

filed 11/1/13



The Senate of the State of New Hampshire

107 North Main Street, Concord, N.H. 03301-4951

November 1, 2013

The Honorable Maggie Hassan
Governor of New Hampshire
State House, Room 208
Concord, NH 03301

The Honorable Chuck Morse
President of the Senate
State House, Room 302
Concord, NH 03301

The Honorable Terie Norelli
Speaker of the House
State House, Room 308
Concord, NH 03301

Dear Governor Hassan, Senate President Morse and Speaker Norelli,

Re: SB 67, Chaptered Law 128:1, "Committee to examine the issue of statutory authority for all terrain vehicles, off highway recreational vehicles, and low speed utility vehicles to access public highways for food, fuel, and lodging."

Pursuant to SB 67, Chaptered Law 128:1, enclosed please find the final report of the study commission.

Should you have any questions or comments regarding the report please do not hesitate to contact me.

Respectfully,

Senator Jeff Woodburn
Chair

cc: Tammy L. Wright, Senate Clerk
Karen O. Wadsworth, Clerk of the House
Michael York, State Librarian
Members of the Committee

FINAL REPORT

SB 67

Chapter 128:1 Laws of 2013

COMMITTEE TO EXAMINE THE ISSUE OF STATUTORY AUTHORITY FOR ALL TERRAIN VEHICLES, OFF HIGHWAY RECREATIONAL VEHICLES, AND LOW SPEED UTILITY VEHICLES TO ACCESS PUBLIC HIGHWAYS FOR FOOD, FUEL, AND LODGING

Introduction

The above-named Joint Legislative Study Committee was selected to study issues relative to side-by-side OHRV usage in areas that allow their use in close proximity to or on public roadways.

Charge of the Committee

The committee shall examine the issue of statutory authority for all terrain vehicles, off highway recreational vehicles, and low speed utility vehicles to access public highways for food, fuel, and lodging.

Meeting Summaries

- **August 20th:** This was the first meeting and served as an organizational and focusing meeting for the study committee. The study group met with experts and specialists regarding the subject such as Captain John Wimsatt and Chris Gamache.
- **September 5th:** This meeting began with the study committee hearing from the leadership of an OHRV recreational group. This gave the committee a perspective of the average rider. The study group then heard from various members of law enforcement and local as well as state officials. These various perspectives gave the study committee a much better grasp on enforcement concerns. During this conversation, it became clear that reform is needed for various parts of the law.

- **September 27th:** The study committee really began to focus their efforts on specific reforms. During the meeting on the 27th the committee had specific requests for an improved definition of side-by-side OHRV vehicles, an improved statute regarding the use of these vehicles exclusively for agricultural use, and speed limit recommendations to ensure the safe operation of these vehicles.
- **October 10th:** This was an off site meeting in the North Country designed to allow constituents who have direct experience with the use of this vehicle to present their impressions and ideas. It became clear that greater enforcement was needed by both law enforcement and local clubs and organizations. One goal for the OHRV community is for local organizations to police their members effectively and work with law enforcement to stop illegal or unsafe riding. The committee learned of the large increase in economic activity to the region connected to the use of OHRV's and most local businesses appreciate this increase in activity. Various citizens stressed the need for law enforcement but also that they liked the economic benefits.
- **October 17th:** This meeting represented the culmination of efforts of the committee and the group went through a step by step walk-through of their recommendations and ideas of what should be in the final report. While not all contributors were present at this meeting, Chris Gamache, John Wimsatt, Assistant Commissioner Earl Sweeney, Harry Brown President of the OHRV Coalition, and others contributed extensively to the recommendations of the study committee and their efforts are recognized in this report.

FINDINGS

The use of this new vehicle can sometimes be controversial, but when done in a balanced manner, with public and private groups working together, the responsible use of OHRV's is a great economic driver for local businesses.

The committee found that the success of this industry relies heavily on riders and their respective clubs and organizations to work with law enforcement and ensure the safe and lawful operation of these vehicles on the trails.

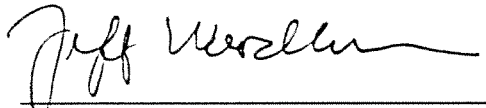
The committee only supports the safe and lawful use of OHRV's in legally authorized areas.

RECOMMENDATIONS

1. It became clear very early in the study committee process that subtle changes along with a tightening of the regulations regarding the agricultural use of OHRV's was necessary to reduce future abuse of this vehicle. The committee met with a diverse group of stakeholders and recommended language from Assistant Commissioner Sweeney that gave greater specificity to the laws governing the registration and use of OHRV's for agricultural purposes. This language specified where and how these vehicles are appropriate for agricultural use, and additionally the committee believes the dual registration of these vehicles for agricultural and recreation use would alleviate some confusion. The committee felt that the language (see attached) struck an excellent balance and ensures farmers will still be able to use OHRV's for agricultural purposes and for recreational use if properly registered.
2. The second recommendation from the committee focused on improving the existing speed limits imposed on these vehicles. The committee heard from recreational users, Fish and Game personnel, as well as representatives from the Trails Bureau and decided that current speed limits needed only minimal changes (see attached) to ensure the safe operation of these vehicles.
3. Given the lack of specificity regarding the legal definition of side-by-side OHRV's, the committee requested and received an updated and improved definition for these vehicles. This definition creates the "UTV" definition (see attached) and adds greater specificity and certainty for recreational models of these vehicles. The committee would like to add that the overall width of these vehicles does not include mirrors which may be protruding from the vehicle's sides.
4. The committee found that clarification was needed for Fish and Game officers to have the power to detain OHRV/UTV vehicles when there is reasonable suspicion that the rider is improperly using a agricultural plate to gain access to the road or trails. Specifically the committee recommends that Fish and Game officers have the ability to detain these

vehicles, when there is reasonable suspicion for a stop, when the vehicles are operating on the road in towns that have allowed OHRV/UTV use, and when their use is in close proximity to trails.

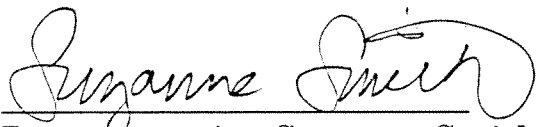
Respectfully submitted,



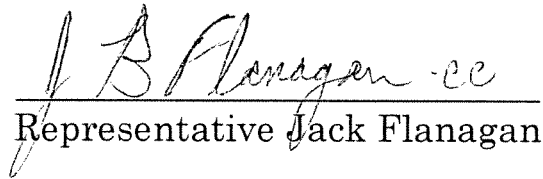
Senator Jeff Woodburn



Representative David Karriek



Representative Suzanne Smith



Representative Jack Flanagan

CSC

An Act

Clarifying the Registration and Use of Tractors and Low-Speed Utility Vehicles

(Words deleted are in [brackets], words added are underlined.)

1. Tractor; Definition. Amend RSA 259:108 to read as follows:

259:108 "Tractor" shall mean any self-propelled vehicle with an internal combustion engine or electric motor, or both, used exclusively for agricultural or light industrial purposes having a capacity for carrying payloads including use as a traveling power plant or for carrying farm or industrial workers for short distances but not used for recreational purposes and limited to speeds of 35 miles per hour or less.

2. Low-speed utility vehicle; Definition. Amend RSA 259 by inserting after RSA 259:50 the following new section:

259:50-a "Low-speed utility vehicle" shall mean any vehicle with 4 or 6 wheels, an internal combustion engine or electric motor, or both, a load capacity of 1,500 pounds or less, and high-pressure tires, that is capable of carrying not more than 4 occupants plus the load, and capable of speeds of 35 miles per hour or less on level ground, and designed and used for agricultural or light industrial purposes, and complies with all applicable federal motor vehicle safety standards in 49 CFR 571.500.

3. Light Industrial Use; Definition. Amend RSA 259 by inserting after RSA 259:49 the following new section:

259:49-a Light Industrial Use. "Light industrial use" shall mean manufacturing and distribution of products for wholesale or retail use where the operation includes the need for access to contiguous or nearby warehouses, showrooms or manufacturing facilities including crossing a way or driving on a way for distances of not more than one-half mile where route or crossing is approved by the government authority having control of the way.

4. Low-Speed Utility Plates or Decals. Amend RSA 261 by inserting after RSA 261:85 the following new section:

261:85-a Low-Speed Utility Plates or Decals. A motor vehicle shall qualify for a low-speed utility vehicle plate or decal and shall be driven on a way with such registration only if such motor vehicle meets the definition in RSA 259:50-a, and is used exclusively for agricultural, farming or light industrial purposes as defined in RSA 21:34-a or RSA 259:49-a, and driven within a 2 mile radius of the main entrance of the farm or light industrial complex, and displays a slow-moving

vehicle emblem or flashing amber light, or both, on the rear of the vehicle or any attached trailer.

5. Fees; Low-Speed Utility Vehicles. Amend RSA 261:141, II, prorated fees, by inserting the following subparagraph after subparagraph (e):

(f) for a low-speed utility vehicle - \$6.00

6. Low-Speed Utility Vehicle; Local Permit Fee. Amend RSA 261:153, V, (c) to read as follows:

(c) Unless otherwise provided, the fee for special use vehicles including all-terrain vehicles, light-industrial vehicles, agricultural and farm vehicles, farm tractors, and historic vehicles including mopeds, motorcycles, and non-motorized car and boat trailers, shall be \$2.

7. Effective date: This act shall take effect on January 1, 2015.

SPEED LIMIT

215-A:6 Operation of All OHRVs. -

I. It is unlawful to operate any OHRV during the period from 1/2 hour after sunset to 1/2 hour before sunrise without displaying at least one lighted headlight and one lighted taillight.

I-a. [Repealed.]

II. No person shall operate an OHRV upon any portion of the right of way of any public way including the traveled portion of a maintained public way except as provided in this chapter.

III. (a) No person shall operate an OHRV at a speed greater than is reasonable and prudent under the existing conditions and without regard for actual and potential hazards. In all cases speed shall be controlled so that the operator will be able to avoid colliding with any person, vehicle, or object.

(b) Where no hazards exist which would require a lower speed to comply with subparagraph (a), the speed of any OHRV in excess of the limit specified in this section shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

(1) 10 miles per hour within 150 feet of any so-called bob-house, fishing shanty or occupied fishing hole of another.

(2) 20 miles per hour on class I through VI highways when the OHRV is being operated within the rights-of-way adjacent to such highways; class IV, V, and VI highways approved for OHRV operation; and bridges open for OHRV operation.

(3) 10 miles per hour at trail junctions or parking lots, or when passing trail grooming equipment, town or city sidewalks;

(4) 20 miles per hour on plowed roads on department of resources and economic development property open to OHRV operation.

(5) 35 miles per hour on all trail connectors.

(6) 45 miles per hour when operating an OHRV or snowmobile on any approved OHRV trail.

(c) The prima facie speed limits set forth in subparagraph (b) may be altered for a specific hazard.

(d) The driver of every OHRV shall, consistent with the requirements of subparagraph (a), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding trail, and when a special hazard exists with respect to pedestrians or other traffic by reason of weather or trail conditions.

215-C:8 Operation of Snowmobiles. -

I. It is unlawful to operate any snowmobile during the period from 1/2 hour after sunset to 1/2 hour before sunrise without displaying at least one lighted headlight and one lighted taillight.

II. No person shall operate a snowmobile upon any portion of the right of way of any public way including the traveled portion of a maintained public way except as provided in this chapter.

III. (a) No person shall operate a snowmobile at a speed greater than is reasonable and prudent under the existing conditions and without regard for actual and potential hazards.

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In all cases speed shall be controlled so that the operator will be able to avoid colliding with any person, vehicle, or object.

(b) Where no hazards exist which would require a lower speed to comply with subparagraph (a), the speed of any snowmobile in excess of the limit specified in this section shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

(1) 10 miles per hour within 150 feet of any so-called bob-house, fishing shanty, or occupied fishing hole of another.

(2) 20 miles per hour on class I through VI highways when the snowmobile is being operated within the rights-of-way adjacent to such highways; class IV, V, and VI highways approved for snowmobile operation; and bridges open for snowmobile operation.

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(3) 10 miles per hour at trail junctions or parking lots, or when passing trail grooming equipment, town or city sidewalks.

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(4) 20 miles per hour on plowed roads on department of resources and economic development property open to snowmobile operation.

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(5) 35 miles per hour on all trail connectors.

DEFINITION

Definition of UTV

215-A:1 Definitions

Add new section:

XXIII "Utility trail vehicle (UTV)" means any mechanically propelled vehicle which is designed or adapted for travel over surfaces other than maintained roads with one or more tires and or tracks, equipped with a roll over protection system and/or safety belts, having capacity for passengers and/or payloads not to exceed 1700 pounds net vehicle weight, and not to exceed 62 inches in width. For purposes of this chapter "utility trail vehicle" shall include but not limited to side by side, ROV, gator, buggy, OHV and shall be abbreviated as "UTV", and all vehicles within this definition shall be classified as off highway recreational vehicles.