

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 145 Recreational Off-Highway Vehicle Weight Limits

**SPONSOR(S):** Hage

**TIED BILLS:** IDEN./SIM. BILLS: SB 474

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	16 Y, 0 N	Walsh	Keating
2) Commerce Committee	18 Y, 0 N	Walsh	Hamon

**SUMMARY ANALYSIS**

In 2002, the T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act was passed, developing an off-highway vehicle recreational system of areas and trails on public lands within the state. Current law provides that the public land managing agency must avoid or minimize adverse impacts to the environment by repairing and maintaining areas and trails, preventing erosion, and rehabilitating lands from the use of off-highway vehicles. The public land managing agency may regulate or prohibit the use of off-highway vehicles on public lands to prevent destruction.

The Florida Department of Highway Safety and Motor Vehicles and its agents (tax collector offices) are responsible for issuing, handling, and recording off-highway vehicle titling applications and certificates, including the receipt and accounting of related fees.

Current law defines an off-highway vehicle as any all-terrain vehicle (ATV), two-rider ATV, recreational off-highway vehicle, or off-highway motorcycle that is used off the roads or highways of this state and that is not registered and licensed for highway use under ch. 320. The definition of recreational off-highway vehicle (ROV) found in Florida law distinguishes these vehicles by width, weight, and number of non-highway tires.

Some ROV manufacturers are adding hydrogen and electric models to their lineup. The weight of these new models has the potential to be greater than the traditional combustion engine models.

The bill increases the dry weight allowed for recreational off-highway vehicles from 2,500 pounds to 3,500 pounds.

The bill may have a positive indeterminate impact on state revenues. The bill does not appear to impact state or local government expenditures or local government revenues.

The bill has an effective date of July 1, 2022.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

In 2002, the Legislature found that off-highway vehicles were becoming increasingly popular in Florida and that the use of these vehicles should be controlled and managed to minimize negative effects on the environment, wildlife habitats, native wildlife, and native flora and fauna.<sup>1</sup> The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act<sup>2</sup> was passed, developing an off-highway vehicle recreational system of areas and trails on public lands<sup>3</sup> within the state.

Current law provides that the public land managing agency<sup>4</sup> must avoid or minimize adverse impacts to the environment by repairing and maintaining areas and trails, preventing erosion, and rehabilitating lands from the use of off-highway vehicles. The public land managing agency may regulate or prohibit the use of off-highway vehicles on public lands to prevent destruction.<sup>5</sup>

Florida law requires all off-highway vehicles purchased after July 1, 2002, and all off-highway vehicles operated on public lands to be titled and be issued a certificate of title to allow for easy determination of ownership.<sup>6</sup> The Florida Department of Highway Safety and Motor Vehicles (DHSMV) and its agents (tax collector offices) are responsible for issuing, handling, and recording off-highway vehicle titling applications and certificates, including the receipt and accounting of related fees.<sup>7</sup> Two dollars in administrative costs per title transaction is deposited in the Highway Safety Operating Trust Fund, and the rest of the funds for these title transactions are deposited in the Incidental Trust Fund of the Florida Forest Service of the Department of Agriculture and Consumer Services.<sup>8</sup>

Current law defines an off-highway vehicle as any all-terrain vehicle (ATV), two-rider ATV, recreational off-highway vehicle, or off-highway motorcycle that is used off the roads or highways of this state and that is not registered and licensed for highway use under ch. 320.<sup>9</sup> The definition of recreational off-highway vehicle (ROV) found in Florida law distinguishes these vehicles by width, weight, and number of non-highway tires.<sup>10</sup> Under current law, an ROV must:

- Be 80 inches or less in width;
- Have a dry weight of 2,500 pounds or less;
- Be designed to travel on four or more non-highway tires; and
- Be manufactured for recreational use by one or more persons.<sup>11, 12</sup>

Any person who commits one of the following violations commits a noncriminal infraction, is subject to a fine of not less than \$100, and may have their privilege to operate an ROV on public lands revoked:<sup>13</sup>

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<sup>1</sup> S. 261.02(1), F.S.

<sup>2</sup> S. 261.01, F.S.

<sup>3</sup> The term “public lands” means lands within the state that are available for public use and that are owned, operated, or managed by a federal, state, county, or municipal governmental entity. S. 261.03(7), F.S.

<sup>4</sup> Generally, the Florida Department of Environmental Protection operates as the public land managing agency. See Email from Alex Bickley, Director of Legislative and Governmental Affairs, Florida Department of Environmental Protection, RE: HB 145 (Oct. 14, 2021); see *generally* s. 261.08(3), F.S.

<sup>5</sup> S. 261.08, F.S.

<sup>6</sup> S. 317.0006, F.S.; See Fla. CS/HB 1681 (2002), p. 75, available at <https://www.flsenate.gov/Session/Bill/2002/1681/BillText/er/HTML> (last visited Jan. 14, 2022).

<sup>7</sup> Florida Department of Highway Safety and Motor Vehicles, Agency Analysis of 2022 House Bill 145, p. 2 (Nov. 30, 2021); S. 317.1114(1), F.S.

<sup>8</sup> Agency Analysis of 2022 House Bill 145 at 2.

<sup>9</sup> S. 261.03(5), F.S.

<sup>10</sup> S. 261.03(8), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> The term “ROV” does not include a golf cart or a low-speed vehicle as defined by current law. See S. 261.03(8), F.S.

<sup>13</sup> S. 261.20(6), F.S.

- Carrying more passengers on an off-highway vehicle than the machine is specifically designed by the manufacturer to carry;
- Operating an ROV while under the influence of alcohol, a controlled substance, or any prescription or over-the-counter drug that impairs vision or motor condition;
- A person, who has not attained 16 years of age, operating an ROV without wearing eye protection, over-the-ankle boots, and a safety helmet that is approved by the United States Department of Transportation or Snell Memorial Foundation; and
- Operating an ROV in a careless or reckless manner that endangers or causes injury or damage to another person or property.<sup>14</sup>

Some ROV manufacturers are adding hydrogen and electric models to their lineup. The weight of these new models has the potential to be greater than the traditional combustion engine models. For example, Polaris produces the electric powered Ranger EV (dry weight of 1,762 pounds)<sup>15</sup> and Ranger XP Kinetic (dry weight of 1,980 pounds)<sup>16</sup> models; Nikola produces the NTZ model (dry weight of 2,300 to 4,400 pounds depending on motor and battery capacity);<sup>17</sup> and Lexus has revealed a new ROV hydrogen concept model.<sup>18</sup>

### Effect of Proposed Changes

The bill increases the dry weight allowed for recreational off-highway vehicles from 2,500 pounds to 3,500 pounds.

The bill has an effective date of July 1, 2022.

#### B. SECTION DIRECTORY:

**Section 1:** Revises the definition of “ROV” in Section 261.03, F.S.

**Section 2:** Revises the definition of “ROV” in Section 317.0003, F.S.

**Section 3:** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill may have a positive indeterminate impact to the Highway Safety Operating Trust, since the bill allows ROVs with a higher dry weight to be titled.<sup>19</sup>

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

<sup>14</sup> S. 261.20(5), F.S.

<sup>15</sup> Polaris, *Ranger EV*, <https://ranger.polaris.com/en-us/ranger-ev/> (last visited Jan. 14, 2022).

<sup>16</sup> Polaris, *Ranger XP Kinetic*, <https://ranger.polaris.com/en-us/ranger-xp-kinetic-ultimate-polaris-pursuit-camo/specs/> (last visited Jan. 14, 2022).

<sup>17</sup> Nikola Motor, *NZT*, <https://nikolamotor.com/nzt> (last visited Jan. 14, 2022); Lucas Cooney, *590-Horsepower Electric Nikola NZT Specs*, ATV.com, <https://www.atv.com/manufacture/nikola/590-horsepower-electric-nikola-nzt-specs> (last visited Jan. 14, 2022).

<sup>18</sup> *Lexus Unveils Hydrogen-Engined ROV Concept*, Green Car Congress, <https://www.greencarcongress.com/2021/12/20211204-lexusrov.html> (last visited Jan. 14, 2022).

<sup>19</sup> Agency Analysis of 2022 House Bill 145 at 4.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There could be a positive impact on private sector revenues, since the bill allows ROVs with a higher dry weight to be titled, and as permitted by the public land management agency, to operate on public lands.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to affect county or municipal governments.

2. Other:

Not applicable.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.