

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Thursday, February 28, 2019

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Crabtree, Senators Winder, Den Hartog, Lodge, Burtenshaw, and Nelson

ABSENT/ EXCUSED: Senators Rice and Buckner-Webb

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Brackett** convened the meeting of the Senate Transportation Committee (Committee) at 1:31 p.m. He declared that today was "ATV Day" in the Committee as all four bills on the agenda deal with various types of off-road vehicles.

H 90 **Chairman Brackett** invited Representative Monks to present **H 90** to the Committee.

Representative Monks said he would give opening remarks and yield the rest of his time to Steve Thomas, a Boise attorney representing Polaris Industries, Inc.

Representative Monks said that one thing **H 90** addresses is the weight limits of All Terrain Vehicles (ATV), but so does **H 24**, which is also on today's agenda. **H 90** also deals with increasing the width of an ATV from 50 inches to 55 inches, and a Utility Type Vehicle (UTV) from 74 inches to 80 inches. The distinct difference of an ATV versus a UTV is that ATVs are usually single-rider units and open air-type systems, whereas a UTV is usually a side-by-side type of vehicle. The reason that the bill increases the width is because wider is safer. He used the example of Yamaha's Rhino UTV, which was the first one to have a sports side-by-side machine. They suffered from accidents and large law suits that took many years to resolve. There was a recall on the Rhinos to widen the wheel base to make them a safer, more stable product. The same stability can be said for ATVs by widening the wheel base. There are even spacer kits owners can buy that extend the wheel base. **H 90** allows manufacturers to produce ATVs and UTVs with the wider wheel base built in. The potential ramifications are that the trail system in the United States Forest Service (USFS) are limited to 50 inches wide, but that does not impact this legislation. Those that have equipment wider than 50 inches cannot ride on those trails. **Representative Monks** does not believe that stickers are needed to indicate where an ATV or UTV can be ridden. An operator simply needs to know the rules of the roads and trails. He turned the continuation of the presentation over to Mr. Thomas before needing to return to the House floor where they were currently in session.

Mr. Thomas said that Polaris is one of the leading U.S. manufacturers of off-road vehicles. It continues to improve its products by making them more capable, stable, and safe; adding width is one of the best ways to do that. Idaho is one of the best states in the nation for riding these vehicles. **H 90** only adds five inches of width to the definition of ATV and six inches to the definition of UTV. The weight issue is discussed in **H 24** that had been printed and passed unanimously in the House before **H 90**. **H 90** simply follows its lead with the weight of these vehicles. This bill does not attempt to change Idaho Code as to where it is legal to ride. Industry is aware of the USFS limitations as to width established in 2005; this bill does not attempt to amend federal law. He referred to a 2016 handout that he provided to each Committee member displaying a side-by-side comparison of different makes and models of ATVs. There is a category called "50 Inch Trail-Legal UTVs." Users and industry are aware of the 50 inch requirement of the USFS trails system. He shared information regarding where to ride and pertinent rules that are on both the USFS website and the Idaho Department of Parks and Recreation (IDP&R) website. He thanked the Committee and asked for their do pass recommendation.

DISCUSSION:

Senator Nelson asked if the width change would only apply to UTVs. **Mr. Thomas** said they are really two different styles of products in terms of appearance and functionality. The manufacturer has a duty to their customers and to their share holders not to make products in violation of state law, and that is why they want to go wider, safer, and more stable. **Senator Nelson** asked if, from a legal point of view, they would qualify as UTVs. **Mr. Thomas** said it is a matter of interpretation of code that dates back to 2003. **Senator Nelson** commented that in his research he tried to find where the USFS 50 inch trail width originated. It is not obvious to him where it came from, and he is concerned that the public will not know it's illegal to take a 55 inch vehicle out on a USFS trail. **Mr. Thomas** said that in the Federal Register, dated November 9, 2005, is where the 50 inch width restriction began. He said that Representative Ricks, during discussion in the House transportation committee, said that where he rides on federal lands there are two fence posts with the maximum width posted on the front of the trail; the posts are exactly 50 inches apart. **Senator Nelson** said he did not believe the USFS has a standard of placing those posts 50 inches apart. **Mr. Thomas** replied that there are provisions in the Code of Federal Regulations, Title 36, stating that each federal forest has the obligation to identify the places you can ride legally, and they design those with discretion on a forest-by-forest basis.

TESTIMONY:

Andy Brunelle, Capital City Coordinator of the USFS, said that Mr. Thomas was correct that every national forest annually publishes an updated motor vehicle use map that describes and shows which trails are open for vehicles according to width. The 50 inch width has been on the books as federal regulation since 2005. The forest maps are distributed at numerous posting points in order for people to have the information readily available. The information is also online.

Jonathan Oppenheimer, Government Relations Director for the Idaho Conservation League (ICL), voiced his concerns with **H 90**. Increasing the legal width of ATVs for sale in Idaho will lead to confusion relative to expectations that they will be suitable on ATV trails. Idaho's lands, the federal Bureau of Land Management's lands, and the USFS's lands are limited to machines that are 50 inches and less. ICL does not have concerns with the portion of this bill dealing with UTVs because they are largely limited and travel on backcountry roads that are designed for full sized vehicles. There could be increased citations and trail damage from larger machines, which would cause more problems in the long run. He recommended that **H 90** be sent to the amending order to address the concerns or ask an interim committee to take up these issues.

Bill Jones, who lives in Boise and has been riding ATVs since 1964, said he was on the committee that designed the use of ATVs and helped define the difference between ATVs and UTVs. In 2005, their study came up with weight limits, wheel base widths, and steering capability. A UTV is steered with a steering wheel with a bench seat; an ATV is steered with handle bars with a single seat, unless built specifically for two people riding on a saddle. This definition has worked well in Idaho. **Mr. Jones** said that he started the Idaho ATV Association in 1992 to keep the trails open for various vehicles, including motor cycles, horsemen, foot traffic, ATVs, and UTVs. He believes this bill is mainly to make money for manufacturers. There are already enough different ATVs and UTVs. He and trail groups clean about 138 miles of trails each year. The trails are set to be 50 to 55 inches wide, and on some USFS trails they set the posts exactly 50 inches apart. The trails are designed for a 55 inch wheelbase turn, and turning is very dangerous. He said that saying the width is for safety is ridiculous. Safety depends on the person operating the vehicle. These bigger machines do not belong on the USFS trails.

MOTION: **Senator Burtenshaw** moved to send **H 90** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

DISCUSSION: **Senator Nelson** said he is concerned that there will be a problem downstream when people come back asking to widen the trails, or there will be trail violations that need fixing. Also, none of the outdoor groups have voiced their support of this bill. It seems to be a one-interest bill.

VOICE VOTE: The motion to send **H 90** to the floor with a **do pass** recommendation passed by **voice vote**. **Senator Den Hartog** and **Senator Nelson** asked to be recorded as voting nay. Senator Burtenshaw will carry the bill on the Senate floor.

H 24 **Chairman Brackett** invited Vice Chairman Crabtree to present **H 24** to the Committee.

DISCUSSION: **Senator Den Hartog** said that, in her understanding of the two bills, it looks like if **H 90** passes, then **H 24** is unnecessary. She would like Vice Chairman Crabtree to clarify, since it looks like they are both addressing the machine weight issue in the same way.

Vice Chairman Crabtree said it is his understanding that **H 24** passed the House before **H 90**, but **H 90** has not passed the entire Senate, so he encouraged the Committee to move forward with **H 24**.

Chairman Brackett encouraged Vice Chairman Crabtree to proceed with his presentation stating that a determination may need to be done at some point, but for now, **H 24** is before the Committee for consideration.

Vice Chairman Crabtree said the point of **H 24** is to eliminate the weight restrictions on UTVs. There is currently a 2,000 pound weight limit that this bill removes. UTVs are off road vehicles licensed for designated and restricted use on Idaho roads. Typical UTVs come in a range of models, but UTVs are becoming more capable and are available with extra passenger capacity, winches, larger bumpers, fertilizer and water tanks, and more interior features. These features have increased the weight of these vehicles, which necessitates the change referenced in this bill. No other section of the UTV code is being changed, including the minimum weight and the width. There is also no change to where these vehicles are legally operated. The Idaho Transportation Department (ITD), IDP&R, and numerous sportsmen groups have signed off on this bill, and there is no known opposition to it. This simply keeps up with industry technology and allows users to register their UTVs. He urged the Committee to send the bill to the floor with a do pass recommendation.

DISCUSSION: **Senator Winder** said he doesn't own any of these vehicles and is not familiar with what owners do with them, but from the information given on **H 90**, it appears the maximum weight is about 1,500 pounds. He's concerned with damages to trails and wanted to know if this would allow a gross vehicle weight of 4,000 pounds. **Vice Chairman Crabtree** said the tires on these vehicles are soft and distribute weight differently than hard tires on other vehicles, which makes the road/trail damage minimal.

TESTIMONY: **David Claiborne** with Sawtooth Law Offices and representing the Idaho Recreation Council, said that Representative Addis, who sponsored the bill on the House side, asked him to address that question. They are not concerned with lifting the weight limit on UTVs because there are other provisions in Idaho Code that restrict weight on certain trails that they are not changing. He used groomed snowmobile trails as an example as not being affected by this bill. UTVs operate on USFS roads designed for automobile traffic because there are few trails designed for these UTVs. Consequently, they are not concerned about increased resource damage from a heavier machine. The subtlety between **H 24** and **H 90** is that **H 90** deals with width and weight, and **H 24** only deals with weight. If **H 90** passes on the floor, then **H 24** does not need to be considered, and if **H 90** failed, they would hope **H 24** would be considered.

MOTION: **Senator Den Hartog** moved to send **H 24** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion passed by **voice vote**. Vice Chairman Crabtree will carry the bill on the Senate floor.

H 74 **Chairman Brackett** invited Representative Gestrin to present **H 74** to the Committee.

Representative Gestrin said the bill is long and makes numerous technical changes. He explained how the revenue from fines are distributed, of which 90 percent goes to the local Sheriff and is their incentive to enforce the ATV rules. The 10 percent balance is distributed as such: 18 percent of the 10 percent goes to the Peace Officers Standards and Training (POST) fund and 82 percent of the 10 percent goes to Idaho's General Fund. One of the technical changes is to change the various names of the vehicles (ATV, UTV, motor bikes, etc.) to simply "off-road vehicle" throughout the bill. In the past, only the titled owner could purchase a pay-to-play sticker — not to be confused with titling and registration; now someone can be designated to purchase the sticker. If there is an off-road vehicle accident that occurs off-road and only the owner's machine is damaged, the accident does not have to be reported. There is also a new fee of \$22.50, which is double the old fee, for rental machines that are currently used more frequently than personal machines. It allows Motor Bike Account (MBA) monies to be used to purchase public recreation access to private lands. The MBA was created 35 years ago when motor bikes were the only off-road vehicles, hence the name of the account. A minimum amount goes into the account to help maintain the trails and parking lots for the off-road vehicle users. The MBA will not be renamed. Finally, there is the ability to purchase a two-year sticker for off-road vehicles and snowmobiles.

TESTIMONY: **Tammy Kolsky**, who manages the IDP&R Recreational Registration Unit (RRU) testified in support of the bill. **H 74** supports the appropriate and intended use of dedicated funds, ensures cost efficient administration, and reduces unnecessary burdens placed on users. The RRU program issues validation stickers and distributes the funds to recreation programs and snow groomers in order to maintain recreational areas. They issue about 200,000 stickers annually to snowmobilers and off-road vehicle owners. The 2002 system has outdated programming that needs to be replaced. Some of their retail vendors use hand-entered triplicate forms collecting unsecure personal data. IDP&R is in the process of modernizing the software and processes. **H 74** would allow IDP&R to issue stickers to either the owner or an applicant, instead of just to the owner. That change alone will save IDP&R program funds that can be used for trail maintenance. In short, this bill will make recreational opportunities in Idaho function far more quickly and efficiently.

DISCUSSION: **Senator Den Hartog** asked if Ms. Kolsky could guide her to the section in the bill that referenced the ability to use MBA to purchase public access to private lands. **Ms. Kolsky** deferred the question to David Claycomb, IDP&R Bureau Chief. **Mr. Claycomb** said the section is in Idaho Code, Title 67, Chapter 71 that identifies the intended and allowed uses of the MBA. It broadly allows for the expenditure of those funds for anything that benefits motorized use. Leasing and acquisition of private land are two of the things that have taken place in North Idaho and in other locations approved by the Attorney General's office. The fund has been audited many times. **Senator Den Hartog** indicated she was looking for the location in the legislation, but it appears Idaho already has a mechanism in place to purchase those easements. She wanted to know that by making the change here, we are not creating a new revenue mechanism. **Mr. Claycomb** said that was correct; this does not affect the legislation whatsoever in terms of private land access, but there are changes with the stickers to access private land.

MOTION: **Senator Nelson** moved to send **H 74** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion. The motion passed by **voice vote**. **Vice Chairman Crabtree** asked that his vote be recorded as nay. Senator Nelson will carry the bill on the Senate floor.

H 75 **Chairman Brackett** invited Representative Gestrin to present **H 75** to the Committee.

Representative Gestrin said that in-state off-road vehicle users asked for legislation to charge out-of-state users a fee to use Idaho's trails, with the funds going into the MBA. That is what **H 75** does. The fee that in-state users pay to access and utilize Idaho's public trails has never changed. The money from their fees goes into maintenance of the trails. There have been two changes, but not to the MBA. Originally the fee was \$10, but there was an addition of a \$1 fee that goes to the Idaho Department of Lands for access, and a \$1 fee that goes to the Sheriffs to help with enforcement. As requested by the organized users in Idaho, **H 75** begins charging a fee for out-of-state riders that ride on Idaho trails and park in Idaho parking lots. Out-of-state riders are currently enjoying their recreational experiences on our trails for free. According to the USFS, Idaho has over 8,000 miles of trails, and other states have far fewer — the total for all the USFS trails in Idaho's surrounding states is only 11,000 miles. The push-back this bill is getting is because of reciprocity understandings with other states, but just today, Utah took final action to charge out-of-state users a fee of \$30 to use their trails. **H 75** is only asking for a \$12 fee to our out-of-state users. The money will be distributed from the MBA in the same manner it has been for the in-state users' fees.

- DISCUSSION:** **Senator Nelson** asked what the in-state fee was. **Representative Gestrin** answered that the in-state fee was \$12.
- TESTIMONY:** The following individuals testified in support of **H 75**: **Steve Huffman**, past President and current board member of the ATV/UTV Trail Riders Association in Boise; **Vaughn Killeen**, Idaho Sheriffs Association; **Bill Jones**, founder of the Idaho ATV Association; **David Claycomb**, IDP&R Bureau Chief; **Shay White** with the Idaho Recreation Council; **David Claiborne**, with Sawtooth Law Offices and President of the Idaho ATV Association; and **Rusty Faircloth** with the Mountain Home ATV Club. There was no testimony against **H 75**.
- DISCUSSION:** **Senator Den Hartog** asked Mr. Claycomb how easy it was for out-of-state users to purchase these stickers. **Mr. Claycomb** replied there were 350 vendors throughout Idaho that carry the stickers, in addition to each county's Department of Motor Vehicles' offices. **Senator Den Hartog** asked if there were currently or in the planning stages of intending to offer online purchasing. **Mr. Claycomb** deferred the questions to **Ms. Kolsky** who said that IDP&R does sell nonresident stickers online.
- MOTION:** **Vice Chairman Crabtree** moved to send **H 75** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed by **voice vote**. Senator Rice will carry the bill on the Senate floor.
- ADJOURNED:** With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:55 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary