

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1342

2005 HOUSE TRANSPORTATION

HB 1342


2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1342

House Transportation Committee

☐ Conference Committee

Hearing Date January 21, 2005

Tape Number	Side A	Side B	Meter #
1	X		34.5-52.7
2	X		.2-13.5
Committee Clerk Signature 			

Minutes:

Vice Chairman Hawken: opened the hearing on HB 1342 A Bill for an Act to amend and reenact subsection 59 of section 39-01-01 and sections 39-29-01, 39-39-01.1, 39-29-02, 39-29-03, 39-29-04, 39-29-05, 39-29-06, 39-29-07, 39-29-08, 39-29-09, 39-29-10, 39-29-12, 51-20-01, and 57-40.3-01 of North Dakota Century Code, relating to all-terrain vehicles.

Rep. Weisz: I am introducing this bill on behalf of the Parks and Recreation Department. The purpose of the bill is to try to bring law up to speed on current terminology as far as ATV or off-highway. Off-highway is the current, acceptable language for ATV's. Also the bill does set up classes, which is also becoming an industry standard. Class I, Class II and Class III vehicles; off highway vehicles. They will explain the rationale for these changes. Just trying to bring us current with current practices that is going on.

Rep. Drovdal:(37.7) I just want to tell you that I am in support this all terrain vehicle bill. City asked if they could license the vehicle just for the official use. I thought it was a good idea to make these vehicles legal for this use.

Vice Chairman Hawken: Is there any other support of this bill?

Tom Balzer:(See attached testimony)(ended Tape 1, Side A (52.7)

Tape 2, Side A .01

Rep. Weisz: When have we started requiring registering ATV's? Currently off road motorcycles do not require any registration because they are not legal to ride on any North Dakota trails or US lands? Is that correct?

Tom Balzer: 1987 was the first year we registered ATV's. That is correct

Rep. Thorpe:(.6) Weed control, seismic control and insect work could be added.

Tom Balzer: That is still something that is being done, on a limited basis so I would think control work would probably be a better term to use.

Rep. Meyer:(1.2) As far as denying #4 that starts on line 12, you would not be adverse to taking that out now? Is that what you are talking about when they are over 16 years of age? Under this now it would require everyone to take a class.

Tom Balzer: That is correct, they would all have to take a class regardless of their end age. With this particular component this defines that anyone over the age of 16 can use any size of vehicle; whether it be a 400 or 500. The old law said as long as you were in possession of a drivers license you could operate a vehicle. As long as you were in possession of a drivers license I guess we would be willing to accept that ruling .I would keep the size restriction in there.

Vice Chairman Hawken:(2.1) Others in favor of HB 1342?

Jeff Olson: Program Manager, ND Dept. of Agriculture: We are in support of HB 1342. We know it is more extensive than the ag department has jurisdiction on. Our interest lie in the ability for control work within the right of way of the highway. (see attached testimony)

Vice Chairman Hawken: Any one else wish to speak in favor of HB 1342?

Carol Two Eagle:(3.2) I live in the country. Out there there are a lot of children riding ATV's, especially in the ditches. Children don't have the discretionary qualifies of an adult and they are small. They don't have the ability to handle these vehicles at the speed to which they drive them. I am concerned about the age, size and safety requirements. They would like to see higher fees. I have a question about page 8, line 27-29? Doesn't age need to be addressed?

Vice Chairman Hawken: Anyone in favor of HB 1342? Anyone else in opposition of HB 1342?

Duane Wahl:(6.0) I just have a few questions? I am not sure whether I am for or against the bill. It is legal to use the 4 wheeler in the ditch itself? Not now can you even drive in the ditch? The officers seem to think it could be ridden in the ditch. With this bill you would be able to ride in the ditches. Farmers and ranchers use the road ditches all the time to move cattle and do ranch work. If we are going to make it legal to drive on the road and not the street. That doesn't make much sense. I have a question on teenagers? They have drivers license at 14. They take drivers education etc. so basically they could drive any vehicle I own. When this gets passed, will I have to go and take a safety course to operate my 4 wheeler? I would not like to have to go back to school at my age. Use of the 4 wheeler for an 8 year old. The parents should be involved in what is going on here. Anything can be dangerous if not used properly. We are an agricultural state and farmers and ranchers need their children to help them.

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House Transportation Committee

Bill Number HB 1342

Hearing Date January 21, 2005

Vice Chairman Hawken: Others in opposition to HB 1342?

Hearing closed (13.5)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. 1342

House Transportation Committee

☐ Conference Committee

Hearing Date January 27, 2005

Tape Number	Side A	Side B	Meter #
2	X		47.7-51.8
3	X		0-4.2
Committee Clerk Signature <i>Debra D. Shumaker</i>			

Minutes:

Chairman Weisz: reopened the hearing on HB 1342.

Rep. Price: I have a problem with the age.

Rep. Meyer (48.9) On page 9 under section 4. I think that has to be fixed somehow. The one where you need a class to drive the 4-wheeler. I have been driving and ATV for along time. The bill says I would have to take a class. There needs to be an age limit on it.

Rep. Ruby (49.9) Also the language on page 8, line 27 would have to be changed. Discussion on age. Many thought it was very easy to ride.

Chairman Weisz(51.0) Rep. Meyer, on page 9, it does say that 16 years or older. Your right, on page 8. At some point they are on the road; a 25 - 30 year old will be required to, who has never gotten one when he was young.

Rep. Weiler (51.8) Page 8, line 30 Subsection 2, I understand that it may go on in someone's private land that they are allowing their 8 year old child to ride a ATV, but I don't think that we

as law makers want to condone that it is OK for an eight year old child to ride an ATV. If they want to do it, let them do it. If law enforcement wants to overlook it let them overlook it, but I don't think we want to go there.

Rep. Meyer (0) Maybe it is right or wrong, but all our farm and ranch kids are that age and they are doing it now. Twelve year olds are better at it than we are.

Rep. Weiler I don't have a problem with that I don't think we want to put it in a code that we are going to say it is OK for an eight year old child to operate one of these vehicles.

Chairman Weisz (0.5) If I may make a comment. Size are limited from 8-12 . The kids can ride their bikes faster and it does require a safety certificate for a twelve year old and, by law they have to wear a helmet. These vehicles are not like the regular ATV's. They are limited to about 10 miles per hour. They are under 50cc.and limiting them to the age of 12 years old. Machine is from 50-90 lbs. Some are heavier, but cheaper. They are little.

Rep. Ruby (1.4) I don't think it necessarily condones it, or encourages it. I think it limits more than an encouragement.

Rep. Weiler (1.6) Maybe it is not encouraging, but it is in state statues that an eight year old child can operate a motor vehicle. For me that is condoning that.

Chairman Weisz (1.7) Does anyone have an issue with the definition of what off-highway and different class ? Anyone have a problem with that?

Rep. Dosch(1.9) Do we even need that? What about 4-8?

Chairman Weisz (2.3) They need to address that category because they are doing it anyway and this requires them to have limits to size and age.

Rep. Ruby My 8 year old raced dirt bikes this last summer. There are even 4 year olds racing little motorcycles. I think I can run faster than some of these. They are restricted. I would not have a problem taking it out either. I could see taking out that and 3 and 4 and leave it a little more open.

Rep. Kelsch (3.4) This amendment brings that state standards consistent with the ATV safety institute and the manufactures requirements. That is why were are discussing it. Not necessarily because major manufactories think that.

Chairman Weisz (3.8) It appears we have three issues in the bill that are causing problems. If anyone wants to proposed amendments or work to work on them or look at them maybe tomorrow we could take it up again.

Hearing Closed (4.2)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1342

House Transportation Committee

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
2	X		33.2-46.7
Committee Clerk Signature <i>Dr. Loren A. Shumich</i>			

Minutes:

Chairman Weisz reopened HB 1342.

Rep. Weiler passed the proposed amendments around. Basically what the amendments do: Go to page 8 where we put in the ages of ATV drivers. I think the reason for these amendments are so that out in the rural areas some 8,10,12 year old kids are driving this vehicles that is their business, but I don't believe we should have it in our century code. It just removes all the section regarding age at all. I just asked them to remove section 12 and 13.

Chairman Weisz Discussed the amendment changes.

Rep Weiler made a motion the amendments as corrected be approved. Seconded by Rep. Ruby

Chairman Weisz Any discussion on the amendments. Everyone knows we are deleting any changes to section 12 & 13.

Page 2

House Transportation Committee

Bill Number HB 1342

Hearing Date February 10, 2005

Rep. Dosch(42.3) What will happen with this amendment it will go back to current law, which

basically says a person under 16 years of age who is not a possession of a drivers license or permit will not be able to operate an ATV. That is what this will go back to the current laws.

Amended Bill did a voice vote carried. No opposition

Motion Made By Rep. Delmore Seconded By Rep. Weiler

DO PASS AS Amended 15 Yes 0 No 0 Absent Carrier: Rep. Meyer

(46.7)

FISCAL NOTE
Requested by Legislative Council
03/15/2005

Amendment to: Engrossed
 HB 1342

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill creates a definition of off-highway vehicles and requires them to pay a \$5 registration fee and a \$5 safety fee. The bill also requires the Department of Transportation to issue a registration decal and certificate of title for off-highway vehicles.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

It is anticipated that additional revenue will be generated for the Highway Tax Distribution Fund from the registration and titling of off-highway vehicles. It is also anticipated that additional revenue will be generated for the Off-Highway Vehicle Fund. However, it is not possible to accurately estimate the additional revenue because we do not know how many off-highway vehicles exist in North Dakota or how many will comply with the provisions of this bill.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The cost to implement the provisions of this bill is anticipated to be less than \$5,000.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Keith Kiser	Agency:	NDDOT
Phone Number:	328-2725	Date Prepared:	03/16/2005

House Amendments to HB 1342 - Transportation Committee 02/11/2005

Page 1, line 3, remove "39-29-10, 39-29-12,"

House Amendments to HB 1342 - Transportation Committee 02/11/2005

Page 8, remove lines 21 through 31

House Amendments to HB 1342 - Transportation Committee 02/11/2005

Page 9, remove lines 1 through 30

Renumber accordingly

Date: 2-10-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1342

House Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass As Amend

Motion Made By

Rep. Delmore

Seconded By

Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
Rep. Weisz - Chairman	✓		Rep. Delmore	✓	
Rep. Hawken - Vice Chair.	✓		Rep. Meyer	✓	
Rep. Bernstein	✓		Rep. Schmidt	✓	
Rep. Dosch	✓		Rep. Thorpe	✓	
Rep. Iverson	✓				
Rep. Kelsch	✓				
Rep. Owens	✓				
Rep. Price	✓				
Rep. Ruby	✓				
Rep. Vigasaa	✓				
Rep. Weiler	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment

Rep. Meyer

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1342: Transportation Committee (Rep. Welsz, Chairman) recommends
AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS**
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1342 was placed on the
Sixth order on the calendar.

Page 1, line 3, remove "39-29-10, 39-29-12,"

Page 8, remove lines 21 through 31

Page 9, remove lines 1 through 30

Renumber accordingly

2005 SENATE TRANSPORTATION

HB 1342

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1342

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-10-05

Tape Number	Side A	Side B	Meter #
1		x	0-2700
Committee Clerk Signature <i>Mary K. Monson</i>			

Minutes:

Chairman Trenbeath opened the hearing on HB 1342 relating to all-terrain vehicles.

Representative Robin Weisz (District 14) Introduced HB 1342 on behalf of the Parks and Rec Department. He said the House did add some provisions dealing with weed control and additional riders to ensure those issues were covered. The original House bill had a provision dealing with age restrictions to ride on ND Park Trails allowing 8-12 year olds to drive 50 cc machines and the 12-16 year olds to drive up to a 70 cc machine. That language was eliminated on the House side and left at the current law.

Tom Balzer (North Dakota Parks and Recreation) See attached testimony in favor of HB 1342.

Senator Trenbeath asked Mr. Balzer if it would be appropriate to amend line 18 on page 8 by deleting the reference to "by this chapter" if something is done with HB 1196 which allows access to other sorts of highways by ATV's.

Tom Balzer said he thought it would.

Senator Trenbeath asked if 39-29-10 was addressed in HB 1196.

Tom Balzer said he did not believe so.

Senator Trenbeath asked if Mr. Balzer had a proposed amendment dealing with 39-29-10.

Tom Balzer said it was in his testimony on the second page.

Senator Warner asked if the language on the distinction between "off-highway" and "all-terrain" was consistent with the language used by the DOT and why it was important to make the change.

Tom Balzer said he believed it was consistent with DOT. All of the states they work collaboratively with on this program have an "off highway" vehicle designation. In most state law definitions, "all terrain vehicles" are defined as only your typical 4-wheeler. The change is primarily to bring us current with other states and the national standard that is used for these particular type of vehicles.

Senator Trenbeath asked if Mr. Balzer had looked at both bills, HB 1342 and HB 1196, as so far as they overlap and if they were consistent with each other. He asked if they would conflict if they both passed.

Tom Balzer thought both bills could be meshed together and be useful. They were not in full support of HB 1196.

Senator Trenbeath said that the two bills address some of the same statutes in the same manner. He asked Mr. Balzer if he could see one surviving and containing some facets of the other.

Tom Balzer said he believed they could.

Jeff Olson (ND Dept. of Agriculture) See attached testimony in support of HB 1342 as it deals with the weed and vector control sections. They are amicable to meshing the language in both bills, HB 1342 and HB 1196.

Duane Wahl (Bismarck) He testified on his own behalf. One of his concerns with the designation for trail bikes is that they have to be equipped with a headlight and a taillight. Many dealerships have units that don't have headlights and taillights that are designed to drive -- trail bikes. He was concerned about how a dealer, by law, could sell those now without a headlight and a taillight. They can't be put on because they don't have charging systems. Most 4-wheelers have a headlight and a taillight now, but there are old ones still in service. The average farmer/rancher either doesn't have the desire or financial capabilities to update them, but they still run, works, and can still chase cows. Sometimes properties aren't adjoining and the farmer has to go through the ditch with his 4-wheeler or trail bike, which may or may not have a headlight or taillight, to get to his adjoining property. He felt something should be added someplace to redefine the headlight/taillight situation.

Another concern of his was on page 8, line 23, under definitions. He was concerned with how this would affect the "used dealers" and their capability of buying for resale. (Meter 1935)

Senator Trenbeath asked Tom Balzer to address the headlight/taillight situation on the dirt bikes that would now be off-highway vehicles.

Tom Balzer said the concern is with these vehicles operating in road ditches and the risk and legality of being inside a road right of way without headlights and taillights.

Senator Trenbeath (Meter 2430) With respect to the regulations of operating off-highway vehicles, he questioned if, on page 6, that could be limited to Class 2 and 3 vehicles.

Tom Balzer said that would be acceptable to them.

Keith Kiser (ND DOT) He testified that the department did not have a position on HB 1342.

He spoke to address some of the questions raised by Mr. Wahl. He said, to further the suggestion for the language on page 6, the committee might wish to consider some language that makes reference to if the vehicle was originally equipped by the manufacturer with those devices. He also spoke to the issue of dealer licensing, selling used, and having a franchise, etc. He felt the potential problem seen by Mr. Wahl is not an issue at present. Nothing would change what he is currently allowed to do as a "used dealer".

With no further testimony, the hearing on HB 1342 was closed.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1342

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-11-05

Tape Number	Side A	Side B	Meter #
1		x	550-930
1		x	1200-1325
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

Chairman Trenbeath opened HB 1342 for discussion and action.

He reported that the intent of the amendments to Engrossed HB 1342 was to take the salient points of Engrossed HB 1196 and attach them to 1342 because they deal with the same body of law. The intent is to redefine all terrain vehicle, off highway vehicle, to describe them, and to describe where they are allowed to be operated. It removes pesticide spraying dealt with in HB 1327 which was passed out of committee. It is redundant of the bill that was passed allowing passengers. It expands the territory where off highway vehicles can operate to include the far right hand side of a gravel, dirt, or loose surface roadway during a period of time between 1/2 hour before sunrise and 1/2 hour after sunset. It exempts the Class I off highway vehicle, which is the dirt bike, from the equipment requirement when it is being ridden off road.

Senator Warner motioned to adopt amendment 50516.0201. Seconded by **Senator Bercier**.

Roll call vote 6-0-0. Amendment adopted.

Page 2

Senate Transportation Committee

Bill/Resolution Number HB 1342

Hearing Date 3-11-05

Senator Espgaard motioned a **Do Pass as Amended**. Seconded by **Senator Warner**.

Roll call vote 6-0-0. **Passed**. Floor carrier is **Senator Trenbeath**.

JNW
3/11/05
10/2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1342

Page 1, line 3, after the first comma insert "39-29-12,"

Page 1, line 4, after "vehicles" insert "; and to provide a penalty"

Page 2, line 17, overstrike "a person" and insert immediately thereafter "an individual"

Page 3, line 6, overstrike "a person" and insert immediately thereafter "an individual"

Page 5, line 29, remove "The director may permit a political subdivision or a person acting under authority of"

Page 5, remove lines 30 and 31

Page 6, line 1, remove "4."

Page 6, line 4, remove the overstrike over "4." and remove "5."

Page 6, line 12, overstrike "A person" and insert immediately thereafter "Except in an emergency, an individual may not operate an off-highway vehicle on an interstate or United States highway."

2. An individual

Page 6, line 14, overstrike "Except in emergencies, a person may not operate an"

Page 6, line 15, remove "off-highway" and overstrike "vehicle within the right of way of any controlled-access"

Page 6, line 16, overstrike "highway" and insert immediately thereafter "An individual may operate a registered off-highway vehicle on the far right-hand side of a gravel, dirt, or loose surface roadway between the period of time of one-half hour before sunrise to one-half hour after sunset"

Page 6, line 17, overstrike "2." and insert immediately thereafter "3."

Page 6, line 28, overstrike "3. A person" and insert immediately thereafter "4. Unless an individual is operating a class 1 off-highway vehicle, an individual"

Page 7, line 4, overstrike "4." and insert immediately thereafter "5."

Page 7, line 8, overstrike "5. A person" and insert immediately thereafter "6. An individual"

Page 7, line 30, overstrike "6." and insert immediately thereafter "7." and overstrike "a person" and insert immediately thereafter "an individual"

2012

Page 8, line 1, overstrike "7." and insert immediately thereafter "8."

Page 8, line 7, overstrike "8. A person" and insert immediately thereafter "9. An individual"

Page 8, line 11, overstrike "9." and insert immediately thereafter "10.", remove "A", and overstrike "person" and insert immediately thereafter "An individual"

Page 8, line 15, overstrike "10." and insert immediately thereafter "11."

Page 8, line 16, replace the underscored comma with "the vehicle" and replace "has a" with "is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer"

Page 8, line 17, remove "specific passenger seat with a back rest"

Page 8, line 18, replace "11." with "12." and remove "by this chapter"

Page 8, after line 20, insert:

"SECTION 12. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subsection 1 of section 39-29-09 is an infraction. Violation of subsection 2 of section 39-29-09 is an infraction for which a fee of fifty dollars must be assessed. Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

Date: 3-11-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1342

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment # 50516.0201

Motion Made By Sen. Warner Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Senator Espegard	✓		Senator Bercier	✓	
Senator Mutch	✓		Senator Warner	✓	
Senator Nething	✓				
Senator Trenbeath, Chairman	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-11-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1342

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50516.0201 Title .0300

Action Taken Do Pass as Amended

Motion Made By Sen. Espgaard Seconded By Sen. Warner

Senators	Yes	No	Senators	Yes	No
Senator Espgaard	✓		Senator Bercier	✓	
Senator Mutch	✓		Senator Warner	✓	
Senator Nething	✓				
Senator Trenbeath, Chairman	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Trenbeath

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1342, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1342 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first comma insert "39-29-12,"

Page 1, line 4, after "vehicles" insert "; and to provide a penalty"

Page 2, line 17, overstrike "a person" and insert immediately thereafter "an individual"

Page 3, line 6, overstrike "a person" and insert immediately thereafter "an individual"

Page 5, line 29, remove "The director may permit a political subdivision or a person acting under authority of"

Page 5, remove lines 30 and 31

Page 6, line 1, remove "4."

Page 6, line 4, remove the overstrike over "4." and remove "5."

Page 6, line 12, overstrike "A person" and insert immediately thereafter "Except in an emergency, an individual may not operate an off-highway vehicle on an interstate or United States highway."

2. An individual

Page 6, line 14, overstrike "Except in emergencies, a person may not operate an"

Page 6, line 15, remove "off-highway" and overstrike "vehicle within the right of way of any controlled-access"

Page 6, line 16, overstrike "highway" and insert immediately thereafter "An individual may operate a registered off-highway vehicle on the far right-hand side of a gravel, dirt, or loose surface roadway between the period of time of one-half hour before sunrise to one-half hour after sunset"

Page 6, line 17, overstrike "2." and insert immediately thereafter "3."

Page 6, line 28, overstrike "3. A person" and insert immediately thereafter "4. Unless an individual is operating a class 1 off-highway vehicle, an individual"

Page 7, line 4, overstrike "4." and insert immediately thereafter "5."

Page 7, line 8, overstrike "5. A person" and insert immediately thereafter "6. An individual"

Page 7, line 30, overstrike "6." and insert immediately thereafter "7." and overstrike "a person" and insert immediately thereafter "an individual"

Page 8, line 1, overstrike "7." and insert immediately thereafter "8."

Page 8, line 7, overstrike "8. A person" and insert immediately thereafter "9. An individual"

Page 8, line 11, overstrike "9." and insert immediately thereafter "10.", remove "A", and overstrike "person" and insert immediately thereafter "An individual"

Page 8, line 15, overstrike "10." and insert immediately thereafter "11."

Page 8, line 16, replace the underscored comma with "the vehicle" and replace "has a" with "is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer"

Page 8, line 17, remove "specific passenger seat with a back rest"

Page 8, line 18, replace "11." with "12." and remove "by this chapter"

Page 8, after line 20, insert:

"SECTION 12. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subsection 1 of section 39-29-09 is an infraction. Violation of subsection 2 of section 39-29-09 is an infraction for which a fee of fifty dollars must be assessed. Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

2005 HOUSE TRANSPORTATION

CONFERENCE COMMITTEE

HB 1342

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1342

House Transportation Committee

☒ Conference Committee

Hearing Date March 29, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-28.7
Committee Clerk Signature <i>De Loue D. Himek</i>			

Minutes:

Conference Committee Members: Sen. Trenbeath, Chairman. Sen. Espegard, Sen. Bercier, Rep. Iverson, Chairman, Rep. Vigasaa, Rep. Meyer. All present.

Rep. Iverson, the Chairman opened the conference committee hearing on HB 1342. We did not concur with the amendment because we did not think in Section 11 that they should be able to go on state highways and you did not concur with that. Also the all-terrain vehicle would have to be operated on the far right hand side of the gravel or loose surface and we felt like that was part of the road.

Senator Espegard:(2.1) We took the all-terrain vehicle off the state highway and we put it on a gravel road and we suggested they ride over to the right. We suggested they be on the road one-half hour before sunrise and one-half hour after sunset. That is basically the changes put on it. We didn't feel they were safe on a highway at night. They are not designed by the

manufacturer's to be on hard surfaces. We realize they need to be driven on roads so we let them go on gravel roads and over to the right hand side.

Senator Trenbeath: I don't have any problem with non-paved roads wherever. I do have a problem with paved roads. I don't think they are designed to keep up with highway speeds and there are national organizations that agree with that also. Also try to visualize at night when you are driving 65 miles an hour and you come up on them and they are going about 40 and they are not lite very well. That is one reason we took it off 24 hours a day.

Rep. Espgaard: We also combined the two bills. HB 1342 became the survivor bill and we put the penalties in there. We also put the passenger can ride in there.

Rep. Meyer(3.8) One of the reasons we had so many ATV bills is people really need allot of our bills to become paved. We have allot of roads around Dickinson and allot of 4 wheelers being used for dairy and they pretty much have to go on the highway. No body goes 65 or anything. Ours won't go that fast and your amendment where you have them on the extreme right hand side of the road there was probably some danger in the event of gravel roads. We just don't ride there ever because the gravel is loose and has a tendency; if it is ever going to flip it will. Your paved roads would be better for under 65 miles an hour or fall into that classification.

Senator Trenbeath: My problem with that it isn't the speed of the ATV; its the speed of the traffic on the highway. The ATV's will be doing 40-45 miles per hour and the traffic moving at 65 miles an hour; that could be a problem. I think the problem you are going to see is at 8PM at night where the ATV pops out of the road ditch when you are doing 65 miles an hour down the road.

Rep. Meyer DOT informed her dairy friends it was illegal to ride on paved roads. Even if it is just to go across the road.

Senator Espegard: If you allow them to go on paved roads you have virtually allowed them to go anywhere. Then they can go in the ditches; on the paved roads and any where they want to. I am worried about them going every where day or night. I think that is a dangerous thing. I understand what you are saying about driving on the far right hand side of the road. That sounded pretty good in committee, but now that I think about it on a gravel road. That isn't where you are going to go anyway. That is dangerous. It should be on a paved road, I don't think they are like a 3-wheel motorcycle. They are not anywhere near a 3- wheel motorcycle for maneuverability and things like that. That is the reason we are restricting them.

Senator Trenbeath: One thing we might want to talk about is the guy up in Bottineau who is for personal use and has a little trailer at the lake home and is going back and forth and has a little subdivision and all he has is pavement. John suggested we might want to exempt paved roads that are signed 45 miles an hour and under. Which is along the lake up there.

Senator Espegard: My problem with paved roads is the unexpected situation. Because they are designed as an off-road vehicle that where it is going to come out of. It is going to come out of the ditch somewhere.

Senator Trenbeath: There would be a case for the extreme right hand side on paved roads.

Senator Espegard:(7.3) They are already allowed to drive on the inside slope.

Rep. Meyer That is just political subdivisions.

Rep. Iverson So we can exempt them on paved roads under 45 miles an hour?

Senator Trenbeath: Yes, I think if they are posted 45 and under.

Rep. Iverson So if we could delete the reference to in Section 11 subsection 2. say an individual may operate a registered off-highway vehicle on a graveled or loose surface roadway. So that is basically the language on the far right hand side. Include signed 45 an under too.

Senator Trenbeath: I think what you are going to encompass is the rural subdivision type situation around likes and also farmers who have to go from one field to the next on paved county roads and that is the only road they have got. They use these four wheeler daily. They hook them on the back of their tractors and off they go.

Rep. Vigesaa: Then they should ride in the ditch. That is what they were designed for.

Rep. Meyer It is illegal to ride in the ditch.

Senator Trenbeath: It is legal as long as you ride on the inside bank or slope of the road ditch.

Rep. Meyer(9.6) When you are doing this you can't pull machinery and you can't pull a cart on the slope. You have to just for safety purposes you have to be on a level surface and all the roads are getting paved anymore. There aren't very many gravel ones left.

Senator Trenbeath: It says in the existing law a person can not operate an all-terrain vehicle on the roadways, shoulder or side bank or sloping of any road , street, or highway except as provided in this chapter.

Rep. Meyer What about roads signed under 55 miles per hour?

Rep. Vigesaa Leeds, SD allow them on the paved surfaces and they have not had any situations reported. We heard they are driving right in town.

Rep. Vigesaa: I know they would love to be able to go on that paved surface. Especially county roads. We have a few county roads in our area that are paved. County roads that are paved have no shoulders on them.

Senator Bercier: On those roads, is the truck traffic at 45?

Rep. Meyer Yes, on the county roads.

Senator Espegard: Our county roads they are already signed 45 for trucks. So somehow the low profile of these vehicles when you are coming up on them because back home it is so unregulated that it is scary. The one I have is more of a work horse. It is 4 wheel drive and I will probably get 60 out of it. How about a big orange sticker on back? At least you see it.

Rep. Iverson(13.0) As I see it we have agreement no nights, and you don't have to ride on the right hand side of the gravel road and it seems like the only thing we are talking about now is what type of hard surface road we should have to ride on.

Senator Trenbeath: I hate to go to a 55 mph shoulder of a paved road just for the safety of the rider as well as the constination of the normal vehicles intending to be driving on that road.

Rep. Iverson So for under 45 you don't have heartburn over that one.

Rep. Vigesaa I always think of hay hauler going up and down the hills and that hay hauler does drive fast and it is piled high.

Senator Trenbeath I express my concern what often happens is the 4-wheel driver just pops up out of the ditch onto a paved county road and he got killed.

Rep. Vigesaa As far as the penalty. Did that change at all from what we had?

Rep. Iverson One had a penalty and one did not and we added the penalty onto it.

Senator Trenbeath :50 for the fee if it is just an infraction. On the first engrossment house bill I have under section 10 subsection 3 that part about using spray for insect control. I did not see that in your version?

Rep. Vigesaa There was a second bill on that and that one is HB 1327. That was all by itself and it did pass.

Rep. Meyer(17.3) Lets just say they can go on the interstate.

Rep. Vigesaa On Section 11 subsection 11 that was the language that came out of another bill. As recommended by the manufacturer.

Rep. Meyer When it states that under number 12 page 8, an off-highway vehicle may be operated on an aggregate road surface only when designated as part of an active off-highway vehicle trail by the managing entity.

Senator Trenbeath: That was put in there at the request of parks and recreation. There is one trail in our country where a mile and a half or two miles of it is on a county gravel road.

Rep. Meyer(18.7) That was what I was wondering, if that language negated that, because it is contradictory. When you state that only when designated that is a question?

Rep. Iverson: (19.7) The only thing we have left if hard surface roads is the only thing we have left?.

Senator Espgaard: How do we do something so we don't open it up?

Senator Trenbeath:(21.4) Discussed the designated trails and how fast they are driving on those trails. I don't have a real heartburn with 55 miles per hour? In the interest of public safety we don't think they should be operating on public roads at all. But in the interest of compromising and getting a piece of legislation through if we designed 45 and under for roads that are marked 45 miles an hour and under.

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House Transportation Committee

Bill Number HB 1342

Hearing Date March 29, 2005

Rep. Iverson Section 11, page 6 line 16 where it says the far right hand side and all of line 16 and then discussing speed limit. Discussed \$50 fine that is on the bottom of page 8. Think the fine is the same. Had a discussion on the various fines.

Rep. Iverson Decided no nights and not on the gravel. All we have to do is how fast they can go on paved roads. Also which paved road they can go on.

Senator Trenbeath: I suggest they are roads that are marked 45 mph.

Rep. Iverson We will schedule another time to meet and come back.

(28.7)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1342

House Transportation Committee

☒ Conference Committee

Hearing Date March 31, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-22.7
Committee Clerk Signature <i>De Loue Alphonse</i>			

Minutes:

Roll Call: Rep. Iverson, Chairman, Rep. Meyer, Rep. Vigesaa, Senator Trenbeath, Senator Espegard, Senator Bercier. All Present.

Rep. Iverson opened the hearing on HB 1342. We had a point of contention with the 55 mph or 45 mph on paved county roads and the infraction amount. Whether it will be \$50 or \$25.

Rep. Vigesaa (.07) Discussed the differences in the fines in the various locations in the bill. Looks like an infraction can go up to \$500. Senator Trenbeath checked the codes and that is correct.

Rep. Iverson We need to decide how much we want it to go up to.

Rep. Vigesaa On page 9, I thought 2 & 3 would handle that.

Discussed the various amounts of the fines in the bill.

Senator Espegard: You could actually delete subsection 1 and put this all in subsection 2; an individual could not operate an off-highway road vehicle on the roadway and shoulder except as provided in this chapter. An individual may operate a registered highway vehicle on a gravel, dirt, or loose surface roadway. Then you could just delete 1. Whatever language we decide on can be inserted in subsection 2.

Rep. Meyer: My people in Dickinson were on a county road; the county is crushing pavement, oiling it and putting it on as a hard surface. They are having trouble with that definition and asked if we could put in hard surface roads or define it.

Rep. Iverson: You are ok with the infraction part so far?

Rep. Meyer: Their question is the way this is written they still will not be able to drive on that road, it is crushed pavement that is oiled and that is going on a lot of county roads so could it be hard surfaced road? Does not fall into the classification of a paved road or highway. They are putting this on a gravel road and creating a hard surface.

Rep. Espegard: Need to define hard surface.

Rep. Trenbeath: Informed the chairman we were not debating at what speed on any hard surface road because the bill as agreed now is loose surface. The gap on speed limit is 55 or nothing. I have a real problem with high speeds on these types of roads. You could have a ton and a half camper coming down the road at 60-65 mph after sunset.

Rep. Iverson: I understand what you are saying, but if we eliminate the 45 mph on paved roads I believe it is less than 1 % of roads in this state. The thing is most of the roads are 55 mph so I understand the public safety aspect, but I don't think that there was only 9 deaths in South

Dakota. Most of them were from people crossing the roads, which is now illegal. The house would like to move it up to 55 mph on the paved county roads.

Senator Trenbeath: I understand the situation. Under the old or new definition it is either an all-terrain vehicle or an off-highway vehicle. That is what they are designed for. They are not designed to run with the big boys.

Rep. Iverson(15.0) I understand that. I have been on one going 55 mph and it scared the hell out of me. But to be able to use them on these roads they would have to be able to go on the roads and be equipped. I don't think the majority of the people aren't going to be going 55 mph. I know some of these are supped up and can go 100 mph.

Senator Espgaard: (15.4) Is this a problem. Are we getting allot of violations. Probably none. They are allowing them to do it.

Rep. Meyer(15.8) Unless the legislature comes up and tells you it is OK. Again, I am referring to my dairy people friends. Unless they come up with something we are going to start fining you just so you know. That is her interest in the bill.

Senator Espgaard: What do they need excess for paved?

Rep. Meyer They use their ATV's to haul their feed and they are on each side of a paved road and a hard surface is on the south side of them now. They feed all their dairy cows with their 4-wheelers. They use hay wagons and then they have to go down to move the hay.

Senator Trenbeath: (16.9) So are they actually hauling the forage on the road.

Rep. Meyer Yes they have a hay wagon. They save money on gas and they have gotten so it is indispensable. They are in that area and they keep getting stopped and she knows enough about

the law to tell them it's not legal unless the legislature clarifies this we are going to start fining you.

Rep. Vigesaa: In your area they don't have the sections squared off so they can take an alternative route.

Senator Trenbeath:(17.9) I am trying to think how we could craft that language that would allow that sort of thing. We would allow a tractor to do it.

Rep. Meyer Correct. That is their point. We have gone to this for fuel efficiency and you don't have to start up a tractor. You just get on a 4-wheeler and go.

Senator Trenbeath: So what are the regulations with respect to tractors? Agricultural implements or whatever.

Rep. Meyer On a paved road there is allot more control.

Rep. Iverson Well it is.

Rep. Meyer When you are forcing them onto the slope of the ditch we were causing allot more problems than you are fixing.

Senator Trenbeath: Around the lake homes and things and some areas in states too. They are hauling wood and it would probably take care of those guys.

Rep. Meyer I realize they are doing it anyway so we'll pass a law to correct it. That is always an issue.

Senator Trenbeath: Maybe there is something in here that we could put into it. Checking the code on tractors. They define a low speed vehicle and add to the definition. Governing body of the city can regulate them within the city limits. An individual cannot operate a low vehicle unless it has been registered in accordance with this chapter. You would have to have it

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House Transportation Committee

Bill Number HB 1342

Hearing Date March 31, 2005

registered as a low speed vehicle. It is 39-29-01 of the codes. With the chairs permission let me play with this code.

Rep. Iverson (22.7) Will have to reschedule next week.

(22.7)

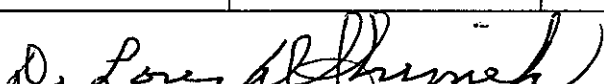
2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1342

House Transportation Committee

☒ Conference Committee

Hearing Date April 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		6.9-24.6
Committee Clerk Signature 			

Minutes:

Roll Call: Rep. Iverson-Chair., Rep. Vigesaa, Rep. Meyer, Senator Trenbeath, Senator Espegard, Senator Bercier. All Present

Chairman Iverson: Called the meeting to order.

Senator Trenbeath:(7.1) Went over the proposed amendment. A lot of the amendment was changing a person to an individual. Read the section on Page 6, line 16 on operation of off-highway vehicle. Made a Motion to adopt the amendment. Seconded by Sen. Espegard.

Chairman Iverson:(9.6) We have a motion before us. Is there any discussion?

Rep. Meyer Is farm equipment referred to any where else in the code?

Senator Trenbeath: (9.8) Yes, I did the research specifically to find that out. Where the implement of husbandry is defined and having to do with implements. This has all been confirmed with existing law.

Rep. Vigesaa (10.2) Any amendment concerning towing. That doesn't really address a good share of the agricultural uses, I don't believe. They maybe towing, but in Rep. Meyers case they are not towing. They are usually just going from the farm yard out to the field or back and running errands with the ATV; not necessarily towing? Is that correct Rep. Meyer?

Rep. Meyer Yes, and also the process of going out to check water wells.

Senator Trenbeath: The reason that was there is because, first of all, that is why we put in registered off-highway vehicle because you could delete that and not cause a vehicle to be registered if it was specifically used in husbandry. If you were just using the vehicle and not towing a trailer you need to use the ditch, because it is registered. Otherwise you would not be able to use the ditch. So it is only because the trailer is subject that it will not tow well in the ditch that we took out the towing privileges.

Rep. Iverson(11.4) I am going to ask you to hold on the motions to adopt the amendments until we can get a little bit closer look at them. It does take care of the towing issue, but we still have the issue of whether or not they should be allowed to be used on type of road and 45 or 55 mph of posted road. So we still have that issue.

Senator Trenbeath:(11.8) I don't think we have that issue. I think from our side of the table we have come from a situation where they wouldn't have been allowed on any paved surface nor would they be allowed on gravel or loose surface to allowing them to use the surface of the traveled portion of a loose surface road. But being able to use paved county and township roads for a limited purpose.

Chairman Iverson: (12.5) I do like what has been done for the towing the vehicle. I would ask for a motion to table the motion on adopting the amendment. Rep. Vigesaa moved; seconded by Rep. Meyer. Voice vote carried.

Rep. Vigesaa:(13.1) I am just wondering; on the engrossed bill with the senate amendments on page 7; where it says headlamp, one tail lamp and brakes all in working order. I was just wondering if we should have turn signal there?

Chairman Iverson: I would have to agree with you there.

Rep. Vigesaa I was just wondering if this should be required equipment. I am not sure about a mirror either. If that should be part of that equipment?

Senator Trenbeath:(14.4) If you just want to take a look at that section to see if it is covered?

Senator Espgaard:(14.6) Generally it would be two tail lights; directional signal and a mirror.

Chairman Iverson: Did you want to include all that equipment on that vehicle?

Rep. Vigesaa (14.8) Unless it is addressed in another section somewhere.

Senator Trenbeath:(15.0) We would be working off of 0200 for the purposes of these amendments. That appears on page 6 beginning on line 28.

Chairman Iverson: So Rep. Vigesaa you would to include turn signal and mirror under that section also. Is that correct?

Rep. Vigesaa(15.7) I am not sure it should go there because this section is including operation of off-highway vehicles and for operating and off-highway vehicle you would not need that equipment unless it was on a roadway. By putting it there we would make it necessary for all off-highway vehicles to have it on. If they are going to be on the road they should have turn signal and mirror. I am not sure where that should be properly put.

Chairman Iverson: I am going to appoint you to look into that section 31-21-09 and see if that should be included in there. I would like to get this wrapped up. When we meet again we will talk about that.

Senator Espgaard:(16.7) If you are going to have turn signals you might have two tail lamps?

Senator Trenbeath: I am in Chapter 39-21 which is equipment of vehicles. Headlamps is governed under 39-21-03; trail lamps is 39-21-04; 39-29-06 deals with stop lamps and turn signals. This is for Rep. Vigesaa's information.

Chairman Iverson: Do we want to include these on there? Do you have any real issue in putting those on there? Let's include in that section the turn signal, two tail lamps and a mirror after the one headlamp; strike the two; turn signal; mirror in there.

Rep. Vigesaa If we put it in there, are we mandating all off-highway vehicles; whether they are on the road or not have to have turn signals and mirrors?

Senator Trenbeath: (18.6) I think what you want it to more properly place it somewhere. I don't know if they come with turn signals?

Rep. Vigesaa (19.1) Maybe we could ask Tom Beltzer a couple questions?

Tom Beltzer: Recreation Manager with Parks & Recreation Department.

Rep. Vigesaa(19.4) Can you shed some light on this discussion we are having?

Tom Beltzer: An ATV comes from the factory. The newer ones; the four wheel driver, no implement type ones that you were talking about will come with one headlight, one tail light; no mirrors and no turn signals. That is how they come stock. Some of the older two wheel race type ATV's usually have a head light and a brake light on the back. The unfortunate part is they

tend to break off very easily so there would be an additional cost in order to comply with this provision.

Senator Trenbeath: Would North Dakota be unique among the states than?

Tom Belzer: I believe ND with this writing as I hear it would be unique with this particular component and then adding that as well. No other state requires turn signals or mirrors on the operation of ATV's and those that are road worthy do require that they do have all the necessary equipment on them as was originally proposed on HB1196.

Rep. Vigesaa(21.1) I know South Dakota allows their ATV's on the road on their provisions do you know then they just require all the necessary equipment to make it legal.

Tom Belzer:(21.4) I believe that the way it was written goes into their sessions this year was exactly the way Rep. Nelson had it introduced which did require the necessary equipment on there. I do know the state of South Dakota is now putting together a more comprehensive ATV law similar to what we have in mind.

Rep. Vigesaa(21.9) Tom, if we are going to put that language in there for them to be on the road you would have it in the code that specifically addresses being on the road and not just in the code in general.

Tom Belzer:(22.2) I would. Because I think if you put it in the general code it would be more confusing and additional expenses and I do not believe any manufacturer would put these things on there just because the state of ND has it as a requirement.

Senator Trenbeath:(22.6) When you are interpreting these amendments when it is toward an implement of husbandry it is also governed under 39-29-50 so you will have to triangle it.

Chairman Iverson: So we will have to take a look at that. I don't know if we want to be the only state that requires turn signals and mirrors.

Rep. Meyer(23.4) Are we considering the 45 mph on paved roads. Is that something we are considering?

Senator Trenbeath: No that is no in the amendments here. If they are doing the towing they can be on any roads up to 55 or any township or county roads.

Rep. Vigesaa They key is you better be towing something and not over 25 mph and there better be a farm on the other end.

Rep. Meyer(24.1) I thought we were discussing the issue of 45 mph around the lake homes and paved roads that are signed under 45?

Senator Trenbeath: It is not something that I have included in this amendment.

Chairman Iverson: We will schedule another meeting.

(24.6)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1342

House Transportation Committee

☒ Conference Committee

Hearing Date April 11, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-9.7
Committee Clerk Signature <i>Dr. Loren Albright</i>			

Minutes:

Roll Call: Rep. Iverson-Chairman, Rep. Vigesaa, Rep. Meyer, Senator Trenbeath, Senator Espegard, Senator Bercier were all present.

Chairman Iverson called the meeting to order. Explained what they did after the last meeting was took the amendments and made a few changes to them. (see attached proposed amendment .0204.

Rep. Vigesaa made a motion the senate recede from their amendments and that we adopt the amendments that we provided this morning to HB 1342. Rep. Meyer seconded the motion.

Discussion:

Senator Espegard:(1.1)It looks good except you introduce the state highways in there again. I have a little trouble with that.

Chairman Iverson: I believe that that was introduced in there because if an individual is hauling the husbandry implement on a state highway they would be in violation of law and that is why I believe that was put in there.

Senator Trenbeath: Would you please explain what the amendment does?

Chairman Iverson: What we did with this amendment we put that one portion in there for the state roadway if they are hauling a husbandry implement. We did remove the portion about the $\frac{1}{2}$ before and $\frac{1}{2}$ after sunset usage. We are stressing they will have to get the necessary safety equipment put on it.

Senator Espgaard: So you are saying you are back to driving all night long on a state highway at 45 mph.

Chairman Iverson: That would basically be the jest of the amendment.

Rep. Vigesaa (2.4) Yes, we are going back on the fines to the original language on the penalties. So it is the way it was prior to the amendments.

Senator Trenbeath: (2.6) This has all become what public highways we can operate these things on, at what speeds and when. When actually the bill is about so much more than that. The bill is a revision of the ATV, now off-highway vehicle, section of the code having to do with the definition, having to do with trail riding and having to do with registration and that is what this bill is about. Given the fact that the manufacturers association of these vehicles does not recommend their use on public highway systems. I think we have spent way too much time doing this thing. I think our amendment that was brought last week is more than fair with respect to operation on public highway.

Chairman Iverson: (3.2) I agree with that. I think we have been talking about this more than I thought we would. I am not so concerned about the big city of Fargo where I am from because if you operate an ATV in the city the police will pick you up. But I was thinking of the people in Rep. Meyer and Rep. Vigesaa's rural areas where they would be able to use them. Senator Trenbeath said, "where they are getting killed". But the fact of the matter is you can get killed on a motorcycle, car or tractor or any other vehicle driving on these highways too. We are just trying to compromise. If a person is going to be using these highways they are going to have to have the head lights and all the safety equipment that we are talking about so having safety our primary concern.

Senator Espgaard:(3.9) I might say this is no compromise at all. We are back at driving all night long 45 mph on a state highway. Now we have made some efforts in there to amend to take care of the farmer pulling a wagon and some other things; driving on a gravel road, but basically if I remember back about two months ago you can drive these things anywhere you want to drive them; 45 is not their top speed but it is right up there, driving at night and that is what we are opposed to so I don't think this is a compromise at all.

Rep. Vigesaa(4.3) Just to clarify, it is only going to be on paved roads where the speed limit is posted at 45 so it probably won't be any state highways because they are all 65 mph.

Senator Espgaard: (4.6) I stand corrected, you are talking about driving around the lake at 45 mph.

Rep. Vigesaa (4.6) The road has to be posted at 45 mph or less for them to operate on any paved surface. If we are going to do the husbandry thing we do have to have the state roads included in that because they probably would use the state highways at times over in Rep. Meyer's area.

That road is going to be posted at 65 so it wouldn't allow any use other than when you are pulling a trailer.

Senator Bercier:(5.2) The machine with the husbandry would go out to pull a trailer out to the field and they unhook and come in for dinner; then they have to drive the ditch.

Rep. Vigesaa Unless the road was posted at 45 and there is a zero percent change of that.

Chairman Iverson: (5.6) Any further discussion to the amendment.

Rep. Vigesaa I believe it was HB 1196 that was going to allow these to be used on the roadway with the proper equipment. I think you guys amended part of that in to be able to use it on the roadway so we get all the proper roadways covered.

Rep. Meyer (6.2) On this amendment then, that would cover, if you licensed them you would have to have the correct turning signals, brake lights and that is covered on the second page.

Chairman Iverson (6.4) If they choose to operate them on the pavement they would have to have that equipment.

Rep. Bercier:(6.5) They can operate them in the middle of the night if they want if they have headlights on them and turning signals.

Rep. Vigesaa (6.8) This last part of this major amendment there where it says if they are going to use them on these roads they must meet the applicable equipment requirements for motorcycles under chapter 39-27. I believe that was the language that was in HB1196 that required all the proper safety equipment to be able to use them on the road.

Rep. Bercier:(7.3) Could you read the penalty part again for me.

Rep. Vigesaa The penalty part takes it back to current law so the violation of subdivision b,c, g of subsection 5. It is current law.

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House Transportation Committee

Bill Number HB 1342

Hearing Date April 11, 2005

Chairman Iverson: The \$50 fee and we moved our \$50 infraction. Vote on the amendments on the HB1342 .0204 amendments. Vote 3 Yes 3 No 0 Absent Tied So we are back at square one. I guess we will have to adjourn and go back and meet probably tomorrow.

(9.7)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1342

House Transportation Committee

☒ Conference Committee

Hearing Date April 12, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-9.2, 30-33
Committee Clerk Signature <i>De Louie Albrecht</i>			

Minutes:

Roll Call: Senator Trenbeath, Senator Espegard, Senator Bercier, Chairman Iverson, Rep.

Vigesaa, Rep. Meyer all present.

Chairman Iverson:(.3) Yesterday we had a 3-3 tie on the amendments and I would like to get this taken care of.

Senator Trenbeath: If I recall correctly three meetings ago we had a motion and second on my amendment 0203 that had to be tabled. I move the question on that motion. Rep. Espegard seconded the motion.

Chairman Iverson: We have the HB1342 0203 in front of us.

Rep. Vigesaa (1.1) Could I get a copy of that, I can't find that.

Chairman Iverson: The 0204 amendments came out of the 0203 amendments.

Senator Trenbeath: That is basically the half hour before and half hour after sunset. Includes loose surface gravel and dirt roads. Includes paved county and township roads for vehicles towing an implement for husbandry and not exceeding the speed limit of 45 mph and it increased the fine

Rep. Meyer (2.2) I have a concern with this amendment; raising the fees that much.

Took the roll; tied 3-3. Failed

Senator Espgaard moved the same amendment and 39-29-12 on penalties go back down to what it was originally of \$20. Senator Trenbeath seconded it. Voice vote carried.

Senator Espgaard said his motion was the entire amendment plus the penalty clause. So it is the whole motion, but changing that part.

Rep. Vigesaa (3.9) We had talked several meetings ago about getting in paved county or township roads with our speed limits of 45 or less. Course I think our house side would still like to see 55 mph. Is there any opportunity to do that?

Senator Trenbeath: (4.2) There are several reasons why I would feel very uncomfortable with that as well. The medical profession is against that action. Insurance companies are against that action. ATV Trade Association is against that. You should have the documents that I sent over to yesterday. We would like to stress that ATV's are designed and manufactured for off-road use only. On road vehicles must be designed, built and certified to comply with the following: US Department of Transportation Federal Motor Vehicle Safety Standards and the Environmental Protection Agency Exhaust Emission Standards. ATV's are not designed to comply with either of those. Are not designed to use them on highways and that to use them that way is a dangerous practice. I couldn't in good conscience endorse this bill.

Rep. Vigesaa (5.3) We had talked about the 45 mph speed limit to take care of some of the lake roads. Maybe some of the paved surfaces that are right outside of communities. I guess I would like to offer an amendment that they would be allowed on paved county or township surfaces or roadways that have posted speed limits of 45 mph or less. Rep. Meyer, the husbandry we kinda added that in and talk a little bit about the farming needs. What is your feeling on that.

Rep. Meyer If we could have the 45 mph speed on paved roads that would be good. I would like to see it remain in there.

Senator Espegard:(6.8) I think we had better leave it the way it is. That road is probably a 55 mph road anyway. We better leave the husbandry thing go.

Rep. Meyer I would like to keep that husbandry in there.

Senator Espegard: I don't have a problem with that.

Senator Trenbeath:(7.0) What we would be doing then is amending 0203 which somebody is going to have to put in the appropriate form. We would be adding in on page 6, line 16 language. We would be adding in use again during daylight hours of a registered off-highway vehicle on township and county paved roads that are posted at 45 miles an hour or under. Then we would be revising the penalty section back to the way it originally was. Rep. Meyer seconded that portion.

Chairman Iverson: We have a motion before us and it has been seconded. .0203 as amended.

Senator Trenbeath	Yes	Rep. Iverson	Yes
-------------------	-----	--------------	-----

Senator Espegard	Yes	Rep. Vigesaa	Yes
------------------	-----	--------------	-----

Senator Bercier	Yes	Rep. Meyer	Yes
-----------------	-----	------------	-----

Chairman Iverson: Will meet later today with the amendment in hand.(9.0)

Page 4
House Transportation Committee
Bill Number HB 1342
Hearing Date April 12, 2005

Chairman Iverson reopened hearing on HB 1342 later in the day.(30.0)

Took roll call again. All committee members were present.

Chairman Iverson: I will have them take out the four city roadway out of the proposed amendment. Has everyone had a change to look this over.

Senator Trenbeath made a Motion to accept the amendment. Seconded By Rep. Bercier

Voice vote carried.

Motion Made by Senator Trenbeath that the Senate reced from the amendments as further amended. Seconded By Rep. Bercier Roll taken 6 Yes 0 No 0 Absent Carrier: Rep. Iverson

(33.0)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1342

That the Senate recede from its amendments as printed on pages 1163 and 1164 of the House Journal and pages 806-808 of the Senate Journal and that Engrossed House Bill No. 1342 be amended as follows:

Page 1, line 3, after the first comma insert "39-29-12,"

Page 1, line 4, after "vehicles" insert "; and to provide a penalty"

Page 2, line 17, overstrike "a person" and insert immediately thereafter "an individual"

Page 3, line 6, overstrike "a person" and insert immediately thereafter "an individual"

Page 5, line 29, remove "The director may permit a political subdivision or a person acting under authority of"

Page 5, remove lines 30 and 31

Page 6, line 1, remove "4."

Page 6, line 4, remove the overstrike over "4." and remove "5."

Page 6, line 12, overstrike "A person" and insert immediately thereafter "An individual"

Page 6, line 14, overstrike "a person" and insert immediately thereafter "an individual"

Page 6, line 16, after the period insert "An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved county or township roadway if the off-highway vehicle is towing an implement of husbandry and does not exceed the speed of twenty-five miles [40.23 kilometers] per hour. An individual may operate a registered off-highway vehicle on a paved state, county, township, or city roadway designated and posted at a speed not exceeding forty-five miles [72.42 kilometers] per hour if the off-highway vehicle meets the applicable equipment requirements for a motorcycle under chapter 39-27."

Page 6, line 28, overstrike "A person" and insert immediately thereafter "Unless an individual is operating a class 1 off-highway vehicle, an individual"

Page 7, line 8, overstrike "A person" and insert immediately thereafter "An individual"

Page 7, line 30, overstrike "a person" and insert immediately thereafter "an individual"

Page 8, line 7, overstrike "A person" and insert immediately thereafter "An individual"

Page 8, line 11, remove "A" and overstrike "person" and insert immediately thereafter "An individual"

Page 8, line 16, replace the underscored comma with "the vehicle" and replace "has a" with "is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer"

Page 8, line 17, remove "specific passenger seat with a back rest"

Page 8, line 18, replace "this chapter" with "law"

Page 8, after line 20, insert:

"SECTION 12. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number HB 1342

(, as (re)engrossed):

Your Conference Committee House Transportation

0204

For the Senate:

For the House:

	Yes	No		Yes	No
Senator Trenbeath	✓	✓	Rep. Iverson - Chair	✓	
Senator Espegard	✓	✓	Rep. Vigasaa	✓	
Senator Bercier	✓	✓	Rep. Meyer	✓	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ --

_____ and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the
Seventh order:

_____, having been unable to agree, recommends that the committee be
discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE:

4/11/05

CARRIER:

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

Motion Made By : Rep Vigasaa

Seconded By: Rep Meyer

Vote Count _____ Yes _____ No 0 Absent

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1342

That the Senate recede from its amendments as printed on pages 1163 and 1164 of the House Journal and pages 806-808 of the Senate Journal and that Engrossed House Bill No. 1342 be amended as follows:

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Page 7, line 30, overstrike "a person" and insert immediately thereafter "an individual"

Page 8, line 7, overstrike "A person" and insert immediately thereafter "An individual"

Page 8, line 11, remove "A" and overstrike "person" and insert immediately thereafter "An individual"

Page 8, line 16, replace the underscored comma with "the vehicle" and replace "has a" with "is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer"

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Page 8, line 18, replace "this chapter" with "law"

Page 8, after line 20, insert:

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39-29-12. Penalties. Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

Conference Committee Amendments to Engrossed HB 1342 (50516.0207) - 04/13/2005

That the Senate recede from its amendments as printed on pages 1163 and 1164 of the House Journal and pages 806-808 of the Senate Journal and that Engrossed House Bill No. 1342 be amended as follows:

Page 1, line 3, after the first comma insert "39-29-12,"

Page 1, line 4, after "vehicles" insert "; and to provide a penalty"

Conference Committee Amendments to Engrossed HB 1342 (50516.0207) - 04/13/2005

Page 2, line 17, overstrike "a person" and insert immediately thereafter "an individual"

Conference Committee Amendments to Engrossed HB 1342 (50516.0207) - 04/13/2005

Page 3, line 6, overstrike "a person" and insert immediately thereafter "an individual"

Conference Committee Amendments to Engrossed HB 1342 (50516.0207) - 04/13/2005

Page 5, line 29, remove "The director may permit a political subdivision or a person acting under authority of"

Page 5, remove lines 30 and 31

Conference Committee Amendments to Engrossed HB 1342 (50516.0207) - 04/13/2005

Page 6, line 1, remove "4."

Page 6, line 4, remove the overstrike over "4." and remove "5."

Page 6, line 12, overstrike "A person" and insert immediately thereafter "An individual"

Page 6, line 14, overstrike "a person" and insert immediately thereafter "an individual"

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Page 6, line 28, overstrike "A person" and insert immediately thereafter "Unless an individual is operating a class 1 off-highway vehicle, an individual"

Conference Committee Amendments to Engrossed HB 1342 (50516.0207) - 04/13/2005

Page 7, line 8, overstrike "A person" and insert immediately thereafter "An individual"

Page 7, line 30, overstrike "a person" and insert immediately thereafter "an individual"

Conference Committee Amendments to Engrossed HB 1342 (50516.0207) - 04/13/2005

Page 8, line 7, overstrike "A person" and insert immediately thereafter "An individual"

Page 8, line 11, remove "A" and overstrike "person" and insert immediately thereafter "An individual"

Page 8, line 16, replace the underscored comma with "the vehicle" and replace "has a" with "is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer"

Page 8, line 17, remove "specific passenger seat with a back rest"

Page 8, line 18, replace "this chapter" with "law"

Page 8, after line 20, insert:

"SECTION 12. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
RECEDE**

Bill Number HB 1342 , as engrossed:

Your Conference Committee House Transportation

For the Senate:

For the House:

	Yes	No		Yes	No
Senator Trenbeath	X		Rep. Iverson	X	
Senator Espegard	X		Rep. Vigesaa	X	
Senator Bercier	X		Rep. Meyer	X	

**Recommends that the SENATE RECEDE from the Senate
amendments on HJ pages 1163 and 1164**

_____, and place HB 1342 on the Seventh order.

**XX, adopt (further) amendments as follows, and place HB1342 on the
Seventh order:**

_____, having been unable to agree, recommends that the committee be
discharged and a new committee be appointed.

**Engrossed HB 1342 was placed on the Seventh order of business
on the calendar.**

DATE: 4-12-05

CARRIER: Rep. Iverson

LC NO. 50516.0207	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

Motion Made By : Senator Trenbeath

Seconded By: Senator Bercier

Vote Count 6 Yes 0 No 0 Absent

4/7/05

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1342

That the Senate recede from its amendments as printed on pages 1163 and 1164 of the House Journal and pages 806-808 of the Senate Journal and that Engrossed House Bill No. 1342 be amended as follows:

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Page 5, line 29, remove "The director may permit a political subdivision or a person acting under authority of"

Page 5, remove lines 30 and 31

Page 6, line 1, remove "4."

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Page 6, line 12, overstrike "A person" and insert immediately thereafter "An individual"

Page 6, line 14, overstrike "a person" and insert immediately thereafter "an individual"

Page 6, line 16, after the period insert "An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway between one-half hour before sunrise and one-half hour after sunset. An individual may operate a registered off-highway vehicle on a paved county or township roadway between one-half hour before sunrise and one-half hour after sunset if the off-highway vehicle is towing an implement of husbandry and does not exceed the speed of twenty-five miles [40.23 kilometers] per hour."

Page 6, line 28, overstrike "A person" and insert immediately thereafter "Unless an individual is operating a class 1 off-highway vehicle, an individual"

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Page 8, line 17, remove "specific passenger seat with a back rest"

Page 8, line 18, replace "this chapter" with "law"

Page 8, after line 20, insert:

"SECTION 12. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subsection 1 of section 39-29-09 is an infraction for which a fee of fifty dollars must be assessed. Violation of subdivision b, c, or g of subsection 5 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB 1342

(, as (re)engrossed):

Your Conference Committee House Transportation

#1
Vote
4-12-05

.0203

For the Senate:

For the House:

	Yes	No		Yes	No
Senator Trenbeath ✓	✓		Rep. Iverson - <i>Chair.</i>		✓
Senator Espegard ✓	✓		Rep. Vigstad ✓		✓
Senator Bercier —	✓		Rep. Meyer ✓		✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ --

_____ and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the
Seventh order:

_____, having been unable to agree, recommends that the committee be
discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE:

CARRIER:

twid

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

Motion Made By : Sen. Trenbeath

Seconded By: Sen. Espegard
Vote Count 3 Yes 3 No 2 Absent

2

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB 1342

(, as (re)engrossed):

. 0203

Your Conference Committee House Transportation

go, Amend

For the Senate:

For the House:

	Yes	No		Yes	No
Senator Trenbeath	✓		Rep. Iverson	✓	
Senator Espegard	✓		Rep. Vigasaa	✓	
Senator Bercier	✓		Rep. Meyer	✓	

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ --

_____ and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the
Seventh order:

_____, having been unable to agree, recommends that the committee be
discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE:

CARRIER:

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

Motion Made By : Sen Espegard

Seconded By: Sen Trenbeath

Vote Count 6 Yes 0 No 6 Absent

REPORT OF CONFERENCE COMMITTEE

HB 1342, as engrossed: Your conference committee (Sens. Trenbeath, Espegard, Bercier and Reps. Iverson, Vigesaa, S. Meyer) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1163-1164, adopt amendments as follows, and place HB 1342 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1163 and 1164 of the House Journal and pages 806-808 of the Senate Journal and that Engrossed House Bill No. 1342 be amended as follows:

Page 1, line 3, after the first comma insert "39-29-12,"

Page 1, line 4, after "vehicles" insert "; and to provide a penalty"

Page 2, line 17, overstrike "a person" and insert immediately thereafter "an individual"

Page 3, line 6, overstrike "a person" and insert immediately thereafter "an individual"

Page 5, line 29, remove "The director may permit a political subdivision or a person acting under authority of"

Page 5, remove lines 30 and 31

Page 6, line 1, remove "4."

Page 6, line 4, remove the overstrike over "4." and remove "5."

Page 6, line 12, overstrike "A person" and insert immediately thereafter "An individual"

Page 6, line 14, overstrike "a person" and insert immediately thereafter "an individual"

Page 6, line 16, after the period insert "An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved county or township roadway if the off-highway vehicle is towing an implement of husbandry and does not exceed the speed of twenty-five miles [40.23 kilometers] per hour. An individual may operate a registered off-highway vehicle on a paved county or township roadway designated and posted at a speed not exceeding forty-five miles [72.42 kilometers] per hour."

Page 6, line 28, overstrike "A person" and insert immediately thereafter "Unless an individual is operating a class 1 off-highway vehicle, an individual"

Page 7, line 8, overstrike "A person" and insert immediately thereafter "An individual"

Page 7, line 30, overstrike "a person" and insert immediately thereafter "an individual"

Page 8, line 7, overstrike "A person" and insert immediately thereafter "An individual"

Page 8, line 11, remove "A" and overstrike "person" and insert immediately thereafter "An individual"

Page 8, line 16, replace the underscored comma with "the vehicle" and replace "has a" with "is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer"

Page 8, line 17, remove "specific passenger seat with a back rest"

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Renumber accordingly

Engrossed HB 1342 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1342

Roger Johnson
Agriculture Commissioner
www.agdepartment.com



HB 1342
Phone (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

Testimony of Jeff Olson, Program Manager
House Bill 1342
January 21, 2005
9:30 a.m.
House Transportation Committee
Fort Totten Room

*Same testimony
given to
Senate*

Chairman Weisz and members of the Transportation Committee, my name is Jeff Olson. I am a Program Manager in the Department of Agriculture. I am here to testify in support of House Bill 1342 with the amendments.

The North Dakota Department of Agriculture works cooperatively with county and city weed boards and also assists all vector control boards in their fight for weed and mosquito control. Weed and vector control is a vital necessity along roadways in North Dakota. County weed boards and vector boards are responsible for weed and insect control along city, county and township roads within their boundaries. The North Dakota Department of Transportation (NDDOT) is responsible for weed control along state and federal highways. The NDDOT contracts with counties or private applicators for weed control along their jurisdiction.

The county weed boards, vector boards and private contractors are increasingly using ATV's for weed and insect control activities. This is because of the maneuverability of the units and the

ability to transect areas not accessible to pickup sprayers. For the control authorities to accomplish their goals, they must be allowed to operate ATV's along the inside bank of a roadway.

We also testified in support of HB 1327 if amended to allow ATV's to be used for insect control.

Thank you for your consideration.

TESTIMONY – HOUSE BILL 1342
HOUSE TRANSPORTATION COMMITTEE
JANUARY 21, 2005 – 9:30 AM
FORT TOTTEN ROOM

Mr. Chairman and members of the House Transportation Committee, my name is Tom Balzer, Recreation Division Manager with the North Dakota Parks and Recreation Department. I appear in support of House Bill 1342.

I would like to first take the opportunity to thank Chairman Weisz, Representative Drovdal, Representative Ruby and Senator Trenbeath for their leadership in introducing this bill.

In 2003 the North Dakota Parks & Recreation Department commissioned a study of all registered ATV owners in the state to evaluate awareness levels and utilization patterns relating to All Terrain Vehicles usage. Based on the results of this survey the Department developed a strategic plan for the ATV safety and trail program. Part of the strategic plan included developing an advisory board of users, land managers and dealers.

What you see before you is the result of the strategic plan development, the advisory board and user input. It is the first major renovation of the ATV law since it was first enacted in 1987. As well other state agencies were consulted during the development of this legislation; they include the North Dakota Highway Patrol, North Dakota Department of Transportation, North Dakota Department of Agriculture, and the North Dakota Tax Department.

This bill provides a comprehensive overhaul of the current All-Terrain Vehicle laws to bring them to a level current with the industry standards and to provide higher quality and safer services to the citizens of North Dakota.

The use of ATV has seen expansive growth in the past ten years. I have included two charts that show the Registration of ATVs in the state as well as the sales. We anticipate by the end of this biennium ATV registration will be over 17,500.

Passage of this bill will provide our department the necessary statutory infrastructure to continue to develop recreation areas, trails, and to protect the public and natural resource interests.

There are ten major changes to the current law proposed in this bill. I have included a briefing paper with my testimony that outlines these changes. If I may, I would like to walk you through these changes.

I would also like to draw your attention to Page 4 Line 21. This change is purely housekeeping, as this title did not note the trail tax outlined in the law. You are NOT increasing or adopting any additional tax for citizens.

I would also like to propose an amendment to this bill. After discussions with county weed boards the following changes would better suit their purposes for control work in the right of way.

Page 2, line 11, after "wheel" insert ", handlebars, or stick controls"

Page 5, line 30, remove "on the inside bank or slope" and insert immediately thereafter "within the right-of-way"

Page 5, line 31, remove "and" and insert immediately thereafter a comma.

Page 5, line 31, before the period insert "or survey work"

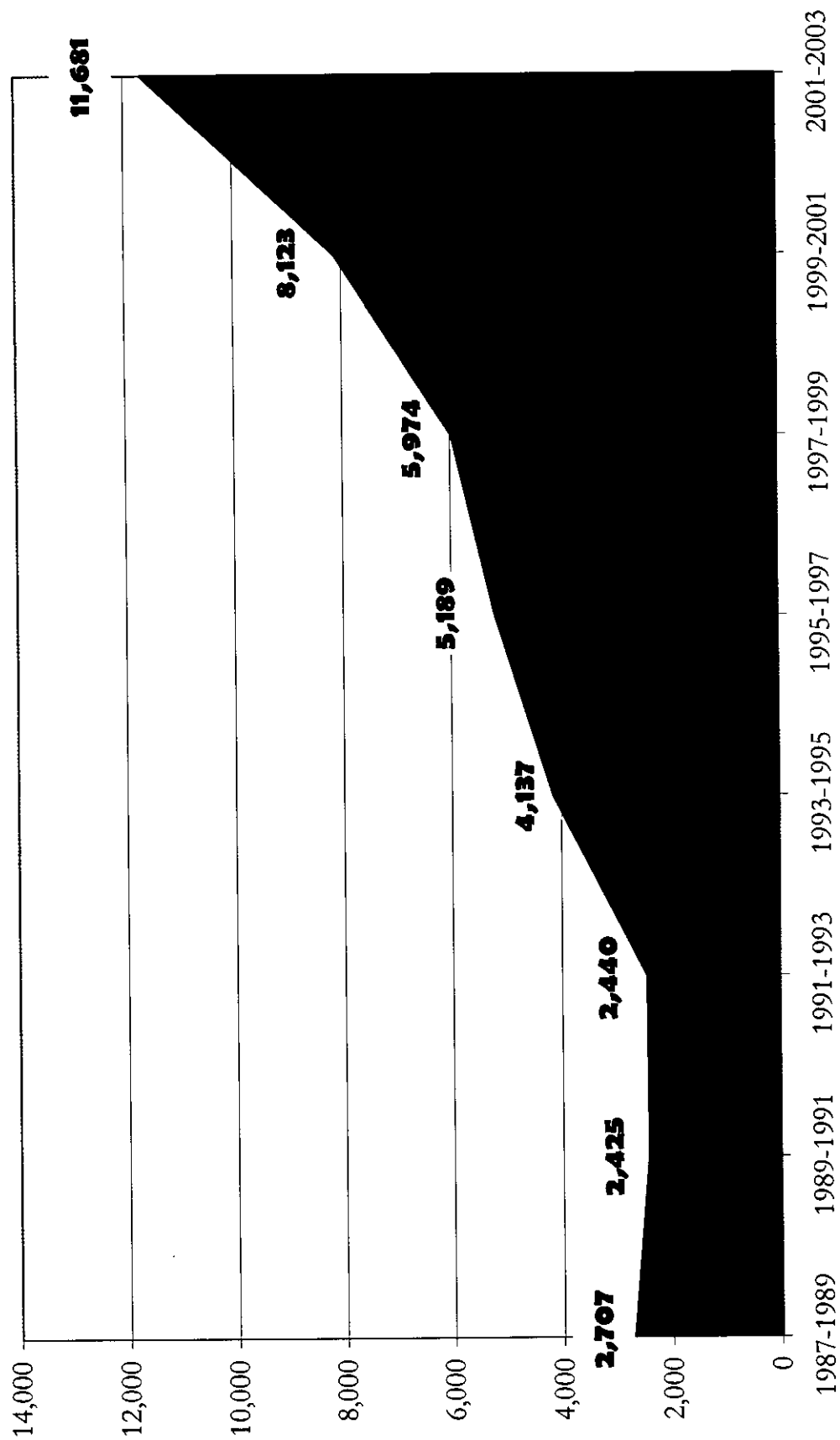
In order to make you aware of potential redundancies, there are quite a few bills this session that deal with ATVs that are also identified within this bill. They are:

[HB 1327 – Covered in HB 1342, Page 5, line 29-31 with amendments
HB 1412 – Covered in HB 1342, Page 8, line 15-17
SB 2101 – Covered in HB 1342, Page 1, line 13-17

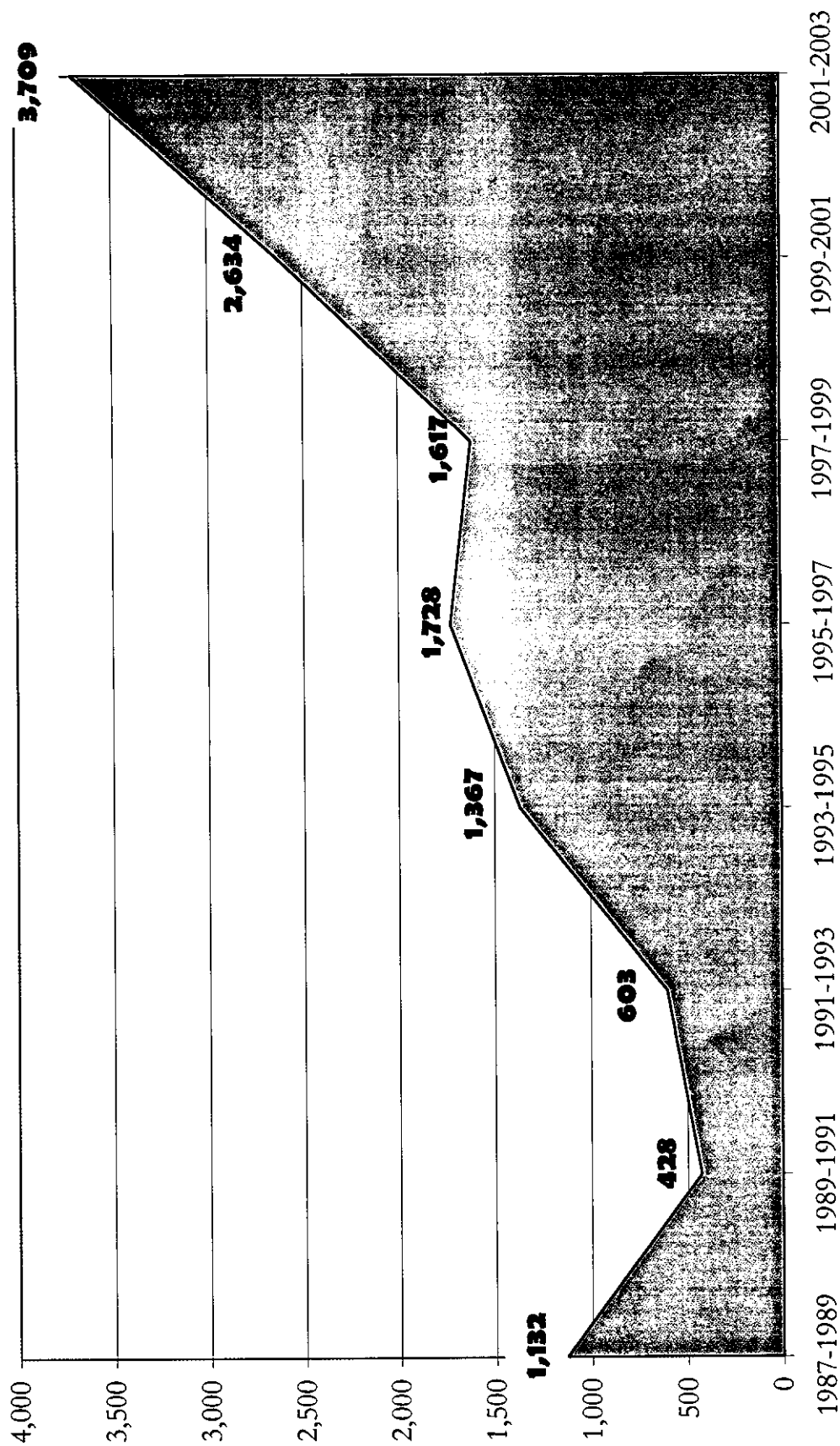
House Bill 1342 is the work of a collaborative effort between state agencies and users in the state. We ask for a vote of DO PASS on House Bill 1342 with consideration for the suggested changes. I will be willing to work with the committee to effect those changes.

Mr. Chairman this concludes my remarks; I would be pleased to answer any questions the committee may have.

Registered ATV in North Dakota



Sales of ATV in North Dakota



Off-Highway Vehicle Legislation

Briefing Paper

Change # 1 - Throughout

Description of Amendment:

Changes all references to "All-Terrain" vehicles to "Off-Highway" vehicles

Why this is Necessary:

This change will allow North Dakota Century Code language be more consistent with the vernacular used by the recreation management industry around the country. It also allows the law to encompass more than just three and four wheelers.

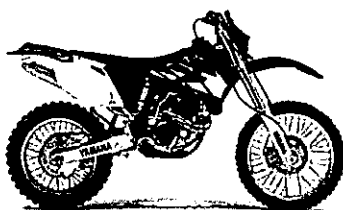
Change # 2 - Page 1, line 23 through Page 2, line 14

Description of Amendment:

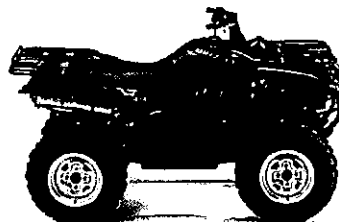
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Why this is Necessary:

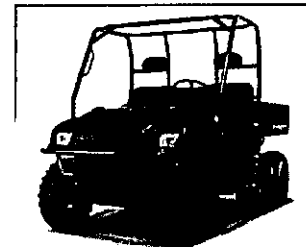
Currently "dirt bikes" and the larger all-terrain utility vehicles are not covered by any operational laws. This amendment will give them a set of operations rules and more importantly to the citizen, allow them to operate on state trail systems and use areas.



Class I



Class II



Class III

Change # 3 - Page 4, line 29

Description of Amendment:

Adds authority to use the Off-Highway Vehicle Fund for enforcement expenditures

Why this is Necessary:

Enforcement resources are scarce and this change will allow the parks & recreation department to allocate funds to assist in the enforcement of the laws in this chapter.

Change # 4 – Page 5, line 29-31

Description of Amendment:

Operation on the inside bank or slope of a roadway for weed control for political subdivisions and their sub-contractors.

Why this is Necessary:

ATVs are being used more prevalently as weed control spray units because of their mobility. Current law does not allow for an exception for use of ATVs on the inside bank or slope of a roadway for this purpose. This was a request by the North Dakota Department of Agriculture.

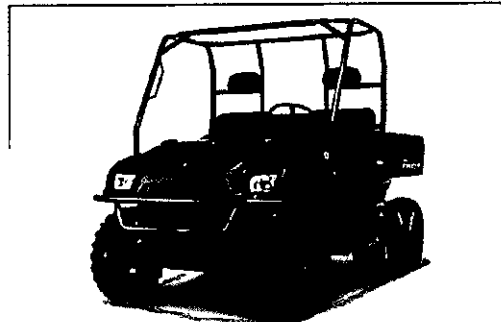
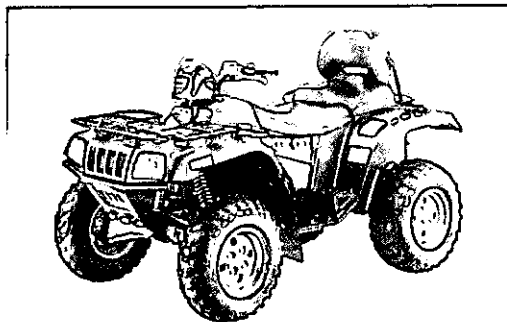
Change # 5 – Page 8, line 15-17

Description of Amendment:

Allows for passengers on Off-Highway Vehicles that are equipped with a backrest

Why this is Necessary:

ATVs are now being produced and Off-Highway Utility Vehicles are being designed to accommodate passengers with backrests and restraint devices. This would allow for their use in the state.



Change # 6 – Page 8, line 18-20

Description of Amendment:

Allows for use of an Off-Highway Vehicle on aggregate road surfaces that is designated part of a trail system.

Why this is Necessary:

This was a request by the United States Forest Service to allow them to use the Forest Service roads as connectors to trail systems to be developed on the Little Missouri Grasslands. Without this amendment, travel by an Off-Highway Vehicle on any road surface is prohibited

Change # 7 – Page 8, line 27-29

Description of Amendment:

Sets a minimum date of birth for operation of an off-highway vehicle without a valid off-highway vehicle safety certificate of July 1, 1997

Why this is Necessary:

As with hunting, riding an Off-Highway Vehicle has inherent risks. By setting a date which requires that anyone born after is required to have taken a basic safety course regardless of age will increase the safe operation of these vehicles in the state. The courses cover the limitations of these vehicles, riding procedure, safety precautions, and other items that will ensure a safe and enjoyable recreational experience. This will increase the proficiency of riders in the state for safer operations.

Change # 8 – Page 8, line 30 through Page 9, line 15

Description of Amendment:

Reduces the minimum age of operations for Off-Highway Vehicles to eight (8) years of age, limits the size of engine by age groups and sets a limited distance from a parent or guardian for those under twelve (12) years of age.

Why this is Necessary:

This amendment brings the state's age standards to a level consistent with the ATV Safety Institute and the manufactures suggested age and engine size levels.

Change # 9 – Page 9, line 25-26

Description of Amendment:

Increases the fine for a violation of section 39-29-10. Operation by persons under age sixteen to twenty (20) dollars.

Why this is Necessary:

This is necessary to provide an incentive to take the Off-Highway Vehicle safety training course. Currently the fine is equal to the cost of taking the course, in order to be proactive in our safety training effort we must provide a financial incentive to take to course.

Change # 10 – Page 11, line 14

Description of Amendment:

Amend the section of the North Dakota Century Code relating to sales tax to accommodate the changes in the bill.

Why this is Necessary:

The tax code has a definition for All-Terrain Vehicles, this amendment would change that definition to be consistent with the changes offered in this bill to chapter 39-29. The cross reference in subsection 1 has been previously approved by Legislative Council.

Chairman Weisz
Members of the committee

I am Stanley L. Wolf, Cass County Weed Control Officer in West Fargo. I am in favor of HB 1327 and HB 1342.

The technology of weed control is constantly evolving. New developments in application equipment allow for better and more efficient placement of herbicides on the target plants. The introduction of off-highway or ATV spray application equipment is a prime example of new technology being utilized for better application of chemicals. Utilization of an ATV sprayer allows the operator to travel over terrain that is inaccessible with larger and heavier equipment. Previously the only options that were available were either backpack sprayers or dragging a hose from a spray truck. These methods can be effective but are time and labor intensive.

In Cass County we do not have the rugged terrain that some of the western counties have where ATV's have been used successfully, but we do have wet and mucky soils in our road ditches. This last year the Cass County Weed Board hired two contractors to spray the road right of ways. Both contractors utilized ATV sprayer units with one contractor using ATV's exclusively. The state, county and township road ditches were saturated in many places from frequent and heavy rains. Previous attempts to utilize spray trucks in similar conditions resulted in the spray trucks getting stuck. Frequently the ATV operators encountered standing water that could not be seen from the road shoulder through the standing grass, and thus switched off the sprayers. The ATV spray units were the only equipment that could travel in the entire road right of way, including the inslope without getting stuck.

I conducted a survey of North Dakota county and city weed boards and several are currently utilizing ATV sprayers to control weeds in the road right of ways. More weed boards would utilize ATV sprayers if the law is amended. Allowing the use of ATV's in the entire road right of way for appropriate weed and insect control and survey work will make control efforts more efficient and effective.

Thank you for considering HB 1327 and HB 1342

Stanley L. Wolf
Cass County Weed Control Officer
1201 West Main Ave.
West Fargo, ND 58078-0698
(701) 298 2388 office
(701) 730-6786 cell

County list of ATV use on Road Right of Ways

survey taken December 2004

County	WCO	ATV in Right of Way		
		Use	Do not use	Would use
Adams	Howard Nelson			
Barnes	Jim McAllister	1		
Benson	Tim Finley			
Bottineau	Terrence Volk	1		
Bowman	Roger Wickstrom			
Burke	Dan Folske	1		
Burleigh	Gary Hartman			
Cass	Stan Wolf	1		
Cavalier	James Olson			
Dicky	Roger Lubines	1		
Divide	Gary Smithberg			
Dunn	Marilyn Duttenhefner			
Eddy	Melinda Martin			
Emmons	Bill Scherr		1	1
Foster	Nate Monson			
Golden Valley	Brad Ross			
Grand Forks	Joel Anderson			
Grant	Merlin Leithold			
Griggs	John Swenson			
Hettinger	Paul Schwartz		1	1
Judd	Neil			
LaMoure	James Riddle			
Logan	Bobby Bucholtz	1		
McHenry	Joe Harman			
McIntosh	Donald Pfeifer			
McKenzie	Odin Heim	1		
McLean	Vance Tomilson			
Mercer	Brad Seifert			
Morton	Wayne Carter			
Mountrail	Jim Hennessy			
Nelson	Richard Urvand			
Oliver	Richard Schmidt			
Pembina	Kadie Herseth			
Pierce	B.R. Hornstein			
Ramsey	Roger Gunderson			
Ransom	Monty Haugen			
Renville	Dan Dew			
Richland	Jim Anderson			
Rolette	Mark Miller			
Sargent	Richard Anderson	1		
Sheridan	Myron Dieterle			
Sioux	Victor Kraft			
Slope	Joan Lorge	1		
Stark	Diane Allmendinger			
Thiele	Gerald LeClerc			

County list of ATV use on Road Right of Ways

survey taken December 2004

County	WCO	ATV in Right of Way		
		Use	Do not use	Would use
Stutsman	Bill Ragan	1		
Towner	George Freund			
Traill	Ronald Peterson			
Walsh	Brent Nelson			
Ward	Derrill Fick			
Wells	Richard Maine		1	1
Williams	Jim Basaraba			
Bismarck	city John Arlien	1		
Devils Lake	city Myron Asleson			
Dickinson	city Dennis Smith			
Fargo	city Dennis Fowler	1		
Grand Forks	city Wallace Helland			
Mandan	city Steve Nadello			
Trrtle Mtn	res Troy Davis			
totals		12	3	3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1342

Page 1, line 3, remove "39-29-10, 39-29-12,"

Remove { Page 8, line 15, remove the overstrike over "~~all-terrain~~" and remove "off-highway" }

Page 8, line 16, remove ", unless the off-highway vehicle has a"

Page 8, line 17, remove "specific passenger seat with a back rest"

Page 8, remove lines 21 through 31

Page 9, remove lines 1 through 30

Renumber accordingly

TESTIMONY – HOUSE BILL 1342
SENATE TRANSPORTATION COMMITTEE
MARCH 10, 2005 – 10:15 AM
LEWIS & CLARK ROOM

Mr. Chairman and members of the Senate Transportation Committee, my name is Tom Balzer, Recreation Division Manager with the North Dakota Parks and Recreation Department. I appear in support of House Bill 1342.

I would like to first take the opportunity to thank Chairman Trenbeath, Representative Weisz, Representative Drovdal, and Representative Ruby for their leadership in introducing this bill.

In 2003 the North Dakota Parks & Recreation Department commissioned a study of all registered ATV owners in the state to evaluate awareness levels and utilization patterns relating to All Terrain Vehicles usage. Based on the results of this survey the Department developed a strategic plan for the ATV safety and trail program. Part of the strategic plan included developing an advisory board of users, land managers and dealers.

What you see before you is the result of the strategic plan development, the advisory board and user input. It is the first major renovation of the ATV law since it was first enacted in 1987. As well other state agencies were consulted during the development of this legislation; they include the North Dakota Highway Patrol, North Dakota Department of Transportation, North Dakota Department of Agriculture, and the North Dakota Tax Department.

This bill provides a comprehensive overhaul of the current All-Terrain Vehicle laws to bring them to a level current with the industry standards and to provide higher quality and safer services to the citizens of North Dakota.

The use of ATV has seen expansive growth in the past ten years. I have included two charts that show the Registration of ATVs in the state as well as the sales. We anticipate by the end of this biennium ATV registration will be over 17,500.

Passage of this bill will provide our department the necessary statutory infrastructure to continue to develop recreation areas, trails, and to protect the public and natural resource interests.

There are seven major changes to the current law proposed in this bill. I have included a briefing paper with my testimony that outlines these changes. If I may, I would like to walk you through these changes.

I would also like to draw your attention to Page 4 Line 21. This change is purely housekeeping, as this title did not note the trail tax outlined in the law. You are NOT increasing or adopting any additional tax for citizens.

I would also like to propose an amendment to this bill. The House removed a section of the introduced bill relating to changing the age requirements for operation. In order to make the necessary changes of reference from "all-terrain vehicles" to "off-highway vehicles" the following amendment is necessary:

39-29-10. Operation by persons under age sixteen. Except as otherwise provided in this section, a person under sixteen years of age who is not in possession of a valid operator's license or permit to operate an ~~all-terrain~~ off-highway vehicle may not, except upon the lands of the person's parent or guardian, operate an ~~all-terrain~~ off-highway vehicle. A person at least twelve years of age may operate an ~~all-terrain~~ off-highway vehicle if the person has completed an ~~all-terrain~~ off-highway vehicle safety training course prescribed by the director of the parks and recreation department and has received the appropriate ~~all-terrain~~ off-highway vehicle safety certificate issued by the director of the ~~parks and recreation~~ department of transportation. The failure of an operator to exhibit an ~~all-terrain~~ off-highway vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that that person does not hold such a certificate. Fees collected from each person receiving certification must be deposited in the ~~all-terrain~~ off-highway vehicle trail tax fund for ~~all-terrain~~ off-highway vehicle safety education and training programs.

In order to make you aware of potential redundancies, there are quite a few bills this session that deal with ATVs that are also identified within this bill. They are:

HB 1327 – Covered in HB 1342, Page 5, line 29-31

HB 1412 – Covered in HB 1342, Page 8, line 16-17

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House Bill 1342 is the work of a collaborative effort between state agencies and users in the state. We ask for a vote of DO PASS on House Bill 1342 with consideration for the suggested changes. I will be willing to work with the committee to effect those changes.

Mr. Chairman this concludes my remarks; I would be pleased to answer any questions the committee may have.

ENGROSSED HOUSE BILL 1342

Legislative Briefing Paper

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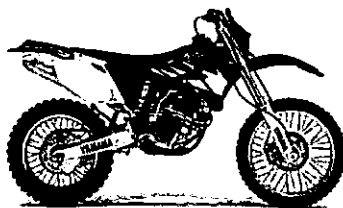
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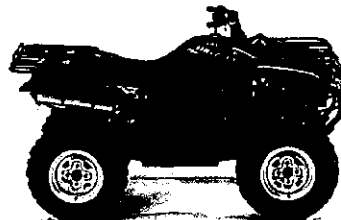
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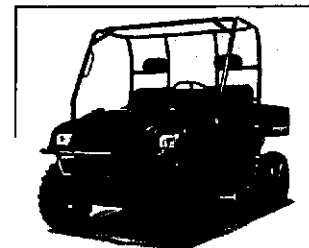
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Class I



Class II



Class III

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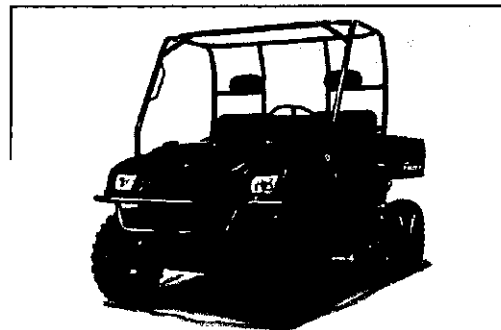
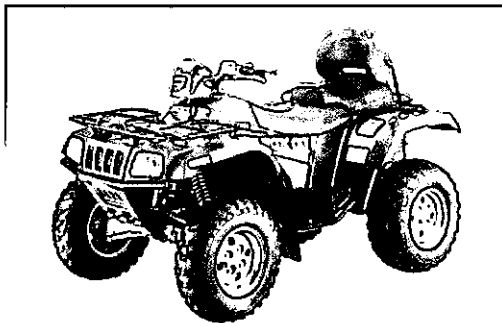
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Amend the section of the North Dakota Century Code relating to sales tax to accommodate the changes in the bill.

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The tax code has a definition for All-Terrain Vehicles, this amendment would change that definition to be consistent with the changes offered in this bill to chapter 39-29. The cross reference in subsection 1 has been previously approved by Legislative Council.