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# Dunes and Trails ATV Club

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March 4, 2003

To: Nevada Legislature Joint Transportation Committee

Subject: SB117 - Off Highway Vehicle (OHV) Registration Bill

Gentlemen:

My name is Gary Clinard. I am president of the Dunes and Trails ATV Club of Las Vegas, Nevada. We are the largest organization in Nevada representing the ATV owners.

I am here to testify **AGAINST SB117** and **FOR** a properly drafted OHV registration plan. The main points I would like to make are:

1. The purpose of SB117 is to force the collection of sales tax on Off Highway Vehicles and to add registration revenue to the general fund. There is no benefit to the citizens paying the fees. OHV dealers believe they lose sales to out-of-state dealers because these purchasers can avoid paying Nevada sales tax. There has been legislation on the books since 1955 to collect such tax, but it is not enforced. SB-117 has no enforcement provisions and will do nothing but alienate the OHV community.
2. An OHV registration bill establishing an OHV program, with the registration funds allocated for OHV use, will benefit the state and the OHV users in many ways. The greatest benefit will be the rural Nevada communities who are actively trying to establish an OHV trail system to bring visitors to their businesses.
3. This bill has been drafted without the input from the citizens who will be affected. Several groups have proposed acceptable alternate OHV registration plans, but these inputs have been ignored.
4. As drafted, the bill will not only charge the highest fees in the country, but will adversely impact the Department of Motor Vehicles. The bill was drafted without doing the research on the experiences of the other states that have had OHV registration programs for years.
5. I have attached for your review an OHV registration plan. This plan has received widespread support from the OHV community. It addresses the needs of the dealers, the OHV owners, the DMV and the rural Nevada Communities.
6. I respectfully ask you to reject SB-117 as written. Allow time for a bill to be written which all sides of this issue can support.

Thank you  
Gary Clinard

President, Dunes and Trails ATV Club, Las Vegas, Nevada

# Off Highway Vehicle (OHV) Bill for Nevada - 2003

January 3, 2003

## 1. Overview

Nevada has no programs to register, regulate or promote un-licensed off-highway vehicles, such as All Terrain Vehicles (ATVs), off-highway motorcycles (dirt bikes), dune buggies and snowmobiles. The lack of a Nevada OHV program has several negative effects. Nevada off-highway users are forced to pay high non-resident fees to ride in some other states. Without any registration requirements, Nevada OHVs are untraceable and therefore much more subject to theft than in other states. Many users import their vehicles from other states, then never title them in Nevada, thus avoiding sales tax which reduces both Nevada sales tax revenue and Nevada dealer sales. Finally, Nevada is missing a great opportunity to create tourist revenue in the rural counties by developing a "Silver State Trails System", which could be funded by a combination of available Federal Grants and an OHV program.

## 2. Background

First of all, the term Off Highway Vehicle (OHV) is preferred to the older term Off Road Vehicle (ORV) because almost all OHV activity occurs on dirt road and trails. Because of environment sensitivities, the users prefer Off-Highway to Off-Road.

With increased interest in off-highway motorcycles, dune buggies and the introduction of the All Terrain Vehicle (ATV) in the mid 1980's, the use of motorized vehicles exploded. By the late 1980's many states began to enact legislation to register, regulate and organize the use of such vehicles. In most cases there evolved three parts to such programs.

First, a method of registering the vehicle, often with a numbered "sticker", rather than a license plate was created. This registration requirement allows law enforcement to identify lost or stolen vehicles and to track down violators. Lack of a registration sticker raises a flag, just like a car without a license plate. Registration also reduces theft and provides for a means for a state to collect sales tax on OHV purchases.

Second, states created OHV programs to use the revenue from the OHV registration to fund OHV facilities and to pay for law enforcement costs related to OHV activities.

Third, traffic laws were added to address the use of unlicensed OHV use. For example, laws were enacted for safe crossing of highways by unlicensed OHVs and for local towns to designate routes to campgrounds and businesses catering to OHV users.

Since Nevada has no OHV registration, OHV program or OHV traffic laws, a number of issues have surfaced. Several states enacted laws that required residents of states without OHV registration programs (Nevada) to buy non-resident permits or to register in the other state to operate OHVs. The rationale for such non-resident permits is that these states are providing facilities for OHV activities from their OHV programs, but Nevada has no such programs to reciprocate. Nevada off-highway users must therefore pay into other state's programs with the monies going out of state.

Another problem is that of loss of state sales tax revenue and loss of Nevada dealer sales. Since no registration is required in Nevada, many OHV users purchase their vehicles in bordering states for "export", paying no sales tax. Without an OHV registration program, the users do not title their vehicles in Nevada, thereby avoiding Nevada sales tax. This loophole was addressed in a bill (SB220) sponsored by Nevada motorcycle dealers in the 2001 session. The bill did not address the need for an OHV program and was defeated.

Finally, in cooperation with the BLM, there is now an major effort in the rural counties to establish an OHV trail system modeled after Utah's Paiute trails. The Utah trail system has effectively exploited the ATV riding opportunities of central and southern Utah, providing outdoor recreation to both local residents and a major attraction to out-of-state OHV enthusiasts. Towns connected to this trail system have enjoyed an economic revival, as thousands of visitors from all over the world come to the system to ride. As an example, the small town of Marysville had only 3 business licenses prior to the trail: they now have 21. Small communities in Nevada, such as Caliente and Panaca, are establishing coalitions to develop a trail system for their areas.

### **3. Rational for a program**

The following arguments support the establishment of the registration of OHVs and an OHV program in Nevada.

Registration of OHVs will provide users with proof of ownership and the reciprocal use of their vehicles in other states without paying non-resident permit fees. These fees that are now collected by other states by Nevada users would now remain in Nevada. Registration will also facilitate financing of OHV purchases.

Registration of OHVs will require new purchases to be titled and, if purchased out of state, would trigger the collection of use tax. It is impossible to estimate what additional sales tax would be collected.

By removing the current perceived advantage of purchasing vehicles out of state, Nevada motorcycle and ATV dealers believe they will see an increase in sales.

An OHV program will fund facilities and promote the development of a Nevada trails system, for the benefit of both Nevada users and for attracting out of state visitors for outdoor recreation in the rural areas of Nevada. Once established, an Nevada state-wide OHV trails system (the Silver State Trail) will attract thousands of visitors to the state and benefit the small towns and businesses of rural Nevada.

Enactment of state traffic laws to recognize the legitimate use of OHVs will allow, legalize and encourage and help the development of trail systems that include access to rural communities and businesses.

### **4. Expected Objections to Program**

When SB220 was introduced in the legislature during the 2001 session, a number of objections were raised to the bill. This bill was written solely from the point of view of some motorcycle dealers wanting registration to force use tax collection from out of state sales, thereby "leveling" the field for competition from out-of-state dealers. There were no provisions for establishing a OHV program to benefit the users forced to pay for the registration. The proposed fees were about 2 times that of other states.

Objections to the bill came from three points of view.

Some OHV users, primarily motorcycle racers, objected to the bill because they didn't want to pay any sales tax or registration fees for their vehicles, and because they felt that an OHV program would restrict their riding freedoms. For instance, they blamed the off-highway closures and restrictions in California on their "Green Sticker" program.

Other OHV users, primarily ATV groups, objected to the bill because it lacked a viable program to develop OHV facilities and had no clear method of controlling the expenditure of funds collected from the registration fees.

Farmers and ranchers that use OHVs for husbandry objected to the 2001 SB220 registration plan because

it did not exempt OHVs exclusively used for husbandry from registration.

Finally, the Division of Motor Vehicles objected to the program because of the increased work load that a registration program would create. The primary reason for this increased work load would be the effort in proving ownership of current OHVs that had never been titled in Nevada.

The OHV program that is proposed in this paper addresses these issues. During the research phase, the laws and experiences of states that have already gone through this process were examined. The proposed plan takes the best features from several states and tailors them to the needs of Nevada. Although there may still be objections from some very vocal users, the proposed program is designed to benefit all parties.

## **5. Four Main Items**

The proposed OHV legislation contains four basic items. All four are needed to make an OHV program acceptable to the users, dealers, local communities and the state agencies.

First, an OHV registration program for currently unlicensed vehicles is proposed. The registration plan is designed to provide a simple method that minimally impacts the DMV and the users. Two types of stickers would be issued - those for titled (existing and new) vehicles, and those for un-titled vehicles. A VIN number check for stolen vehicles would be the extent of the un-titled demand on the DMV. The registration fees would be \$25 for two years, which is the norm for most states.

Second, an OHV program to determine how the registration funds are spent is proposed. The proposed OHV program is suggested to be under State Parks and is administered primarily by volunteer users. This plan is derived from existing programs from states with the most positive experiences, and avoids the pitfalls of states with the worst experiences.

Third, additions and changes to the Nevada traffic laws are proposed to recognize the user of off-highway vehicles and to provide for safe and clear methods of their use on existing roads. These additions include provisions to allow local communities to pass OHV ordinances to clearly define how OHVs can be legally used in their areas. This is critical for development of a state-wide OHV trail system.

Fourth, it is proposed to implement the street legal licensing of ATVs with certain equipment requirements and use restrictions. Many states, including Arizona, Idaho, Montana and Wyoming, have this option. This will primarily benefit families in rural communities who can use their ATV as a low cost alternative to a second car to get around town.

## **6. OHV Registration - a plan**

### **6.1 OHV Registered Vehicles**

Unlicensed Off-Highway Vehicles (ULOHV) requiring registration include:

- 6.1.1 All Terrain Vehicles (ATVs)
- 6.1.2 All Terrain Cycles (ATCs)
- 6.1.3 Unlicensed Motorcycles
- 6.1.4 Dune Buggies
- 6.1.5 Desert Buggies
- 6.1.6 Snowmobiles
- 6.1.7 Exemptions: Those ULOHV's used solely for husbandry (farming and ranching) on private or leased government land and state and federal agency owned and operated OHVs shall be exempt from registration. Vehicles not considered OHVs include go-carts or vehicles operated on water

## 6.2 OHV Registration Classes

There are two registration classes, each with a distinct sticker:

### 6.2.1 Class 1: Titled Off Highway Vehicles

Vehicles previously titled by the Nevada Department of Motor Vehicles (NDMV) shall be issued a Class 1 registration. After the effective date of this bill, new vehicles, purchased in or out of state, shall require titling by the NDMV. The NDMV will collect applicable use tax on out of state sales and sales where no use tax was collected. If the vehicle had not been titled in Nevada, and proper documentation is available, the user may elect to title the vehicle with the DMV prior to obtaining the Class 1 registration.

### 6.2.1 Class 2: Untitled Off Highway Vehicles

For Off Highway vehicles obtained prior to this act in which no title has been issued, a Class 2 OHV registration shall be issued. In order to obtain a Class 2 registration, the owner must obtain a certificate of VIN number verification, to verify the vehicle is not stolen, from the DMV prior to obtaining the un-titled registration. The DMV is authorized to charge a fee, equal to the titling charge, for providing the verification and certificate.

## 6.3 Registration of unlicensed Off Highway Vehicles.

Registration of unlicensed OHVs shall be performed by authorized vendors. Authorized vendors, typically motorcycle and ATV dealers, may become authorized registration agents of the DMV. The DMV shall issue each vendor a serialized set of registration stickers, plus the forms to perform the registration and collect the appropriate fee. When issuing a registration sticker, the vendor shall record the date, the owner's name and address, the vehicle's make, model, year, VIN number and the sticker number issued to the OHV. If the vehicle is new, the dealer will provide the documentation for the owner to obtain a title from the DMV. For vehicles previously titled in Nevada, the owner shall provide the title and the vendor shall record the title number. For untitled vehicles, the owner shall provide the certificate of VIN number verification.

On a monthly basis, the vendor shall submit the registration information and fees to the DMV. The vendor shall retain \$1 for each registration or renewal issued. The State from time to time may audit a vendor's records to verify that all stickers are accounted for and the funds remitted properly.

6.4 The registration fee shall be \$26 for two years, which includes the \$1 retained by the vendor issuing the registration.

6.5 Failure to register an OHV within two weeks of possession shall result in a mandatory fine of \$100 per year.

6.6 Registrations issued by other states that reciprocate and recognize Nevada's OHV program will be accepted for use of an OHV in Nevada for one month. Longer consecutive use of unlicensed OHVs requires a Nevada registration.

6.7 ATVs may be registered as licensed vehicles (see section 9.0), or as unlicensed OHVs.

## 7. OHV Program - a plan

The purpose of an OHV program is to constructively use the registration fees collected by the OHV registration program to benefit the owners paying the fees. There is a history of OHV program successes and failures in states that have adopted such programs. The major points addressed in this plan draws

from the experiences of the successful programs.

7.1 The OHV Program is to be administered by an OHV Division of State Parks. With the volunteer committee plan, there should be no need to create a separate bureaucracy - just a part time clerk to receive correspondence and forward it to the committee.

7.2 Except for administration fees, not to exceed 10%, all money collected by the registration program shall be held in a trust fund that cannot be appropriated or borrowed from for other purposes.

7.3 An OHV committee will determine expenditures.

7.4 The OHV committee shall consist of one representative for each of these off-highway vehicle groups:

- 7.4.1 ATVs - Northern Nevada
- 7.4.2 ATVs - Southern Nevada
- 7.4.3 Motorcycles - Northern Nevada
- 7.4.4 Motorcycles - Southern Nevada
- 7.4.5 Dune buggies - Statewide
- 7.4.6 Snowmobiles - Statewide
- 7.4.7 Non-voting BLM Advisor
- 7.4.8 Non-voting Forest Service Advisor
- 7.4.9 Non-voting Nevada State Parks Administrator

7.5. Fees are to be used for obtaining and maintaining OHV opportunities, law enforcement, restoration, safety training, and education.

7. 6. Groups and agencies will submit grant requests for money to fund projects

7.7 Grant requests shall be decided by a majority vote of the voting committee members

7.8 Progress reports on outstanding grants shall be given at least twice a year by the group receiving the grant.

7.9 OHV committee will meet at least four times a year. They will meet twice a year in the northern part of the state and twice in the south.

7.10 Committee members to receive reasonable expense reimbursement to attend meetings, not to exceed \$800 a year (Chairman \$1000).

7.11 Committee members will elect a chairman.

7.12 Chairman will arrange for and conduct meetings.

7.13 Should any person be unable or unwilling to complete his term, the remaining committee members will elect a new person to this position to finish the term.

7.14 The committee members shall appoint a treasurer, secretary, and vice-chairman.

7.15 Committee members shall serve a term of two years.

7.16 Committee members terms shall be staggered, with 3 selected in even years and 3 in odd years.

7.17 Terms for the first members shall be drawn by lottery.

7.18 Committee members shall be determined by a drawing of names from a pool of those who have

qualified and submitted their names for consideration for each OHV group.

7.19 To be eligible to serve on the committee, a member must have been both an owner of the type of vehicle they wish to represent and an active participant in that sport for at least five years in Nevada. Each prospective member will submit a biography, a letter stating why they wish to serve, and at least three letters of recommendation. The committee members may disqualify any prospective member by a majority vote of the entire committee.

7.20 A person cannot serve more than two consecutive terms unless there are no other persons seeking to serve as a representative for that OHV group.

7.21 No more than 10% of monies collected shall be used for administrative costs and expenses, except for the first year, when up to 50% of the funds may be used.

7.22 Committee members shall be tasked with:

- 7.22.1 Defining the form used for grant requests
- 7.22.2 Granting of funds for grant requests
- 7.22.3 Accounting for expenditures for both grant requests and administrative expenses
- 7.22.4 Acceptance of work done with grant money
- 7.22.5 Working with DMV on registration issues
- 7.22.6 Communicating with OHV owners
- 7.22.7 Working with agencies and OHV groups to develop grant requests
- 7.22.8 Determining new committee members as terms expire
- 7.22.9 Working with land managers on OHV issues
- 7.22.10 Other items which shall come before the committee

7.23 Changes to the OHV program and registration requires at minimum 2/3 vote of the committee.

## **8. Changes to motor vehicle statutes - a plan**

The current NRS are silent on the use of unlicensed vehicles on the roads and streets of Nevada. There are a number of issues that this silence creates. Other states have addressed these issues. The major issues that need addressing include statutes to enable counties and local communities to allow and control unlicensed vehicle access, and defined methods of OHVs crossing highways.

### **8.1 Operation of off-highway vehicles on public lands**

8.1.1 Currently registered off-highway vehicles may be operated on public land, trails, ways and unpaved county roads unless otherwise prohibited by the controlling federal, state, county or municipal agency.

8.1.1.1 The controlling federal, state, county or municipal agency may

8.1.1.2 provide a map or description showing or describing land, trails, streets, or highway closed to off-highway vehicle use; or

8.1.1.3 post signs designating land, trails, streets or highways closed to off-highway use.

8.1.1.4 Liability may not be imposed on any federal, state, county, or municipality relating to the designation or maintenance of any land, street, highway open for off-highway use.

### **8.2 Operation of vehicles on Highways - limits**

No person may operate an off-highway vehicle upon any paved street or highway, not designated as open to off-highway vehicle use, except:

8.2.1 when crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right-of-way to oncoming traffic, and crosses at a right angle.

8.2.2 when loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done with due regard for safety, and at the nearest practical point of operation; or



8.2.3 when an emergency exists, during any period of time and at those locations when the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority.

### 8.3 Local ordinances - Designated routes - Supervision

8.3.1 A municipality or county may adopt ordinances designating certain streets and highways as off-highway vehicle routes for the specific purpose of allowing off-highway vehicle operators to gain direct access to or from private or public area open for off-highway vehicle use.

8.3.2 A municipality or county may adopt an ordinance requiring an operator who is under 16 years of age to be under the direct visual supervision of an adult who is at least 18 years of age while using a route designated under section 8.3.1.

8.3.3 A route designated under section 8.3.1 may not be along or within the boundaries of an interstate freeway or limited access highway.

## 9. Street Legal Licensing of ATVs

Several states (Arizona, Idaho, Wyoming, Montana, Connecticut...) have adopted a method of licensing ATVs as street legal.

9.1 To be registered as a licensed vehicle, the ATV must have the following items:

- 9.1.1 Liability insurance
- 9.1.2 Brake light
- 9.1.3 At least one, but not more than two headlights that shine at least 500 feet ahead.
- 9.1.4 At least one tail light, visible for at least 500 feet to the rear
- 9.1.5 At least one red rear reflector, if not part of the tail light
- 9.1.6 License plate securely fastened to the rear of the ATV
- 9.1.7 License plate light
- 9.1.8 Horn, audible from distance of at least 200 feet
- 9.1.9 Muffler in good working order and in constant operation
- 9.1.10 Rear view mirror
- 9.1.11 Seat and foot rests for the operator
- 9.1.12 Fuel tank cap

9.2 Licensed ATVs are exempt from emission testing

9.3 To operate a licensed ATV on streets or highways the following conditions must be followed:

- 9.3.1 All traffic laws must be observed
- 9.3.2 Registration and proof of insurance must be carried on the ATV
- 9.3.3 The operator must have at least a class c drivers license
- 9.3.4 The operator must wear helmet
- 9.3.5 Unless specifically designed and manufactured for passengers, the ATV shall carry no passengers.

9.4 The licensed ATV may not be operated on interstate highways

9.5 The licensed ATV may not be operated on state highways for more than five consecutive miles and only if no other access route exists.

9.6 The licensed ATV may not be operated on streets in cities with populations of more than 100,000.

## 10. Conclusion

The proposed OHV registration, program, traffic laws, and licensing plans represent years of research and discussions with OHV users. It was distilled from the experiences of other state programs. There are many other issues that could be included, but the ones proposed represent the vital core. Few OHV users really want more taxes, restrictions or regulations. However, many recognize that the proper program could help defend our riding privileges. One thing is certain - a OHV registration plan that focuses solely on sales tax collection will be vigorously opposed by the users. We feel that properly constructed OHV legislation, including the registration, OHV program, updating of traffic statutes and an ATV licensing option, will benefit all concerned. Nevada will gain sales tax revenue, the dealers will gain new sales and customers registering their existing vehicles, the users will avoid out-of-state permit fees and gain an OHV program, the rural counties and communities will attract visitors to the state, and the DMV will not be burdened with OHV troubles.

I would like your constructive comments.

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