

FISCAL NOTE

SB 2976 - HB 3100

March 4, 2002

SUMMARY OF BILL:

- Creates the Tennessee Off-Highway Motor Vehicle Act.
- Requires the owner of any *off-highway motor vehicle* to annually register the vehicle with TWRA. Defines *off-highway motor vehicle* as including all-terrain vehicles, off-road motorcycles, dune buggies, and other four-wheeled vehicles used primarily for off-road activities. The definition does not include motor vehicles designed and used primarily for on-roadway activities.
 - Requires each person to pay a fee upon filing the registration or renewal of such off-highway motor vehicle.
 - Registration is not required for any vehicle used only on private property, with permission of the property owner, and for non-commercial purposes.
- Authorizes the director of the Tennessee Wildlife Resources Agency to:
 - Establish and implement an off-highway motor vehicle program by July 1, 2003.
 - Establish a registration program by July 1, 2002.
 - In cooperation with other governmental agencies and vehicle dealers, develop an off-highway motor vehicle education program for existing and potential owners and users.
 - Develop an off-highway motor vehicle education program designed specifically to educate dealers and owners of the state's tax provisions and requirements and penalties associated with failure to pay such taxes.
 - Establish safety requirements for riders on publicly owned or leased lands. Requires riders under 18 years of age to wear a helmet and other protective gear, as determined necessary by the director of TWRA, when riding on publicly-owned or leased lands.
 - Develop guidelines on the proper land selection criteria, trail design and maintenance, and best management practices for lands used for off-highway user purposes.
 - Study, analyze and document the impacts of off-highway motor vehicles on surrounding habitat including habitat loss, resource damage, noise, and vehicle emissions.
 - Acquire lands, through purchase or lease, for off-highway motor vehicle use. Encourages the director to use property that is currently owned or leased by the state and that is appropriate for off-highway motor vehicle use before acquiring lands from private landowners.
 - Develop and maintain a list of areas within the state that allow the use of off-highway motor vehicles by July 1, 200.
 - Enter into partnerships, contracts or other management agreements, with other state, federal and local governments and private landowners to effectuate the purposes outlined in the bill.
 - Make inspections and investigations, conduct studies and research or take such other action as may be necessary to carry out the provisions of the bill.

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- Enter or authorize the director's agents to enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations, conducting research or studies, or enforcing any of the provisions outlined in the bill.
- Authorizes the Tennessee Wildlife Resources Commission to:
 - Establish and assess capital, registration and day-use rider fees.
 - Promulgate rules and regulations to implement the provisions of the bill.
- Requires a *dealer* to pay a capital fee quarterly to the department of revenue for any sale of an *off-highway motor vehicle* subject to the certificate of title and special identification device provisions of TCA Title 55.
 - Defines *dealer* as any person licensed by the proper state authorities to engage in the business of selling, offering to sell, soliciting or advertising the sale of motor vehicles or possessing motor vehicles for the purpose of resale either on that person's own account or on behalf of another, either as that person's primary business or incidental thereto, pursuant to Title 55).
 - Requires the county clerk, before issuing a certificate of title for any *off-highway motor vehicle*, to collect and pay a capital fee quarterly to the Department of Revenue for any sale of an *off-highway motor vehicle*, subject to the certificate of title and special identification device provisions of TCA Title 55, Chapter 3. Authorizes the county clerk to assess a reasonable clerk's fee in addition to the capital fee.
 - Assesses the capital fee on the total purchase price of the off-highway motor vehicle including charges for the off-highway motor vehicle, freight, dealer preparation, and documentation but does not include charges for accessories and attachments not normally supplied by the manufacturer.
 - Requires the director of TWRA to establish a capital fee.
 - The minimum capital fee is \$25 and the maximum capital fee is \$75 based on the purchase price of the off-highway motor vehicle. The capital fee may be increased no more frequently than once every 12 months by the director of TWRA and shall not exceed the increase in the consumer price index (or successor index) since the last increase was imposed.
- Requires the owner of an unregistered *off-highway* motor vehicle or a motor vehicle designed and used primarily for on-roadway activities to pay a rider-fee in order to ride or drive on publicly owned or leased lands that allow off-highway motor vehicles.
 - Authorizes the Tennessee Wildlife Resource Commission to establish the rider fee on a "per day" basis.
 - Prohibits the rider-fee from being increased more frequently than once every 12 months by the director of TWRA and may not exceed the increase in the Consumer Price Index (or successor index) since the last increase was imposed.
- Excludes off-highway motor vehicles, purchased and approved exclusively for farm use pursuant to the requirements in TCA Title 67, Chapter 4, from the payment of the capital fee or registration and registration fee requirements.
- Requires the funds received by the director of TWRA or the department of revenue under provisions of the bill be used exclusively for the purpose of funding the operation, management and enforcement of the off-highway motor vehicle programs authorized pursuant to provisions of the bill.
 - Authorizes the director to use funds collected under provisions of the bill to acquire by purchase, gift, grant, bequest, devise or lease, the fee or any lesser

interest in land, development right, easement, covenant or other contractual right necessary to achieve the provisions of the bill.

- Specifies the intent of the general assembly that the off-highway motor vehicle program be self-funded. Classifies use of existing agency resources or funding to administer or enforce this program shall be considered a diversion of funds under TCA 70-1-104.
- Authorizes the director of TWRA to appoint a technical advisory committee to advise the director on off-highway motor vehicles covered by provisions in the bill.
 - Allows the director to determine the number of committee members and requires members to be composed of representatives of federal, state, and local agencies and appropriate private organizations, including not-for-profit organizations, dealers and private citizens.
 - Prohibits members of the committee from receiving a salary for duties. Prohibits member of the committee from receiving reimbursement for travel and other necessary expenses incurred in the performance of official duties.
- Violations, Penalty, and Enforcement
 - Provides that any person knowingly violating the provisions of the bill commit a Class C Misdemeanor.
 - Provides that any parent or guardian who knowingly permits a minor to operate an off-highway vehicle in violation of the provisions of the bill commits a Class C Misdemeanor.
 - Authorizes officers of the wildlife resources agency, sheriffs, and other peace officers, to enforce the provisions of this chapter.
 - Makes it a violation, punishable as a Class C Misdemeanor, for any person to:
 - ride an off-highway motor vehicle upon the land of another without having first obtained the permission or approval of the owners of the land or the person or persons in charge of the land and having the authority from the owners to give such permission. Authorizes the court, upon conviction for violation, to revoke the registration of the person so convicted. Requires, any registration so revoked to be surrendered to the court and transmitted to the arresting officer, to be made a part of the prosecution record.
 - Makes it unlawful for any person to ride an off-highway motor vehicle upon lands posted with signs approved by the wildlife resources agency bearing the language "OHV Riding by Written Permission Only" and bearing the name of the landowner or the person in possession or control of such lands.
 - Every person who rides an off-highway motor vehicle on such land shall have written permission in immediate possession at all times and shall display the same upon demand by a peace officer authorized to conduct enforcement in provisions of the bill.
 - Written permission shall not be required of the landowner, the landowner's dependents, the person in possession or control of such lands or the dependents of the person in possession or control of such lands.
 - Requires the signs posted pursuant to this provision must be visible at all major points of ingress and at 100 yard intervals on the perimeter of the lands being posted; or

- The signs must be visible at all major points of ingress and at 250-yard intervals on the perimeter of the lands being posted accompanied by fluorescent visual markings. Such fluorescent visual markings must be at least 1 inch wide and 4 inches tall and shall be at 50-yard intervals including the 250-yard interval where signs are placed.
- Requires the division of forestry, in cooperation with the department of agriculture and the wildlife resources agency to determine a unique universal paint color or colors to be used for these property boundary markings.

ESTIMATED FISCAL IMPACT:

Increase State Revenues - Exceeds \$700,000

Increase State Expenditures - Dept of Revenue
\$60,893 Recurring
\$134,300 One-Time

Increase Local Govt. Revenues - Less Than \$100,000

Increase Local Govt. Expenditures - Less Than \$100,000

Estimate assumes:

- an increase in state revenues that exceeds \$700,000 resulting from the capital fee collected pursuant to provisions of the bill.
 - Estimate is based in information provided by the Department of Revenue based on the Governor's Off-Highway Vehicle Study published by the Department of Environment and Conservation in October 2001, which shows approximately 280,000 off-road vehicles in the state. Estimate assumes approximately 10% of such vehicles will be required to be registered as a result of the bill.
 - Estimate further assumes the average capital fee per vehicle will be \$25.
 - 28,000 Vehicles X \$25 Capital Fee per vehicle = \$700,000
- an increase in state expenditures in the department of revenue as follows:
 - \$60,393 recurring costs associated with hiring 1 employee to oversee and process collections of the capital fee outlined in the bill
 - \$127,800 in one-time system design costs for MIS systems to administer provisions of the bill.
 - \$6,500 in one-time costs associated with providing office space, office equipment, and computer access for 1 employee to administer the capital fee provisions outlined in the bill.

- an increase in local government revenues, which is estimated to be less than \$100,000 resulting from the clerks being authorized to assess an additional fee related to the cap fee as well as fines collected for violations of provisions outlined in the bill.
- an increase in local government expenditures, which is estimated to be less than \$100,000 resulting from clerks incurring additional costs associated with collecting the capital fee on an annual basis.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James A. Davenport". The signature is written in a cursive, flowing style with a prominent initial "J".

James A. Davenport, Executive Director