

2009 SENATE TRANSPORTATION

SB 2367

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2367

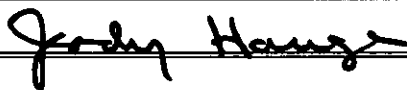
Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8735

Committee Clerk Signature



Minutes:

Senator Lee opened the hearing on SB 2367 relating to safety fees for snowmobiles; relating to motor-powered recreational vehicle dealer licenses.

Senator Oehlke introduced and testified in support of SB 2367. Senator Oehlke said he was contacted by the dealers association and their main concern was that dealers were suppose to collect a \$5 fee and remit that to the Parks & Recreation and it is suppose to go toward safety programs. The problem was that there were no teeth in the \$5 fee, no penalty of any sort. So there are a significant number of dealers that don't collect it and the safety program suffers. The initial part of this bill was to take care of that problem and move it over to the Department of Transportation segment of the code so the Department of Transportation could have some enforcement. The snowmobiler's association would like another \$5 fee added on to their registration to provide for safety. The snowmobile association came with the idea for an amendment, Senator Oehlke offered amendment 90780.0101. Attachment #1.

Senator Nething asked what the thrust of the amendment was.

Senator Oehlke said the Department of Transportation was concerned that they wouldn't have a way to gather this information so parks and recreation department shall report to the director of Department of Transportation within 30 days of the end of each calendar quarter the motor-

powered recreational vehicle dealers who submitted a safety fee report, the number of vehicles sold, and shall identify every dealer not collecting or transmitting the safety fee.

Senator Nething asked if the \$5 fee was an additional fee or just a new fee.

Senator Oehlke said that on the snowmobile side it is a new fee and on the ATV side it is not new but a significant amount of the dealers ignore it. He said about one-third to two-thirds of the dealers don't remit the safety fee.

Senator Potter asked what kind of safety program they are building on \$10,000/year.

Senator Oehlke said that was a good question and he thought parks and rec. could answer that.

Senator Fiebiger asked how many recreational dealers they are talking about.

Senator Oehlke said that was another good question for the dealers association.

Senator Lee asked if he bought a snowmobile from a neighbor does he pay the fee to a non dealer.

Senator Oehlke said the fee had already been paid once. But if you traded it in to a dealer it would be charged a fee when sold again.

Keri Wanner, Program Manager for Snowmobile North Dakota testified in support of SB 2367.

Written testimony #2.

Senator Fiebiger asked her to tell him what the education is now and how will this \$5 fee improve it.

Wanner said that was a better question for park and recreation but she said that education has went from being a home study class to hands on educational opportunities around the state.

They have also created an online safety educational program. She said that the association and dealers worked with Yamaha and Yamaha provided helmets as an incentive for taking the classes.

Annette Behm-Caldwell, Dealer and VP of North Dakota Powersports Dealers Association (NDPDA) testified in support of SB 2367. Written testimony #3.

Senator Potter asked if her customer will complain about the \$5 safety fee.

Annette said she had never had any customer complain about a safety fee.

Senator Nodland asked if she had any idea of how many dealers are not collecting or remitting the \$5 safety fees.

Annette said parks and rec. could probably answer that, I would say at least 1/3 do not collect fees.

Daryle Brandner, President of Off-Road Association testified in support of SB 2367.

Arik Spencer, Recreation Division Manager for the ND Parks and Recreation Department testified in support of SB 2367. Written testimony #4.

Senator Fiebiger asked if with this fee will there be additional training.

Spencer replied absolutely. He added that they are always trying to improve.

Senator Potter asked if there was ever any consideration of using general fund for their programs.

Spencer said there is a portion of general dollar funds that go into the recreational program as far as salaries but other than that they don't get any money that pays for the trail work that is done. He said he didn't know for sure but he didn't believe it was part of their appropriation budget this year.

No Opposing testimony

Neutral Testimony

Glenn Jackson said the Department of Transportation did not oppose this bill.

Closed the hearing on SB 2367.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2367

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: February 5, 2009

Recorder Job Number: 8739

Committee Clerk Signature

Jody Haugen

Minutes:

Committee Work on SB 2367

Senator Nething moved the amendment #90780.0102.

Senator Fiebiger seconded the motion.

Senator Nething just commented that the amendment puts some teeth in the bill

Roll call vote: 5-0-1. Senator Potter was absent.

Senator Nething moved a Do Pass as amended.

Senator Fiebiger seconded.

Roll call vote: 5-0-1. Senator Potter was absent.

Senator Fiebiger is the carrier.

FISCAL NOTE
Requested by Legislative Council
02/02/2009

REVISION

Bill/Resolution No.: SB 2367

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$20,000		\$20,000
Expenditures				\$20,000		\$20,000
Appropriations				\$20,000		\$20,000

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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 creates a new snowmobile safety fee and provides a means for collection and reporting to the Parks and Recreation Department.

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 2 of the bill provides for dealers to collect a \$5 fee safety fee from each buyer upon sale of a new or used snowmobile. The dealer is to report and remit the fee to the Parks and Recreation Department on a quarterly basis.

It is estimated that there will be 2,000 sales transactions per year that fall under the provisions of this bill.

This bill has a fiscal impact only to the Parks and Recreation Department; it does not have a fiscal impact to 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.*

It is estimated that 2,000 snowmobile sales transactions will fall under the provisions of this bill each year. At \$5 per transaction, this bill will generate approximately \$10,000 of revenue per year or \$20,000 per biennium.

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.*

In accordance with the provisions of this bill, the Parks and Recreation Department must expend these funds (\$20,000 per biennium) for snowmobile safety education and promotion.

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.*

The Parks and Recreation Department will require an additional appropriation amount of \$20,000 per biennium to expend the revenues generated under this bill.

Name:	Shannon Sauer	Agency:	NDDOT
Phone Number:	328-4375	Date Prepared:	02/02/2009

FISCAL NOTE
Requested by Legislative Council
01/23/2009

Bill/Resolution No.: SB 2367

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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 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.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 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 creates a new snowmobile safety fee and provides a means for collection and reporting to Parks and Recreation.

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.*

No fiscal impact to DOT.

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:	Glenn Jackson	Agency:	NDDOT
Phone Number:	328-4792	Date Prepared:	01/29/2009

February 3, 2009

1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2367

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "39-22.3-04" insert "and section 39-29-01.1"

Page 1, line 4, after "licenses" insert "and safety fees for off-highway vehicles"

Page 1, line 22, remove "fees and taxes as required by law."

Page 1, line 23, remove "including"

Page 2, line 10, after the underscored period insert "The parks and recreation department shall report to the director within thirty days of the end of each calendar quarter the motor-powered recreational vehicle dealers who submitted a safety fee report, the number of vehicles sold, and shall identify every dealer not collecting or transmitting snowmobile safety fees."

Page 2, after line 10, insert:

"SECTION 3. AMENDMENT. Section 39-29-01.1 of the North Dakota Century Code is amended and reenacted as follows:

39-29-01.1. Safety fee - Imposition - Collection by dealer - Payment to department - Use of fee. Upon the sale of a new or used off-highway vehicle, a dealer shall collect a five dollar safety fee from the buyer. By the end of each calendar quarter, the dealer shall file a report with the parks and recreation department which discloses the number of off-highway vehicles sold the previous months and includes the fees collected from the buyer. Fees imposed under this section must be deposited in the off-highway vehicle fund established under section 39-29-05. The fees may be used only by the parks and recreation department and only for off-highway vehicle safety education and promotion. The parks and recreation department shall report to the director within thirty days of the end of each calendar quarter the motor-powered recreational vehicle dealers who submitted a safety fee report, the number of vehicles sold, and shall identify every dealer not collecting or transmitting the safety fee."

Renumber accordingly

Date: 2-5-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2367

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number 90780-0101

Action Taken Do Pass Do Not Pass Other
amendment

Motion Made By Senator Nething Seconded By Senator Fiebiger

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais	✓	
Senator Dave Nething	✓		Senator Tracy Potter		

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

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

Date: 2-5-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2367

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Other

as amended and refer to appropriation

Motion Made By Senator Nething Seconded By Senator Fiebiger

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais	✓	
Senator Dave Nething	✓		Senator Tracy Potter		

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Fiebiger

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

REPORT OF STANDING COMMITTEE

SB 2367: Transportation Committee (Sen. G. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2367 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "39-22.3-04" insert "and 39-29-01.1"

Page 1, line 4, after "licenses" insert "and safety fees for off-highway vehicles"

Page 1, line 22, remove "fees and taxes as required by law."

Page 1, line 23, remove "including"

Page 2, line 10, after the underscored period insert "The parks and recreation department shall report to the director within thirty days of the end of each calendar quarter the motor-powered recreational vehicle dealers that submitted a safety fee report and the number of vehicles sold, and shall identify every dealer not collecting or transmitting snowmobile safety fees."

SECTION 3. AMENDMENT. Section 39-29-01.1 of the North Dakota Century Code is amended and reenacted as follows:

39-29-01.1. Safety fee - Imposition - Collection by dealer - Payment to department - Use of fee. Upon the sale of a new or used off-highway vehicle, a dealer shall collect a five dollar safety fee from the buyer. By the end of each calendar quarter, the dealer shall file a report with the parks and recreation department which discloses the number of off-highway vehicles sold the previous months and includes the fees collected from the buyer. Fees imposed under this section must be deposited in the off-highway vehicle fund established under section 39-29-05. The fees may be used only by the parks and recreation department and only for off-highway vehicle safety education and promotion. The parks and recreation department shall report to the director within thirty days of the end of each calendar quarter the motor-powered recreational vehicle dealers that submitted a safety fee report and the number of vehicles sold, and shall identify every dealer not collecting or transmitting the safety fee."

Re-number accordingly

2009 SENATE APPROPRIATIONS

SB 2367

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2367

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9204

Committee Clerk Signature 

Chairman Holmberg called the committee hearing to order at 8:30 AM in regards to SB 2367 relating to safety fees for snowmobiles; and relating to motor-powered recreational vehicle dealer licenses.

Senator Dave Oehlke, District 15

He was approached by the Snowmobiler's Association and also the North Dakota Power

Dealer Association to add a five dollar fee onto snowmobile sales. The fee would go to the safety division and encouraging safe operation of those vehicles.

Arik Spencer, Recreation Division Manager, North Dakota Parks and Recreation

Testified in favor of SB 2367. (Written attached testimony # 1)

Senator Christmann asked if we already have five dollar fee.

Arik Spencer replied that it's only on off highway vehicles.

Glen Jackson, Director, Motor Vehicle Division

Senator Christmann The \$10,000 year is from people collecting and not reporting.

Glen Jackson Got figures from Parks and Rec. That's supposed to be figures collected.

Senator Christmann I bought ATV is this only fee they have to collect.

Glen Jackson It's small additional fee. A safety fee (10 dollars) that is only paid when the vehicle is registered.

Senator Krauter moved Do Pass on SB 2367.

Senator Warner seconded.

A Roll Call vote was taken. Yea: 14 Nay: 0 Absent: 0

Date: 2-11-09
Roll Call Vote #:

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2367

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken moved Do Pass

Motion Made By Sen. Krauter Seconded By Sen. Warner

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner	✓		Senator Robinson	✓	
Senator Fischer	✓		Senator Lindaas	✓	
V. Chair Bowman	✓		Senator Warner	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Seymour	✓	
Chairman Holmberg	✓		Senator Mathern	✓	
Senator Kilzer	✓				
V. Chair Grindberg	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment transportation

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

REPORT OF STANDING COMMITTEE

SB 2367, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2367 was placed on the Eleventh order on the calendar.

2009 HOUSE TRANSPORTATION

SB 2367

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2367

House Transportation Committee

Check here for Conference Committee

Hearing Date: 03/06/09

Recorder Job Number: 10350

Committee Clerk Signature

Janette Cook

Minutes:

Senator Dave Oehlke, Devils Lake, introduced SB 2367. The impetus for this bill came from the North Dakota Power Sports Dealers Association and the Snowmobile Dealers Association. He explained that if you buy an ATV the dealer is supposed to collect a \$5.00 fee for each unit sold that is supposed to go toward safety training. The North Dakota Parks and Recs has a dedicated person that travels the state and puts on safety programs for a ATV operation and snowmobile operation. The problem with the collection of that \$5.00 fee is that there is no penalty if the dealer doesn't collect the fee, other than the \$5.00. Therefore, some dealers don't collect the fees or send them in, which causes a lack of money for safety promotion. The idea on the first page of this bill is to shift "that" over to the DOT and could jeopardize a person's dealership license, if they don't collect and send the fee in. It isn't felt that it will be necessary to pursue people to get them to send the fees in. Just knowing that there is some teeth in the law will get them to send the fee in.

The second page deals with snowmobiles. When you buy a snowmobile there are fees that are collected for trails, various things, and Parks and Rec. However, the way that it has been written, the fees don't end up applying to safety training, it all ends up going to trail development. We have the snowmobile dealers' backing on this issue. They realize that

snowmobiles didn't used to go so fast. They are not the same as they used to be, and some training is necessary.

Chairman Ruby: Do you have any idea how much will be raised by this?

Senator Dave Oehlke: I don't know for sure, and will defer to someone who is going to speak.

Chairman Ruby: In summary, this is new for snowmobiles, already existing for ATVs, but the ability to affect the dealer's license for both?

Senator Dave Oehlke: Correct.

Representative Weiler: It says on page 2 line 9, "the Parks and Recreation Department may use these funds solely for snowmobile safety and education." And you are telling us that these funds are for safety programs?

Senator Dave Oehlke: The extra \$5.00 fee for the snowmobile is supposed to be dedicated to strictly safety.

Representative Weiler: My concern is if it says, they **MAY** use these funds, *instead of SHALL* use these funds, the funds might be misused.

Senator Dave Oehlke: I wouldn't want them t be misused either. That might be a good question for Parks and Recs. I don't think that the way it is written is a problem for the money to go to the right place. If you want to clarify that, you are welcome to do so.

Chairman Ruby: It does say MAY, but then it continues to say, "the funds are to be used **SOLELY** for safety and education." Under the language for ATV's it uses the word **ONLY** used for safety and education.

Keri Wanner, Program Manager for Snowmobile North Dakota, spoke in support of SB 2367. See attachment #1.

Chairman Ruby: How many people buy snowmobiles that aren't members an association, so aren't represented by your group?

Keri Wanner: The last few years the sales have dropped drastically. In the late 90's early 2000, you would see sales up around 3000 per manufacturer. Now they are down to about 300 per year. Our membership has definitely dropped. We have seen an increase this year with the snow, but are averaging about 1,500 memberships across North Dakota. I think that without the snow the desire to be a member hasn't been there.

Annette Behm-Caldwell, Dealer Principal – Open Road Honda, Mandan and Vice President, North Dakota Powersports Dealers Association, spoke in support of SB 2367.

See attachment #2 which includes a Dealer's reporting form.

Chairman Ruby: Do you find that there are some people who don't want to pay the fees because they drive on their own land and won't use the trails or take safety courses?

Annette Behm-Caldwell: The safety courses are voluntary. If you are a youth over the age of twelve years and want to drive on public lands you have to take a certified course. I have lots of people who do not want to pay tax and title. **If they are riding on their private land, then they don't have to pay the license**, but I've never had anyone argue with me over a five dollar safety fee.

Arik Spencer, Recreation Division Manager for the North Dakota Parks and Recreation Department, presented testimony in support of SB 2367. See attachment #3. He pointed out that two-thirds of the motor powered recreational vehicle dealers did not collect this fee in 2008, which was the year that we had our best compliance. It would not be possible to try to go back and collect retroactively. We would just like to make sure that the dealers know the new requirements and go forward. It is important to understand that we do not advocate having someone's dealer's license taken for a five dollar fee. It is only when they have been found by DOT twice in five years to have violated the chapter would they lose their license. North Dakota Parks would have to make a specific complaint against a dealer. I would like to

add that on the snowmobile side, of all the things that North Dakota Parks and Recreation is granted the authority to do is to offer these safety courses. The number of kids that have gone through our course has doubled in the last two bienniums, from 400 to over 800. Parents are hearing about accidents and want their kids to go through the training. It also makes them able to ride in different states and North Dakota trail systems.

We estimate that there will be about 2,000 snowmobiles sold in a year which would result in about \$20,000 per biennium. That data comes from the sale of new vehicles, and then we did an estimate on the number of used vehicles sold.

Chairman Ruby: Are the current penalties that can be handed out to dealers are already in place for the \$100 and \$200, but just not for the suspension of the dealer's license?

Arik Spencer: In section 3, 3922.3 outlines the conditions and penalties. We want this to be a reasonable process.

Representative Delmore: The fees all go into the state snowmobile fund. You do courses for both the ATVs and the snowmobiles based out of that fund?

Arik Spencer: The funds are generated for both off highway vehicle safety or snowmobile safety or either registration go into either the state snowmobile fund or the OHV trail fund. So, we only spend funds for snowmobile out of the snowmobile fund, and only spend funds from the OHV fund on OHV related activities. We have done a very good job of only using these funds on the safety programs. The cost exceeds what is generated in revenue currently. We have received federal grants and try to use dollars as wisely as possible.

Representative Schmidt suggested that the DOT could give a sticker for their snowmobile when they pay their \$5.00 fee.

There was no opposition to SB 2367.

The hearing was closed.

Representative R. Kelsch moved a Do Pass on SB 2367.

Representative Griffin seconded the motion.

Representative Weiler expressed concern about the bill. He had a big issue with the revocation. He feels that it is very harsh to be able to take away a dealer's license for not collecting a \$5.00 fee. If a dealer sells ten snowmobiles in a year and doesn't collect the five dollar fees, he can have his license taken away. If we want to make the fine the same as the amount that they didn't collect and make the dealer pay it. That would be fine.

Chairman Ruby: The first offense would be \$100. The second offense would be \$200. It would be the third offense before they would even consider revoking a license.

Representative R. Kelsch: I moved the Do Pass because they are probably not going to try to revoke licenses. They are going to try to collect the fees. It is probably more like one of those hammers that is in law, once you know it is there, you will remit. You do have two chances, it is not until the third time that they will revoke. Annette, how many power sports dealers belong to that organization?

Annette Behm-Caldwell: There are currently sixteen active members of the North Dakota Power Sports Dealers' Association. They are the major recreational dealers across the state. There are a number of dealer licenses, but many are held by individuals or car dealerships. Our association has the strong support of those whose major business is to be a Power Sports Dealer. This is a new fee for snowmobiles, it has been in existence for OHVs.

Chairman Ruby: Which group hasn't been paying their fees?

Annette Behm-Caldwell: The group that hasn't been paying in the past is the Recreational Power Sports Dealers. When it has been discussed in our group, many offer the attitude, "What are they going to do?"

Representative R. Kelsch: Does the North Dakota Power Sports Dealer Association support this?

Annette Behm-Caldwell: It has been an item of contention for many years, and the membership is in full support.

Representative Weiler: Did the membership vote on this and was it unanimous?

Annette Behm-Caldwell: The membership did not vote. The information has been passed on through e-mail, and there has been no opposition. The dealers who are in the Power Sports Association are the dealers who collect this fee.

Representative Delmore: In your testimony you said that approximately two-thirds of the dealers didn't pay. Have you assessed a fine on those people.

Arik Spencer: No, we haven't because at this time there is only a ten dollar fine, but we would have to prosecute through the State's Attorney. It is not an effective way of going after those dealers.

Representative Delmore: Do you notify the dealers that they are not in compliance?

Arik Spencer: Yes, we do. We send quarterly reminders. After that, we stop in and introduce ourselves and tell them what the fee goes toward. We give them our literature and explain to them the value of what we are doing.

Representative Weisz reviewed the penalty section in Code.

Representative Frantsvog: Arik, is there some report that the DOT gets that identifies every sale of these vehicles?

Arik Spencer: No, the dealers have that information. It does not come to us. The DOT does have the right to request any reasonable information from a dealer in the renewal of their dealer's license. The only way we could make a complaint, is if that would be reviewed.

Representative Frantsvog: If you are not getting a report that is showing the sales, how do you know that they are not in compliance with providing this \$5 safety fee?

Arik Spencer: Many dealers do send us a report that indicates "no sales". We don't know about those that don't. We are concerned about the businesses whose primary purpose is selling OHVs.

Arik Spencer: Chairman Ruby and Representative Weisz, we chose an existing mechanism to provide a penalty on this. If you want to use an alternate language, we would be open to looking at that.

Representative Weiler: Of all the snowmobiles that get sold through a dealership, do you know how many have been sold? Is there not a reporting requirement for how many they sold?

Arik Spencer: There is no reporting requirement to North Dakota Parks. There is a reporting requirement to DOT, if they request it. This is why in Section two and three of this bill we have to notify DOT quarterly of the dealers who report and the number of vehicles sold.

Representative Weiler: Ultimately, there is no way that you can say there were 3,654 sold in 2008?

Arik Spencer: There is information on the number of titles filed with DOT. The dealers that would be red-flagged would be the ones that hold themselves out as being a primary dealership and don't submit any safety fees at all.

Representative Weiler: So, we concerned with the large dealerships, but not with the small dealerships? I have a concern with that, in that we are not treating them all equally.

Arik Spencer: That is correct, our primary concern is the large dealerships.

Representative Weiler: But, shouldn't we be concerned with all the dealerships, and treat them all equally?

Arik Spencer: I guess we should, but it is the large volume ones that we know for sure are not sending the fees in. The small ones, it is much harder for us to know that.

Representative R. Kelsch: The issue is that we may have some smaller dealerships out there that are selling one or two vehicles, but you are looking at the biggest businesses because that is their primary sales. Do you want me to withdraw my motion?

Representative Weiler: If it is okay, we may try to fix this up a little bit.

Representative R. Kelsch: I will unhappily withdraw my motion.

Representative Griffin: I will withdraw my second.

The committee with hold SB 2367.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2367

House Transportation Committee

Check here for Conference Committee

Hearing Date: 03/06/09

Recorder Job Number: 10354

Committee Clerk Signature

Janette Cook

Minutes:

Chairman Ruby brought **SB 2367** before the committee.

Representative Heller moved a **Do Pass** on SB 2367.

Representative Weiler seconded the motion. He explained that he decided not to work on amendments since he see no point in trying to make a bill better that he intends to kill on the floor anyway.

A roll call vote was taken. **Aye 10 Nay 3 Absent 1**

The motion carried.

Representative Heller will carry **SB 2367**.

Date: 3/6/09

Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2367

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Don't Pass Amended

Motion Made By Heller Seconded By Weiler

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman		✓	Representative Delmore	✓	
Rep. Weiler - Vice Chairman		✓	Representative Griffin	✓	
Representative Frantsvog	✓		Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut	✓		Representative Thorpe	✓	
Representative Vigesaa		✓			
Representative Weisz					

Total Yes 10 No 3

Absent 1

Bill Carrier Heller

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

REPORT OF STANDING COMMITTEE

SB 2367, as engrossed: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2367 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2367

*Same
given to
House*

**TESTIMONY – SENATE BILL 2367
SENATE TRANSPORTATION COMMITTEE
FEBRUARY 5, 2009 – 9:30 AM
LEWIS AND CLARK ROOM**

Mr. Chairman and members of the Senate Transportation Committee, my name is Keri Wanner and I am the Program Manager for Snowmobile North Dakota which represents an association of snowmobile enthusiasts in North Dakota. Snowmobile North Dakota is contracted by the North Dakota Parks & Recreation Department to manage North Dakota's snowmobile trail system. I appear today in support of Senate Bill 2367 relating to safety fees for snowmobiles and relating to motor-powered recreational vehicle dealer licenses.

Currently, 3,419 miles of state snowmobile trail exist in North Dakota. These trails have been established over the past 30 plus years by volunteers from around the state. The volunteers have worked with private landowners and the local governing entities in the establishment of the trails. To ensure future existence of the trails it is important to educate snowmobilers of proper riding practices. This education teaches snowmobilers how to respect property and responsible operation providing for a safe and fun experience while on North Dakota's snowmobile trails. One of Snowmobile North Dakota's main goals outside of maintaining the trail system is to ensure riders enjoy the trail system and recreate in an appropriate matter. Due to this, it's important to our organization to ensure funding is available to teach the users these proper riding practices.

Snowmobile North Dakota works closely with the North Dakota Parks and Recreation Department on the state snowmobile trail program. Our organization applauds the North Dakota Parks and Recreation Department on their efforts in providing a well-rounded snowmobile education experience. The North Dakota Parks and Recreation Department has enhanced the snowmobile safety education program by increasing the number of snowmobile classes scheduled around the state and also developed an online safety education program. With several low snow years, the snowmobile trail program has seen a decline of 7,000 snowmobile registrations which provides a smaller pool of funding to maintain the trails and safety education program. The North Dakota Parks and Recreation Department has done an excellent job leveraging funds with grant opportunities that have risen to continue operation of the snowmobile safety program. Snowmobile North Dakota's mission is to generate excitement for the recreation of snowmobiling in North Dakota. This mission is achieved through the 3,419 miles of snowmobile trail and it's our vision to utilize the snowmobile trail program funding to maintain and enhance those trails providing better experiences for the users. Due to this, it's important this safety fee for snowmobiles be passed to ensure funding is available to continue providing exceptional education opportunities.

In research conducted by North Dakota Parks and Recreation and Snowmobile North Dakota it was found there is a consistency between the OHV and snowmobile users. The majority of the snowmobile owners also own an OHV. Currently, users are required to pay a \$5 safety fee on the purchase of an OHV, so they are accustomed to the fee and have questioned why there isn't consistency between the OHV and snowmobile sections of the NDCC. Snowmobile North Dakota's membership supports this consistency between the two chapters allowing easier education and understanding for the users.

Each year clubs spend countless hours maintaining the trails providing a fun and safe recreation for North Dakota and boosting the local economy. It's important to the clubs that this bill is passed to ensure proper safety education is provided to the users to expect predictable riding experiences.

Senate Bill 2367 is a bill with the full support of the snowmobiling community. Snowmobile North Dakota asks for a vote of DO PASS on Senate Bill 2367.

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

**Testimony – Senate Bill 2367
Senate Transportation Committee
February 5, 2009**

*Sent
given to
House*

Testimony presented by Annette Behm-Caldwell
Dealer Principal – Open Road Honda, Mandan
Vice-President, North Dakota Powersports Dealers Association (NDPDA)

The North Dakota Powersports Dealers Association (NDPDA) is a network of professional powersports dealers, dedicating time and resources to protect, preserve and expand their businesses and the organizations associated with them.

We thank Senator's Oehlke, Cook and Erbele for introducing this bill on behalf of the NDPDA.

The NDPDA recommends a Do Pass vote on SB 2367.

- The \$5.00 OHV Safety fee was established in 1987. The Safety fee is used by ND Parks & Recreation solely for OHV safety education and promotion. NDPDA members understand the importance of and support OHV safety programs at the local and state-wide level.
- Licensed Powersports dealers who sell a new or used OHV to a ND resident are required to collect the fee at the time of sale. The fees and a report containing buyer and OHV information are submitted quarterly to ND Parks & Recreation. This report can be completed via the ND Park & Receptions web site or in a written format.
- NDPDA supports having the safety fee collected for snowmobiles in addition to OHV vehicles. Snowmobiles and OHV's share the same riding group and additional funds for safety programs would have a positive impact for all riders.
- Collection of the safety fee on snowmobiles will not add an additional process for snowmobile dealers as most snowmobile dealers are also powersports dealers who are presently collecting and submitting the OHV safety fee.
- The current law does not include a mechanism to enforce the collection of the fee. Simply put, if a dealer does not collect the fee, ND Parks & Recreation's only recourse is to take the dealer to court. Unfortunately, there are Powersports dealers across the state that are aware of the safety fee but do not collect or submit the safety fee to ND Parks & Recreation. Therefore NDPDA strongly supports amending the recreational vehicle dealer license code to include the collection of this safety fee.

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



DEALER REPORT: OFF-HIGHWAY VEHICLE SAFETY FEE
NORTH DAKOTA PARKS AND RECREATION DEPARTMENT
 SFN 14529 (7-2006)

Report Date	To
From	

Dealer Name		ND Dealer Number (if applicable)		Submittal Date
Address		State	Zip Code	Telephone Number

DATE SOLD	NAME OF PURCHASER	PURCHASER'S ADDRESS	CITY, STATE, ZIP CODE	OHV MAKE AND MODEL

SEND REPORT WITH REMITTANCE TO:
 North Dakota Parks and Recreation Department
 1600 East Century Ave., Suite #3
 Bismarck, ND 58503-0849
 Telephone (701) 328-5357

TOTAL NUMBER OHV UNITS SOLD _____ X \$5.00/EACH = \$ _____ (CHECK ENCLOSED)

Dealer's Signature _____

TESTIMONY – SENATE BILL 2367
SENATE TRANSPORTATION COMMITTEE
FEBRUARY 5, 2009 – 9:30 AM
LEWIS AND CLARK ROOM

Mr. Chairman, members of the Senate Transportation Committee, I am Arik Spencer, Recreation Division Manager for the North Dakota Parks and Recreation Department. I appear today in support of Senate Bill 2367 and the dealers and snowmobilers who initiated these legislative changes.

This bill corrects an oversight in Chapter 39-22.3 which governs motor powered recreational vehicle dealers. Currently the department of transportation's authority to govern motor powered recreational vehicle dealers extends to only those provisions referenced in Chapter 39-22.3.

Motor powered recreational vehicle dealers who sell off-highway vehicles (OHVs) are required in Chapter 39-29 which governs OHVs, to collect a \$5.00 safety fee on each new or used OHV sold and remit those fees to the parks and recreation department quarterly for safety education program. Because no reference is made to this requirement in Chapter 39-22.3, there is no meaningful way of addressing licensed motor powered recreational vehicle dealers who choose not to submit these fees.

Approximately 2/3^{rds} of the 187 licensed motor powered recreational vehicle dealers did not remit a single safety fee in 2008. It should be mentioned that a number of these dealers do not sell OHV's, only motorcycles or are equipment rental businesses. It is understandable they do not remit safety fees. That still leaves roughly half of licensed dealers selling OHV's that do not remit these safety fees despite efforts to educate them on this law. The loss of revenue from this issue is estimated at approximately \$10,000 this biennium.

It is important to understand that if a dealer does not comply with the safety fee requirement, they will not lose their dealer license automatically. Section 3 of Chapter 39-22.3 outlines a process for penalties. Only when a dealer has been found to have violated Chapter 39-22.3, 3 times within 5 years shall they lose their license. The first two violations, garner a fine of \$100 and \$200 dollars respectively. Loss of a dealer license would be a last resort. The amendment before you today simply allows department of transportation the authority deal with non-compliant dealers and to fix this oversight in Chapter 39-22.3.

Section two of SB 2367 adds a \$5 safety fee on the sale of each new or used snowmobile and creates consistency with the OHV safety fee referenced above.

Out of all the things the parks and recreation department has been granted authority to do related to snowmobiling, only one thing is specifically mandated. That is to offer a snowmobile safety certification course for youth ages 12 and up who wish to operate a snowmobile on public land, including snowmobile trails.

Demand for snowmobile safety certification classes has increased over the last 6 years from 427 youth certified in the 2003-2005 biennium to 827 this current biennium. This increase is due in-part, from the unfortunate increase in OHV & snowmobile accidents reported in the media and the addition of a safety trainer which has increased the availability of the classes.

Should this bill pass, the revenue generated will allow the necessary funding to continue this important program dedicated to youth safety.

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

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INFORMATION– SENATE BILL 2367
SENATE APPROPRIATION COMMITTEE
WEDNESDAY, FEBRUARY 11, 2009 – 8:30 AM
HARVEST ROOM

Mr. Chairman, members of the Senate Appropriation Committee, I am Arik Spencer, Recreation Division Manager for the North Dakota Parks and Recreation Department. I appear today offering information regarding Senate Bill 2367 relating to motor-powered recreational vehicle dealer licenses and safety fees for snowmobiles and off-highway vehicles.

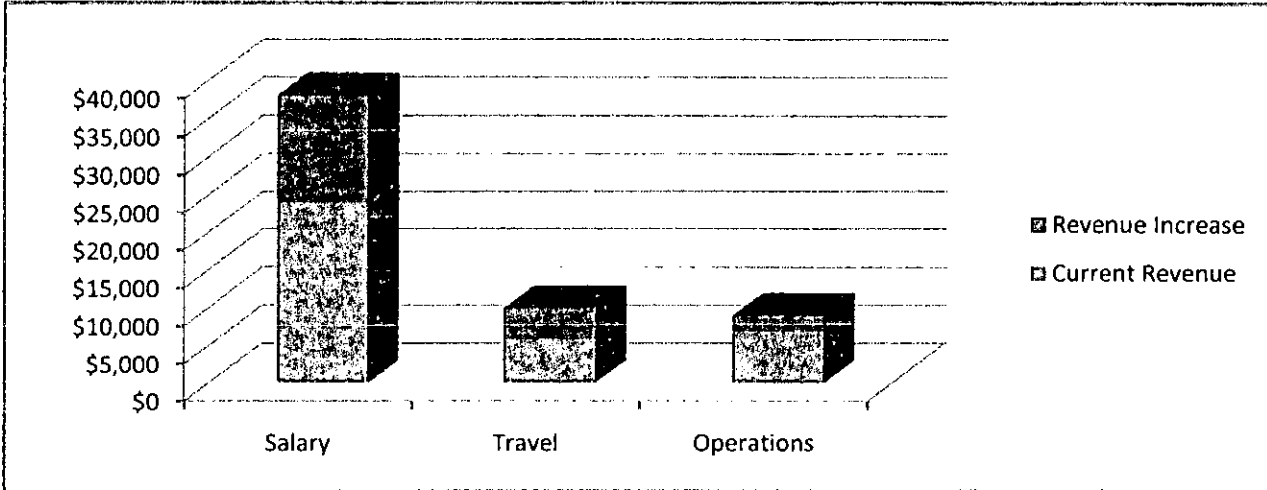
- Section one of SB 2367
 - Corrects an oversight in Chapter 39-22.3 which governs motor powered recreational vehicle dealers. Currently motor powered recreational vehicle dealers who sell off-highway vehicles (OHVs) are required in Chapter 39-29 which governs OHVs, to collect a \$5.00 safety fee on each new or used OHV sold and remit those fees to the parks and recreation department quarterly for safety education program. Approximately 2/3rds of the 187 licensed motor powered recreational vehicle dealers did not remit a single safety fee in 2008. Because no reference is made to this requirement in Chapter 39-22.3, there is no meaningful way of addressing licensed motor powered recreational vehicle dealers who choose not to submit these fees.
 - **Loss of revenue to the OHV Safety Program for failure to remit fees is estimated at approximately \$10,000/biennium.**
- Section two of SB 2367
 - Adds a \$5 safety fee on the sale of each new or used snowmobile creating consistency with the OHV safety fee referenced above.
 - **Anticipated revenue from this fee is approximately \$20,000 based on estimates from the International Snowmobile Manufacturers Association of the number of snowmobiles sold in ND over the last biennium.**
 - Revenue can only be used for snowmobile safety programs.
- Section three of SB 2367
 - Adds the same reporting requirement as proposed in section 2 to monitor compliance.

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

**SB 2367 - relating to motor-powered recreational vehicle dealer licenses and safety fees for snowmobiles
North Dakota Parks and Recreation Department**

Current & Proposed Snowmobile Safety Program Costs

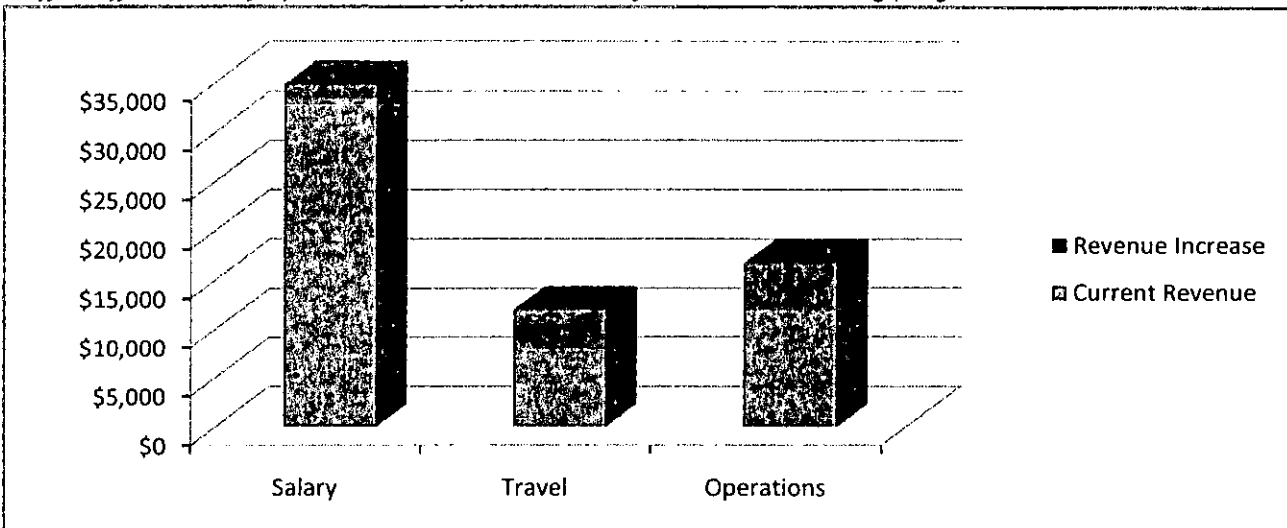
The added safety fee revenue will be used to expand the number of classes offered through additional seasonal safety staff



The Snowmobile Safety Program is funded through a \$10.00/person certification fee and snowmobile registration and gas tax revenue. Trail safety grants are occasionally secured to aid in program delivery. The \$10.00 certificate fee funds approximately 1/4 of the program costs with registration and gas tax revenue funding the remaining 3/4.

Current & Proposed Off-Highway Vehicle Safety Program Costs

The added safety fee revenue will be used to expand the number of classes offered through training of park staff to offer OHV Safety Courses & Implimentation of a volunteer training program.



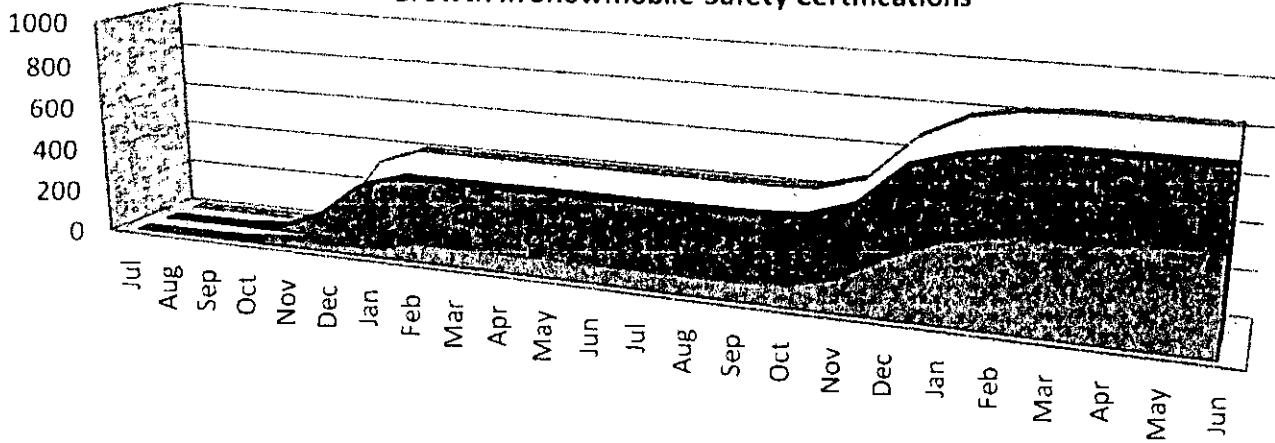
The Off-Highway Vehicle Safety Program is funded through a \$10.00/person certification fee, \$5.00/vehicle safety fee and registration revenue. Trail safety grants are occasionally secured to aid in program delivery. The \$10.00 certificate fee funds approximately 9% of the program costs, the \$5.00 safety fee funds approximately 50% of the program costs with registration revenue funding the remaining 41%.

North Dakota Snowmobile Safety Program Summary
North Dakota Parks and Recreation Department

The North Dakota Parks and Recreation Department is mandated by N.D.C.C. 39-24-09.1 to offer a snowmobile safety certification course for youth ages 12 and up who wish to operate a snowmobile on public land, including snowmobile trails.

- From the 1987 – 1989 biennium (when the safety certification requirement was established) through the 2001-2003 biennium, the snowmobile safety program was contracted to Snowmobile ND, who offered classroom safety certification courses and home study courses.
- Beginning in the 2003-2005 biennium, because of the ability to leverage limited program funds to access a trail safety grant authorized through the Federal Highway Bill's Recreational Trail Program, management of the snowmobile safety course reverted back to NDPRD. In addition, management of the snowmobile safety programs sister program for OHVS (ATVs), which was contracted to the ND Safety Council, also reverted back to NDPRD necessitating the hiring of a seasonal motorized recreation trainers.

Growth In Snowmobile Safety Certifications



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
■ 2003-2005	2	2	2	13	33	37	44	87	87	87	87	87	87	87	87	97	150	267	354	395	398	405	427	427
■ 2005-2007	0	0	0	18	97	258	317	317	317	317	317	317	317	317	317	329	399	590	653	693	713	713	713	713
□ 2007-2009	0	0	0	0	54	330	402	402	402	402	402	402	402	402	402	409	468	671	776	816	826	826	826	826

* January - June 2009 Projected

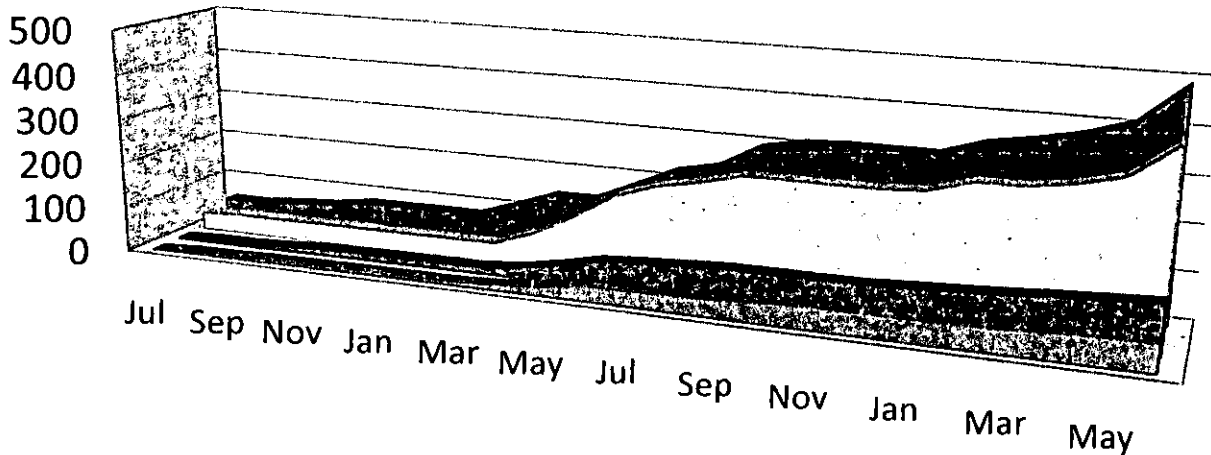
- Biennially, 60 – 70 formal snowmobile safety certification courses are held in addition numerous other safety talks and demonstrations at sport shows and safety fairs. In addition, an online snowmobile safety certification course is offered, replacing the old home study course.
- Between 2003 and 2009's projection, overall growth in safety certifications has been over 90%.
- The snowmobile training season occurs from October through February. The remainder of the year, OHV safety certification courses occur.

North Dakota Off-Highway Vehicle Safety Program Summary
North Dakota Parks and Recreation Department

The North Dakota Parks and Recreation Department is mandated by N.D.C.C. 39-29-10 to offer an off-highway vehicle (OHV) safety certification course for youth ages 12 to 16 who wish to operate an OHV on lands other than their parents or guardians.

- From the 1987 – 1989 biennium (when the safety certification requirement was established) through the 2001-2003 biennium, the snowmobile safety program was contracted to the ND Safety Council who offered safety newsletters and home study safety certification courses.
- Beginning in the 2003-2005 biennium, because of the ability to leverage limited program funds to access a trail safety grant authorized through the Federal Highway Bill's Recreational Trail Program management of the OHV safety course reverted back to NDPRD. In addition, management of the OHV safety program's sister program for snowmobile which was contracted to Snowmobile ND, also reverted back to NDPRD necessitating the hiring of seasonal motorized recreation trainers.

Growth in OHV Safety Certifications



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
2001-2003	2	7	7	9	9	9	9	9	9	14	20	34	35	38	39	46	50	50	50	50	52	58	61	62
2003-2005	4	8	8	12	16	16	16	16	16	24	40	60	66	71	76	76	76	76	81	86	91	98	103	108
2005-2007	38	43	43	43	44	44	44	44	44	76	124	180	211	228	252	252	252	252	257	285	285	298	321	392
2007-2009	50	50	58	63	76	77	77	77	107	140	140	180	221	240	290	308	312	312	312	342	356	376	406	486

*January - June 2009 projected

- Biennially, 60 – 70 formal OHV safety certification courses are held in addition numerous other safety talks and demonstrations at sport shows and safety fairs. In addition, an online OHV safety certification course is offered, replacing the old home study course.
- Between 2001 and 2009's projection, overall growth in OHV safety certifications has been 683%.
- The OHV training season occurs from March through November. The remainder of the year, snowmobile safety certification courses occurs.

Attachment # 3

TESTIMONY – SENATE BILL 2367
HOUSE TRANSPORTATION COMMITTEE
MARCH 6, 2009 – 9:30 AM
FORT TOTTEN ROOM

Mr. Chairman, members of the House Transportation Committee, I am Arik Spencer, Recreation Division Manager for the North Dakota Parks and Recreation Department. I appear today in support of Senate Bill 2367 and the dealers and snowmobilers who initiated these legislative changes.

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