compounding effect of biennial registration.

This estimate is based on the following assumptions:

- 6,000 new OHVs would be sold by dealers in Maryland from July 1, 2008 to June 30, 2009;
- 2,000 used OHVs would be resold from July 1, 2008 to June 30, 2009;
- 75%, or 6,000 of the total number of OHVs purchased in fiscal 2008 would be purchased between October 1, 2008 and June 30, 2009, and would therefore be subject to titling and biennial registration requirements beginning in fiscal 2009;
- 3.8% growth annually in sales and resales of OHVs;
- all purchased OHVs would initially be subject to \$114 in total fees (\$50 one-time titling fee and \$64 biennial registration fee);
- an average price of \$5,000 per vehicle with an average excise tax of \$300 per vehicle;
- 10% of vehicles sold would also be assessed a lien fee (\$20);
- beginning in fiscal 2011, OHVs originally titled and registered in fiscal 2009 would once again have to pay a biennial registration fee of \$64; and
- OHVs are exempt from the Maryland Vehicle Emissions Inspection Program.

Legislative Services advises that the vehicle count on which this estimate is based does not include snowmobiles; therefore, revenues could be slightly higher.

Legislative Services notes that the current \$15 annual permit fee collected by DNR for the registration of off-road vehicles using State park lands, which has generated an average of \$33,750 annually, would be redirected to the new OHV Fund rather than its current special fund. For purposes of this analysis, these permit fee revenues have not been taken into account as they are simply credited to the new OHV Fund while being used for a similar purpose.

### *General Fund Revenues*

Most of the OHVs that would become subject to the 6% titling tax under the bill are currently subject to the 6% State sales tax. Sales subject to the titling tax are not subject to the sales tax. Accordingly, general fund revenues could decline by \$1.7 million in fiscal 2009, 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. This estimated general fund revenue loss also accounts for the 6.5% of the

sales taxes distributed to TTF as of July 1, 2008. General fund revenues would decline by \$2.3 million in fiscal 2010, \$2.4 million in fiscal 2011, \$2.5 million in fiscal 2012, and \$2.6 million in fiscal 2013.

## **State Expenditures:**

### *Motor Vehicle Administration Expenditures*

TTF expenditures would increase by \$222,106 in fiscal 2009. This estimate reflects the cost of one contractual employee and four full-time employees to title and register OHVs. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$175,582
Registration and Titling	26,004
Start-up Costs	15,870
Operating Expenses	<u>4,650</u>
<b>Total FY 2009 MVA Expenditures</b>	<b>\$222,106</b>
Regular Positions	4
Contractual Positions	1

Future year expenditures reflect • full salaries with 4.4% annual increases and 3% employee turnover for permanent employees and 6.8% turnover for contractual employees; and • 1% annual increases in ongoing operating expenses.

MVA advises that it would need another three temporary, contractual employees in the Customer Service Center to handle customer inquiries and increased mail loads. Legislative Services does not concur with this assessment, but advises that if demand increases sufficiently in the out-years, additional contractual personnel could be necessary, potentially as early as fiscal 2011 when newly purchased OHVs as well as those purchased in fiscal 2009 would all have to be registered.

Nevertheless, the titling and registration requirements would not apply to off-road vehicles bought before the effective date of the bill until October 1, 2013, except when one is sold or transferred before that time. Sales of OHVs in 2013 and the number of existing OHVs that were previously exempt cannot be forecast at this time. However, revenues due to titling and registration are expected to increase considerably in fiscal 2014 and annually thereafter when all OHVs become subject to the bill's requirements. Legislative Services advises that additional 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.

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 \$161,894 in fiscal 2009. 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, it 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. DNR advises that it would not start acquiring land until fiscal 2010 and instead would conduct feasibility studies in fiscal 2009 to determine where to place OHV trails.

Based on estimates of DNR revenues under the new OHV Fund, DNR would be able to spend approximately \$114,015 on feasibility studies and other start-up costs and operating expenses in fiscal 2009. In the out-years funds remaining after salaries would be distributed more to trail acquisition and construction and operating expenses, and less for feasibility studies or start-up costs. This estimate does not account for the \$15 permit fee currently collected by DNR which is already being expended for similar purposes.

Feasibility Studies and Start-up Costs	\$114,015
Salary and Fringe Benefits	<u>47,879</u>
<b>Total FY 2009 DNR Expenditures</b>	<b>\$161,894</b>
Positions	1

Future year expenditures reflect a full salary with 4.4% annual increases and 3% employee turnover.



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 2009, \$498,240 in fiscal 2010, \$517,200 in fiscal 2011, \$536,820 in fiscal 2012, and \$557,220 in fiscal 2013 due to 20% of titling tax revenues for OHVs distributed as highway user revenues.

Prince George's County advises that its current revenues could decrease significantly as the bill supersedes county titling and registration regulations. Other similarly situated counties could also experience reductions in fee revenue.

---

### **Additional Information**

**Prior Introductions:** A similar bill, HB 963 of 2007, was heard before the House Environmental Matters Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Somerset County, Montgomery County, Prince George's County, Charles County, Baltimore County, Frederick County, Department of Natural Resources, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2008  
ncs/ljm

---

Analysis by: Evan M. Isaacson

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