

2011 HOUSE TRANSPORTATION

HB 1164

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Transportation Committee Fort Totten Room, State Capitol

HB 1164  
01/27/2011  
Job 13546

☐ Conference Committee

Committee Clerk Signature

*Janette Cook*

### Explanation or reason for introduction of bill/resolution:

This is a bill relating to the operation of off-highway vehicles by individuals under sixteen years of age.

### Minutes:

Attachments 1-11

**Representative R. Kelsch, District 34 in Mandan**, spoke as the prime sponsor of HB 1164 and introduced the bill.

**Representative R. Kelsch:** We have had ATV bills in this committee. The last couple of sessions I have sponsored bills that encourage events that families get together to use the trails and encompass children being able to ride on ATVs. I would like to have the industry go through the bill as well as the amendments. The bill as it was initially introduced wasn't exactly what we were looking for, so we had some amendments that were drafted.

**Representative Weisz, District 14**, spoke as a sponsor and in support of HB 1164. I have a couple of young sons that enjoy these activities. We find that activities like these are beneficial because they give the kids training and provide activities for the families to do things together. This bill isn't for the families that live in the country with their own land to ride on. He explained that the bill is important for people that live in areas that don't have their own places to ride. It helps to encourage healthy sports for our young people. This allows them to do some activities on public ground that they currently cannot. Even if we lower the age, they still have to go through the training and have supervision by their parents.

**Chairman Ruby:** We previously worked on language for kids over 12 years of age. What has changed for the kids under 12 years of age?

**Representative Weisz:** Three sessions ago, we had a bill that lowered the age to age 12 that kids can ride in state parks and on public property. That bill was amended to a higher age of 14. Under current law this type of event is prohibited for anyone under the age of 14. We are carving out an exclusion for this type of event. They still not be able to ride on the public trails and the state parks, that wouldn't change. This is limited to an off-highway vehicle park and on an off-highway vehicle trail. It is important for those that want to participate. It teaches them skills that they may not get any other way. It allows the whole

family to partake in an activity that we thoroughly enjoy. Currently there are not a lot of options for children in the younger age range. This will allow organized events for those age groups.

**Chairman Ruby:** Do we know how many off vehicle parks or trails we have in the state?

**Representative Weisz:** I don't know if we have any that are designated. In Burleigh County they plan to set up a park. Whether there are any or not, it will allow someone to develop one and allow the full range of young people to ride on them.

**Representative Delmore:** Is there a requirement for safety helmets and those type of things?

**Representative Weisz:** Currently it says safety equipment as determined by,... I don't think it is spelled out; it may be determined by parks and rec.

**Representative Delmore:** How intense is the training and how many hours would they have to put in to make sure that they are safe drivers?

**Representative Weisz:** I don't know how much.

**Representative Vigesaa:** There are different classifications and sizes of ATVs. In this bill there are no restrictions on that?

**Representative Weisz:** That is correct. I think parents understand what capabilities their children have and what sizes are appropriate for them. I don't see an issue with that.

**Chairman Ruby:** Is this limited by the ability to pass the training course?

**Representative Weisz:** Yes, obviously they would have to have the skills to pass the course.

**Representative Gruchalla:** If you have a ten year old kid, and they are riding on a trail and hurt someone, what insurance covers this? Is it home owners insurance? Obviously you don't have to have a liability policy on an ATV.

**Representative Weisz:** When I add the machines my liability policy, it will cover whoever is riding my machine. I can't speak to the liability issues that the park may have. They will have to take care of that. It is possible that they may set age limits because their insurance won't insure anyone under a certain age.

**Representative Gruchalla:** I am talking about a public parks and rec trail. Isn't that treated different than a private park?

**Representative Weisz:** If you have a vehicle that is licensed for any of the public trails, you have to have liability. That is for a snowmobile or an ATV.

**Representative Gruchalla:** Will your insurance cover liability on an eight year kid on an ATV? Is that up to the individual insurance company? Since there is no requirement in this bill, I am wondering how they are going to look at that.

**Representative Weisz:** My insurance covers all liability. I would assume there would be a debate if I had my twelve year old on a state park snowmobile trail, which is illegal. Then my insurance might not cover him. If the kid was legal, the insurance will cover all operators of the machine.

**Representative Heller:** What is the fee if someone is stopped and doesn't have a certificate?

**Representative Weisz:** I am not sure.

**Representative Heller:** It looks like kids under twelve get their certificate from the Parks and Rec director. If you are over twelve, they get the certificate from the Department of Transportation. Why is that different?

**Representative Weisz:** I think the amendments change that. They will all be issued by Parks and Rec.

**Representative Louser:** One of the proposed amendments shows the removal of "has completed a highway vehicle safety training course prescribed by the director of the Parks and Rec." and changes it to "under the direct supervision of an adult" for under the age of 12.

**Representative Weisz:** So, this clarifies that under the age of 12 the child has to be under the direct supervision of an adult. They also have to have a safety certificate by Parks and Rec.

**Vice Chairman Weiler:** The amendment says, "Under the direct supervision of an adult." What is the definition of an adult?

**Representative Weisz:** Over the age of 18.

**Representative Frantsvog:** I think that the bill and the amendment both talk about the training course prescribed by the director of Parks and Recreation. Is that course online, or does it have a classroom setting?

**Representative Weisz:** I cannot answer that.

**Representative Onstad:** I understand that the ATV dealers cannot sell ATV's knowing that someone under sixteen is going to ride it. It is a contractual situation with them and their dealership. How are we to allow dealers to deal with this, when they have a contract that says they can't sell them? Then we are asking for people to be able to ride this under age 12.

**Representative Weisz:** If I buy a four-wheeler, there is no way they can limit who I let ride it. They do have stickers on the vehicles to protect themselves from a liability issue. It will generally say under 16. Not too many adults are buying 90 cc four-wheelers or motorcycles. Obviously the market is there for them. I am aware of cases that the buyer said the machine would be for a 14 year old, and the dealer wouldn't sell it to them. Once I have paid for the machine and take it home, I can do whatever I want.

**Representative Owens:** If the dealer knowingly sells you a machine for your fourteen age son, they can lose their dealership. We have the contractual information from Polaris that says that.

**Representative Weisz:** The key word is knowingly. Once I take the machine home, they have no control once I take it off the lot. If they don't know that I plan to buy it for my son, they can't be held responsible or liable. If they are told that the buyer wants the vehicle for someone under 16, they can't sell it to him.

**Representative Owens:** In line twelve it says a designated off highway vehicle park. This must be a public area that is going to be used. Are we designating the size of the ATV at twelve years old, for example? If we allow this, and there are dealers that can't even sell an ATV to be used there, it seems like a gray area. Wouldn't you agree?

**Representative Weisz:** These are controlled environment situations that are limited in scope and give the younger kids a place to ride. The parks that set up these events will determine size and rules. I don't want to prescribe the rules for them. They get their own liability insurance and decide what is safe. A manufacturer doesn't have to sell a machine if he thinks that there is an issue. We are not getting into that at all.

**Annette Behm-Caldwell,** owner of Open Road Honda, member of North Dakota Dirt Riders, and a volunteer for the Missouri Valley Motorsports Park, spoke to support HB 1164 and presented written testimony. See attachments # 1 and 2.

**Annette Behm-Caldwell:** Addressing Representative Onstad question and speaking as a dealer, it is against the law to sell an adult sized unit if I know that you are buying for anyone under the age of sixteen. We are required as dealers to give safety DVD and safety materials to anyone who purchases a dirt bike or an ATV. Safety is at the forefront from a dealer's point of view when it comes to ATVs and dirt bikes. If they are looking for something for young riders, we encourage them to look at youth dirt bikes and ATVs.

**Annette Behm-Caldwell** also distributed letters from a fellow volunteer on the Missouri Valley Motorsports Park, dealers in Minot, Bismarck, and Grand Forks in support of HB 1164. See attachments #3, 4, 5, and 6.)

**Representative Owens:** What is the maximum cc's that you would have for those different age divisions?

**Annette Behm-Caldwell:** The largest youth manufactured vehicles in the Honda brand is 90cc. I believe that the Kawasaki brand has a 125cc ATV, I'm not sure.

**Representative Owens:** I believe it is 90cc, and if you are under twelve, I think that it is 50ccs that the dealerships can allow.

**Annette Behm-Caldwell:** That is not a federal law that is based on the dealership. It is recommended. They have taken the age restrictions off of the vehicles because of the lead issue that was brought up a year ago. Now they market them as youth models.

**Representative Owens:** Would you recommend that we set a maximum cc along with the recommendations from the dealerships, of 90 for 16–12, and 50ccs the maximum for ages 8–11?

**Annette Behm-Caldwell:** I would not, because of the variety of machines. We have a 50, 70, and 80. It depends on the child's age and ability. I would leave it up to the parents. You might have a big eight year old, if restricted to a 50 cc would be too small. Sometimes a smaller machine can be more dangerous than a big machine because they can get bucked off. I would suggest that if we restrict the ages, 8–11, and if we say that it has to be a machine manufactured for youth riders, and then I believe we can trust the parental choices within those parameters. Most of these young riders are riding with family members that are knowledgeable about their children's abilities.

**Representative Owens:** Sometimes when we leave it up to parental discretion that leaves a very large window. I have a neighbor that lets his eight year old drive on the highway. We don't want to pass a law on your word that everything is going to be safe. You are an authorized Honda dealer, correct?

**Annette Behm-Caldwell:** It is not a contract; we have a dealer's license with them.

**Representative Owens:** The point is maybe when someone goes up the road to buy a machine for their young child, maybe they are going to an unauthorized dealer. Do they have the same restrictions as you do?

**Annette Behm-Caldwell:** An unauthorized dealer would be a boot-legger. What would happen if someone brought in a unit from out-of-state and sold it, the responsibility would go back to whatever dealer boot-legged it. It is not an activity that happens a lot.

**Representative Frantsovog:** Can you tell me if the North Dakota Parks and Rec. safety training course is online or a live classroom setting?

**Annette Behm-Caldwell:** I would ask that you hold that question for Parks and Rec.

**Representative Gruchalla:** What is the largest machine that you sell and the fastest?

**Annette Behm-Caldwell:** The largest machine that we sell (off-highway vehicle) is a Rencon ATV, a 680cc, an adult sized ATV.

**Representative Gruchalla:** How fast will it go?

**Annette Behm-Caldwell:** It will exceed 60 mph.

**Representative Gruchalla:** Will it go 100 mph?

**Annette Behm-Caldwell:** No, it will not.

**Representative Gruchalla:** I have clocked some that were going 100 mph. I don't know the manufacturer.

**Annette Behm-Caldwell:** The manufacturer would not release a stock ATV that would go that fast. Honda, more than anybody, understands liability. There are more attorneys at Honda than there are research and development.

**Brian Bitner,** Chairman of the Burleigh County Commission, spoke to support HB 1164.

**Brian Bitner:** I may be the person who started all of this. In Burleigh County we have a substantial amount of trouble in Burleigh County ditches with ATVs. We have a lot of erosion and citizen complaints because of ATVs. Those citizens came to the Burleigh County Commission asking for restrictions stopping ATVs in Burleigh County. As a county commission we didn't feel it was appropriate to ban ATVs. We got information from the State's Attorney that said that we couldn't do that. So, I asked the commissioners to work with the responsible groups and dealers in Burleigh County in order to come up with possible solutions. Based on the meetings that we had, we came up with the concept of a recreational play area at the Burleigh County Fairgrounds. The intent is to provide an area for recreation that is safer than the "desert". The "desert" is the current OHV area. We know now that there is a substantial economic impact because of the recreation. I am working with the CORP of Engineers on an additional camping area down at the desert, in order to provide a place for people who come here specifically to ride ATVs in that OHV area. As far as I know, the area at the Burleigh County Fairgrounds will be the only designated area for this kind of activity. Also, as part of those meetings, we came to an understanding that we need to increase the safety training for young riders. We want the riders to be responsible and understand the impact of their recreation, especially on our roads and ditches in addition to all of the other safety concerns. I think that the amendments should be seriously considered. We think that there is an age barrier for us to be able to train kids that are less than 12. My personal opinion is that by 12 years old they have already been riding quite awhile, and they have already picked up bad habits. I would like for them to be educated on safety issues earlier. I do not want to see eight year olds three wheeling in Burleigh County ditches. I was hopeful that I could show you pictures in a power point presentation. It is difficult for you to understand without seeing the problems this is causing. We want to be able to fix the damage that has been caused. We are proposing this recreation area. As we can make this work, we are going to add interconnecting trails from the desert up to Burleigh County Fairgrounds. Hopefully also have trails that connect to other areas. We need some authority to be able to regulate this activity. That is why we are trying to provide a safety training area. We want people to be able to do the activity, but we want it to be done responsibly. We have partnered up with North Dakota Parks and Rec. They are going to provide some amendments. The initial grant for establishing this recreational area is provided through North Dakota Parks and Rec. and Burleigh County with matching funds. We intend to utilize the partnership with North Dakota Parks and Rec. to handle the safety training. There is also a certified safety

instructor that has held classes out there. A company out of Fargo that uses ATVs sent four people over here to participate in that course. The Burleigh County Commission is unanimous in its efforts to create this area with the intent to of trying to improve the situation in Burleigh County.

**Michael Jay, the Executive Director of ABATE of North Dakota**, presented supporting testimony for HB 1164. See attachment #7. He finds that the kids that come in from the rural area have the worst habits.

**Representative Delmore:** Is there a charge for the course and how extensive is it?

**Michael Jay:** Our training is strictly for motorcycle permits, not the training that is being discussed here with Parks and Rec.

**Representative Delmore:** If this bill would pass would you be interested in doing the training for these other types of vehicles? I would like to know the extent of the motorcycle training as well because it would give us some idea of what we would be offering to help people ride more safely.

**Michael Jay:** In the motorcycle training our course consists of approximately 5.5 hours of classroom training and eight to ten hours of actual riding. The fee for our class is \$100. We were once approached by a company that wanted training provided for ATVs. We told them that we were not certified ATV trainers, and that Parks and Rec. were having a program for that. The only other aspect that we are possibly entertaining is for youth dirt bike riders. The National Organization for Motorcycle Safety Foundation does have a dirt bike school, where we could get certified and trained to provide that. Right now it is cost prohibitive for us. If this develops further, we would certainly sit at the table and provide any assistance that we could as far as training, working, and cooperation with Parks and Rec. and the North Dakota Riders Association.

**Representative Gruchalla:** Does ABATE support motorcycle helmets?

**Michael Jay:** It is part of our training. As far as the general organization, I cannot speak on behalf of that only the training.

**Representative Gruchalla:** So, if we had a bill to make helmets mandatory, you would support it?

**Michael Jay:** No, we would not. (A lengthy explanation was given, not pertaining to HB 1164.)

**Mike Burke, Vice President of North Dakota Dirt Riders**, presented supporting testimony for HB 1164. See attachment # 8.

**There was no further support for HB 1164.  
There was no opposition to HB 1164.**



**Arik Spencer**, Recreation Division Manager for the North Dakota Parks and Recreation Department, spoke in a neutral position for HB 1164. He provided written testimony with suggested amendments. See attachment # 9.

**Representative Owens:** What minimum age are you recommending?

**Arik Spencer:** We are not recommending what that age should be. The users should develop the age range. Nationally the age range really varies. We are saying that in order for us to design an appropriate training curriculum, we need to know what the age is.

**Representative Owens:** Do you see the creation of this training class for under 12 as a very large job or fairly simple?

**Arik Spencer:** I don't see it as being an overwhelming job. It is achievable. I don't know for sure how it would differ yet until we know the minimum age. Our current class is a four hour course that can be achieved online or through a classroom setting, or we prefer hands on, but it is not always possible. We may have to look at expanding it to a two day course or making it longer. We would have to consult with professionals that know about learning habits of children that age to make sure that it would be an effective course for them.

**Representative Owens:** Is there going to be an age limit on the course, if someone older decides that they would like to learn about the safety?

**Arik Spencer:** Anyone can attend our class, but we can only certify those 12-15 years old by law. We don't turn anyone away from our courses, and we only charge those who can get certified.

**Representative Delmore:** Do you think it would be important to have hands on training as part of the course, if we lower the age of the rider?

**Arik Spencer:** We have riders all over the state. We only charge \$20 for the class. It would be good if we could, but because of the distances in North Dakota it is not always possible. We are prepared to offer hands on courses. It is something we would look at, but I don't know the answer.

Two additional sheets were handed out as information relevant to HB 1164. See attachments 10 and 11.

The hearing on HB 1164 was closed.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Transportation Committee Fort Totten Room, State Capitol

HB 1164

02/04/2011

Job 14047

☐ Conference Committee

Committee Clerk Signature

*Jeannette Cook*

### Minutes:

**Chairman Ruby** called the committee to order and asked to reference to HB 1164.

**Representative R. Kelsch** brought forward new amendments (11.418.01002) for HB 1164. She stated the amendments are to make clear that it is the Director of the Parks and Rec. that issue the safety certificates because they are the ones that are conducting the safety class.

**Representative R. Kelsch:** A concern that was brought up during the hearing was to make sure that we had a minimum age in the bill. On page one, line eleven it states "at least eight". There are some in this committee that think that six is the right number, and I chose eight. We can discuss that. The other issue was to make sure that the off road vehicle was designed for and meets the recommendations of the manufacturer for the individual's height, weight, and age. We wanted to make sure that only a vehicle that can be used for those kids at that age. All of those vehicles have the minimum requirements on them for the age and weight. Those were the two guidelines that were brought to us by the Parks and Rec. Department as well as the Association. The last part of the amendments is to verify that it will be the Parks and Rec. that conduct the off highway vehicle safety training course and provide the certificate.

**Representative R. Kelsch** moved the amendments.

**Representative Delmore** seconded the motion.

**Representative Weisz:** I like the amendments except for line 11. It was pointed out in testimony that a kid could be racing at age 6. If he lives in town, where is he going to find a safe place to be taught how to ride? Unless they know someone with property, they will not have a place to ride other than ditches or roads with traffic. I assumed the local political subdivision would determine what they think is appropriate, if they create a park of this sort. If we have to have an age, I think it should be at least six. For people that have their own personal property, this is not a problem, but others have to find some place to train their kids. I don't think that it is a problem to let the local political subdivisions decide the age.

**Representative Onstad:** I am happy with the amendments because they coincide with the manufacturer's recommendations. I think that we have to keep with the dealer's contracts

with the manufacturers that say they cannot sell an ATV to a buyer who is buying for someone under age 8. They also set a maximum, which was talked about in testimony.

**Representative Weisz:** You can buy a four-wheeler or motorcycle down to age six, and they are listed that way with the manufacturer. It isn't based on ccs; it is based on performance and the type of machine. A 50cc machine may have more power than one that has 125ccs.

**Chairman Ruby:** There is a huge difference between a standard motorcycle and one that has a racing band in it.

**Representative Weisz:** The language is very good. I don't think it conflicts with anything.

**Representative Onstad:** The Polaris dealer in Mandan specifically said that from eight to eleven the maximum he could sell is 50ccs and it has to be from eight to eleven. From twelve to sixteen the maximum he could sell is 90. If it differs from manufacturer to manufacturer, that might be one thing, but why would we need an age level at all then?

**Representative Heller:** On this Polaris dealer's safety requirement page it says that this one may be operated by a child six years of age and older. It is in this testimony that we have.

**Representative R. Kelsch** withdrew her motion and **Representative Delmore** withdrew the second. The motion was withdrawn.

**Representative Weisz** moved amendments 01002 to change page one, line eleven from at least eight to at least six.

**Representative Heller** seconded the motion.

**A roll call vote was taken. Aye 6 Nay 8 Absent 0**

**The motion failed.**

**Representative R. Kelsch** moved the original amendment, .01002.

**Representative Delmore** seconded the motion.

**A voice vote was taken. All were in favor. The motion carried.**

**Representative Weisz** moved a **DO PASS** as amended.

**Representative Delmore** seconded the motion.

**Representative Frantsvog:** Can someone answer if all of the concerns of Parks and Rec. have been answered?

**Representative R. Kelsch:** I can answer that question. The original amendments that were drafted were to address the concerns by Parks and Rec. The top amendment was to make sure that snowmobiles were included in that for the safety certificates. It was basically clean-up language, because it was consistent with what they are currently doing. The original amendments were approved by Parks and Rec. I met with them again yesterday, and they approved.

**Chairman Ruby:** One of the issues that this didn't address is getting the ATV users out of the ditches.

**A roll call vote was taken. Aye 13 Nay 1 Absent 0**

**The motion carried for a DO PASS as amended.  
Representative Weisz will carry HB 1164.**

**FISCAL NOTE**  
Requested by Legislative Council  
03/21/2011

Amendment to: Engrossed  
HB 1164

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$1,000	\$0	\$4,000	\$0	\$4,000
Expenditures	\$0	\$2,500	\$0	\$5,000	\$0	\$5,000
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$500	\$0	\$0	\$2,000	\$0	\$0	\$2,000	\$0	\$0

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Relating to the operation of off-highway vehicles by individuals under sixteen years of age; and to provide a penalty. Provisions with fiscal impact are development of off-highway vehicle safety course, and to impose fine for non-compliance

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Sections 39-29-10.4 for creation of safety course, and section 39-29-12 for fines

**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.*

Revenues collected would include additional safety fees collected by the department and the collection of fines which go to the counties for distribution.

**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.*

Expenditures would include development/creation of off-highway safety course

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Existing appropriation included in executive budget recommendations would be sufficient to cover anticipated revenues and expenditures. No additional appropriation is requested.

<b>Name:</b>	Dorothy Streyle	<b>Agency:</b>	ND Parks & Recreation Dept
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Phone Number: 701-328-5360

Date Prepared: 03/21/2001

**FISCAL NOTE**  
Requested by Legislative Council  
02/08/2011

Amendment to: HB 1164

**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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 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.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This version of HB1164 as amended will have no significant fiscal impact.

**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.*

**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.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	02/08/2011

# FISCAL NOTE

Requested by Legislative Council  
01/07/2011

Bill/Resolution No.: HB 1164

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$3,000		
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill allows persons under 12 years of age to operate an off highway vehicle in designated areas if they've completed the prescribed safety training course and have received the appropriate off highway vehicle safety certificate from the director of the Department of Transportation.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill provides for issuance of a safety certificate by the Department of Transportation.

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.*

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 Department of Transportation would incur computer programming and printing costs of approximately \$3,000.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Shannon L. Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	01/10/2011



Date: 2-4-11

Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1164

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By R A Kelsch Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby			Representative Delmore		
Vice Chairman Weiler			Representative Gruchalla		
Representative Frantsvog			Representative Hogan		
Representative Heller			Representative Onstad		
Representative R. Kelsch					
Representative Louser					
Representative Owens					
Representative Sukut					
Representative Vigesaa					
Representative Weisz					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*amendments  
moved and  
Withdrawn*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1164

Page 1, line 1, replace "section" with "sections 39-24-09.1 and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 39-24-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-24-09.1. Operation by individuals at least twelve years of age.**

1. An individual twelve years of age and over may not operate a snowmobile unless the individual is in possession of a valid driver's license, operates the snowmobile on private land, or unless the individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department-of-transportation.
2. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the individual is not the holder of the certificate. Fees collected from each individual receiving certification must be deposited into the snowmobile trail tax fund for purposes of establishing snowmobile safety programs."

Page 1, after line 6, insert:

"1."

Page 1, line 11, after the period insert:

"2."

Page 1, line 11, after "individual" insert "at least eight and"

Page 1, line 11, after "vehicle" insert "that is designed for and meets the recommendations of the manufacturer for the individual's height, weight, and age"

Page 1, line 13, remove "has completed an off-highway vehicle safety training course prescribed by the director"

Page 1, line 14, replace "of the parks and recreation department" with "is under the direct supervision of an adult"

Page 1, line 15, after the second "the" insert "parks and recreation"

Page 1, line 15, remove "of transportation"

Page 1, line 15, after the underscored period insert:

"3."

Page 1, line 16, overstrike "completed an"

Page 1, overstrike line 17

Page 1, line 18, overstrike "department and has"

Page 1, line 19, after "the" insert "parks and recreation"

Page 1, line 19, overstrike "of transportation"

Page 1, line 19, after the period insert:

"4. The director of the parks and recreation department shall create an off-highway vehicle safety training course. The director shall issue an off-highway vehicle safety certificate to individuals who have successfully completed the off-highway vehicle safety training course.

5."

Renumber accordingly

Date: 2-4-11Roll Call Vote #: 2

## 2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1164House TRANSPORTATION Committee☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By Weisz Seconded By Heller

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore		X
Vice Chairman Weiler	X		Representative Gruchalla		X
Representative Frantsvog		X	Representative Hogan		X
Representative Heller	X		Representative Onstad		X
Representative R. Kelsch		X			
Representative Louser	X				
Representative Owens	X				
Representative Sukut		X			
Representative Vigasaa		X			
Representative Weisz	X				

Total (Yes) 6 No 8Absent 0

Floor Assignment \_\_\_\_\_

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

01002  
 Change to  
 Amendment  
 to amend  
 Amendment

✓K  
2/4/11  
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1164

Page 1, line 1, replace "section" with "sections 39-24-09.1 and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 39-24-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-24-09.1. Operation by individuals at least twelve years of age.**

1. An individual twelve years of age and over may not operate a snowmobile unless the individual is in possession of a valid driver's license, operates the snowmobile on private land, or unless the individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department ~~of transportation~~.
2. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the individual is not the holder of the certificate. Fees collected from each individual receiving certification must be deposited into the snowmobile trail tax fund for purposes of establishing snowmobile safety programs."

Page 1, after line 6, insert:

"1."

Page 1, line 11, after the period insert:

"2."

Page 1, line 11, after "individual" insert "at least eight and"

Page 1, line 11, after "vehicle" insert "that is designed for and meets the recommendations of the manufacturer for the individual's height, weight, and age"

Page 1, line 13, remove "has completed an off-highway vehicle safety training course prescribed by the director"

Page 1, line 14, replace "of the parks and recreation department" with "is under the direct supervision of an adult"

Page 1, line 15, after the second "the" insert "parks and recreation"

Page 1, line 15, remove "of transportation"

Page 1, line 15, after the underscored period insert:

"3."

Page 1, line 16, overstrike "completed an"

Page 1, overstrike line 17

Page 1, line 18, overstrike "department and has"

Page 1, line 19, after "the" insert "parks and recreation"

Page 1, line 19, overstrike "of transportation"

Page 1, line 19, after the period insert:

"4. The director of the parks and recreation department shall create an off-highway vehicle safety training course. The director shall issue an off-highway vehicle safety certificate to individuals who have successfully completed the off-highway vehicle safety training course.

5."

Renumber accordingly

Date: 2-4-11

Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1164

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By R A Kelsch Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby			Representative Delmore		
Vice Chairman Weiler			Representative Gruchalla		
Representative Frantsvog			Representative Hogan		
Representative Heller			Representative Onstad		
Representative R. Kelsch					
Representative Louser					
Representative Owens					
Representative Sukut					
Representative Vigesaa					
Representative Weisz					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

61002 - original amend.

Date: 2-4-11

Roll Call Vote #: 4

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1164

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Weisz Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla		X
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa	X				
Representative Weisz	X				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Weisz

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



REPORT OF STANDING COMMITTEE

HB 1164: Transportation Committee (Rep. Ruby, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1164 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 39-24-09.1 and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 39-24-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-24-09.1. Operation by individuals at least twelve years of age.**

1. An individual twelve years of age and over may not operate a snowmobile unless the individual is in possession of a valid driver's license, operates the snowmobile on private land, or unless the individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department of ~~transportation~~.
2. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the individual is not the holder of the certificate. Fees collected from each individual receiving certification must be deposited into the snowmobile trail tax fund for purposes of establishing snowmobile safety programs."

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Page 1, line 18, overstrike "department and has"

Page 1, line 19, after "the" insert "parks and recreation"

Page 1, line 19, overstrike "of transportation"

Page 1, line 19, after the period insert:

"4. The director of the parks and recreation department shall create an off-highway vehicle safety training course. The director shall issue an off-highway vehicle safety certificate to individuals who have successfully completed the off-highway vehicle safety training course.

5."

Renumber accordingly

2011 SENATE TRANSPORTATION

HB 1164

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Transportation Committee**  
Lewis and Clark Room, State Capitol

HB 1164  
March 4, 2011  
14973

☐ Conference Committee



## **Explanation or reason for introduction of bill/resolution:**

The bill sets a minimum age limit so that an appropriate curriculum can be developed for youths eight to twelve year olds and relates to the operation of off-highway vehicles by that age group.

## **Minutes:**

*Written testimony*

**Chairman Senator G. Lee** opened the hearing on HB 1164 relating to the operation of off-highway vehicles by individuals less than sixteen years of age.

**Representative R. Kelsch**, District 34, introduced HB 1164. She said that she is a huge advocate for family members getting involved and utilizing ATV trails and has sponsored several pieces of legislation for the organization over the past years. The need for a bill was brought to her by the ATV groups and dealers. What the bill does is sets a minimum age limit so that an appropriate curriculum can be developed for youth younger than the age that is currently covered in statute. She said that the bill will allow an individual that is at least eight and under twelve years of age to operate an off-highway vehicle that is designed for and meets the recommendations of the manufacturer for the individual's height, weight, and age in a designated off-highway vehicle park and on a designated off-highway vehicle trail if the individual is under the direct supervision of an adult and has received the appropriate off-highway vehicle training from the parks and recreation department. She said that they removed the requirement that the Department of Transportation would issue the safety certificate and added that the Parks and Recreation will issue the safety certificate and do the training. The amendments that were added in the House add clarity.

**Senator Sitte** asked where the Parks and Recreation will be offering these classes and how long the classes will be and if they will be readily available statewide.

**Representative Kelsch** said that Parks and Recreation will be testifying and they will be able to answer those questions. It is her understanding that they offer these classes around the state and she believes they use some national standard for the safety classes.

**Senator Nething** asked what the demand was for this. What is driving this?

**Representative Kelsch** replied that they had testimony that driving in the ditches was breaking down the ditches. What this bill does is that it allows these younger people to drive on P & R trails and we wanted to open up more opportunities for the young people besides private land and offer courses in a controlled environment.

**Senator Nething** asked if we were creating more problems if we put these people on the trails where they are driving a much slower type of a vehicle.

**Representative Kelsch** said no, what you're doing is allowing these young riders to be with their families and to participate in more family activities. That is what this sport has become, a real family event. Often times in the legislature we try to figure out how we can legislate parental involvement, this is one of the ways that we can. She said that the upcoming testimony will show the need for the bill.

**Senator Sitte** asked if this would affect someone living on a farm and letting their child ride their ATV.

**Representative Kelsch** replied no.

**Senator Lee** asked if there had been discussion with P & R and DOT in terms of the issuing agent for that certificate and is it appropriate and ok with DOT that they are giving up that responsibility.

**Representative Kelsch** answered yes, that it was appropriate and DOT is here to respond if they choose to. Both parties are fine with that and it makes sense to them that whoever is administering the safety programs should be handing out the safety certificates.

**Senator Lee** clarified that this authorization with this certificate is just for P & R trails, not running up and down ditches.

**Annette Behm-Caldwell**, Open Road Honda Dealer, member of North Dakota Dirt Riders and volunteer for the Missouri Valley Motorsports Park testified in support of HB 1164. Written testimony and additional handout entitled: HB 1164 Legislation that supports OHV Rider Education #1

Submitted additional written testimony:  
Vance and Shelley Wingerter and family  
Josh Vallely, Vallely Sport & Marine  
Travis Burke, Revolutions Power Sports  
Laverne Berg, Keith Braunberger, Jeremy Berg; Pure Honda

**Senator Oehlke** asked how adults supervised their youth in the park areas and if they were close to them. His question was how big these park areas are.

**Ms. Caldwell** said the Missouri Valley Motor Sports Park has small riding areas within the old car race track. Children would be very visible to parents. She said they were making the areas small and condensed because they are for younger riders.

**Senator Oehlke** asked if this bill was amended to say they could not ride them any other place and they had to stay out of the ditches, is that something that would be acceptable.

**Ms. Caldwell** believes that the bill has that amendment in there that specifies that they need to be at designated ND Parks and Rec or OHV parks.

**Senator Oehlke** asked if they don't abide by these rules, which gets the ticket. Say there is an eleven year old going down the ditch and they are stopped for this violation of being in the wrong place.

**Ms. Caldwell** said that at this time, only the twelve year old or older can drive, and the ticket would be written to the twelve year old.

**Senator Sitte** asked how fast these vehicles go and how long these trails are.

**Ms. Caldwell** said the phase 2 of the Missouri Valley Motor Sports park goal is to put a trail from the Missouri Valley Motor Sports Park down to Lincoln, following an old railroad bed. If a rider, 8-12 would take that trail, they would have to be supervised by an adult. The long term goal is to extend it down to the Kimball bottoms area. She said that as far as the speed goes, the smallest dirt bike is a 50cc and it has a governor on it so parents and set how fast it goes. A non governor bike can go up to 20 mph but the parents are in control. The ND Dirt Riders are very conscience and safety is their number one concern.

**Senator Lee** asked who determines what a suitable age and criteria are for that particular vehicle.

**Ms. Caldwell** said that Honda, as a manufacturer, provides age guidelines for the dealers to what age would be appropriate for different vehicles. She said that dealers are restricted as to what ATV we can sell parents. She said that they have to go by the age recommendation and the age guidelines. It is twofold, there are age recommendations from the manufacturers and there is also parental involvement.

**Senator Lee** asked if there were rules that the manufacturers had to adhere to.

**Ms. Caldwell** said that she believed that the manufacturers have worked in concert with the Consumer Product Safety Commission and this all goes back to the three wheeler days on what is appropriate for use and what isn't.

**Senator Lee** said that he thought this was the third session that we have seen bills for this area. They started with sixteen years of age, and then twelve and now eight. Why eight years old.

**Ms. Caldwell** replied that by eight years old, kids have shown an interest, parents feel comfortable having their kids ride by eight or earlier. Eight seemed to be an age that the ND Dirt Riders thought they could find a consensus on. On the private farms and ranches you are going to find kids younger than eight riding adult size ATVs. She said they were trying to work against that. She said that we are trying to teach these kids what is appropriate at what age level and hopefully spread that message across the state. All they

really can control is the designated driving areas. With eight year olds they are old enough to understand the ND Parks and Rec. criteria, they have been in school, they can comprehend rules and regulations and they have been taught safety since kindergarten. They think 8-11 is a good age range to start teaching those riding skills before they get to the tweens and decided that they know everything.

**Senator Lee** asked if they need insurance and what policies cover.

**Ms. Caldwell** answered that North Dakota law requires that any OHV ridden off of private land have to have liability insurance with them when they ride.

**Senator Nething** commented that maybe we are teaching the wrong people here. Maybe we should be teaching the parents and have them certified. He is concerned that parents are letting their children of ages even less than eight ride these vehicles.

**Ms. Caldwell** said that we have to divide this into two groups. There are the OHV enthusiasts who ride for recreation. These are the parents who understand safety and the need for training and equipment. The second group is farm and ranch customers who have kids at home and they will comment that their eight year old rides their ATV. She tells them that they should realize that it is an adult unit. Ms. Caldwell stated that it is an attitude that we have to change. She doesn't think we can change parental attitude but thinks they can change attitude of the youth.

**Michael Jay**, Executive Director of ABATE of North Dakota testified in support of HB 1164. Written testimony # 2

**Senator Nething** asked what the cut off age for training is.

**Mr. Jay** said that the current state law for motorcycle training is for fourteen years and older.

**Senator Nething** answered, so that was what your experience is based on.

**Mr. Jay** replied that is what my experience is as far as ABATE but my personal experience is that I have been involved with youth racing and other youth riding activities from the time my sons were four and five years old.

**Senator Sitte** asked who is doing the training program.

**Mr. Jay** said that Parks & Rec Department has the training program. There are programs that are nationally accredited that we could co-op and work with them on their bike training aspects. He said they would be interested in helping them if the need and demand were there.

**Senator Sitte** asked him to explain what that training would involve.

**Mr. Jay** replied that he couldn't give a professional synopsis. He did say whatever form of training you can get sets the behavior.

**Daryl Brandner**, President of the North Dakota Dirt Riders, testified in support of HB 1164. He talked about the family aspect of riding and the importance of teaching children about safety while they are young.

There was further discussion on dirt bikes, ATV, and ages of children now being certified.

**Glenn Jackson**, Department of Transportation acknowledged the Department of Transportation support of Parks and Rec to do the training and certify the safety certificates. This makes sense to them because DOT does not provide the training, does not conduct the training, and they don't document the training was completed. Everything is done by Parks and Rec and they should issue the certificates. Clarified that these vehicles still need to be registered and violations still apply under the NDDOT. This bill only addresses the safety courses.

**Lee Klapprod**, ND Dirt Riders and member of the committee for the Missouri Valley Motorsports Park rose in support of HB 1164. He said the big thing is to get a place for these kids to ride where they are not getting in trouble and learning the right and safe way to ride.

**No opposing testimony.**

**Eric Dietrich**, North Dakota Parks and Rec made himself available for questions.

**Senator Sitte** asked him to describe the current training program.

**Mr. Dietrich** replied that the current safety training course is for 12-16 year olds and is four hours in length. Last summer they offered over 21 safety certification courses.

Discussion followed on enforcement, fines, direct supervision of an adult and what a training program could look like for 8-12 year olds. There was concern that parents be present during training and that classes be hands on. There was also discussion on length of trails and adult supervision on those trails. Mr. Dietrich assured the committee that the trails offer ample opportunities for adult supervision. He also stated that when the training is designed for the 8-12 year olds that they have the safety stimulator which allows for the youth to actually have the sensations of driving a vehicle and that this also could be used in the training. It is the concern of some members of the committee that these younger drivers have more training, more hands on experience and direct parent supervision. Some committee members were still concerned about this age group driving these vehicles.

**Senator Lee** closed the Hearing on HB 1164.

Committee continued discussion on HB 1164. Senator Sitte asked if the intern could search the code and see if there is a definition of direct adult supervision and an explanation of it.



**Senator Mathern** said he asked the intern to find this information also. He said that if we pass this bill we should address language that would include the ability to see and control this child.

**Senator Lee** said that the committee will wait to see Senator Mathern's amendments.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Transportation Committee Lewis and Clark Room, State Capitol

HB 1164  
March 11, 2011  
15337

☐ Conference Committee

*Stanley*

**Explanation or reason for introduction of bill/resolution:**

**Minutes:**

*Committee Work*

**Senator G. Lee** opened discussion on HB 1164.

**Senator Mathern** presented amendments which the Department of Parks and Recreation drafted for him. Senator Mathern said that he had the intern do some research on the issues of fines and supervision. He stated that the amendments do two things: 1. It adds that section one which clarifies what the meaning is of direct supervision of an adult. 2. Applies to the penalties and fines. He said that he is not really supportive of having these young people on these vehicles but he said that he is working on trying to make this bill better.

**Senator Mathern** moved the amendments.

**Senator Nething** seconded.

**Senator Mathern** explained the violation and also said that it was his understanding that this violation would be accessed to the parents.

Roll call vote: 5-0-1. **Motion passed.**

**Senator Lee** said that Senator Oehlke is working on a training piece that he is concerned about so we will wait until he gets back to act on HB 1164.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Transportation Committee Lewis and Clark Room, State Capitol

HB 1164  
March 17, 2011  
15597

☐ Conference Committee

*Handwritten signature*

**Explanation or reason for introduction of bill/resolution:**

**Minutes:**

*Committee Work/Action*

**Senator G. Lee** opened discussion on HB 1164. He reminded the committee that we did add Senator Mathern's amendment on March 11, 2011. He asked Senator Oehlke if he had any additional information or amendments.

**Senator Oehlke** had concerns on how the training program will be put together through the Parks and Rec and after visiting with the Parks & Rec they assured him that if this bill passes, the certification training program would create hands on training for the 8-11 year old youths and have parent or parents attend the training with their child. They are also putting together a volunteer group on the order of what Game & Fish does with their Hunter Safety course. Their plans would be to put this in their policy and that will make it unnecessary to add an amendment to say this. He added that they would work to get simulators in each corner of the state.

**Senator Nething** said that he couldn't support this bill because he does not think eight year olds ought to be riding an engine propelled vehicle. He doesn't support it for nine or ten year olds either. The age is just wrong.

**Senator Mathern** expressed his concern with the erosion of the physical activity that relates to Parks and Recreation. He does not support HB 1164.

**Senator Sitte** said that she didn't have any problems with the bill as long as the parents are there. She said that she is happy with the amendment on direct adult supervision. She believes that the vehicles are age and size appropriate and they can be throttled down so parents can control the maximum speed. She said we have to believe that parents are responsible enough to control the speed and environment in which their children will drive.

**Senator Nething** replied that this bill doesn't say parents, it says adults. An adult is somebody 21 years of age or older.

**Senator Nodland** said that he thinks the sponsors of the bill were trying to do some good but he has the same reservations on HB 1164. He has concern about continuing to lower these ages.

**Senator Oehlke** said that if there is anything this bill could possibly help with is that it would have more opportunity for additional training.

**Senator Mathern** moved a **Do Not Pass as amended**.

**Senator Nething** seconded.

Roll call vote: 5-1-0 **Motion Passed**.

**Senator Mathern** is the carrier.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Transportation Committee Lewis and Clark Room, State Capitol

HB 1164  
March 25, 2011  
16019

☐ Conference Committee



**Explanation or reason for introduction of bill/resolution:**

**Minutes:**

*Committee Work/Action to Reconsider*

**Senator G. Lee** explained that HB 1164 was sent to the floor with a recommendation of Do Not Passed as amended. The Senate sent it back to the transportation committee to reconsider.

**Senator Sitte** moved to reconsider action on HB 1164.

**Senator Oehlke** seconded the motion.

Roll call vote: 4-2-0. **Motion passed to reconsider.**

**Senator Lee** presented and explained amendment number 11.0418.02002. His understanding is that it will allow the eight to eleven year olds to take the training course but they could not use the vehicles on the "park and off highway trails" that had been discussed in previous committee hearing and committee meetings on HB 1164.

**Senator Nodland** reads it as saying individual height, weight, and age in a designated off-highway vehicle that is designed for and meets the recommendations of the manufacturer for the individual's height, weight, and age in a designated off-highway vehicle (remove "park and") (remove "on") training area that is not a designated off-highway vehicle trail if the individual is under the direct supervision of an adult and has received the appropriate off-highway vehicle safety certificate issued by the director of parks and recreation department.

**Senator Mathern** asked if this basically says, we will make our state director of parks and recreation responsible for training for people who don't use the state park and recreation trails. He sees that as the outcome of the adoption of the amendment.

**Senator Lee** concurred.

**Senator Nething** said what bothered him is that we are going to have training areas and when they complete the training area, they will get a certificate that they have successfully completed the off-highway vehicle safety training course. Why would we give them a certificate if in fact it is

our intention that they not be riding any place. Another concern is if they get a certificate when they are eight years old and then when they are twelve years old they haven't taken the safety test for four years. He does not like the idea of eight year olds on these vehicles.

**Senator Oehlke** said that the only thing that these amendments change is that they couldn't go on those long trails that Senator Sitte had brought up in earlier discussion. It does not solve issue of eight year olds on ATVs.

**Senator Sitte** moved to adopt the amendment. (11.0418.02002)

**Senator Nodland** seconded the motion.

Discussion followed on what the amendment would do and wouldn't do and additional discussion on parent and adult supervision.

Roll call vote: 4-2-0. **Motion failed.**

**Senator Oehlke** moved a **Do Not Pass** on engrossed HB 1164.

**Senator Mathern** seconded the motion.

Roll call vote: 5-1-0. **Motion passed.**

**Senator Mathern** is the carrier.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1164

Page 1, line 1, after "to" insert, "create and enact subsection 7 to section 39-29-01 of the North Dakota Century Code;"

Page 1, line 1, after "39-24-09.1" replace, "and" with a "comma"

Page 1, line 1, after "39-29-10" insert, "and 39-29-12"

Page 1, line 3, after "age" replace "period" with "; and to provide a penalty."

Page 1, after line 4, insert:

**SECTION 1. AMENDMENT.** Subsection 7 of section 39-24-01 of the North Dakota Century Code is created and enacted as follows:

7. " Under the Direct Supervision of an Adult" means an adult is present in such close proximity as to have direct observation with the unaided eye, be able to direct actions and come to the immediate aid of an OHV operator as required by 39-29-10.

Page 2, after line 22, insert:

**SECTION 4. 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 individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of subsection 2 or 3 of section 39-29-10 is an infraction, for which a fee of fifty dollars must be assessed. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed.

Re-number accordingly

Date: 3-11-11  
Roll Call Vote # /

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1164

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Mathern Amendment

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Mathern Seconded By Senator Nething

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke					
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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



Date: 3-17-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1164

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Mathern Seconded By Senator Nething

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte		✓			

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Mathern

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

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1164

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☒ Reconsider

Motion Made By Senator Sitte Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething		✓			
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1164

Page 2, line 5, remove "park and"

Page 2, line 6, replace "on" with "training area that is not"

Renumber accordingly

*Failed*

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1164

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11, 0418, 02002

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Sitte Seconded By Senator Nodland

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee		✓	Senator Tim Mathern		✓
Vice Chairman Dave Oehlke		✓			
Senator Dave Nething		✓			
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment \_\_\_\_\_

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

*Failed*

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1164

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0418.02001

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☒ Reconsider

Motion Made By Senator Oehlke Seconded By Senator Mathern

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern	✓	
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte		✓			

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Mathern

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

**REPORT OF STANDING COMMITTEE**

HB 1164, as engrossed: Transportation Committee (Sen. G. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1164 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the second "and" with ", 39-29-01,"

Page 1, line 1, after "39-29-10" insert ", and 39-29-12"

Page 1, line 3, after "age" insert "; and to provide a penalty"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-29-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Dealer" means any person engaged in the business of buying, selling, or exchanging off-highway vehicles or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of off-highway vehicles, or who engages in the buying of off-highway vehicles for resale.
2. "Off-highway vehicle" means any wheeled motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:
  - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
  - b. Class II off-highway vehicle is less than fifty inches [1270.00 millimeters] in width, travels on three or more low-pressure tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control.
  - c. Class III off-highway vehicle weighs less than eight thousand pounds, travels on four or more tires, has a seat and a wheel for steering control, and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless registered by the department under chapter 39-04.
3. "Operate" means to ride in or on and control the operation of an off-highway vehicle.
4. "Operator" means an individual who operates or is in actual physical control of an off-highway vehicle.
5. "Owner" means a person, other than a lienholder, having the property in or title to an off-highway vehicle and entitled to its use or possession.
6. "Register" means the act of assigning a registration number to an off-highway vehicle.

7. "Under the direct supervision of an adult" means an adult is present in such close proximity as to have direct observation with the unaided eye, be able to direct actions, and come to the immediate aid of an off-highway vehicle operator as required by section 39-29-10."

Page 2, after line 22, insert:

**"SECTION 4. 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 individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of subsection 2 or 3 of section 39-29-10 is an infraction, for which a fee of fifty dollars must be assessed. 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 STANDING COMMITTEE**

**HB 1164, as engrossed: Transportation Committee (Sen. G. Lee, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1164 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the second "and" with ", 39-29-01,"

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Page 1, line 3, after "age" insert "; and to provide a penalty"

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  - b. Class II off-highway vehicle is less than fifty inches [1270.00 millimeters] in width, travels on three or more low-pressure tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control.
  - c. Class III off-highway vehicle weighs less than eight thousand pounds, travels on four or more tires, has a seat and a wheel for steering control, and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless registered by the department under chapter 39-04.
3. "Operate" means to ride in or on and control the operation of an off-highway vehicle.
4. "Operator" means an individual who operates or is in actual physical control of an off-highway vehicle.
5. "Owner" means a person, other than a lienholder, having the property in or title to an off-highway vehicle and entitled to its use or possession.
6. "Register" means the act of assigning a registration number to an off-highway vehicle.



7. "Under the direct supervision of an adult" means an adult is present in such close proximity as to have direct observation with the unaided eye, be able to direct actions, and come to the immediate aid of an off-highway vehicle operator as required by section 39-29-10."

Page 2, after line 22, insert:

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Renumber accordingly

2011 TESTIMONY

HB 1164

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1164

Page 1, line 1, replace "section" with "sections 39-24-09.1 and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 39-24-09.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-24-09.1. Operation by individuals at least twelve years of age.**

1. An individual twelve years of age and over may not operate a snowmobile unless the individual is in possession of a valid driver's license, operates the snowmobile on private land, or unless the individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department ~~of transportation~~.
2. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the individual is not the holder of the certificate. Fees collected from each individual receiving certification must be deposited into the snowmobile trail tax fund for purposes of establishing snowmobile safety programs."

Page 1, after line 6, insert:

"1."

Page 1, line 11, after the period insert:

"2."

Page 1, line 13, remove "has completed an off-highway vehicle safety training course prescribed by the director"

Page 1, line 14, replace "of the parks and recreation department" with "is under the direct supervision of an adult"

Page 1, line 15, after the second "the" insert "parks and recreation"

Page 1, line 15, remove "of transportation"

Page 1, line 15, after the underscored period insert:

"3."

Page 1, line 16, overstrike "completed an"

Page 1, overstrike line 17

Page 1, line 18, overstrike "department and has"

Page 1, line 19, after "the" insert "parks and recreation"

Page 1, line 19, overstrike "of transportation"

Page 1, line 19, after the period insert:

"4. The director of the parks and recreation department shall create an off-highway vehicle safety training course. The director shall issue an off-highway vehicle safety certificate to individuals who have successfully completed the off-highway vehicle safety training course.

5."

Renumber accordingly

1

**Testimony – House Bill 1164**  
**House Transportation Committee**  
**January 27, 2011**

Testimony presented by Annette Behm-Caldwell  
Dealer Principal – Open Road Honda, Mandan  
Member: North Dakota Dirt Riders  
Volunteer: Missouri Valley Motorsports Park

We thank Representative Kelsch, Porter and Weisz, Senators Cook, Fischer and Stenehjem for introducing this bill on behalf of the NDDR.

I ask that the committee recommends a Do Pass vote on HB 1164.

I have summarized by discussion points and material in the attached brochure.

1. The positive impact of HB 1164
2. Increased demand for OHV riding opportunities
3. OHV Registrations continue to increase in ND
4. The number of youth riders attending safety training is also increasing.
5. OHV Accident rates in ND remain low
6. OHV Riding is good physical activity
7. Youth Rider Training makes a difference

Chairman Ruby, that concludes my remarks.

I would also like to submit for testimony. The first letter from a fellow volunteer on the Missouri Valley Motorsports Park and three letter from powersports dealers located in Bismarck, Grand Forks and Minot.

## Demand for OHV Activities in North Dakota

•NDMA: Since 1974 NDMA has been providing youth riders with a safe, controlled riding environment. In 2010 NDMA had 300 registered riders — 85 of which were 12 and under. NDMA holds 12—16 races per year with competitive and non-competitive classes for youth riders.

•Bismarck Parks and Recreation conducted a city wide survey in 2009. The development of an “ATV/Motocross” area was in the top five for outdoor items respondents would like to see developed.

•A Mandan Tomorrow interest survey completed in spring 2010 also showed a need for OHV recreation. Of 385 respondents, 97 showed strong or moderate interest in motorcycle rides/trails. 111 of 387 respondents had great or moderate interest in snowmobile trails/races

## USCPC promotes ATV Safety Training

Learning to drive an ATV can be challenging. Many deaths and injuries occur when an inexperienced driver loses control of an ATV, is thrown from an ATV, overturns the vehicle, or collides with a fixed object or a motor vehicle. Good ATV training teaches new drivers how to handle multiple off-road riding situations.

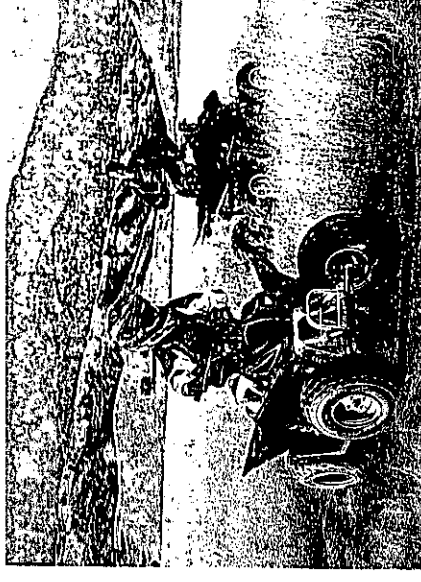
Experienced ATV drivers (with more than one year of experience) have a much lower risk of injury than relatively new drivers. Training can help bridge that gap. Yet, less than 10% of all ATV drivers and only about one-quarter of new drivers receive professional training.

All ATV drivers, including children under 16, should take a hands-on ATV safety course from a certified instructor.

Source: ATVSafety.gov

## HB 1164

### Legislation that supports Youth OHV Rider Education



### Creating a Positive Future for Off Highway Vehicle Recreation

## HB 1164

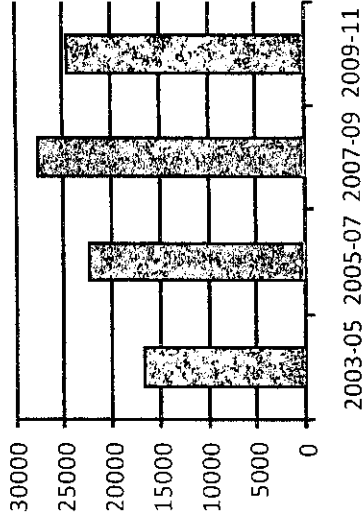
If passed, HB 1164 would:

- Allow Youth OHV Riders, ages 8—11 to ride at designated OHV parks and on designated state OHV trails
- Riders must be supervised by an adult while riding.
- Riders must be riding an OHV manufactured for youth riders.
- Riders must pass the ND Park & Recreation OHV safety training course

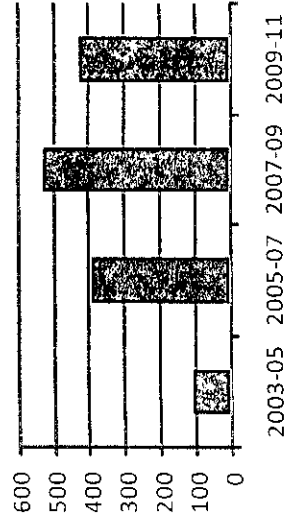


## OHV Registration in ND Near 25 million

### Registered OHVs

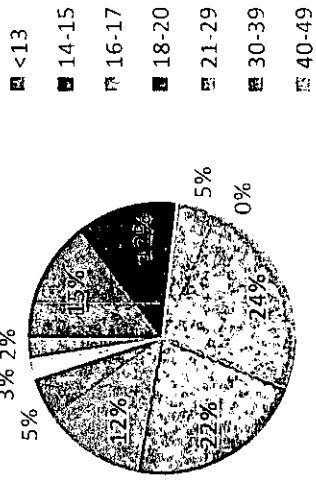


### Safety Certifications



## OHV Accidents and Injuries 100,000 Remain Low

### 2009 OHV Crashes



41 OHV crashes—source ND DOT Crash Summary

### Research shows OHV Riding is Good for The Body and Soul!\*

A 2010 study completed by York University, Toronto, Ontario, Canada has found that OHV riding conforms to the American College of Sports Medicine recommended physical activity guidelines”.

“Off-Road Vehicle riding is similar in aerobic demand to many other recreational, self-paced, sporting activities such as golf, rock climbing and alpine skiing”. Jamie Burr, York University, Faculty of Health

## HB 1164

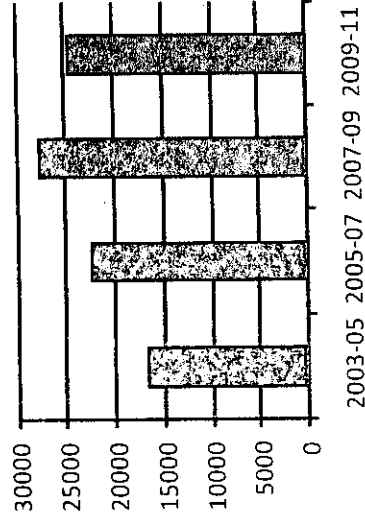
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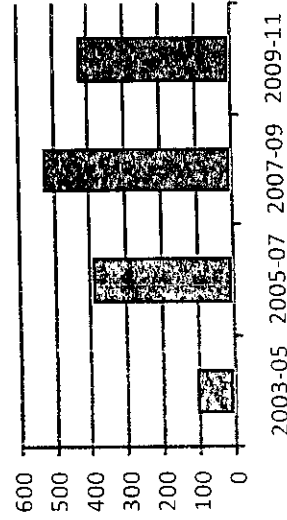


## OHV Registration in ND Near 25,000 OHVs

### Registered OHVs

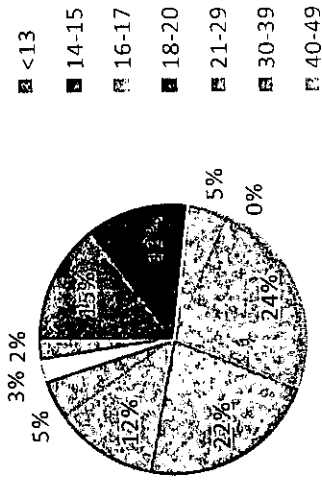


### Safety Certifications



## OHV Accidents and Injuries in ND Remain Low

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41 OHV crashes—source ND DOT Crash Summary

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A 2010 study completed by York University, Toronto, Ontario, Canada has found that OHV riding conforms to the American College of Sports Medicine recommended physical activity guidelines”.

“Off-Road Vehicle riding is similar in aerobic demand to many other recreational, self-paced, sporting activities such as golf, rock climbing and alpine skiing”. Jamie Burr, York University, Faculty of Health



To whom it may concern,

I am writing this letter in support of bill HB 1164. I am the father of two children, that are currently unable to enjoy the same passion for riding as I do. Under the current law my children would only be able to ride at NDMA motocross races. I would prefer they would learn to ride under my supervision away from the competitive side of riding, to develop not only their skills at a slower pace, but also a passion to ride that lasts a life time.

In this day and age, we are looking for hobbies that families can do together to bond and grow, outside of our everyday hectic lives, instead of spending time in front of the TV or computer. This is a hobby that if learned at a impressionable age, can be done safely, and will teach responsibility, and confidence as their skills improve. I believe riders taught responsibly, under adult supervision at a younger age, are better riders, and more responsible riders as they mature.

Thank you for your consideration of bill HB 1164.

Sincerely,

Vance and Shelley Wingerter and family.

7801 Beacon Loop

Bismarck, N.D. 58504

701-223-2409



# Pure Honda

---

of Minot

January 25, 2011

As a power sports business owner, it is a high priority within our organization to promote safety at all ages. We also believe that the earlier the training begins the better. Our business promotes the A.B.A.T.E. North Dakota Motorcycle training course in our community. We know first-hand that teaching in-class safety along with real life skills training elevates the rider's awareness. It also builds self-esteem. For our future generations, we encourage all adults to support youth safety programs that build character and responsibility to our children. This creates a much healthier and happier environment.

Sincerely,

Laverne Berg  
Keith Braunberger  
Jeremy Berg

# **REVOLUTIONS**

**P O W E R   S P O R T S**

 **Kawasaki**   **YAMAHA**   **POLARIS**

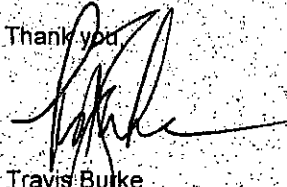
January 26, 2011

RE: House Bill 1164

To Whom It May Concern,

I wish to voice my support for House Bill 1164 which makes amendments to section 39-29-10 and 39-24-09.1 of the North Dakota Century in which it lowers the legal age for riding off road vehicles in North Dakota parks and trails from age 12 down to age 8. I support this legislation because in many instances going trail riding is a family event and the earlier you can teach the fundamentals of riding while providing a legal, safe environment in which to ride the more likely kids will end up on age appropriate machines and in turn will lower the likelihood of injury.

Thank you,



Travis Burke  
General Manager  
Revolutions Power Sports



# **VALLELY**


## **SPORT & MARINE**

### **BISMARCK - MINOT**

January 27, 2011

North Dakota House Transportation Committee:

I am writing in support of HB 1164. I believe that the passage of this bill will provide North Dakota's youth the opportunity to ride an OHV and teach them the proper riding. OHV vehicle riding is a very popular form of recreation and we do not see it slowing down. North Dakota can step up on the forefront of the outdoor environment where youth can learn the "right way" or we can let them be taught on their own. It is necessary to not only provide youth with the opportunity but provide them with proper training, supervision, and vehicle safety in a safe environment.




There are several key variables that I think make this bill the right one. First of all, Youth between the ages of 8-11 are the perfect age group to receive information and rider training that is important to the future success of North Dakota. Secondly, the youth must ride an OHV vehicle that is designed for youth. This is the only way we can ensure a safe, controlled riding plan. We must understand this need and manufacture products that are designed specifically for youth. Lastly, by requiring youth riders age 8-11 to ride in a controlled environment with adult supervision, and complete the ND Park and Rec safe riding course, we are providing a safe, controlled form of recreation. I cannot think of a better way to keep youth safe, responsible, and controlled riding! I wish all forms of OHV riding were this safe.

I urge you to pass HB 1164 to ensure that North Dakota is on the forefront of the outdoor riding environment where youth can be taught the right way.

Thank you in advance for your consideration,

*Josh Vallely*

Josh Vallely



Vallely Sport & Marine  
P.O. Box 898  
Bismarck, ND 58502

Mr. Chairman and fellow Committee Members:

For the record, my name is Michael Jay. I am the Executive Director of ABATE of North Dakota.

ABATE, whose acronym stands for American Bikers Aiming Toward Education, has been teaching motorcycle safety to the citizens of North Dakota since 1978. ABATE currently holds the contract with the Traffic Safety Office of the North Dakota Department of Transportation to provide training for motorcyclists statewide. ABATE of North Dakota favors HB 1164. This Bill, as written, would provide an opportunity for our younger citizens to receive some formal training for a sport they are already participating in. It is of our professional opinion, as Motorcycle Safety Foundation Rider Coaches, that early training, in any aspect of motorcycle training, is crucial for a beginning of lifelong learning behaviors.

We also believe that training by the North Dakota Motorcycle Safety Program plays an important aspect of reducing motorcycle crashes in the state of North Dakota.

On behalf of the members of ABATE of North Dakota, we would ask this Committee for a do pass on HB 1164.

Mr. Chairman and fellow Committee Members, I thank you for your time and I stand before this Committee for any questions.

2

**Testimony – House Bill 1164**  
**House Transportation Committee**  
**January 26, 2011**

**Testimony presented by Mike Burke**  
**Vice President and Member of the North Dakota Dirt Riders**  
**Volunteer of Missouri Valley Motorsport Park**

North Dakota Dirt Riders support House Bill 1164

- As a club we like to promote safe riding practices.
- Opportunity to train riders at an impressionable age.
- Keep the sport a family activity.
- Allow for the training of kids that are already riding.
- We are working with Burleigh County and North Parks and Recreation to create the Missouri Valley Motorsport Park.

Thank you for your time,

Sincerely Mike Burke

TESTIMONY – HOUSE BILL ~~1196~~ 1169

HOUSE TRANSPORTATION COMMITTEE

JANUARY 27, 2011, FORT TOTTEN ROOM

Mr. Chairman, members of the House Transportation Committee, my name is Arik Spencer, Recreation Division Manager, for the North Dakota Parks and Recreation Department. I appear today to give neutral testimony on HB 1196.

The North Dakota Parks and Recreation Department suggests the following amendments to HB 1196 regarding youth off-highway vehicle operation (OHV).

- Set a minimum age limit so that an appropriate curriculum can be developed for youth younger than the current age range covered by N.D.C.C. 39-29-10. This will allow for better course management and youth receiving an effective safety education.
- Direct adult supervision is needed for youth under 12 years of age to provide a proper riding example and to assist youth riders who will be riding in designated OHV areas /trails in remote areas.
- Require use of OHV's designed by manufactures for youth operation to prevent operators in this age group from operating an OHV which is too big/ powerful to control.
- The Department of Transportation has sent a request to the Parks and Recreation Department to remove the requirement that the Department of Transportation issue safety certificates. From both 39-29-10 (OHV chapter) and 39-24-09.1 (snowmobile chapter). The Parks and Recreation Department has an agreement with The Department of Transportation to design and distribute the safety certificate so this amendment will promote efficient government and recognize existing practice.

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

## POLARIS ATV DEALER SAFETY REQUIREMENTS

Revised April 30, 2010

This document contains the safety requirements for Polaris ATV dealers. These safety requirements are based on the requirements of the U.S. Consumer Product Safety Commission and the change to ATV safety training offered by Polaris through the SVIA. All of your personnel should review and follow these Polaris ATV Dealer Safety Requirements. Some state laws may be less restrictive but you must follow the more restrictive federal law.

### I. AGE WARNING

A. You must give the age warning to all potential purchasers who are purchasing a Polaris ATV for use by anyone under the age of 16. A Y-6 Polaris ATV may only be operated by a child at least 6 years of age and older. A Y-12+ Polaris ATV may only be operated by someone 13 years old or older. "Transitional" or "T" models, if offered, are for ages 14-16 under adult supervision, or ages 16 and older. Only persons 16 years of age or older may purchase or ride an adult-sized Polaris ATV. The age warning includes new and used Polaris ATVs.

### \*IMPORTANT NOTICE\*

Congress recently passed a law restricting the amount of lead that can be present in products sold for children 12 years of age or younger. The Consumer Product Safety Commission ("CPSC") is responsible for implementing this law. The CPSC has stayed enforcement of the lead limits on motorized recreational vehicles (including ATVs) designed or intended primarily for children 12 years of age or younger until May 1, 2011. This stay does not prevent legal action by consumers or other governmental agencies.

Because Congress has changed the age definition for children's products, we changed the age recommendation of our Y-12+ products to ensure we conform with the new law. The new age warning states that the Y-12+ products are not for children 12 years of age or younger. Polaris has sent all dealers a kit with updated labels that must be applied to model year 2010 or earlier vehicles before they can be sold. Model year 2011 Y-12+ vehicles are shipped with these new labels. You may not sell a Y-12+ (90cc) Polaris ATV to anyone without this warning and this label applied without risking violation of the new law and subjecting yourself to penalties. If the CPSC changes its guidance on this matter, we will notify dealers on any changes.

B. Never minimize the importance of the age warning to customers. Never tell the customer that they can allow anyone to ride it after the purchase or that the warning is only a recommendation.

C. You cannot sell an ATV to a customer who tells you the ATV will be operated or ridden by a child of an inappropriate age.



## II. HANGTAGS/OWNER'S MANUALS

Polaris safety hangtags must be attached to the handlebars of every ATV for sale at your dealership. Owner's manuals must be given with each Polaris ATV purchase.

## III. ATV SAFETY ALERT

Each purchaser must receive a copy of the ATV Safety Alert.

## IV. ADVERTISEMENT AND PROMOTIONAL MATERIAL

Advertisements and promotional materials need to include the safety warnings that Polaris supplies to its dealers. If you intend to use advertising other than what is contained in our ad planner kit, obtain prior approval from the Polaris advertising department. Some examples of safety warnings are listed on the ATV Safety Alert.

## V. TRAINING AND SAFETY MATERIALS

Polaris dealers must notify all purchasers of a new Polaris ATV about the authorized SVIA ATV *RiderCourse<sup>sm</sup>* and discuss the safety warnings that are located on the customer warranty registration form with the customer. The ATV Safety Alert, hangtags, and safety videos or DVDs in both English and Spanish are available through the Polaris Warranty Department. If any safety decals or warnings on Polaris ATVs have been damaged or removed, you may order replacements from Polaris at no charge.

## VII. AGE MONITORING

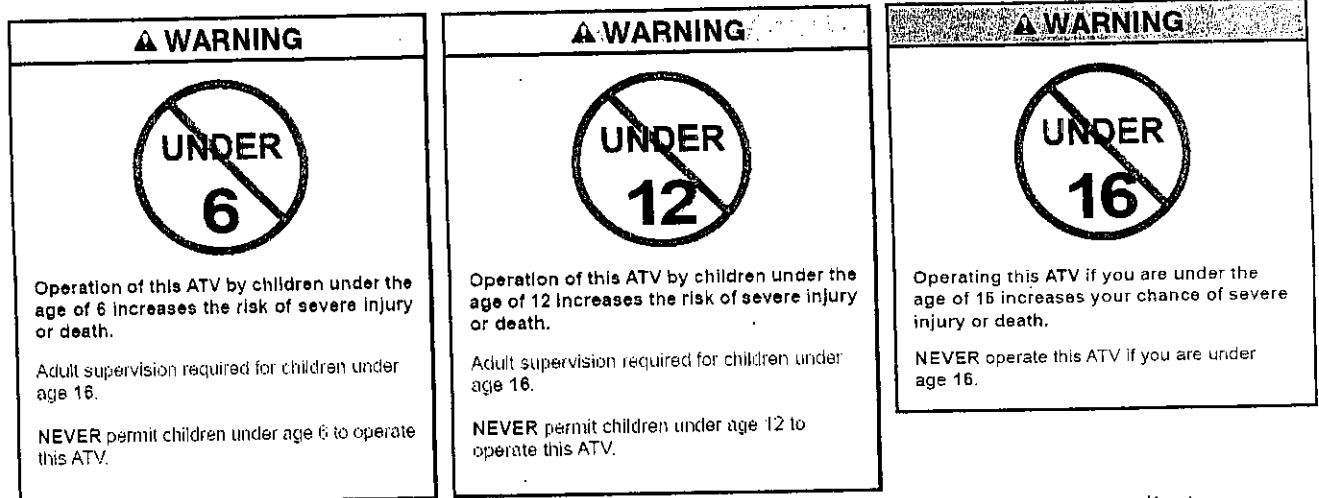
The Consumer Product Safety Commission and Polaris will continue to monitor age recommendations given at your dealership. Polaris is required to investigate each reported potential violation and take appropriate action if a violation is confirmed.



Just the Beginning

## ATV MINIMUM AGE RECOMMENDATION AND YOUR DEALERSHIP

ATV dealers are being checked by the Consumer Product Safety Commission, various consumer groups, the media, and ATV manufacturer's to determine whether dealer sales personnel are improperly recommending adult-sized ATVs for use by youngsters under the age of 16. It is very important that dealers carefully match the rider to the ATV by following the manufacturer's minimum age recommendation warning label on the ATV and in the owner's manual. The minimum age warning label on the ATV should be similar to the examples shown below.



To help you explain age limits to customers, and take advantage of the opportunity to successfully sell youth-sized ATVs, we have prepared some examples of ATV sales presentations.

Leading the customer to believe that adult-sized ATVs are appropriate for youngsters under the age of 16 is inconsistent with Suzuki policy and is a violation of your Dealer Agreement. American Suzuki Motor Corporation understands that it is difficult—although necessary—for you to show restraint when faced with an eager customer trying to purchase an adult-sized ATV for a youngster.

In the example that follows, an adult has come into your shop to ask for information on buying an ATV for his son. Your first reaction might be to show the prospect the full range of QuadRunner models you have available. However, you first need to know the son's age. Let's assume that his son is 13. Since the son is under 16 (and not younger than 12), you can confidently recommend and sell the LT-Z90 to this customer. After reviewing the following pages, please discuss the requirements with your staff and contact your District Sales Manager with any questions that arise.

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**Testimony – House Bill 1164**  
**Senate Transportation Committee**  
**March 4, 2011**

Testimony presented by Annette Behm-Caldwell  
Dealer Principal – Open Road Honda, Mandan  
Member: North Dakota Dirt Riders  
Volunteer: Missouri Valley Motorsports Park

We thank Senators Cook, Fischer and Stenehjem, Representative Kelsch, Porter and Weisz, for introducing this bill on behalf of the NDDR.

I ask that the committee recommends a Do Pass vote on HB 1164.

I have summarized by discussion points and material in the attached brochure.

1. The positive impact of HB 1164
2. Increased demand for OHV riding opportunities  
Missouri Valley Motorsports park  
Bismarck and Mandan surveys
3. OHV Registrations continue to increase in ND  
Expected to be near 24,600 units in the 2009 – 2011 biennium
4. The number of youth riders attending safety training is also increasing.  
More than 1,400 youth riders have received a ND Park and Rec rider certification
5. OHV Accident rates in ND remain low
6. OHV Riding is good physical activity
- 7.
8. Youth Rider Training makes a difference  
ND has the opportunity to provide a secure, controlled riding experience that will provide youth riders with the riding skills that will stay with them for a lifetime. It is my hope that the safety skills learned on public trails will work their way to the farms and ranches.

Chairman Lee, that concludes my remarks.

I would also like to submit for testimony three letters. The first letter from a fellow volunteer on the Missouri Valley Motorsports park and three letter from powersports dealers located in Bismarck, Grand Forks and Minot.

## Demand for OHV Activities in North Dakota

- NDMA: Since 1974 NDMA has been providing youth riders with a safe, controlled riding environment. In 2010 NDMA had 300 registered riders — 85 of which were 12 and under. NDMA holds 12—16 races per year with competitive and non-competitive classes for youth riders.
- Bismarck Parks and Recreation conducted a city wide survey in 2009. The development of an “ATV/Motocross” area was in the top five for outdoor items respondents would like to see developed.
- A Mandan Tomorrow interest survey completed in spring 2010 also showed a need for OHV recreation. Of 385 respondents, 97 showed strong or moderate interest in motorcycle rides/trails. 111 of 387 respondents had great or moderate interest in snowmobile trails/races

## USCPE promotes ATV Safety Training

Learning to drive an ATV can be challenging. Many deaths and injuries occur when an inexperienced driver loses control of an ATV, is thrown from an ATV, overturns the vehicle, or collides with a fixed object or a motor vehicle. Good ATV training teaches new drivers how to handle multiple off-road riding situations.

Experienced ATV drivers (with more than one year of experience) have a much lower risk of injury than relatively new drivers. Training can help bridge that gap. Yet, less than 10% of all ATV drivers and only about one-quarter of new drivers receive professional training.

All ATV drivers, including children under 16, should take a hands-on ATV safety course from a certified instructor.

Source: [ATVSafety.gov](http://ATVSafety.gov)

## HB 1164

## Legislation that supports Youth OHV Rider Education

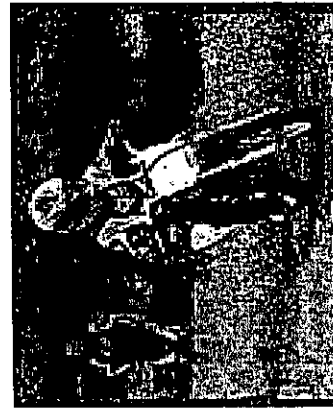


## Creating a Positive Future for Off Highway Vehicle Recreation

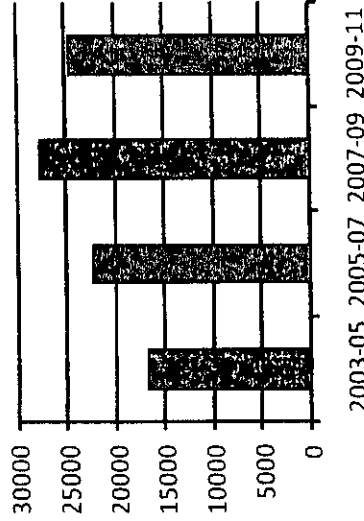
## HB 1164

If passed, HB 1164 would:

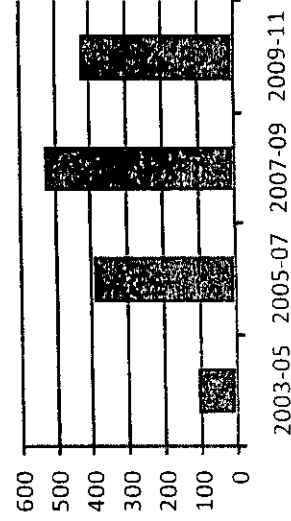
- Allow Youth OHV Riders, ages 8—11 to ride at designated OHV parks and on designated state OHV trails
- Riders must be supervised by an adult while riding.
- Riders must be riding an OHV manufactured for youth riders.
- Riders must pass the ND Park & Recreation OHV safety training course



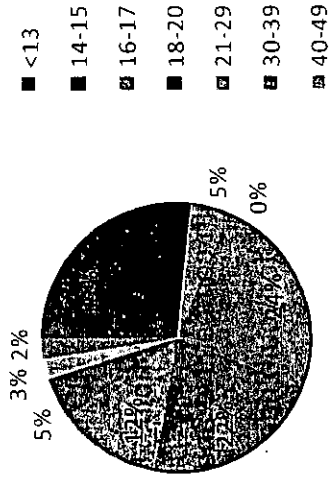
### Registered OHVs



### Safety Certifications



### 2009 OHV Crashes



41 OHV crashes—source ND DOT Crash Summary

### Research shows OHV Riding is Good for The Body and Soul!\*

A 2010 study completed by York University, Toronto, Ontario, Canada has found that OHV riding conforms to the American College of Sports Medicine recommended physical activity guidelines”.

“Off-Road Vehicle riding is similar in aerobic demand to many other recreational, self-paced, sporting activities such as golf, rock climbing and alpine skiing”. Jamie Burr, York University, Faculty of Heath

Mr. Chairman and fellow Committee Members:

For the record, my name is Michael Jay. I am the Executive Director of ABATE of North Dakota.

ABATE, whose acronym stands for American Bikers Aiming Toward Education, has been teaching motorcycle safety to the citizens of North Dakota since 1978. ABATE currently holds the contract with the Traffic Safety Office of the North Dakota Department of Transportation to provide training for motorcyclists statewide. ABATE of North Dakota favors HB 1164. This Bill, as written, would provide an opportunity for our younger citizens to receive some formal training for a sport they are already participating in. It is of our professional opinion, as Motorcycle Safety Foundation Rider Coaches, that early training, in any aspect of motorcycle training, is crucial for a beginning of lifelong learning behaviors.

We also believe that training by the North Dakota Motorcycle Safety Program plays an important aspect of reducing motorcycle crashes in the state of North Dakota.

On behalf of the members of ABATE of North Dakota, we would ask this Committee for a do pass on HB 1164.

Mr. Chairman and fellow Committee Members, I thank you for your time and I stand before this Committee for any questions.

To whom it may concern,

I am writing this letter in support of bill HB 1164. I am the father of two children, that are currently unable to enjoy the same passion for riding as I do. Under the current law my children would only be able to ride at NDMA motocross races. I would prefer they would learn to ride under my supervision away from the competitive side of riding, to develop not only their skills at a slower pace, but also a passion to ride that lasts a life time.

In this day and age, we are looking for hobbies that families can do together to bond and grow, outside of our everyday hectic lives, instead of spending time in front of the TV or computer. This is a hobby that if learned at a impressionable age, can be done safely, and will teach responsibility, and confidence as their skills improve. I believe riders taught responsibly, under adult supervision at a younger age, are better riders, and more responsible riders as they mature.

Thank you for your consideration of bill HB 1164.

Sincerely,

Vance and Shelley Wingerter and family.

7801 Beacon Loop

Bismarck, N.D. 58504

701-223-2409

# **VALLELY**

## **SPORT & MARINE**

### **BISMARCK - MINOT, N.D.**

January 27, 2011

North Dakota House Transportation Committee:

I am writing in support of HB 1164. I believe that the passage of this bill is essential in providing North Dakota's youth the opportunity to ride an OHV and teach its youth safe controlled OHV riding. OHV vehicle riding is a very popular form of recreation across the United States and I do not see it slowing down. North Dakota can step up on the forefront and provide a safe riding environment where youth can learn the "right way" or we can do nothing and hope they get taught on their own. It is necessary to not only provide youth the ability to ride these vehicles, but provide them with proper training, supervision, and vehicles to assure a safe riding environment.

There are several key variables that I think make this bill the right decision for North Dakota. First of all, Youth between the ages of 8-11 are the perfect age to soak up important safety information and rider training that is important to the future success of OHV vehicles in North Dakota. Secondly, the youth must ride an OHV vehicle that is manufactured for youth riders. This is the only way we can ensure a safe, controlled riding platform. OHV manufacturers understand this need and manufacture products that are designed for this growing segment specifically. Lastly, by requiring youth riders age 8-11 to ride in designated motorsports parks, with adult supervision, and complete the ND Park and Rec safety course is doing nothing but providing a safe, controlled form of recreation. I cannot think of a better way to teach our youth safe, responsible, and controlled riding! I wish all forms of recreation could be this safe.

I urge you to pass HB 1164 to ensure that North Dakota is on the forefront of providing a safe riding environment where youth can be taught the right way.

Thank you in advance for your consideration,

*Josh Vallely*

Josh Vallely

Vallely Sport & Marine  
P.O. Box 898  
Bismarck, ND 58502



# **REVOLUTIONS**

**P O W E R   S P O R T S**

**Kawasaki YAMAHA POLARIS**


January 26, 2011

RE: House Bill 1164

To Whom It May Concern,

I wish to voice my support for House Bill 1164 which makes amendments to section 39-29-10 and 39-24-09.1 of the North Dakota Century in which it lowers the legal age for riding off road vehicles in North Dakota parks and trails from age 12 down to age 8. I support this legislation because in many instances going trail riding is a family event and the earlier you can teach the fundamentals of riding while providing a legal, safe environment in which to ride the more likely kids will end up on age appropriate machines and in turn will lower the likelihood of injury.

Thank you,

  
Travis Burke  
General Manager  
Revolutions Power Sports



# Pure Honda

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of Minot

January 25, 2011

As a power sports business owner, it is a high priority within our organization to promote safety at all ages. We also believe that the earlier the training begins the better. Our business promotes the A.B.A.T.E. North Dakota Motorcycle training course in our community. We know first-hand that teaching in-class safety along with real life skills training elevates the rider's awareness. It also builds self-esteem. For our future generations, we encourage all adults to support youth safety programs that build character and responsibility to our children. This creates a much healthier and happier environment.

Sincerely,

Laverne Berg

Keith Braunberger

Jeremy Berg