

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1196

2005 HOUSE TRANSPORTATION

HB 1196

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. 1196

House Transportation Committee

Conference Committee

Hearing Date January 13, 2005

Tape Number	Side A	Side B	Meter #
2	X		13.8-46.4
2		X	24-40.2

Committee Clerk Signature



Minutes:

Chairman Weisz opened the hearing on HB 1196 A Bill for an Act to create and enact a new section to chapter 39-29 of the North Dakota Century Code, relating to all-terrain vehicles registered as motorcycles; and to provide penalty.

Rep. Jon Nelson (14.1) (see attached testimony) In support of the bill.

Rep. Weiler The first paragraph of your testimony says with exception to the interstate highway and cities and municipalities if they choose to by ordinance. That would be interstate 94 and 29.

Rep. Jon Nelson: That is correct. Does not include highway 83. If you want to include controlled access 4 lane highways, I don't think that is an issue. The issue that is most frustrating to the people that asked me to sponsor this bill is cases where they have no or limited ability to perform their daily tasks. Discussed fact that ranchers are moving cattle with 4-wheelers rather than horses and they are running the ditches and roadways. If there is a law enforcement officer that wishes to make it an issue they can because it is against the law. We need a uniform policy

in this state. No only on what is legal. I think the South Dakota law is proven to be able to be used and is working well there.

Rep. Weiler What is the maximum speed limit?

Rep. Jon Nelson: Depending on the vehicle, the size of the motor, I would say 50-60 miles an hour is the general guidelines. Most people don't drive them at top speed. A speed limit proposal would be OK.

Rep. Weiler Would this be for work purposes only?

Rep. Jon Nelson: This would be much like the motorcycle license where you can use it for recreation or work. ATV's don't rut up the road when being used for recreational purposes too. It has created a better relationship between land owners and sportsman.

Rep. Ruby (21.5) I am concerned about which roads to use them on. I would like to see something about done about that. If they are licenses like a motorcycle would they have to have a motorcycle license?

Rep. Jon Nelson: It is up to the law enforcement community to make sure all the safety requirements have been meet. No a special license would not be necessary.

Rep. Kelsch (22.9) You first statement says they would not be allowed on interstate highways but they would be allowed in the cities unless the cities have specific ordinances in the city limit or streets.

Rep. Jon Nelson:(23.3) The city told me that is the way it would be handled from a city stand point. If you wanted to except cities and municipalities from this we could do that. There are a number of smaller rural areas where this would be a beneficial use. There is a procedural trail that would be need either way.

Rep. Kelsch Would a minor be able to drive an ATV? What about helmets?

Rep. Jon Nelson They would still have to observe state laws on drivers licenses. Helmets are required in motorcycles, they have two wheels. I don't know if there is a need for mandatory helmet law. Should be a judgment call.

Rep. Thorpe (26.4) If I am reading this right you are picking out the same chapter as motorcycles. They are licenses and insured as required by law. How many of these ATV's would there be to insurance and license?

Rep. Jon Nelson: It is essential that they be licensed to use roadways. Review the attached letter from South Dakota). It is absolutely necessary you have brake lights, turn signals, horn and all the safety features that they require down there. There is no requirement for that in this state now. Also, don't need to be licenses on their own property.

Chairman Weisz (28.8) To clarify the ATV if they don't want to run on the highway, they don't have to be licensed. If they want to run on the highway they have to be licensed same as any other vehicle and driving license requirements would be the same as required by law.

Rep. Schmidt (30.9) If the state allows you to license that ATV, it would be discriminatory for you to not let them drive on the road because the license fee pays for the road.

Tom Bozer, Dept. of Recreation: Currently the registration fee is \$10; \$5 goes to DOT for administrative costs and \$5 comes to our department for trails. There is very limited trail system now. You are currently allowed to drive on a right-of-way of a roadway or on any of the state or federal trails. We are currently in process of development more trails since there has been a large increase in sale of ATV's.

Rep. Dosch (34.0) Are you taking a position on this bill?

Tom Bozer: We have no position on this bill. Another concern is the tires. Higher speeds with these low pressure tires, will hydroplane. The chance of roll over on high speeds are great. Would like to see the speed limited. I would believe they would still have to get an ATV license and they could be incorporated into one plate.

Dwane Getzlaff: (37.1) I want is everyone in North Dakota be treated equally and every township. Discussed two occasions where rural people got picked up just driving around working with their ATV's. ATV on roadway not a problem. Safety is a concern. They are a work vehicle now. . In South Dakota and they have had only 5 ATV accidents and none were fatal. ATV's on the roadways are not a problem in South Dakota. I just want everyone treated the same We are required to take an ATV course and it should be up to the parents if their children are to get a license.

Kyle Branchfield:(44.3) Resort owner on Devils Lake. Been there for 17 years and had ATV traffic on gravel roads all the time. We will upgrade the safety equipment on the 4-wheels and it would be allot safer. I knew it was always illegal, but has never been enforced in our area. It has never been a problem and never had an accident. I hope that you will consider a do pass on this bill.

Chairman Weisz Any more in support of HB 1196. Any in opposition of HB 1196?

Closed (46.4)

Discussion: Tape 2 Side B

Chairman Weisz(24.3) Where are we on this bill now. Remember our four lanes are not controlled excess. If we were trying to eliminate them off Highway 83 & 2. This would be any four lane roads.

Rep. Price (24.4) Living just far enough out of town I meet two 4 wheels on highway 83 on the road since there are too much snow in the ditch to run the ATV's. My concern is safety living just far enough out of town that people driving them on the roads, there is no where to go.

There has to be some real concerns how we handle this.

Chairman Weisz (25.1) Four lanes are not controlled excess. Rep. Nelson said we could say controlled excess, but that wouldn't solve the problem. If you were trying to eliminate them off 83 and highway 2; there is some on 281 so you could say any four lane road. Interstate or four lane road.

Rep. Price (25.7) That bypass is a two lane road, but it is pretty heavily traveled and I don't know if it is part of the city?

Rep. Owens (26.0) I don't think we have any controlled excess four lanes, we have uncontrolled excess four lanes. We could, for an example, restrict it to state county and township roads, which eliminates US 83, 2, 85. Any of the US Highways. They could cross them, but they couldn't drive down them. We are talking about a law that hasn't penetrated society anyway so the hold thing is worthless anyway.

Rep. Schmidt (26.8) They are building those baby cars in Fargo. Are they allowed to drive them on the streets now? Little cars.

Rep. Vigesaa Seems to me we are talking about using them for a farmhand working vehicle, which is usually close to your homestead, but probably one or two miles away. That is usually on a county or township road.

Chairman Weisz (27.6) I don't use a four wheeler to get around. I have them. State Highway 3 goes right through my land so that is my excess. I don't even use an ATV for that purpose. The resistance would be; now we can't even run across a highway here? I am of the idea that we either allow them and maybe restrict the four lane interstate. Either we allow them on the highways or we don't. If we start getting it too restricted and a miss match it would become too confusing.

Rep. Delmore (28.3) It is interesting. I do think safety is always and important thing to do. But the highway patrol is certainly conspicuously absent.

Rep. Bernstein (28.8) I think we kind of loose site that if they are licensed to go on the roadway they have to be outfitted for safety with equipment.

Rep. Dosch (29.4) I am not sure I was clear on the answer but this deals with the registering of the vehicle. Does that mean they have to attend the safety courses and they have a motorcycle license?

Chairman Weisz (29.6) They are going to be licensed under a three wheel motorcycle, which is a regular drivers license because they are a four wheel vehicle. A motorcycle license does not fit at all under these. You would have to have a regular drivers license. So you would have to meet all those requirements of a drivers license.

Rep. Iverson (30.3) I have seen ATV's that have been specifically built for children. I am a larger guy and there is no way I could get on one of those vehicles. Would they be included in this?

Chairman Weisz (30.4) One, they have to be 200 cc or larger. You have to be able to meet all the safety requirements to license them. Obviously, six year old kids can't get a drivers license.

Rep. Thorpe (30.6) This comes under the code covering motorcycles. Wouldn't they have to have a motorcycle license?

Chairman Weisz 39-29 is strictly motorized vehicles. That is all classes. They are putting it under 39-04 under three wheeled motorcycles. That in reality is licensed the same as a car because they have more than two wheels. 39-29 is the reference to all-terrain vehicles. But 39 is all motor vehicles.

Rep. Thorpe I am concerned about safety and I wouldn't be able to support this bill if we leave US highways in there. I am thinking US Highway 52 from Minot to the Canadian border, with all that truck traffic. I don't know how anyone would dare get on there with all that traffic.

Rep. Price(32.2) Are they allowed to take passengers along?

Chairman Weisz (32.2) No, they are not. For good or bad, I am sponsoring a bill for Parks & Recreation Department that would set up a procedure that could have a passenger if the vehicle was equipped for passengers. Currently everyone does, but there is no provisions for passengers on ATV's. In other words you could drive an ATV on trails if you had a passenger, if they meet the new design standards for passengers. That would mean, if that same vehicle meets the other safety requirements, could be licensed to haul two passengers. I don't know. I am assuming, if we get this law passed, it could. But I don't know that. You are saying this vehicle can carry multiple passengers. Does that then mean if you license this vehicle for the street, that it can carry two passengers on the street. I don't know that.

Rep. Vigesaa (34.0) Would be something to consider paved or unpaved roads?

Rep. Bernstein I think there is enough of an issue on this. I do notice in the fall when I am hunting allot of farmers and ranchers use them to get back and forth to their fields. Even ran into cows being driven down the road on four wheelers so it is necessary.

Chairman Weisz I almost ran into some cattle once. They should not be running cattle down the ditch, but again that is another issue.

Rep. Weiler(26.7) I think there is allot of merit to this bill. There is allot of reason to keep this bill.

Rep. Ruby(37.1) I was wondering about people who were using them for farming purposes? How many of them are actually going to go through the licensing and insurance that they are used to doing now without. I don't know about street legal cattle are?

Chairman Weisz I think you would find sportsman and farmers will be the number one users. I think for the liability issue the majority of them would try to somewhat legal so they don't have to worry about the hassle. It isn't going to cost much and be legal and then they won't have to worry about it. I think if we do pass a law the highway patrol might make it a higher visibility going after people. Because you can be legal than. There will still be a percentage that will ignore it any how. That is the way that it always is. The subcommittee is: Rep. Price, Rep. Ruby, Rep. Delmore.

Closed (40.2)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. 1196

House Transportation Committee

Conference Committee

Hearing Date January 14, 2005

Tape Number	Side A	Side B	Meter #
1	X		21.4-34.0

Committee Clerk Signature

Dr. Loren Hoffmann

Minutes:

Chairman Weisz (21.4)re- opened the hearing on HB 1196 A Bill for an Act to create and enact a new section to chapter 39-29 of the North Dakota Century Code, relating to all-terrain vehicles registered as motorcycles; and to provide penalty.

Rep. Price Explained the proposed amendment. Our purpose was to make it legal to ride these registered vehicles on everything except a US highway or an interstate. The reason you see some changes in the passing section was we did not want it to be less of a penalty to ride an unregistered vehicle on a US Highway or interstate, than to ride a registered one. Because the guy with all the safety equipment would be hit with a much harder fine with the bill than the guy that had no safety equipment. So we made those consistent. We made it clear that if you have an unregistered vehicle you are not allowed on the roads. We did change the penalty in the bill to a Class B misdemeanor to ride on a US highway or interstate. We put it down to an infraction and

raised the non registered vehicle up to an infraction. Before it was limited to a \$20 fine. So those two are the same.

Chairman Weisz Your following the motorcycle rules as far as safety equipment. You strictly went to that section.

Rep. Weiler (23.3) I am trying to find here; didn't they say it was left up to the cities.

I have a question for Rep. Ruby. If you are in the city of Minot driving an ATV on Highway 83, which goes through Minot and the city of Minot passes an ordinance for driving ATV's in town. Who has jurisdiction?

Rep. Price It is still a highway so the highway takes precedence.

Rep. Dosch (24.4) Does it take a drivers license or a motorcycle license? Rep. Price said still a drivers license.

Rep. Price But motorcycle safety equipment. The motorcycle license is for a two wheeler motorcycle, so it would not be necessary for a 4-wheeler. Then you would have to go through the safety classes for a motorcycle. It shows you how to lay them down and all that stuff. Don't need that for an ATV.

Rep. Ruby (25.1) Wanted to thank Karl, Intern for all this work on the amendment. Had lots of difference sections. What about turn signals? Is already covered in the codes. Should be move the fine up to \$50, rather than \$20? That is up for discussion. Decided is OK now. If you are riding on an interstate, it is an infraction which is up to \$500. If you have an unregistered one on a roadway other than an interstate or US Highway it would be \$50.

Rep. Hawken (27.4) I like \$50. It ought to be at least what it cost to register it. That is a reason to make sure you do it. I think that could change.

Rep. Weiler (27.7) Was there any concern about the speed? Some of the county roads the speed limit is 65.

Rep. Kelsch When I am going down an interstate and get passed by a motorcycle; I think I would be more scared to be on that motorcycle.

Rep. Weiler You also heard them talk about the tires and pounds per square inch. Motorcycles don't do that. I just wanted to know if there is a speed limit.

Chairman Weisz The problem Rep. Weiler is that you can buy a variety of tires and you can get tires that are basically like motorcycle tires; you run 2.5 pounds in them and nobody in their right might would try to drive 55 on the highway. How do you determine what kind of tires they have?

Rep. Dosch (29.8) The other part of that is to 40 miles an hour what kind of problem is that creating for someone driving down the road.

Rep. Thorpe (30.1) What about the license fee, should it also cover the trail fee?

Rep. Price (30.5) There maybe a lot of people that want to register these that don't go on the trails, some of the farmers and ranchers that are using it for work. The counties and townships that are using them for spraying. A lot of them will never us the trails. Another comment on the fee thing; you think the whole safety issue whether you vote for this bill or not. If you think it will be a hazard on the road, then vote no. Be aware that anyone under 18 must have a helmet for ATV's.

Chairman Weisz Clarify on the fines. The \$50 applies on any roads for any unregistered. The infraction applies only on the interstate or US Highway.

Rep. Price If you are driving an unregistered vehicle on the interstate or US highway, it is an infraction. If you are driving on any other roadway it is a \$50 fine.

Chairman Weisz If I am driving an ATV that will be registered for trail, for off road, I will be fined \$50 now.

Rep. Price That fear is that your going to have a registered and non registered running on the road and they see some body and they will hit the shoulder to appear that they were not riding on the road.

Rep. Ruby (32.6) The other thing too is for the registered one under the other law they would get Class B misdemeanor and the one right next to it would get \$20 infraction before. That's why I want to get some kind of consistency.

Chairman Weisz Did a voice vote. All yeas. Motion passed to accept the amendments
No further discussion. (34.0)

Motion Made by Rep. Iverson

Seconded By Rep. Delmore

DO PASS AS AMENDED 13 Yes 2 No 0 Absent Carrier Rep. Ruby

FISCAL NOTE
 Requested by Legislative Council
 01/18/2005

Amendment to: HB 1196

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

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

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

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

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

It is not possible to estimate the fiscal impact of this bill as there is no way to determine how many 4 wheel ATVs exist, how many of them would choose to register under the provisions of the bill, or how many would be able to meet the equipment requirements

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Keith Kiser
 Phone Number: 328-2725

Agency: NDDOT
 Date Prepared: 01/19/2005

FISCAL NOTE
 Requested by Legislative Council
 01/07/2005

Bill/Resolution No.: HB 1196

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

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

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

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

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

It is not possible to estimate the fiscal impact of this bill as there is no way to determine how many 4 wheel ATVs exist, how many of them would choose to register under the provisions of the bill, or how many would be able to meet the equipment requirements.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Keith Kiser
 Phone Number: 328-2727

Agency: NDDOT
 Date Prepared: 01/11/2004

1-14-03

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1196

Page 1, line 6, remove "- Penalty"

Page 1, line 10, remove "provided by chapter"

Page 1, line 11, replace "39-27" with "for a motorcycle" and after "motorcycle" insert "if appropriate" and remove "The registered all-terrain vehicle may"

Page 1, removes lines 12 and 13

Page 1, after line 13, insert:

"SECTION 2. AMENDMENT. Section 39-29-09 of the North Dakota Century Code is amended and reenacted as follows:

39-29-09. Operation of all-terrain vehicles.

1. Except in an emergency, a person may not operate a registered or unregistered all-terrain vehicle on an interstate or United States highway system.
2. A person may not operate an unregistered all-terrain vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, a person may not operate an all terrain vehicle within the right of way of any controlled access highway."

"SECTION 3. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

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

VR
1/14/05
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HOUSE AMENDMENT TO HB 1196 TRAN 1-17-05

Page 1, line 2, after the semicolon insert "to amend and reenact sections 39-29-09 and 39-29-12 of the North Dakota Century Code, relating to the operation of all-terrain vehicles;" and after "provide" insert "a"

Page 1, line 6, underscore "All-terrain vehicle licensed as motorcycle", remove "- Penalty", and underscore ". An all-terrain vehicle with four"

Page 1, underscore lines 7 through 9

Page 1, line 10, underscore "meet the necessary light, brake, and other vehicle accessory requirements" and replace "provided by chapter" with "for a motorcycle"

Page 1, line 11, remove "39-27", underscore "that are applicable to a three-wheeled motorcycle" and insert immediately thereafter "if appropriate", underscore the period, and remove "The registered all-terrain vehicle may"

Page 1, replace lines 12 and 13 with:

"SECTION 2. AMENDMENT. Section 39-29-09 of the North Dakota Century Code is amended and reenacted as follows:

39-29-09. Operation of all-terrain vehicles.

1. Except in an emergency, an individual may not operate a registered or unregistered all-terrain vehicle on an interstate or United States highway system.
2. ~~A person~~ An individual may not operate an unregistered all-terrain vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, a person may not operate an all terrain vehicle within the right of way of any controlled access highway.
2. 3. The operator of an all-terrain vehicle may make a direct crossing of a street or highway only if:
 - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The all-terrain vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
2. 4. ~~A person~~ An individual may not operate an all-terrain vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in working order, which conform to standards prescribed by rule of the director of the department of transportation, except when under the direct

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supervision of an all-terrain vehicle instructor teaching a certified all-terrain vehicle safety training course, the requirement for a headlamp and taillamp may be waived.

4. 5. The emergency conditions under which an all-terrain vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
5. 6. ~~A person~~ An individual may not operate an all-terrain vehicle in the following ways, which are declared to be unsafe and a public nuisance:
- a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c. While under the influence of intoxicating liquor or a controlled substance.
 - d. Without a lighted headlamp and taillamp except when used by an all-terrain vehicle instructor during a certified all-terrain vehicle safety training course.
 - e. In any tree nursery or planting in a manner which damages growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the all-terrain vehicle's exhaust system.
 - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of such signs, at or on all gates through the fence or enclosure.
6. 7. Except as provided in section 39-29-10, ~~a person~~ an individual may not operate an all-terrain vehicle without having in possession a valid driver's license or permit.
7. 8. When an all-terrain vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the all-terrain vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the all-terrain vehicle.
8. 9. ~~A person~~ An individual may not operate an all-terrain vehicle within the right of way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the all-terrain vehicle by a hinged swivel and secure hitch.
9. 10. **Helmet required.** ~~No person~~ An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an all-terrain vehicle

unless the ~~person~~ individual wears a safety helmet meeting United States department of transportation standards.

- ~~10.~~ 11. Passenger restrictions. ~~No~~ An operator of an all-terrain vehicle may not carry a passenger while operating.

SECTION 3. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subsection 1 of section 39-29-09 is an infraction. Violation of subsection 2 of section 39-29-09 is an infraction for which a fee of fifty dollars must be assessed. Violation of subdivision b, c, or g of subsection ~~5~~ 6 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~ individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

Date: 1-14-05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1196

House Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 50253.0101

Action Taken No Pass As Amended.

Motion Made By Rep. Iverson Seconded By Rep. Delmore

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

Total (Yes) 13 No 2

Absent 0

Floor Assignment Rep. Ruby

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

REPORT OF STANDING COMMITTEE

HB 1196: Transportation Committee (Rep. Weisz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1196 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to amend and reenact sections 39-29-09 and 39-29-12 of the North Dakota Century Code, relating to the operation of all-terrain vehicles;" and after "provide" insert "a"

Page 1, line 6, underscore "All-terrain vehicle licensed as motorcycle", remove "- Penalty", and underscore ". An all-terrain vehicle with four"

Page 1, underscore lines 7 through 9

Page 1, line 10, underscore "meet the necessary light, brake, and other vehicle accessory requirements" and replace "provided by chapter" with "for a motorcycle"

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39-29-09. Operation of all-terrain vehicles.

1. Except in an emergency, an individual may not operate a registered or unregistered all-terrain vehicle on an interstate or United States highway system.
2. ~~A person~~ An individual may not operate an unregistered all-terrain vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, a person may not operate an all terrain vehicle within the right of way of any controlled access highway.
- 2- 3. The operator of an all-terrain vehicle may make a direct crossing of a street or highway only if:
 - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The all-terrain vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - c. The operator yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
- 3- 4. ~~A person~~ An individual may not operate an all-terrain vehicle unless it is equipped with at least one headlamp, one taillamp, and brakes, all in

working order, which conform to standards prescribed by rule of the director of the department of transportation, except when under the direct supervision of an all-terrain vehicle instructor teaching a certified all-terrain vehicle safety training course, the requirement for a headlamp and taillamp may be waived.

- ~~4.~~ 5. The emergency conditions under which an all-terrain vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
- ~~5.~~ 6. ~~A person~~ An individual may not operate an all-terrain vehicle in the following ways, which are declared to be unsafe and a public nuisance:
 - a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - c. While under the influence of intoxicating liquor or a controlled substance.
 - d. Without a lighted headlamp and taillamp except when used by an all-terrain vehicle instructor during a certified all-terrain vehicle safety training course.
 - e. In any tree nursery or planting in a manner which damages growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the all-terrain vehicle's exhaust system.
 - g. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of such signs, at or on all gates through the fence or enclosure.
- ~~6.~~ 7. Except as provided in section 39-29-10, ~~a person~~ an individual may not operate an all-terrain vehicle without having in possession a valid driver's license or permit.
- ~~7.~~ 8. When an all-terrain vehicle is operated within the right of way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the all-terrain vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the all-terrain vehicle.
- ~~8.~~ 9. ~~A person~~ An individual may not operate an all-terrain vehicle within the right of way of any highway while towing a sled, skid, or other vehicle,

unless the object towed is connected to the all-terrain vehicle by a hinged swivel and secure hitch.

9. 10. Helmet required. ~~No person~~An individual under the age of eighteen years may not operate, ride, or otherwise be propelled on an all-terrain vehicle unless the ~~person~~ individual wears a safety helmet meeting United States department of transportation standards.
- ~~10.~~ 11. Passenger restrictions. ~~No~~An operator of an all-terrain vehicle may not carry a passenger while operating.

SECTION 3. AMENDMENT. Section 39-29-12 of the North Dakota Century Code is amended and reenacted as follows:

39-29-12. Penalties. Violation of subsection 1 of section 39-29-09 is an infraction. Violation of subsection 2 of section 39-29-09 is an infraction for which a fee of fifty dollars must be assessed. Violation of subdivision b, c, or g of subsection ~~5~~ 6 of section 39-29-09 is a class B misdemeanor. Violation of any other provision of section 39-29-09 is an infraction for which a fee of twenty dollars must be assessed. Violation of section 39-29-02 is an infraction, for which a fee of fifty dollars must be assessed. If the ~~person~~individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this chapter is an infraction, for which a fee of ten dollars must be assessed."

Renumber accordingly

2005 SENATE TRANSPORTATION

HB 1196

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196

Senate Transportation Committee

Conference Committee

Hearing Date 2-24-05

Tape Number	Side A	Side B	Meter #
1	x		522-5900

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Trenbeath opened the hearing on HB 1196 relating to all-terrain vehicles registered as motorcycles and relating to the operation of all-terrain vehicles and to provide a penalty.

Representative Jon Nelson (District 7) See attached testimony supporting HB 1196.

Senator Warner asked what would be considered a valid drivers license -- a motorcycle license or a regular drivers license.

Rep. Nelson said his understanding was that a valid drivers license is necessary not a motorcycle license.

Senator Bercier referred to Section 1. He said it would seem to follow that and would be a motorcycle license. He also referred to page 3, line 22 -- Passenger Restrictions.

(Meter 900) There was a short discussion on the passenger restrictions and the passage of HB 1412. Rep. Nelson didn't have a problem with amending line 22 to conform with HB 1412.

Senator Warner asked what types of speeds an engine with 200 cc's would be capable of achieving.

Rep. Nelson said that was discussed on the House side and it was decided that the speed limit on the roadways would suffice. A speed limit wasn't set in the bill because, basically, there isn't a speed limit for motorcycles.

Senator Trenbeath said the concern isn't the speed limit but it might be a minimum.

(Meter 1080) Discussion on whether they are capable of maintaining their position in traffic.

Senator Trenbeath said another concern of his was entering and exiting the traffic stream.

Rep. Nelson replied that, if it was a concern, he would have no problem looking at it. He said it might be a concern for some applications such as when weed officials are spraying the roads.

Senator Espegard cited a few problems. (1) Thought 200 cc's is too small. (2) When they are up on the roadway, they have to abide by the roadway. (3) They need to maintain the proper speed when they are up on the road.

Rep. Nelson said they were all good points. He said there were people from the industry that could address the size issues. (Meter 1475)

Senator Warner asked about what position they would occupy on the road.

Rep. Nelson said he would suspect they would still be on the side of the road like they are doing illegally today but, in actuality, they would have access to the driving lane. He pointed out that, in some areas, people have one road they have access to from their property. If they are on the roadway or in the right of way, they are in an illegal situation. In some cases, people are getting picked up for that infraction. (Meter 1650)

Senator Randy Christmann (District 33) Appeared in support of HB 1196 and the proposed amendment. He said this would be no less safe than bicycles going down the road.

Dwane Getzloff (Bottineau, ND) See attached testimony in support of HB 1196. He said that every township in ND treats this law differently. This bill would treat every ATV owner with parity.

Senator Bercier referring to the speed of ATV's asked if there would be a problem putting a safety triangle on the back of the ATV's to warn oncoming traffic they might be going slower.

Dwane Getzloff replied that he wouldn't want to make it mandatory. (Meter 2600) He pointed out some of the regulations in South Dakota.

Annette Behm-Caldwell (Open Road Honda, Mandan) Testified in support of HB 1196. She provided information that the adult size ATV's they sell run from 250 cc - 650 cc or larger. The majority of the ATV's they sell are 350 or 400 cc. She pointed out that scooters at 50 cc are street legal. She provided pictures comparing the size of the scooter versus the size of the ATV. She pointed out that the scooters are much smaller both in width and height. (Meter 2900) She suggested ATV riders follow the same safety procedures that motorcycle riders do.

Senator Trenbeath asked about the size of children's ATV's.

Annette Behm-Caldwell replied that Honda manufactures a 90 cc youth ATV. They do not sell them in the state because they do not have headlights and ND law requires headlights on ATV's.

Senator Nething asked if the scooter she was comparing as street authorized were highway authorized.

Annette Behm-Caldwell (Meter 3187) She thought the only place they were not authorized would be the interstate because there is a cc restriction on the interstate.

Terry Moe (T C Yamaha, Bottineau, ND) Testified in support of HB 1196. (Meter 3254)

ATV's were introduced in 1983 into the country and have become a big industry. They sell about 400 ATV's a year. They have become a part of the farms and communities. They are no longer just a toy. Ninety eight percent of what they sell is 400 cc and above and mostly utility types. He didn't feel there would be a rash of people jumping up on the highway and, if there is, that is what law enforcement is for.

Senator Trenbeath said his question was, in respect to this bill, if this would make it illegal. His reading of the bill is that ATV's could be run up and down the ditch onto the highway and off the highway at will.

Terry Moe said there should be some stipulation. It would be a hazard.

Tom Balzer (Recreation Division Manager, ND Dept. of Parks and Recreation) Testified in opposition to HB 1196. See attached testimony.

Senator Trenbeath said that 39-04 makes it a motor vehicle. Asked if that would make it coverable under 39-08 for DUI purposes.

Tom Balzer said he was not a lawyer and would default, but would assume that would be the case. The SUI law was a separate provision put into the snowmobile code.

Senator Trenbeath asked if he would have a problem if the bill was modified to include only unpaved roads.

Tom Balzer didn't see the issue at all with unpaved roads. The tires are designed to be used on those particular surfaces.

Senator Trenbeath asked him to address the scooter issue. What makes them different?

Tom Balzer defaulted to Mr. Kiser.

Senator Nething asked if he had a chance to testify in the House.

Tom Balzer said he did not.

Brian Klipfel (Supt. ND Highway Patrol) Testified in opposition to HB 1196. See attached testimony.

Senator Trenbeath asked if there was also a provision that allows for crossing a bridge.

Brian Klipfel said he wasn't aware of anything.

Senator Warner asked about the position of the vehicle on the roadway. It is his understanding that bicycles stay to the shoulder and motorcycles stay in the driving lane. Asked where ATV's would fit in.

Brian Klipfel said that the way HB 1196 is they could be operated anywhere within the lane of travel. He didn't think there was a provision where they have to operate.

Senator Warner asked if he thought, for safety reasons, it would be better to treat them as though they were a bicycle or an occasional vehicle on the road rather than a regular motorized vehicle.

Brian Klipfel said, for safety reasons, he would prefer not to have them on the paved road at all with the understanding that there are some situations where there might not be a ditch and they may have to operate on the highway or roadway.

Senator Espegard asked if there are any provisions for pulling a trailer with an ATV as a pickup. Would lights be needed on the trailer as well as the ATV. (Meter 4929)

Brian Klipfel said, if it was allowed to operate on the roadway, it would have to have lights and turn signals just like any other vehicle.

Pat Ward (Association of ND Insurers) See attached testimony in opposition to HB 1196.

He said that if they would be registered as motorcycles, they would be required to carry liability insurance. He said there would be a dual registration problem--highway vehicle and also off-road ATV. They were not at the hearing on the House side.

Senator Nething addressed Brian Klipfel and asked if he or anybody from his department had testified on the House side.

Brian Klipfel said nobody testified. He just monitored the bill on the House side.

Keith Kiser (Director of Motor Vehicle Division, DOT) (Meter 5492) They are responsible for the registration and titling of licensing scooter. Gave information in response to an earlier question. Most scooters are not legal for street operation but the legislature, in the past, has made provisions for mopeds (less than 50 cc). They are permitted to operate and to be licensed as motorcycles with DOT and operate on a restricted basis. There are requirements they must meet. The provision is found in 39-01-01.

Senator Warner asked about the fiscal note.

Keith Kiser said there was no way to do an estimate. There is no way to determine how many ATV owners would choose to take advantage of the provision of the statute since the statute is permissive not mandatory.

Senator Trenbeath asked if the impact would be a positive one.

Keith Kiser said he wasn't sure. (Meter 5735) He could see more work. They would require the ATV's be inspected by the Highway Patrol. Two registrations would possibly have to be issued which would take revisions to their database.

Page 7

Senate Transportation Committee

Bill/Resolution Number HB 1196

Hearing Date 2-24-05

Senator Trenbeath said they could say, if they are registered for on-road, they are also registered for off-road.

Keith Kiser felt the bill would have to be amended to say that.

The following testimony was submitted for the record:

Jerod Lupien (Citizen/student from Cavalier ND) See attached testimony in favor of HB 1196.

Frank Schill (Citizen, Cavalier ND) See attached testimony in favor of HB 1196.

With no further testimony, the hearing on HB 1196 was closed.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196

Senate Transportation Committee

Conference Committee

Hearing Date 3-11-05

Tape Number	Side A	Side B	Meter #
1		x	930-1085

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Trenbeath opened HB 1196 for action.

HB 1196 had been discussed in conjunction with HB 1342 and the main points were amended into HB 1342.

Senator Warner motioned a **Do Not Pass**. Seconded by **Senator Bercier**.

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

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

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO 1196

Senate **TRANSPORTATION** Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Not Pass*

Motion Made By *Sen. Warner* Seconded By *Sen. Bercier*

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

Total (Yes) *6* No *0*

Absent *0*

Floor Assignment *Senator Espegard*

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

REPORT OF STANDING COMMITTEE (410)
March 11, 2005 11:47 a.m.

Module No: SR-45-4744
Carrier: Espgard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1196, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman)
recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1196 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1196

1-13-05

House Bill 1196

Good Morning Mr. Chairman and members of the House Transportation Committee. I stand before you today to introduce HB 1196. With its passage, All Terrain Vehicles would be allowed to use most roadways in the state. The exceptions would be the interstate highways and cities and municipalities if they choose to by ordinance.

Presently, it is illegal for ATV's to drive on roadways or right of way in our state. We all know that in rural North Dakota many farmers and ranchers use their ATV's on roadways as they perform their daily tasks. County weed officials use roadways and ditches in their duties spraying noxious weeds. In addition, sportsmen and homeowners also use ATV's for various activities and use the roadways from time to time in that process. Many of these citizens do not realize that this activity is illegal in North Dakota and those of us supporting this bill feel the law should change to allow responsible ATV use on roads in our state.

We also realize that safety on our highways is absolutely essential and with the requirements for turn signals, brake lights, mirrors, and other necessary safety requirements, safety will not be jeopardized.

This bill mirrors current state law in South Dakota where demographics are similar to our state. An attached correspondence from Sgt. David Driscoll of the SD Highway Patrol indicates that increased accident reports are minimal regarding ATV use on roadways there. Also included is an affidavit that they use that needs to be filed prior to the ATV being licensed in their state.

In conclusion, I am willing to work with law enforcement and others who have concerns for safety reasons. Ultimately, I feel we can incorporate proper safety requirements and allow for responsible use of these vehicles on our roadways in our state.

Thank you for this opportunity and I ask you to consider a Do-Pass on HB 1196.

Nelson, Jon O.

From: David.Driscoll@state.sd.us
Sent: Tuesday, January 04, 2005 9:58 AM
To: jonelson@state.nd.us
Subject: ATVs

Jon,

Even though I imagine you have a copy of South Dakota's ATV licensing statute, I've attached a copy for your reference.

Records in South Dakota indicate approximately 2,500 ATVs are licensed.

Our Accident Records people indicate they do not have figures available for the number of licensed ATVs that are involved in accidents. The people in Accident Records, who actually go through all of the accident reports, indicate there are only a few accidents each year involving licensed ATVs.

Since most ATVs are not manufactured specifically for highway use, the South Dakota Highway Patrol initially had some safety concerns about allowing ATVs to be operated on the streets and highways. However, over the past years, they have not proven to be any particular hazard.

I hope this helps to answer some of your questions. Contact be anytime if I can be of further assistance.

32-20-13. All-terrain vehicle licensed as motorcycle--Requirements--Use on interstate highway system prohibited--Violation as misdemeanor. Any all-terrain vehicle with four or more wheels and with a combustion engine having a piston or rotor displacement of two hundred cubic centimeters or more may be licensed as a motorcycle pursuant to chapter 32-5 to be used on a public highway. Prior to being licensed the all-terrain vehicle shall meet the necessary light, brake, and other vehicle accessory requirements provided by chapters 32-15, 32-17, and 32-18 that are applicable to motorcycles. The licensed all-terrain vehicle may not be operated on the interstate highway system. A person who operates such a licensed all-terrain vehicle on the interstate highway system is guilty of a Class 2 misdemeanor.

Source: SL 1987, ch 233, § 2; SL 1989, ch 270, § 1.

Sergeant Dave Driscoll
South Dakota Highway Patrol
(605) 773-3105
david.driscoll@state.sd.us

FOUR WHEEL, ALL TERRAIN VEHICLE AFFIDAVIT (Attach to Title and Registration Application)

I, the undersigned, do hereby swear that I had installed on the following described four wheel, all terrain vehicle:

Title Number

Model

Year

Serial Number

by

(name and address of person installing accessories) the following motorcycle accessories, not to be exclusive:

_____ Rearview Mirror

_____ Headlights

_____ 200 cc Engine

_____ Horn

_____ License plate light

_____ Other (list)

_____ Exhaust & Muffler

_____ Parking lights,
tail lights, stop lights

I further swear that the above described vehicle is insured pursuant to SDCL Chapter 32-35, and the accessories meet the motorcycle standards of SDCL Chapters 32-15, 32-17, and 32-18. I also declare and affirm under the penalties of perjury that this affidavit has been examined by me and to the best of my knowledge and belief is in all things true and correct.

Name: _____

Date: _____

Signed and sworn to before me this _____ day of _____, 20 _____

Notary

My Commission expires on the _____ day of _____, 20 _____

Pursuant to SDCL 32-20-2 to operate the above vehicle you must have a valid driver's license.

HB 1196

My Name is Duane Gutzloff - Bottine ND

Happy New Year, it's a priviledge to testify in front of you in behalf of HB 1196. Thank you for taking the time to serve the people of ND.

Rancher

What this bill will do is treat every ATV owner in ND equal.

with family

A farmer driving his ATV down a township road moving his cattle to Summer pasture is breaking the law

A farmer driving home on his ATV on a township road to get parts when his machinery breaks down is breaking the law.

A farmer who is scouting his fields or checking fences while going from field to field on township roads is breaking the law.

A retired friend who was building a house for his daughter was picked up and fined for driving his ATV 1/4 of a mile from his house to her's with a trailer full of carpenter tools.

Another 70 year old gentlemen was *driving his ATV with a trailer* hauling a load of peat moss *from his property* to his home he was picked up and fined for being on a township road.

I was picked up going from my home to some wooded property where I was cutting wood. I had a chainsaw , gas cans , forks and rakes on my ATV. Yes I was on a county road on a rainy October late afternoon. Yes I was breaking the law , just like everyone that I've talked about. *we were all breaking the law*

I think ND ATV users are responsible people, we don't drive around jumping proaches, doing wheelies in the ditch, we use common sense, there work vehicles.

I have talked to many SD Transportation officials, I have not heard one negative remark from them about there law.

Pat Winters Senior Statistician for accident records in SD "said there were only 5 ATV accidents on SD roads in 2004. Non were fatal."

There were 515 motorcycle accidents in SD with 21 fatalities. Of course Sturgis plays a big part in this.

In SD ATV's are licensed the same as motorcycles. Head lite, tail light, brakes, rear view mirror, light over your license plate, horn. - *Business men in some falls drive their ATV to work + then to mcdonalds for lunch -*

Let's treat every ND the same, no matter what township they live in. Most ND Farmers and Ranchers use there ATV for work vehicles.

I would appreciate your support on this bill, ND and SD have similar population and are both rural states. If it works in SD it will work in ND

A Bellevue Montana also has

51 miles low -

*39-29-10
16 yr*

House Bill 1196

Good Morning Mr. Chairman and members of the Senate Transportation Committee. I stand before you today to introduce HB 1196. With its passage, All Terrain Vehicles would be allowed to use most roadways in the state. The exceptions would be the interstate highway system and the US highway system in addition to cities and municipalities if they choose to by ordinance.

Presently, it is illegal for ATV's to drive on roadways or right of way in our state. We all know that in rural North Dakota many farmers and ranchers use their ATV's on roadways as they perform their daily tasks. County weed officials use roadways and ditches in their duties spraying noxious weeds. In addition, sportsmen and homeowners also use ATV's for various activities and use the roadways from time to time in that process. Many of these citizens do not realize that this activity is illegal in North Dakota and those of us supporting this bill feel the law should change to allow responsible ATV use on roads in our state.

We also realize that safety on our highways is absolutely essential and with the requirements for turn signals, brake lights, mirrors, and other necessary safety requirements, safety will not be jeopardized.

This bill mirrors current state law in South Dakota where demographics are similar to our state. An attached correspondence from Sgt. David Driscoll of the SD Highway Patrol indicates that increased accident reports are minimal regarding ATV use on roadways there. Also included is an affidavit that they use that needs to be filed prior to the ATV being licensed in their state.

In conclusion, I am willing to work with law enforcement and others who have concerns for safety reasons. Ultimately, I feel we can incorporate proper safety requirements and allow for responsible use of these vehicles on our roadways in our state.

Thank you for this opportunity and I ask you to consider a Do-Pass on HB 1196.

TESTIMONY – HOUSE BILL 1196
SENATE TRANSPORTATION COMMITTEE
FEBRUARY 24, 2005 – 9:30 AM
LEWIS & CLARK ROOM

Mr. Chairman and members of the Senate Transportation Committee, my name is Tom Balzer, Recreation Division Manager with the North Dakota Parks and Recreation Department. I appear today in opposition of House Bill 1196.

Our Department is charged with providing all terrain vehicle safety education and promotion under N.D.C.C. 39-29-01.1. Our staff is well educated in the area of all-terrain vehicle safety including one staff member trained on the national level by the ATV Safety Institute.

Opposition to this legislation is from three primary points:

1. These vehicles were not designed to be operated on paved road surfaces. The Specialty Vehicle Institute of America, the trade organization of all-terrain vehicle manufactures, strongly maintains that ATVs are designed, manufactured, and sold for off-road use only. Many of these vehicles carry warning stickers that cautions operators from riding their ATV on road surfaces. Owner's manuals specifically address this issue, as well. I have enclosed in my testimony a copy of a letter sent one of the sponsors of this bill by the Specialty Vehicle Institute of America on behalf of all the manufactures. Unfortunately this letter was sent after the hearing by the House Transportation Committee. In this letter they site many reasons the manufactures say these vehicles are unsafe to operate on roads. Passage of this legislation would directly contradict the consent of the manufactures.
2. We believe the passage of this legislation would also compromise public safety. Riding on public roads introduces the possibility of the ATV colliding with a car or truck, an obviously dangerous situation. A U.S. Consumer Product Safety Commission study of 3,200 ATV-related deaths that occurred between 1985 and 1996 found that the most frequently reported hazard pattern (56% of all ATV incidents) involved collisions and 35% of these involved collisions with motorized vehicles. Furthermore, U.S. Consumer Product Safety Commission (CPSC) statistics show that between 1997 and 2002, 40% of ATV fatalities involved operation on paved roads, despite the fact that vehicle labels and owner's manuals clearly warn against such use. Passage of this legislation will provide a false sense of security to operators that given the law allows for it operation is safe on roadways, which is untrue.
3. Due to the significant differences between motorcycles and all-terrain vehicles and the significant modifications to comply with the legislation there are concerns that there will be little compliance with the tenants of the law. Many of the citizens our office has been contacted by do not understand the process necessary

to comply with the requirements to properly equip their machine. The largest of these modifications include compliance with subsection 1 of section 39-27-05. This subsection requires that tires must be of pneumatic design...designed for highway use. The tires on ATV are designed for off-highway use. In essence operators will have to carry two sets of tires, one for off road use and one for on road use. Additionally, operators will have to purchase two registrations, one for on-highway use and one for off-highway use to operate in the road ditch.

Other areas of contention are:

- Under this legislation, operators would need to obtain two registrations, one for on-highway and one for off-highway use for riding in the ditch.
- It is unclear as to what age restriction and training course will be needed for minors who operate these vehicles. Currently to operate a four wheeled vehicle on the roadway they need to be 14 and obtain an operator's license, to operate an ATV you need to be 12 years old and take a safety course. This safety course developed in cooperation with the industry, not only does not cover operation on paved surfaces, but warns of the dangers of this use.
- It is also unclear as to whether ATVs are considered motor vehicles for the purposes of determining operating while intoxicated, as there is currently no law that governs operating an ATV while intoxicated. For reference, snowmobiles are not considered motor vehicles for the purposes of operating while intoxicated.

Our Department is extremely mindful of the needs of the ATV users in the state of North Dakota. We recently completed a survey of registered ATV users and developed a Strategic Plan that includes the development of ATV use areas. We will be reopening a trail this spring, south of Mandan, as well as completing a comprehensive trails study in the Pembina Gorge and Turtle Mountain areas to begin the development of use areas to fulfill user needs in those regions. We believe very strongly in developing use areas to manage this recreational pursuit while protecting public safety and landowner rights, but allowing machines not designed for highway use to operate on paved surfaces is in our opinion not a safe and acceptable solution.

House Bill 1196 is contrary to the wishes of the manufactures for use of their product, presents significant public safety concerns, cause confusion with the registration process and compromise the ability to effectively manage this recreation. We ask for a vote of DO NOT PASS recommendation on House Bill 1196.

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



January 14, 2005

The Honorable Jon O. Nelson
State Capitol
600 E. Blvd. Ave.
Bismarck, ND 58505-0360

Dear Representative Nelson:

The Specialty Vehicle Institute of America (SVIA) is the national nonprofit trade association representing manufacturers and distributors of all-terrain vehicles (ATVs) in the United States. SVIA's major goal is to promote the safe and responsible use of ATVs.

SVIA strongly opposes HB 1196, which would provide for the operation of all-terrain vehicles on public highways. ATVs are designed, manufactured, and sold for off-road use only. Permitting street use of ATVs, including modified vehicles, would be in conflict with manufacturers' intentions on their proper use, and would violate federal safety and emissions requirements.

The majority of accidents and injuries are caused by misuse of the ATV, including carrying passengers, alcohol abuse, lack of a helmet or other protective gear, and riding on paved streets and highways. U.S. Consumer Product Safety Commission (CPSC) statistics show that between 1997 and 2002, 40% of ATV fatalities involved operation on paved roads, despite the fact that vehicle labels and owner's manuals clearly warn against such use.

Again, we would like to stress that ATVs are designed and manufactured for off-road use only. On-road vehicles must be designed, built, and certified to comply with the following:

1. U.S. Department of Transportation Federal Motor Vehicle Safety Standards (FMVSS).
2. U.S. Environmental Protection Agency Exhaust Emissions Standards.

These safety and emissions standards consist of extensive and detailed compliance requirements. Since ATVs are not intended to be used on-road, they are not designed, equipped or tested to meet such standards.

For example, ATVs are equipped with special off-road tires and, unlike off-road motorcycles that can be equipped with U.S. Department of Transportation (DOT) approved tires, ATVs cannot be so equipped because street legal, DOT-approved tires do not exist for ATVs. Most ATVs are equipped with a solid rear axle that turns both rear wheels at the same speed. Such ATVs are not designed to turn without slipping one rear wheel. Consequently, turning an ATV on high traction surfaces, such as paved streets, can be difficult when compared to turning in the off-road environment, even if the off-road tires would be replaced by a future street legal tire.

Representative Jon O. Nelson
January 14, 2005
Page 2

Further, riding on public roads introduces the possibility of the ATV colliding with a car or truck, an obviously dangerous situation. A U.S. Consumer Product Safety Commission study of 3,200 ATV-related deaths that occurred between 1985 and 1996 found that the most frequently reported hazard pattern (56% of all ATV incidents) involved collisions and 35% of these involved collisions with motorized vehicles.

For the above reasons, three-wheeled motorcycles, which are intended for use on public highways, and ATVs are in no way similar and enacting a law that would allow highway use of ATVs and regulate such use in the same manner as motorcycles is contrary to public safety.

SVIA emphasizes that ATVs are not designed, manufactured, or in any way intended for use on public streets, roads or highways and urges that on-highway use of ATVs be prohibited and law enforcement efforts be strengthened to eliminate this dangerous practice.

Thank you very much for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Conway", with a large, stylized flourish extending to the right.

Michael E. Conway
Manager, Legislative Affairs

TESTIMONY – HOUSE BILL 1196
SENATE TRANSPORTATION COMMITTEE
FEBRUARY 24, 2005 – 9:30 AM
LEWIS & CLARK ROOM

Mr. Chairman and members of the Senate Transportation Committee, my name is Bryan Klipfel, Superintendent of the North Dakota Highway Patrol.

Mr. Balzer's testimony covered the safety concerns if House Bill 1196 is passed.

I am here today to address the operation of an all-terrain vehicle currently authorized in Chapter 39-29 of the North Dakota Century Code (NDCC).

- NDCC 39-29-08 Rules
 1. Authorizes the director of the Department of Transportation, in the interest of public health, welfare, and safety, regulate, by rule, the operation of all-terrain vehicles on state highways. I know of no rules currently adopted by the director relating to operation of all-terrain vehicles.
 2. The director of the parks and recreation department shall adopt rules to regulate use of all-terrain vehicles in state parks and other state-owned land under the supervision of the director of the parks and recreation department.
 3. The governing bodies of political subdivisions may adopt rules to regulate use of all-terrain vehicles in areas under their jurisdiction. The governing body of a city may, by ordinance, regulate, restrict, and prohibit the use of all-terrain vehicles operated in the city limits in areas under the exclusive jurisdiction of the city.
- NDCC 39-29-09 Operation of All-Terrain Vehicles – A person may not operate an all-terrain vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Those provisions allowing operation on the roadway, shoulder, or inside bank or slope are when the operator is making a direct crossing, at approximately ninety degrees, of a street or highway. The operator must come to a complete stop and must yield to all oncoming traffic which constitutes an immediate hazard.
- While the operation of an all-terrain vehicle is prohibited in the locations previously mentioned, operation of an all-terrain vehicle is authorized within the highway right of way in the bottom or out slope areas of the ditch. Operation is prohibited on the interstate system and other controlled access highways except during emergency conditions. Emergency conditions which an all-terrain vehicle may be operated on the interstate or other controlled access highway is when conditions render the use of an automobile impractical (blocked due to snow as an example).

I can understand the reasoning behind allowing the use of all-terrain vehicles on some of the state's roads; however, I believe, the provisions provided in HB 1196 are too lenient.

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

February 24, 2005

Testimony of Patrick Ward in Opposition to Engrossed HB 1196

Senator Trenbeath and Members of the Senate Transportation Committee:

My name is Patrick Ward. I represent the Association of North Dakota Insurers in opposition to Engrossed HB 1196.

Section 1 of HB 1196 permits an all-terrain vehicle to be registered as a "three-wheeled motorcycle" to be operated on highways in North Dakota in accordance with the rules that apply to three-wheeled motorcycles.

This bill appears to allow ATVs to be operated on highways as motorcycles. The problem it presents is that these are inherently dangerous and slow moving vehicles. They handle poorly and overturn easily. They are difficult to see and are easily overtaken by other motor vehicles. The presence of these vehicles on the roadway will likely increase the number of fatal and serious injury accidents, and will undoubtedly result in substantial insurance claims.

We understand that Montana passed a similar law and is now in the process of repealing it. We need to keep ATVs off the roadway. We urge a Do Not Pass with respect to HB 1196.

Testimony
House Bill 1196
ATV Operation
By Jerod Lupien
ATV Operator

Members of the Senate Transportation Committee:

I am Jerod Lupien, a citizen of the Cavalier ND community and Senior at Cavalier High School. As an avid ATV and snowmobile enthusiast, I am here to testify for HB 1196 which would allow registered ATV users to ride on North Dakota roadways except interstate and state highways.

As a young adult I am discouraged with the current situation of not being able to operate an all terrain vehicle (ATV) on or near North Dakota roadways. I find it very difficult to enjoy this hobby when in North Dakota there is a road every mile that I can not legally cross, limiting my riding opportunities. Because of lack of trail availability to ride an ATV you must also be able to transport it to a designated or permitted location. My concern is why are ATV's required to be licensed if you can not operate this vehicle outside of private property and limited locations.

Since ATV owners pay the same taxes and registration fees as those who own snowmobiles why are there very few trails for ATV use. Where do our tax dollars from licensing and taxing of ATV's go? Is this money used for the upkeep of snowmobile trails we can not ride an ATV on? As ATV operators we have few options we can not cross roads, ride in many ditches, and must operate on private land or on the few, often inconvenient, trails available. While snowmobile owners enjoy the luxury of crossing highways, roadways, fields, and riding groomed trails. ATV operators are constantly looking over their shoulder when riding in ditches and crossing roads fearing traffic citations and possibly tickets for illegally riding their ATV to get to a desired location.

I believe HB 1196 will not only grow ATV use in North Dakota, brining in more tax money, but will also incorporate a large portion of the population back into the recreation activities of North Dakota. North Dakota accommodates many activities including: Walking trails, bike trails, horseback riding trails, and snowmobile trails and up until recently there have been next to no accommodations made for ATV users. Rather than excluding a large group of people we need to start looking at bringing them back into outdoor activities.

I would like to be able to enjoy activities outdoors in all forms not limiting my options. My hope is that in the future state agencies will recognize the needs of the residents of North Dakota as a whole, providing services for more than only a certain portion of the population.

Thank you For the opportunity to submit this testimony. If I can respond to any questions, I would be more than happy to do so.

Testimony
House Bill 1196
ATV Operation
By Frank Schill
ATV Operator

Members of the Senate Transportation Committee:

I am Frank Schill, citizen of the Rendezvous Region in northeastern North Dakota, ATV enthusiast and outdoorsman, and when I am not enjoying the great outdoors, I work as the superintendent of Cavalier. I am here to testify for HB 1196, which would allow registered atv use on North Dakota roadways except on interstate highways and state highways.

I found it quite amazing that the state of North Dakota has over 22,000 ATV owners and this bill is just being introduced. As an avid snowmobiler, I have paid registration and license fees for years. These dollars have been used for trail leasing and maintenance. As a taxpayer, I have received a service for my tax dollars. As an owner of an automobile I pay license and registration fees and receive a service in the form of thousands of miles of roadways to drive my vehicle. On the other hand, I have owned an ATV for three years and have paid license and registration fees but have not received a service for my tax dollars. Last summer there were 20 miles of ATV trails introduced in North Dakota in the Bismarck area. These trails don't do me much good in northeastern North Dakota. To the best of my knowledge, ATV dollars have gone into snowmobile trail upkeep and have not benefited the ATV user.

Because of the lack of trail availability, ATV users are faced with few options: riding illegally on back roads, trails and ditches, riding on private land, or riding on 20 miles of designated trails. By the way, if you lined up 22,000 ATV's on the designated 20 miles of trails you would have ATV's riding bumper to bumper and they would occupy 21 miles of trail. This bill would give ATV users similar rights to motorcycle riders of enduro

motorcycles. With common sense, ATV users could ride on roadways following the rules of the road.

I am disappointed that our state agencies who deal with ATV's and state lands have not stepped up to the plate until recently to address ATV use. ATV ownership has surpassed snowmobile ownership, but state agencies have failed to address the growing trend by leasing trails during the off-snowmobile season and providing state land for ATV use. Presently in North Dakota there are walking trails, bike trails, equestrian trails, and snowmobile trails. Other states have provided multi-use trails that accommodate many types of users including ATV users. These states provide law enforcement to ensure a safe environment for all users, but these states have responded to the taxpayers' requests.

If additional cost is the problem for providing ATV users a place to ride, then I have no problem with paying additional license fees as long as a service is provided. I have a problem with state agencies working at a "snail's pace" to address growing demands from what I consider a major growing segment of the population.

I believe HB 1196 provides a service for ATV users who pay registration and license fees. This service is in the form of roadways to travel while enjoying the outdoors. I commend the sponsors of this bill and I hope that in the future state agencies will provide additional multi-use trails to accommodate the growing number of ATV enthusiasts like myself.

Thank you for the opportunity to submit this testimony. If I can respond to any questions, I would be most happy to do so.