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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/09

SPONSOR Tripp LAST UPDATED \_\_\_\_\_ HB 202

SHORT TITLE Off-Highway Motor Vehicles On Highways SB \_\_\_\_\_

ANALYST Haug

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with SB 379

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Game and Fish Department (DGF)  
 Department of Transportation (DOT)  
 Public Defender Department (PDD)  
 Department of Health (DOH)  
 Taxation and Revenue Department (TRD)  
 Energy, Minerals and Natural Resources Department (EMNRD)  
 Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of Bill

House Bill 202 removes restrictions prohibiting off-highway motor vehicles on highways. Previously, off-highway vehicles could only *cross* public highways. Operation of an off-highway vehicle on a limited access highway or freeway will continue to be prohibited. 66-3-1012 (Driving of off-highway motor vehicles adjacent to highway) which included language that provided a narrow allowance to drive adjacent to a highway is repealed.

### FISCAL IMPLICATIONS

House Bill 202 contains no appropriation. The AOC notes that there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

## SIGNIFICANT ISSUES

DGF notes that the current statutory prohibition makes it illegal to drive along the side of the road for recreation or to go on errands using an off-highway vehicle. For example using an off-highway vehicle to get the mail or go to the convenience store is not currently allowed. This is a consistent prohibition throughout the State. It will now be left up to each local jurisdiction to determine what off-highway vehicle restrictions, if any, will be put in place. Off-highway vehicle operators that visit these communities may not know local restrictions or allowances.

The DOT states that the Traffic Safety Bureau is concerned the proposed amendment would result in the operation of off-highway motor vehicles on paved streets and highways by persons not otherwise competent to drive on those roads, and thus resulting in an increase in the number of accidents and injuries on those roadways. For example, minor children between the ages of 7 and 15 are permitted to ride off-highway vehicles that are age and size appropriate. Under HB 202, these riders may be permitted to ride on paved roads or highways other than limited access highways and freeways, and to interact with motor vehicle traffic, without having the requisite driver education training or experience with existing rules of the road. Additionally, other motor vehicle operators do not currently receive training on sharing the road with operators of off-highway vehicles. The combination of these factors, and the fact that off-highway vehicles would travel at lower speeds than other motor vehicles, would increase congestion and the potential for driver distraction, and thereby increase the likelihood of motor vehicle/off-highway motor vehicle crashes.

The DOH states:

HB202 makes no distinction for age, driver's licensure and operation of OHVs. Given the limitations of strength, decision making and judgment of young children, they, and all of the other drivers on streets and highways would be at increased risk for injury if child-operated OHVs are allowed on New Mexico's streets and highways.

The current law is reasonable, and prevents many serious injuries. Changing the law as proposed would increase injuries and costs to both private citizens and the public.

OHV safety, particularly ATV safety, is an important issue for both adults and children. In New Mexico between 1982 and 2004, 71 ATV-related deaths were reported. Of these deaths, 24 (34%) were children under the age of 16 years (U.S. Consumer Product Safety Commission [CPSC]). CPSC data from 2005 through 2007 show that 15 New Mexicans died as a result of ATV-related injuries. These numbers of deaths would likely increase if children were allowed to drive ATVs on streets and highways in NM. National CPSC data show that children under 16 suffered 40,000 serious injuries in 2007, which accounted for 27 percent of all ATV-related injuries. And, since 2001, there has been a statistically significant increase (17%) in the number of children under 16 seriously injured (traumatic brain, spinal, abdominal, and complicated orthopedic injuries) on ATVs.

According to the AOC, safety issues related to the operation of off-highway motor vehicles are significant nationally and internationally. A review of state laws available from the Specialty Vehicle Institute of America reveals that no other state in the southwestern United States currently allows the use of off-highway vehicles on highways except for crossing (Nebraska,

Colorado, Oklahoma, Nevada, Arizona, Texas). The Recreation Off-Highway Vehicle Association issued safety rules on November 11, 2008, which state: Never drive on public roads. The primary safety concern is for the operator and passengers of the off-highway vehicle.

TRD notes that The Motor Vehicle Code defines an off-highway vehicle as “*a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:*

- (1) ‘all-terrain vehicle’ ...;*
- (2) ‘off-highway motorcycle’ .... ; or*
- (3) ‘snowmobile’, ...” (Section 66-3-1001.1. NMSA 1978).*

## **CONFLICT**

House Bill 202 conflicts with Senate Bill 379 which would leave Sections 66-3-1011(A)(2) and 66-3-1011(B) in place and, therefore, would retain the prohibition against the operation of off-highway motor vehicles on paved streets and highways, except for crossings authorized in accordance with Section 66-3-1011(B).

GH/mc