

CORRECTIONS IMPACT STATEMENT

SESSION: 20RS BILL # SB 75 GA 2 BR # 1300 DOC ID #: XXXX

BILL SPONSOR(S): Sen. P. Wheeler, S. West, R. Girdler, A. Robinson, B. Smith, J. Turner

AMENDMENT SPONSOR(S): Sen. P. Wheeler

TITLE: AN ACT relating to off-highway vehicles and making an appropriation therefor.

SUMMARY OF LEGISLATION: Amend KRS 186.010 to define "off-highway vehicles" or "OHV"; consider an OHV to be a motor vehicle for registration purposes; amend KRS 186.050 to establish an annual registration fee for resident OHVs and a \$30 fee for nonresident OHV registration; allow the clerk to retain \$5 for nonresident OHV registration; create new sections of KRS Chapter 189 to allow for the operation of OHVs on a county roadways and state roadways identified by the Transportation Cabinet and the Kentucky Mountain Regional Recreational Authority; prohibit OHV operation on any fully controlled access highway; allow a local government to prohibit OHV use on county roadways under its jurisdiction; establish OHV operation requirements; require the Transportation Cabinet to promulgate administrative regulations; establish exemptions; allow a nonresident OHV permit to be valid for six months; require the Transportation Cabinet to promulgate administrative regulations; amend KRS 189.517 to comply; amend KRS 189.990 to establish that operating an OHV in violation of Sections 3 and 4 of this Act shall be a Class B misdemeanor.

AMENDMENT: Retain original provisions; specify that only OHVs registered for highway use are considered to be motor vehicles for registration purposes only; specify that a local government may designate roadways under its jurisdiction for OHV operation; require an OHV to be insured in compliance with KRS 304.39-110(3); amend KRS 304.39-110 to conform.

AMENDMENT: Remove original provisions; define "off-highway vehicle," "local government," and "recreational authority"; create a new section of KRS Chapter 189 to allow a local government to adopt an ordinance authorizing OHV use; require a local government to specify any county or city roadways under its jurisdiction authorized for OHV use; allows a local government to petition the Transportation Cabinet for the inclusion of any state roadway within the local government's boundary in its ordinance; require the cabinet to respond to the local government within 30 days regarding roadway approval or denial; allow a local government to assess an annual OHV permit fee of \$30 for KY residents and \$50 for nonresidents; appropriate \$5 of the fee to the regional authority and \$5 to the cabinet; specify that annual OHV permits expire on April 1 of each year; allow a local government to establish an online issuance system; allow a local government to contract with a regional authority or a private vendor for the issuance and sale of OHV permits; outline OHV insurance requirements; establish safety requirements; allow for the operation of an OHV that has been issued a permit on the roadways specified by any county that has enacted a local OHV ordinance; require the placement of signage denoting OHV use; allow the Transportation Cabinet to prohibit OHV use on specific roadways if deemed in the interest of public safety; outline exemptions; amend KRS 189.515 to conform.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|--|--|
| <input checked="" type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) . | |

STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$75.91. Community Custody Class C and most Class D felons are housed in one of seventy-seven (77) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$36.70 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included). *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

LOCAL IMPACT: Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders. Since the per diem is an estimated average cost of housing an inmate, the per diem may not be the actual housing cost for the jail. *Projections are based on the daily rate x 365 days x number of years. Offenders may have multiple offenses or incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

This legislation adds definitions for off-highway vehicles and mini-trucks, as well as adding off-highway vehicles to the definition of motor vehicles in KRS 186.010.

KRS 186.050 establishes a registration requirement and registration fees. Section 3 of the legislation authorizes and specifies the operation of an off-highway vehicle on roadways. The operator must be eighteen (18) years of age with an operator's license. Regulations similar to operation of a motor vehicle are included, such as titling, registration, proof of insurance, and compliance with traffic regulations, etc. Eye protection is required if there is not a windshield. The legislation is not applicable for off-highway vehicles operating on private or public recreational trails, agricultural purposes, wildlife management, or law enforcement. There are stipulations for nonresident use under Section 4.

KRS 189.517 authorizes operation of mini-trucks on roadways under the same guidelines.

Under KRS 189.990, violation of this legislation is added as a Class B misdemeanor. Misdemeanors are subject to the jurisdiction and cost of the county.

Currently the Department of Corrections has zero (0) offenders incarcerated under KRS 189.517 or KRS 189.515. There are four (4) offenders under supervision who have violations of Operating ATV on Roadway under KRS 189.515.

AOC records reflect zero (0) violations under KRS 189.517 Violation of Mini-Truck Requirements and 170 violations under KRS 189.515 Operating ATV or All Terrain Vehicle violations.

In times of current overcrowding it should be noted that any additional incarceration has an impact on the occupancy of jail beds. However, the number of convictions under this legislation would be expected to be minimal, with little impact to local incarceration.

A Class B misdemeanor is up to 90 days in jail.
1 Class B misdemeanor: up to \$2,820.60

10 Class B misdemeanants: up to \$28,206.00
100 Class B misdemeanants: up to \$282,060.00

Projected Corrections Impact from Amendments:

Under the Senate Committee Substitute, the definition of motor vehicle specifies off-highway vehicles registered according to the legislation. Modification to legislation allow local jurisdictions to specify county roadways specified for off-highway vehicle use. And KRS 304.39-110 is added to the legislation, requiring insurance for off-highway vehicles.

There is no additional impact to local or state corrections under the Senate Committee Substitute.

The Senate Floor Amendment removes KRS 186.010, KRS 186.050, KRS 189.517, KRS 189.990, and KRS 304.39-110. Definitions and bill content is added to a new section of KRS Chapter 189. Mini-trucks are removed from the legislation. Local governments may regulate the operation of off-highway vehicles on public roadways, with approval by the Transportation Cabinet. Off-highway vehicles are not designated for controlled access highways. Annual permits and fees are outlined. Operators must be age eighteen (18) and have a valid operator's license and insurance (title and vehicle registration not required). Off-highway vehicles are subject to traffic regulations. Eye protection and, for minor passengers, helmet requirements are included, though local governments may adopt stricter safety measures. Highway signs denoting off-highway vehicle usage are required. KRS 189.515 is added to the legislation citing an exception for off-highway vehicles vs. all-terrain vehicles crossing the highway. With the removal of KRS 189.990, the associated misdemeanor penalty is removed.

SB 75 passed the Senate with Senate Floor Amendment 2.

The following offices contributed to this Corrections Impact Statement:

Dept. of Corrections Dept. of Kentucky State Police Administrative Office of the Courts Parole Board Other

NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.

APPROVED BY: *Sandy White* 3/19/2020
Commissioner, Kentucky Department of Corrections Date