



Legislative Fiscal Bureau

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September 21, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 375: Operation of All-Terrain Vehicles

Assembly Bill 375 would implement certain changes to laws regulating the operation of all-terrain vehicles (ATVs) on roadways under specific conditions. The bill was introduced on April 27, 2005, and referred to the Assembly Committee on Highway Safety. On June 8, 2005, Assembly Amendment 1 (as modified by amendment) was adopted by the Committee by a vote of Ayes, 7; Noes, 0. The bill, as amended, was recommended for passage by a vote of Ayes, 7; Noes, 0, and referred to the Joint Committee on Finance.

CURRENT LAW

Under current law, a person may not operate an ATV on the roadway of a highway, street, or road except under certain limited circumstances.

SUMMARY OF BILL

Assembly Bill 375 would authorize the operation of ATVs on a portion of a roadway and the shoulder of a highway, street, or road if that roadway were within the jurisdiction of a county, town, city, or village that has enacted an ordinance allowing the operation of ATVs on roadways for the purposes of residential access or access to and from a lodging establishment. Under the bill, a "lodging establishment" would be defined as any of the following: a bed and breakfast establishment; hotel; motel; inn; tourist rooming house; or a campground. An ATV operated on the roadway or shoulder of a highway under this provision would be required to observe the roadway

speed limits. The bill would prohibit any person under the age of 12 from operating an ATV on the roadway or shoulder of a highway regardless of any municipal ordinance.

Under the bill, a municipality would be prohibited from enacting an ordinance providing roadway ATV access to and from a lodging establishment unless the municipality has also enacted an ordinance providing residential access. Further, for a state trunk highway, the portion of the highway that may be approved for access by ATVs must be the shortest distance between the residence or lodging establishment and the ATV route or trail under the bill. The bill would also limit the maximum length of this access route to less than one-quarter mile, unless the municipality has received the approval of the Department of Transportation (DOT) to allow the operation of ATVs on the roadway or shoulder of the road for a longer distance prior to enacting the ordinance. For any other highway, the distance of the approved ATV access route may not be more than five miles under the bill.

The bill would also direct DNR, in cooperation with the Off-Road Vehicle Council, to develop model ordinances for allowing the operation of ATVs on state trunk or other highways for use by municipalities.

SUMMARY OF AMENDMENT

Assembly Amendment 1 to the bill was amended by Assembly Amendment 1 prior to its approval. The amendment to the amendment is technical, adding an inadvertently omitted word.

Under the amended Assembly Amendment to the bill, municipalities would be prohibited from enacting an ordinance that would allow the operation of ATVs on a roadway or shoulder of a state trunk highway if the operation of ATVs on that roadway has been prohibited by DOT under administrative rule, based on a finding by DOT that authorizing ATV operation on that roadway would be unsafe.

Further, the amendment would specify that municipalities may not enact ordinances providing access for ATVs on state trunk highways or other highways that are located within a state park or state forest if the operation of ATVs is prohibited within the park or forest.

Finally, the amendment would add the state traffic patrol to the entities that would be sent a copy of the municipal ordinance if a county, town, city, or village adopts an ordinance regulating ATVs. Under current law, copies of local ordinances pertaining to ATVs are required to be sent to DNR and the law enforcement agency of the municipality having jurisdiction over any affected highways.

FISCAL EFFECT

In its fiscal estimate for the bill, the Department of Transportation indicates that DOT would incur some costs associated with the bill in cases where a local ordinance allows ATVs to operate on or along state trunk highways. It is assumed that ATVs will cause erosion damage to drainage ditches and roadside turf and will disperse some shoulder gravel. The Department estimates that repairing this damage would cost at least \$16,000 on an annual basis.

In addition, the Department assumes that it would spend \$2,000 annually to install signs along certain highways “warning ATV drivers to not do prohibited activities.”

The bill would not provide funding to DOT for these expenses, so the Department would have to absorb them within its existing budget.

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