



Department of Natural Resources Fact Sheet



ALL-TERRAIN VEHICLE (ATV) GAS TAX STUDY HF 635/SF 1066

Summary

This bill proposes to study the state gas tax attributed to All-Terrain Vehicle (ATV) use. A one-time appropriation of \$75,000 in FY 2006 is needed to complete this study.

It is needed because

The DNR and ATV user groups believe the ATV gas tax allocation should be updated to reflect the increased number of registered ATVs in Minnesota. This study is needed to determine the amount of unrefunded gas tax attributed to ATV use on forest roads and trails, and Grant-in-Aid trails.

Financial Implications

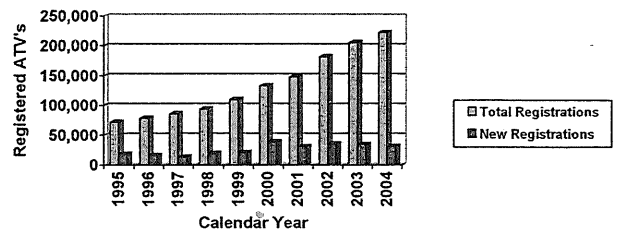
Minn. Stat. § 296A.18 determines the amount of unrefunded gas tax deposited in the OHV account. In FY 2004, an allocation percentage of 0.15% resulted in \$800,000 being deposited into the account. The DNR anticipates that the study will show that a doubling of the percentage or \$1.6 million of unrefunded gas tax will be attributed to ATV use annually.

Background

The last ATV gas study was completed in 1985 when Minnesota had only 19,159 registered ATVs, which were largely of three-wheel design. ATVs at that time did not have any formal suspension and, according to industry, the average engine size was 200 cc's.

Today, approximately 250,000 ATVs are registered in Minnesota. Most of these machines have four wheels rather than three, with a suspension system, and the average engine size is 400 cc's, according to industry sales information. This larger engine size results in greater fuel consumption. Further, when considered together, these factors (4-wheel riding, suspension systems and larger engines) allow for more miles traveled over longer periods of riding. The fuel consumption study should reflect these current realities and trends.

State of Minnesota
All-Terrain Vehicle Registrations, 1995-2004¹



Source: MN DNR Trails and Waterways Program, Dec. 2004. Unpublished data, Bureau of Information, Education, and Licensing, St. Paul, MN 55155

Footnotes:

1. Totals do not include ATVs registered for solely agricultural or private land use. Total Registration data for 2004 is not yet available.

In addition, the 1985 gas study estimated a total of 92,000 ATVs were in use at that time. Because this study also concluded that 17.8% of ATVs were deployed for farm use only, it adjusted recreational ATV use to 75,624. However, DNR license records reveal that 50% of these agricultural-registered ATVs are also registered for recreational use. Further, because agricultural ATV registration is for the life of the vehicle without a requirement for renewal, it is likely that many of these agricultural ATVs are no longer in service, and they should no longer be completely deducted from the ATV gas tax formula.

This study will be completed through the joint efforts of the Departments of Transportation, Natural Resources, and Revenue.

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Senators Ruud, Sams, Marty, Wergin and Pariseau introduced--
S.F. No. 1066: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act
2 relating to natural resources; requiring a study of
3 certain unrefunded gasoline tax.
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
5 Section 1. [DETERMINATION OF TAX ALLOCATION; REPORT TO
6 LEGISLATURE.]
7 The commissioners of natural resources, revenue, and
8 transportation shall jointly determine the amount of unrefunded
9 gasoline tax attributable to all-terrain vehicle use in the
10 state and shall report to the legislature by March 1, 2006, with
11 an appropriate proposed revision to Minnesota Statutes, section
12 296A.18.

1 Senator moves to amend S.F. No. 1066 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [DETERMINATION OF TAX ALLOCATION; REPORT TO
4 LEGISLATURE.]

5 The commissioners of natural resources, revenue, and
6 transportation shall jointly:

7 (1) determine the amount of unrefunded gasoline tax
8 attributable to all-terrain vehicle use in the state on each of
9 the following:

10 (i) private land;

11 (ii) public land, excluding road right-of-ways;

12 (iii) road right-of-ways; and

13 (iv) grant-in-aid-trails;

14 (2) recommend the proportion of the amount determined in
15 clause (1) that should be allocated to the all-terrain vehicle
16 account in the natural resources fund; and

17 (3) report to the legislature by March 1, 2006, with an
18 appropriate proposed revision to Minnesota Statutes, section
19 296A.18."



Department of Natural Resources Fact Sheet



OFF-HIGHWAY VEHICLE BILL HF 460/SF 1047

Summary

The 2003 Legislature provided needed direction regarding management of recreational use of off-highway vehicles (OHVs), which was partially implemented during the 2004 Session. As the Department of Natural Resources (DNR) has moved forward to fully implement this legislation, it has identified some issues that need to be addressed.

It is needed because

The department is proposing a number of technical changes to existing OHV law, intended to:

Sec. 1 (amending Sec. 84.798, Subd. 1): Clarify registration requirements for off-road vehicles.

Sec. 2 (amending Sec. 84.9256, Subd. 1): Clarify youth rider training requirements. It is not clear that the "riding component" is a necessary element of the youth-rider training program. The proposed changes would clarify this requirement.

Sec. 3 (amending Sec. 84.926): In addition, an increasing number of hunters and trappers are relying on OHVs to gain access to state forestlands. The DNR is proposing through Section 3 to:

Subd. 1: Clarify DNR's authority to grant permits to individuals to use an OHV for a specified time and purpose.

Subd. 2: Clarify that the all-terrain vehicle (ATV) hunting and trapping exemptions provided under Minnesota Rules 6100.1950 Subd. 7 (D) apply to big game hunting and retrieval activities and further limit the trapping exemption to the trapping of protected furbearers and commercial bait operations only.

Subd. 3: Grant the commissioner the authority to allow ATVs to travel on forest roads in 'closed' forests for big game retrieval during the hunting

and trapping exemption period, on a forest-by-forest basis.

Subd. 4: Minimize forest fragmentation by allowing ATVs, ORVs and highway-licensed vehicles to be used on all trails in 'limited' forests for big game hunting during the big game season. Under current law, big game hunters can ride off-trail but not on the trail during the big game season. This change would allow existing non-designated trails to be used by big game hunters reducing the number of routes created during the big game season.

Sec. 4 (amending Sec. 89.19, Subd. 2): Clarify the trail designation/undesignation process in statute and exempt the process from rulemaking.

Sec. 5 (amending Laws 2003, ch. 128, art. 1, Sect. 167, subd.1): Extend DNR ability, beyond the 'managed' classification to include the 'limited' classification, to review existing forest classifications and recommend revisions; and grant DNR greater flexibility to classify portions of a 'limited' forest as 'closed'.

Financial implications

None

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Senator Marty introduced--

S.F. No. 1047: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; modifying off-highway
3 vehicle provisions; providing certain rulemaking
4 exemptions; modifying forest classification review;
5 amending Minnesota Statutes 2004, sections 84.798,
6 subdivision 1; 84.9256, subdivision 1; 84.926; 89.19,
7 subdivision 2; Laws 2003, chapter 128, article 1,
8 section 167, subdivision 1.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

10 Section 1. Minnesota Statutes 2004, section 84.798,
11 subdivision 1, is amended to read:

12 Subdivision 1. [GENERAL REQUIREMENTS.] Unless exempted
13 under subdivision 2, after January 1, 1995, a person may not
14 operate and an owner may not give permission for another to
15 operate ~~a-vehicle-off-road, nor may a person have an off-road~~
16 ~~vehicle not-registered-under-chapter-168-in-possession-at-an~~
17 ~~off-road-vehicle-staging-area, or designated-trail~~ on lands
18 administered by the commissioner, on trails or area areas
19 designated for off-road vehicle use, or on off-road vehicle
20 grant-in-aid trails and areas funded under section 84.803,
21 unless the vehicle has been registered under this section.

22 Sec. 2. Minnesota Statutes 2004, section 84.9256,
23 subdivision 1, is amended to read:

24 Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a)
25 Except for operation on public road rights-of-way that is
26 permitted under section 84.928, a driver's license issued by the
27 state or another state is required to operate an all-terrain

1 vehicle along or on a public road right-of-way.

2 (b) A person under 12 years of age shall not:

3 (1) make a direct crossing of a public road right-of-way;

4 (2) operate an all-terrain vehicle on a public road

5 right-of-way in the state; or

6 (3) operate an all-terrain vehicle on public lands or

7 waters.

8 (c) Except for public road rights-of-way of interstate

9 highways, a person 12 years of age but less than 16 years may

10 make a direct crossing of a public road right-of-way of a trunk,

11 county state-aid, or county highway or operate on public lands

12 and waters, only if that person possesses a valid all-terrain

13 vehicle safety certificate issued by the commissioner and is

14 accompanied on another all-terrain vehicle by a person 18 years

15 of age or older who holds a valid driver's license.

16 (d) All-terrain vehicle safety certificates issued by the

17 commissioner to persons 12 years old, but less than 16 years

18 old, are not valid for machines in excess of 90cc engine

19 capacity unless:

20 (1) the person successfully completed the safety education

21 and training program under section 84.925, subdivision 1,

22 including a riding component; and

23 ~~(2) the riding component of the training was conducted~~

24 ~~using an all-terrain vehicle with over 90cc engine capacity, and~~

25 ~~(3) the person is able to properly reach and control the~~

26 handle bars and reach the foot pegs while sitting upright on the

27 seat of the all-terrain vehicle.

28 Sec. 3. Minnesota Statutes 2004, section 84.926, is

29 amended to read:

30 84.926 [VEHICLE USE ALLOWED ON PUBLIC LANDS BY-THE

31 COMMISSIONER; EXCEPTIONS.]

32 Subdivision 1. [EXCEPTION BY PERMIT.]

33 Notwithstanding ~~section~~ sections 84.773, subdivision 1, and

34 84.777, on a case by case basis, the commissioner may issue a

35 permit authorizing a person to operate an off-highway vehicle on

36 individual public trails under the commissioner's jurisdiction

1 during specified times and for specified purposes.

2 Subd. 2. [ALL-TERRAIN VEHICLES; MANAGED OR LIMITED
3 FORESTS; OFF TRAIL.] Notwithstanding section 84.777, on state
4 forest lands classified as managed or limited, other than the
5 Richard J. Dorer Memorial Hardwood Forest, a person may use an
6 all-terrain vehicle off forest trails or forest roads when:

7 (1) hunting big game or transporting or installing hunting
8 stands during October, November, and December, when in
9 possession of a valid big game hunting license;

10 (2) retrieving big game in September, when in possession of
11 a valid big game hunting license;

12 (3) tending traps during an open trapping season for
13 protected furbearers, when in possession of a valid trapping
14 license; or

15 (4) trapping minnows, when in possession of a valid minnow
16 dealer, private fish hatchery, or aquatic farm license.

17 Subd. 3. [ALL-TERRAIN VEHICLES; CLOSED FORESTS;
18 HUNTING.] Notwithstanding section 84.777, the commissioner may
19 determine whether all-terrain vehicles are allowed on specific
20 forest roads, on state forest lands classified as closed, for
21 the purpose of hunting big game during an open big game season.
22 The determination shall be by written order as published in the
23 State Register and is exempt from chapter 14. Section 14.386
24 does not apply.

25 Subd. 4. [OFF-ROAD AND ALL-TERRAIN VEHICLES; LIMITED OR
26 MANAGED FORESTS; TRAILS.] Notwithstanding section 84.777, on
27 state forest lands classified as limited or managed, other than
28 the Richard J. Dorer Memorial Hardwood Forest, a person may use
29 vehicles registered under chapter 168 or section 84.798 or
30 84.922 on forest trails that are not designated for a specific
31 use when:

32 (1) hunting big game or transporting or installing hunting
33 stands during October, November, and December, when in
34 possession of a valid big game hunting license;

35 (2) retrieving big game in September, when in possession of
36 a valid big game hunting license;

1 (3) tending traps during an open trapping season for
2 protected furbearers, when in possession of a valid trapping
3 license; or

4 (4) trapping minnows, when in possession of a valid minnow
5 dealer, private fish hatchery, or aquatic farm license.

6 Sec. 4. Minnesota Statutes 2004, section 89.19,
7 subdivision 2, is amended to read:

8 Subd. 2. [RULEMAKING EXEMPTION.] Designations and
9 undesignations of forest trails by the commissioner shall be by
10 written order published in the State Register. Designations and
11 undesignations are not subject to the rulemaking provisions of
12 chapter 14 and section 14.386 does not apply. Before
13 designating or undesignating forest trails, the commissioner
14 shall hold a public meeting in the county where the largest
15 portion of the forest lands are located to provide information
16 to and receive comment from the public regarding the proposed
17 trail designation or undesignation. Sixty days before the
18 public meeting, notice of the proposed forest trail designation
19 or undesignation shall be published in the legal newspapers that
20 serve the counties in which the lands are located, in a
21 statewide Department of Natural Resources news release, and in
22 the State Register.

23 Sec. 5. Laws 2003, chapter 128, article 1, section 167,
24 subdivision 1, is amended to read:

25 Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a)
26 By December 31, 2006, the commissioner of natural resources
27 shall complete a review of the forest classification status of
28 all state forests classified as managed or limited, all forest
29 lands under the authority of the commissioner as defined in
30 Minnesota Statutes, section 89.001, subdivision 13, and lands
31 managed by the commissioner under Minnesota Statutes, section
32 282.011. The review must be conducted on a forest-by-forest and
33 area-by-area basis in accordance with the process and criteria
34 under Minnesota Rules, part 6100.1950. After each forest is
35 reviewed, the commissioner must change ~~its~~ the status of the
36 lands within each forest to limited or closed, ~~and~~ The

1 commissioner may classify portions of a limited forest as
2 closed. In addition to state forests, the commissioner must
3 also provide a similar status for each of the other areas
4 subject to review under this section after each individual
5 review is completed.

6 (b) If the commissioner determines on January 1, 2005, that
7 the review required under this section cannot be completed by
8 December 31, 2006, the completion date for the review shall be
9 extended to December 31, 2008. By January 15, 2005, the
10 commissioner shall report to the chairs of the legislative
11 committees with jurisdiction over natural resources policy and
12 finance regarding the status of the process required by this
13 section.

14 (c) Until December 31, 2010, the state forests and areas
15 subject to review under this section are exempt from Minnesota
16 Statutes, section 84.777, unless an individual forest or area
17 has been classified as limited or closed.

- 1 Senator moves to amend S.F. No. 1047 as follows:
- 2 Page 1, line 17, delete the new language
- 3 Page 1, line 18, delete everything before "on"
- 4 Page 1, line 19, after "use" insert "on land administered
- 5 by the commissioner"

Senators Marty, Ruud, Frederickson and Chaudhary introduced--
S.F. No. 720: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act
2 relating to natural resources; modifying restrictions
3 on the operation of off-highway vehicles; extending
4 the availability of the off-highway vehicle damage
5 account; providing for seizure and forfeiture of
6 certain off-highway vehicles; requiring certain
7 off-highway vehicle violations to be added to the
8 driving record of the violator; modifying civil
9 penalties; clarifying the requirement for off-road
10 vehicle registration; modifying off-road vehicle
11 account receipts and disposition; requiring plates on
12 all-terrain vehicles; providing for revocation of
13 registration; providing criminal penalties; amending
14 Minnesota Statutes 2004, sections 84.773, subdivision
15 1, by adding a subdivision; 84.775, subdivision 1;
16 84.780; 84.797, subdivisions 6, 12; 84.798,
17 subdivision 1; 84.802; 84.803; 84.804, subdivisions 1,
18 2, 3; 84.922, subdivision 2; 84.928, subdivision 2;
19 97A.315, subdivision 2; proposing coding for new law
20 in Minnesota Statutes, chapter 84; repealing Minnesota
21 Statutes 2004, sections 84.796; 84.805; 84.929;
22 296A.18, subdivision 6.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

24 Section 1. [84.772] [OFF-HIGHWAY VEHICLE TOLL-FREE
25 HOTLINE.]

26 The commissioner of natural resources shall maintain and
27 publicize a toll-free telephone number that allows citizens to:

28 (1) obtain tape-recorded information about trail
29 conditions;

30 (2) report complaints about or violations by operators of
31 off-highway vehicles; and

32 (3) report damage caused by all-terrain vehicles and trail
33 safety concerns.

34 Sec. 2. Minnesota Statutes 2004, section 84.773,

1 subdivision 1, is amended to read:

2 Subdivision 1. [RESTRICTIONS.] (a) A person may not
3 intentionally operate an off-highway vehicle:

4 (1) on a trail on public land that is designated or signed
5 for nonmotorized use only;

6 (2) on restricted areas within public lands that are posted
7 or where gates or other clearly visible structures are placed to
8 prevent unauthorized motorized vehicle access;

9 (3) except as specifically authorized by law or rule
10 adopted by the commissioner, in unfrozen public waters, as
11 defined in section 103G.005; in a state park; in a scientific
12 and natural area; or in a wildlife management area; or

13 (4) in a calcareous fen, as identified by the commissioner.

14 (b) A person may not operate an off-highway vehicle at a
15 speed greater than ten miles per hour:

16 (1) within 100 feet of a person who is not:

17 (i) on an off-highway vehicle, snowmobile, or motorcycle;

18 or

19 (ii) in a motor vehicle;

20 (2) within 100 feet of a fish house, dark house, or any
21 other structure while operating on a frozen public water; or

22 (3) within 150 feet of a home or residential dwelling.

23 Sec. 3. Minnesota Statutes 2004, section 84.773, is
24 amended by adding a subdivision to read:

25 Subd. 1a. [MUFFLERS.] (a) No person shall operate an
26 off-highway vehicle unless it is equipped with a muffler having
27 a spark arrestor approved by the United States Forest Service as
28 described under Code of Federal Regulations, title 36, section
29 261.52, paragraph (j).

30 (b) Off-highway vehicles shall not be sold, offered for
31 sale, or operated in this state unless equipped so that overall
32 noise emission does not exceed a sound level limitation of not
33 more than 95 decibels on the A scale from a distance of 20
34 inches using test procedures and instrumentation as set forth in
35 the Society of Automotive Engineers' Standard, SAE J1287, June
36 1988, or, if different procedures or instrumentation are used, a

1 noise level equivalent to that level.

2 (c) No noise suppressing system or muffler shall be
3 equipped with a cutout, bypass, or similar device and no person
4 shall modify or alter that system or its operation in any manner
5 that will amplify or increase the noise emitted by the vehicle's
6 motor to exceed the noise limits established in this
7 subdivision, except for organized events as authorized by
8 sections 84.795, subdivision 7; 84.804, subdivision 5; and
9 84.928, subdivision 5.

10 Sec. 4. [84.774] [OFF-HIGHWAY VEHICLE CRIMINAL PENALTIES.]

11 (a) Except as provided in paragraph (b), a person who
12 violates a provision of sections 84.773; 84.777; 84.788 to
13 84.795; 84.798 to 84.804; 84.90; or 84.922 to 84.928 or rules of
14 the commissioner relating to off-highway vehicle use is guilty
15 of a misdemeanor.

16 (b) A person is guilty of a gross misdemeanor if the person:

17 (1) knowingly disregards signs prohibiting the use of
18 off-highway vehicles and operates an off-highway vehicle in an
19 area where the use is prohibited;

20 (2) violates section 84.773 or 84.777 after personally
21 being notified by a peace officer not to operate in the area
22 prohibited;

23 (3) violates a section listed in paragraph (a) and has at
24 least one conviction for a violation under those sections in the
25 last three years;

26 (4) violates a section listed in paragraph (a) resulting in
27 the endangerment of another person; or

28 (5) violates section 84.773; 84.777; 84.90; or 97B.001 and
29 the violation results in property damage in excess of 400 square
30 feet or with a cost of repair in excess of \$500.

31 (c) A person convicted of a gross misdemeanor under
32 paragraph (b) is prohibited from operating an off-highway
33 vehicle for a period of two years. The commissioner shall
34 notify the person of the time period during which the person is
35 prohibited from operating an off-highway vehicle.

36 [EFFECTIVE DATE.] This section is effective August 1, 2005,

1 and applies to crimes committed on or after that date.

2 Sec. 5. [84.7741] [OFF-HIGHWAY VEHICLE FORFEITURE.]

3 Subdivision 1. [DEFINITIONS.] (a) As used in this section,
4 the following terms have the meanings given them.

5 (b) "Appropriate agency" means a law enforcement agency
6 that has the authority to make an arrest for a violation of a
7 designated offense.

8 (c) "Claimant" means an owner of an off-highway vehicle or
9 a person claiming a leasehold or security interest in an
10 off-highway vehicle.

11 (d) "Designated offense" means a gross misdemeanor
12 violation under section 84.774, paragraph (b).

13 (e) "Family or household member" means:

14 (1) a parent, stepparent, or guardian;

15 (2) any of the following persons related by blood,
16 marriage, or adoption: brother, sister, stepbrother,
17 stepsister, first cousin, aunt, uncle, nephew, niece,

18 grandparent, great-grandparent, great-uncle, or great-aunt; or

19 (3) persons residing together or persons who regularly
20 associate and communicate with one another outside of a
21 workplace setting.

22 (f) "Off-highway vehicle" and "vehicle" do not include an
23 off-highway vehicle that is stolen or taken in violation of the
24 law.

25 (g) "Owner" means a person legally entitled to possession,
26 use, and control of an off-highway vehicle, including a lessee
27 of an off-highway vehicle if the lease agreement has a term of
28 180 days or more. There is a rebuttable presumption that a
29 person registered as the owner of an off-highway vehicle
30 according to the records of the Department of Public Safety or
31 the Department of Natural Resources is the legal owner. For
32 purposes of this section, if an off-highway vehicle is owned
33 jointly by two or more people, each owner's interest extends to
34 the whole of the vehicle and is not subject to apportionment.

35 (h) "Prosecuting authority" means the attorney in the
36 jurisdiction in which the designated offense occurred, or a

1 designee, who is responsible for prosecuting violations of a
2 designated offense. If a state agency initiated the forfeiture,
3 and the attorney responsible for prosecuting the designated
4 offense declines to pursue forfeiture, the attorney general's
5 office, or its designee, may initiate forfeiture under this
6 section.

7 (i) "Security interest" means a bona fide security interest
8 perfected according to section 168A.17, subdivision 2, based on
9 a loan or other financing that, if an off-highway vehicle is
10 required to be registered under chapter 168, is listed on the
11 vehicle's title.

12 Subd. 2. [SEIZURE.] (a) An off-highway vehicle subject to
13 forfeiture under this section may be seized by the appropriate
14 agency upon process issued by any court having jurisdiction over
15 the vehicle.

16 (b) Property may be seized without process if:

17 (1) the seizure is incident to a lawful arrest or a lawful
18 search;

19 (2) the vehicle subject to seizure has been the subject of
20 a prior judgment in favor of the state in a criminal injunction
21 or forfeiture proceeding under this section; or

22 (3) the appropriate agency has probable cause to believe
23 that the delay occasioned by the necessity to obtain process
24 would result in the removal or destruction of the vehicle. If
25 property is seized without process under this clause, the
26 prosecuting authority must institute a forfeiture action under
27 this section as soon as is reasonably possible by serving a
28 notice of seizure and intent to forfeit at the address of the
29 owner as listed in the records of the Department of Public
30 Safety or Department of Natural Resources.

31 Subd. 3. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY.]
32 All right, title, and interest in an off-highway vehicle subject
33 to forfeiture under this section vests in the appropriate agency
34 upon commission of the conduct resulting in the designated
35 offense giving rise to the forfeiture. Any vehicle seized under
36 this section is not subject to replevin, but is deemed to be in

1 the custody of the appropriate agency subject to the orders and
2 decrees of the court having jurisdiction over the forfeiture
3 proceedings. When an off-highway vehicle is seized under this
4 section, the appropriate agency may:

- 5 (1) place the vehicle under seal;
- 6 (2) remove the vehicle to a place designated by the agency;
- 7 (3) place a disabling device on the vehicle; and
- 8 (4) take other steps reasonable and necessary to secure the
9 vehicle and prevent waste.

10 Subd. 4. [BOND BY OWNER FOR POSSESSION.] If the owner of
11 an off-highway vehicle that has been seized under this section
12 seeks possession of the vehicle before the forfeiture action is
13 determined, the owner may, subject to the approval of the
14 appropriate agency, give security or post bond payable to the
15 appropriate agency in an amount equal to the retail value of the
16 seized vehicle. On posting the security or bond, the seized
17 vehicle may be returned to the owner. The forfeiture action
18 must proceed against the security as if it were the seized
19 vehicle.

20 Subd. 5. [EVIDENCE.] Certified copies of court records and
21 off-highway vehicle and driver's records concerning prior
22 incidents are admissible as substantive evidence where necessary
23 to prove the commission of a designated offense.

24 Subd. 6. [VEHICLE SUBJECT TO FORFEITURE.] An off-highway
25 vehicle is subject to forfeiture under this section if it was
26 used in the commission of a designated offense.

27 Subd. 7. [PRESUMPTIONS; LIMITATIONS ON VEHICLE
28 FORFEITURE.] (a) An off-highway vehicle is presumed subject to
29 forfeiture under this section if:

- 30 (1) the driver is convicted of the designated offense upon
31 which the forfeiture is based; or
- 32 (2) the driver fails to appear for a scheduled court
33 appearance with respect to the designated offense charged and
34 fails to voluntarily surrender within 48 hours after the time
35 required for appearance.

36 (b) An off-highway vehicle encumbered by a security

1 interest perfected according to section 168A.17, subdivision 2,
2 or subject to a lease that has a term of 180 days or more, is
3 subject to the interest of the secured party or lessor unless
4 the party or lessor had knowledge of or consented to the act
5 upon which the forfeiture is based. However, when the proceeds
6 of the sale of a seized vehicle do not equal or exceed the
7 outstanding loan balance, the appropriate agency shall remit all
8 proceeds of the sale to the secured party after deducting the
9 agency's costs for the seizure, tow, storage, forfeiture, and
10 sale of the vehicle. If the sale of the vehicle is conducted in
11 a commercially reasonable manner consistent with section
12 336.9-610, the agency is not liable to the secured party for any
13 amount owed on the loan in excess of the sale proceeds. The
14 validity and amount of a nonperfected security interest must be
15 established by its holder by clear and convincing evidence.

16 (c) Notwithstanding paragraph (b), the secured party's or
17 lessor's interest in an off-highway vehicle is not subject to
18 forfeiture based solely on the secured party's or lessor's
19 knowledge of the act or omission upon which the forfeiture is
20 based if the secured party or lessor demonstrates by clear and
21 convincing evidence that the party or lessor took reasonable
22 steps to terminate use of the vehicle by the offender.

23 (d) An off-highway vehicle is not subject to forfeiture
24 under this section if its owner can demonstrate by clear and
25 convincing evidence that the owner did not have actual or
26 constructive knowledge that the vehicle would be used or
27 operated in any manner contrary to law or that the owner took
28 reasonable steps to prevent use of the vehicle by the offender.
29 If the offender is a family or household member of the owner and
30 has three or more prior off-highway vehicle convictions, the
31 owner is presumed to know of any vehicle use by the offender
32 that is contrary to law.

33 Subd. 8. [ADMINISTRATIVE FORFEITURE PROCEDURE.] (a) An
34 off-highway vehicle used to commit a designated offense is
35 subject to administrative forfeiture under this subdivision.

36 (b) When an off-highway vehicle is seized under subdivision

1 2, or within a reasonable time after seizure, the appropriate
2 agency shall serve the driver or operator of the vehicle with a
3 notice of the seizure and intent to forfeit the vehicle.
4 Additionally, when an off-highway vehicle is seized under
5 subdivision 2, or within a reasonable time after that, all
6 persons known to have an ownership, possessory, or security
7 interest in the vehicle must be notified of the seizure and the
8 intent to forfeit the vehicle. For those vehicles required to
9 be registered under chapter 168, the notification to a person
10 known to have a security interest in the vehicle is required
11 only if the vehicle is registered under chapter 168 and the
12 interest is listed on the vehicle's title. Notice mailed by
13 certified mail to the address shown in Department of Public
14 Safety records is sufficient notice to the registered owner of
15 the vehicle. For off-highway vehicles not required to be
16 registered under chapter 168, notice mailed by certified mail to
17 the address shown in the applicable filing or registration for
18 the vehicle is sufficient notice to a person known to have an
19 ownership, possessory, or security interest in the vehicle.
20 Otherwise, notice may be given in the manner provided by law for
21 service of a summons in a civil action.

22 (c) The notice must be in writing and contain:

23 (1) a description of the vehicle seized;

24 (2) the date of the seizure; and

25 (3) notice of the right to obtain judicial review of the

26 forfeiture and of the procedure for obtaining that judicial

27 review, printed in English, Hmong, and Spanish. Substantially,

28 the following language must appear conspicuously: "IF YOU DO

29 NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA

30 STATUTES, SECTION 84.7741, SUBDIVISION 8, YOU LOSE THE RIGHT TO

31 A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY

32 RIGHT YOU MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT

33 HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE

34 UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR

35 LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT

36 HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS

1 WORTH LESS THAN \$500."

2 (d) Within 30 days following service of a notice of seizure
3 and forfeiture under this subdivision, a claimant may file a
4 demand for a judicial determination of the forfeiture. The
5 demand must be in the form of a civil complaint and must be
6 filed with the court administrator in the county in which the
7 seizure occurred, together with proof of service of a copy of
8 the complaint on the prosecuting authority having jurisdiction
9 over the forfeiture and the standard filing fee for civil
10 actions unless the petitioner has the right to sue in forma
11 pauperis under section 563.01. If the value of the seized
12 property is \$7,500 or less, the claimant may file an action in
13 conciliation court for recovery of the seized vehicle. A copy
14 of the conciliation court statement of claim must be served
15 personally or by mail on the prosecuting authority having
16 jurisdiction over the forfeiture within 30 days following
17 service of the notice of seizure and forfeiture under this
18 subdivision. If the value of the seized property is less than
19 \$500, the claimant does not have to pay the conciliation court
20 filing fee. No responsive pleading is required of the
21 prosecuting authority and no court fees may be charged for the
22 prosecuting authority's appearance in the matter. Pleadings,
23 filings, and methods of service are governed by the Rules of
24 Civil Procedure.

25 (e) The complaint must be captioned in the name of the
26 claimant as plaintiff and the seized vehicle as defendant and
27 must state with specificity the grounds on which the claimant
28 alleges the vehicle was improperly seized, the claimant's
29 interest in the vehicle seized, and any affirmative defenses the
30 claimant may have. Notwithstanding any law to the contrary, an
31 action for the return of an off-highway vehicle seized under
32 this section may not be maintained by or on behalf of any person
33 who has been served with a notice of seizure and forfeiture
34 unless the person has complied with this subdivision.

35 (f) If the claimant makes a timely demand for a judicial
36 determination under this subdivision, the forfeiture proceedings

1 must be conducted according to subdivision 9.

2 Subd. 9. [JUDICIAL FORFEITURE PROCEDURE.] (a) This
3 subdivision governs judicial determinations of the forfeiture of
4 an off-highway vehicle used to commit a designated offense. An
5 action for forfeiture is a civil in rem action and is
6 independent of any criminal prosecution. All proceedings are
7 governed by the Rules of Civil Procedure.

8 (b) If no demand for judicial determination of the
9 forfeiture is pending, the prosecuting authority may, in the
10 name of the jurisdiction pursuing the forfeiture, file a
11 separate complaint against the vehicle, describing it,
12 specifying that it was used in the commission of a designated
13 offense, and specifying the time and place of its unlawful use.

14 (c) The prosecuting authority may file an answer to a
15 properly served demand for judicial determination, including an
16 affirmative counterclaim for forfeiture. The prosecuting
17 authority is not required to file an answer.

18 (d) A judicial determination under this subdivision must
19 not precede adjudication in the criminal prosecution of the
20 designated offense without the consent of the prosecuting
21 authority. The district court administrator shall schedule the
22 hearing as soon as practicable after adjudication in the
23 criminal prosecution. The district court administrator shall
24 establish procedures to ensure efficient compliance with this
25 subdivision. The hearing is to the court without a jury.

26 (e) There is a presumption that an off-highway vehicle
27 seized under this section is subject to forfeiture if the
28 prosecuting authority establishes that the vehicle was used in
29 the commission of a designated offense. A claimant bears the
30 burden of proving any affirmative defense raised.

31 (f) If the forfeiture is based on the commission of a
32 designated offense and the person charged with the designated
33 offense appears in court as required and is not convicted of the
34 offense, the court shall order the property returned to the
35 person legally entitled to it upon that person's compliance with
36 the redemption requirements of subdivision 12.

1 (g) If the lawful ownership of the vehicle used in the
2 commission of a designated offense can be determined and the
3 owner makes the demonstration required under subdivision 7,
4 paragraph (d), the vehicle must be returned immediately upon the
5 owner's compliance with the redemption requirements of
6 subdivision 12.

7 (h) If the court orders the return of a seized vehicle
8 under this subdivision, it must order that filing fees be
9 reimbursed to the person who filed the demand for judicial
10 determination. In addition, the court may order sanctions under
11 section 549.211. Any reimbursement fees or sanctions must be
12 paid from other forfeiture proceeds of the law enforcement
13 agency and prosecuting authority involved and in the same
14 proportion as distributed under subdivision 10, paragraph (b).

15 Subd. 10. [DISPOSITION OF FORFEITED VEHICLE.] (a) If the
16 vehicle is administratively forfeited under subdivision 8, or if
17 the court finds under subdivision 9 that the vehicle is subject
18 to forfeiture under subdivisions 6 and 7, the appropriate agency
19 shall:

20 (1) sell the vehicle and distribute the proceeds under
21 paragraph (b); or

22 (2) keep the vehicle for official use. If the agency keeps
23 a forfeited off-highway vehicle for official use, the agency
24 shall make reasonable efforts to ensure that the off-highway
25 vehicle is available for use by the agency's officers who
26 participate in off-highway vehicle enforcement or education
27 programs.

28 (b) The proceeds from the sale of forfeited vehicles, after
29 payment of seizure, towing, storage, forfeiture, and sale
30 expenses and satisfaction of valid liens against the property,
31 must be distributed as follows:

32 (1) 70 percent of the proceeds must be forwarded to the
33 appropriate agency for deposit as a supplement to the state or
34 local agency's operating fund or similar fund for use in
35 purchasing equipment for off-highway vehicle enforcement,
36 training, and education; and

1 (2) 30 percent of the money or proceeds must be forwarded
2 to the prosecuting authority that handled the forfeiture for
3 deposit as a supplement to its operating fund or similar fund
4 for prosecutorial purposes.

5 Subd. 11. [SALE OF FORFEITED VEHICLE BY SECURED
6 PARTY.] (a) A financial institution with a valid security
7 interest in or a valid lease covering a forfeited off-highway
8 vehicle may choose to dispose of the vehicle under this
9 subdivision, in lieu of the appropriate agency disposing of the
10 vehicle under subdivision 10. A financial institution wishing
11 to dispose of an off-highway vehicle under this subdivision
12 shall notify the appropriate agency of its intent, in writing,
13 within 30 days after receiving notice of the seizure and
14 forfeiture. The appropriate agency shall release the vehicle to
15 the financial institution or its agent after the financial
16 institution presents proof of its valid security agreement or of
17 its lease agreement and the financial institution agrees not to
18 sell the vehicle to a family or household member of the
19 violator, unless the violator is not convicted of the offense on
20 which the forfeiture is based. The financial institution shall
21 dispose of the vehicle in a commercially reasonable manner as
22 defined in section 336.9-610.

23 (b) After disposing of the forfeited vehicle, the financial
24 institution shall reimburse the appropriate agency for its
25 seizure, storage, and forfeiture costs. The financial
26 institution may then apply the proceeds of the sale to its
27 storage costs, to its sale expenses, and to satisfy the lien or
28 the lease on the vehicle. If any proceeds remain, the financial
29 institution shall forward the proceeds to the state treasury,
30 which shall credit the appropriate fund as specified in
31 subdivision 10.

32 Subd. 12. [REDEMPTION REQUIREMENTS.] (a) If an off-highway
33 vehicle is seized by a peace officer for a designated offense,
34 the seized vehicle must be released only:

35 (1) to the registered owner, a person authorized by the
36 registered owner, a lienholder of record, or a person who has

1 purchased the vehicle from the registered owner, who provides
2 proof of ownership of the vehicle, proof of valid Minnesota
3 driving privileges, and proof of insurance required by law to
4 cover the vehicle;

5 (2) if the vehicle is subject to a rental or lease
6 agreement, to a renter or lessee with valid Minnesota driving
7 privileges who provides a copy of the rental or lease agreement
8 and proof of insurance required by law to cover the vehicle; or

9 (3) to an agent of a towing company authorized by a
10 registered owner if the owner provides proof of ownership of the
11 vehicle and proof of insurance required by law to cover the
12 vehicle.

13 (b) The proof of ownership and insurance or, if applicable,
14 the copy of the rental or lease agreement required under
15 paragraph (a) must be provided to the law enforcement agency
16 seizing the vehicle or to a person or entity designated by the
17 law enforcement agency to receive the information.

18 (c) No law enforcement agency, local unit of government, or
19 state agency is responsible or financially liable for any
20 storage fees incurred due to a seizure under this section.

21 [EFFECTIVE DATE.] This section is effective August 1, 2005,
22 and applies to crimes committed on or after that date.

23 Sec. 6. [84.7742] [RECORD OF VIOLATIONS.]

24 Subdivision 1. [COURT ADMINISTRATOR DUTIES.] (a) Every
25 court administrator shall keep a full record of every case in
26 which a person is charged with an off-highway vehicle gross
27 misdemeanor under section 84.774, paragraph (b).

28 (b) Within ten days after the conviction or forfeiture of
29 bail of a person upon a charge of a gross misdemeanor
30 off-highway violation, the court administrator of the court in
31 which the conviction was had or bail was forfeited shall
32 immediately forward to the Department of Public Safety an
33 abstract of the record of the court covering the case in which
34 the person was convicted or forfeited bail. The abstract must
35 be certified by the person required to prepare it to be true and
36 correct.

1 (c) The abstract must be made upon a form furnished by the
2 Department of Public Safety and shall include the name and
3 address of the party charged, the driver's license number of the
4 person involved, the nature of the offense, the date of hearing,
5 the plea, the judgment or whether bail was forfeited, and the
6 amount of the fine or forfeiture, as the case may be.

7 (d) Every court shall also forward a report to the
8 Department of Public Safety reporting the conviction of any
9 person of manslaughter or other felony in the commission of
10 which an off-highway vehicle was used.

11 Subd. 2. [INCLUSION ON DRIVING RECORD.] The commissioner
12 of public safety shall file all records received under this
13 section for licensed drivers on the driving record of the
14 licensed driver according to section 171.12.

15 Sec. 7. Minnesota Statutes 2004, section 84.775,
16 subdivision 1, is amended to read:

17 Subdivision 1. [CIVIL CITATION; AUTHORITY TO ISSUE.] (a) A
18 conservation officer or other licensed peace officer may issue a
19 civil citation to a person who operates:

20 (1) an off-highway motorcycle in violation of sections
21 84.773; 84.777; 84.788 to 84.795; or 84.90;

22 (2) an off-road vehicle in violation of sections 84.773;
23 84.777; 84.798 to 84.804; or 84.90; or

24 (3) an all-terrain vehicle in violation of sections 84.773;
25 84.777; 84.90; or 84.922 to 84.928.

26 (b) A civil citation shall require restitution for public
27 and private property damage and impose a penalty of:

28 (1) ~~\$100~~ \$250 for the first offense;

29 (2) ~~\$200~~ \$500 for the second offense; and

30 (3) ~~\$500~~ \$1,000 for third and subsequent offenses.

31 (c) If the peace officer determines that there is damage to
32 property requiring restitution, the commissioner must send a
33 written explanation of the extent of the damage and the cost of
34 the repair by first class mail to the address provided by the
35 person receiving the citation within 15 days of the date of the
36 citation.

1 Sec. 8. Minnesota Statutes 2004, section 84.780, is
2 amended to read:

3 84.780 [OFF-HIGHWAY VEHICLE DAMAGE ACCOUNT.]

4 (a) The off-highway vehicle damage account is created in
5 the natural resources fund. Money in the off-highway vehicle
6 damage account is appropriated to the commissioner of natural
7 resources for:

8 (1) the repair or restoration of property damaged by the
9 operation of off-highway vehicles in an unpermitted area after
10 August-17-2003;

11 (2) the repair or restoration of driveways that have been
12 damaged from the legal operation of off-highway vehicles within
13 a public road right-of-way; and

14 for (3) the costs of administration for this section.

15 (b) Before the commissioner may make a payment from this
16 account, the commissioner must determine whether the damage to
17 the applicant's property was caused by the unpermitted use of
18 off-highway vehicles, that the applicant has made reasonable
19 efforts to identify the responsible individual and obtain
20 payment from the individual, and that the applicant has made
21 reasonable efforts to prevent reoccurrence. By June 30, 2005,
22 the commissioner of finance must transfer the remaining balance
23 in the account to the off-highway motorcycle account under
24 section 84.794, the off-road vehicle account under section
25 84.803, and the all-terrain vehicle account under section
26 84.927. The amount transferred to each account must be
27 proportionate to the amounts received in the damage account from
28 the relevant off-highway vehicle accounts or by the legal
29 operation of off-highway vehicles within a public road
30 right-of-way.

31 (b) (c) Determinations of the commissioner under this
32 section may be made by written order and are exempt from the
33 rulemaking provisions of chapter 14. Section 14.386 does not
34 apply.

35 ~~(c) This section expires July 17, 2005.~~

36 Sec. 9. Minnesota Statutes 2004, section 84.797,

1 subdivision 6, is amended to read:

2 Subd. 6. [OFF-ROAD.] "Off-road" means on ~~trails-or~~
3 nonpublic roads or for cross-country travel on natural terrain.
4 For purposes of sections 84.797 to ~~84-805~~ 84.804, nonpublic
5 roads include state forest roads, county forest roads, and other
6 roads ~~and-trails~~ that are not operated by a public road
7 authority as defined in section 160.02, subdivision 25.

8 Sec. 10. Minnesota Statutes 2004, section 84.797,
9 subdivision 12, is amended to read:

10 Subd. 12. [OFF-ROAD VEHICLE STAGING AREA.] "Off-road
11 vehicle staging area" means a parking lot, ~~trail-head,~~
12 campground, or other location to or from which an off-road
13 vehicle is transported by truck, trailer, or other motor vehicle
14 so that it may be placed into operation or removed from
15 operation on public lands. Off-road vehicle staging area does
16 not include a location to which an off-road vehicle is
17 transported primarily for servicing, maintenance, repair,
18 storage, or sale.

19 Sec. 11. Minnesota Statutes 2004, section 84.798,
20 subdivision 1, is amended to read:

21 Subdivision 1. [GENERAL REQUIREMENTS.] Unless exempted
22 under subdivision 2, after January 1, 1995, a person may not
23 operate and an owner may not give permission for another to
24 operate ~~a-vehicle-off-road,-nor-may-a-person-have an off-road~~
25 ~~vehicle not-registered-under-chapter-168-in-possession-at-an~~
26 ~~off-road-vehicle-staging-area,-or~~ in designated trail-or-area
27 areas on lands administered by the commissioner or on off-road
28 vehicle grant-in-aid areas funded under section 84.803, unless
29 the vehicle has been registered under this section.

30 Sec. 12. Minnesota Statutes 2004, section 84.802, is
31 amended to read:

32 84.802 [YOUTHFUL OPERATORS; PROHIBITIONS.]

33 (a) A person under 16 years of age may not operate an
34 off-road vehicle.

35 (b) ~~Except-for-operation-on-public-road-rights-of-way-that~~
36 ~~is-permitted-under-section-84-804,~~ A driver's license issued by

1 the state or another state is required to operate an off-road
2 vehicle ~~along-or~~ on a public road right-of-way.

3 (c) An owner of an off-road vehicle may not knowingly allow
4 it to be operated in violation of this section.

5 Sec. 13. Minnesota Statutes 2004, section 84.803, is
6 amended to read:

7 84.803 [OFF-ROAD VEHICLE ACCOUNT; RECEIPTS AND
8 ALLOCATIONS.]

9 Subdivision 1. [REGISTRATION REVENUE.] Fees from the
10 registration of off-road vehicles ~~and-unrefunded-gasoline-tax~~
11 ~~attributable-to-off-road-vehicle-use-under-section-296A-18~~ must
12 be deposited in the state treasury and credited to the off-road
13 vehicle account in the natural resources fund.

14 Subd. 2. [PURPOSES.] Subject to appropriation by the
15 legislature, money in the off-road vehicle account may only be
16 spent for:

17 (1) administration, enforcement, and implementation of
18 sections 84.773 to ~~84-805~~ 84.804;

19 (2) acquisition, maintenance, and development of off-road
20 vehicle ~~trails-and~~ use areas;

21 (3) grant-in-aid programs to counties and municipalities to
22 construct and maintain off-road vehicle ~~trails-and~~ use areas;

23 (4) grants-in-aid to local safety programs; and

24 (5) enforcement and public education grants to local law
25 enforcement agencies.

26 Sec. 14. Minnesota Statutes 2004, section 84.804,
27 subdivision 1, is amended to read:

28 Subdivision 1. [OPERATION ON PUBLIC ROAD RIGHTS-OF-WAY.]

29 ~~(a)~~ A person may not operate a an off-road vehicle off-road
30 within a public road right-of-way in this state ~~except-on-a~~

31 ~~trail-designated-by-the-commissioner-and-approved-by-the-unit-of~~
32 ~~government-having-jurisdiction-over-the-right-of-way.~~

33 ~~(b)-A-person-may-not-operate-a-vehicle-off-road-within-a~~
34 ~~public-road-right-of-way-between-the-hours-of-one-half-hour~~

35 ~~after-sunset-to-one-half-hour-before-sunrise,-except-on-the~~

36 ~~right-hand-side-of-the-right-of-way-and-in-the-same-direction-as~~

1 ~~traffic-on-the-nearest-lane-of-the-road.~~

2 ~~(c)-A-person-may-not-operate-an-off-road-vehicle-within-the~~
3 ~~right-of-way-of-an-interstate-highway.~~

4 Sec. 15. Minnesota Statutes 2004, section 84.804,
5 subdivision 2, is amended to read:

6 Subd. 2. [CROSSING PUBLIC ROAD RIGHTS-OF-WAY.] (a) An
7 ~~off-road-vehicle-not-registered-under-chapter-168-may-make-a~~
8 ~~direct-crossing-of-a-public-road-right-of-way-for-the-purpose-of~~
9 ~~continuing-on-a-designated-off-road-trail-if:~~

10 ~~(1)-the-crossing-is-made-at-an-angle-of-approximately-90~~
11 ~~degrees-to-the-direction-of-the-road-and-at-a-place-where-no~~
12 ~~obstruction-prevents-a-quick-and-safe-crossing;~~

13 ~~(2)-the-vehicle-is-brought-to-a-complete-stop-before~~
14 ~~crossing-the-shoulder-or-main-traveled-way-of-the-road;~~

15 ~~(3)-the-driver-yields-the-right-of-way-to-all-traffic;~~

16 ~~(4)-in-crossing-a-divided-road, the-crossing-is-made-only~~
17 ~~at-an-intersection-of-the-road-with-another-public-road, and~~

18 ~~(5)-if-the-crossing-is-made-between-the-hours-of-one-half~~
19 ~~hour-after-sunset-to-one-half-hour-before-sunrise-or-in~~
20 ~~conditions-of-reduced-visibility, only-if-both-front-and-rear~~
21 ~~lights-are-on.~~

22 (b) An off-road vehicle not registered under chapter 168
23 may be operated on a bridge, other than a bridge that is part of
24 the main traveled lanes of an interstate highway, or a roadway
25 shoulder or inside bank of a public road right-of-way when
26 required to avoid obstructions to travel and no other method of
27 avoidance is possible, provided that the vehicle is operated in
28 the farthest right-hand lane, the entrance to the roadway is
29 made within 100 feet of the bridge or obstacle, and the crossing
30 is made without undue delay.

31 ~~(c)~~ (b) A person may not operate an off-road vehicle on a
32 public street or highway unless the off-road vehicle is equipped
33 with at least one headlight and one taillight, each of minimum
34 candlepower as prescribed by rules of the commissioner, and with
35 brakes conforming to standards prescribed by rule of the
36 commissioner, and all of which are subject to the approval of

1 the commissioner of public safety.

2 ~~(d)~~ (c) Chapter 169 applies to the operation of off-road
3 vehicles on streets and highways, except that those provisions
4 that by their nature have no application and those provisions
5 relating to required equipment do not apply to vehicles not
6 registered under chapter 168. Chapter 169A applies to the
7 operation of off-road vehicles anywhere in the state and on the
8 ice of boundary waters.

9 ~~(e)-A-road-authority, as defined in section 160.02,~~
10 ~~subdivision 25, may, with the approval of the commissioner,~~
11 ~~designate access trails on public road rights-of-way for gaining~~
12 ~~access to established off-road vehicle trails.~~

13 Sec. 16. Minnesota Statutes 2004, section 84.804,
14 subdivision 3, is amended to read:

15 Subd. 3. [OPERATION GENERALLY.] A person may not drive or
16 operate a an off-road vehicle off-road:

17 (1) at a rate of speed greater than is reasonable under the
18 surrounding circumstances;

19 (2) in a careless, reckless, or negligent manner which may
20 endanger or cause injury or damage to the person or property of
21 another;

22 (3) without a functioning stoplight if so equipped;

23 (4) in a tree nursery or planting in a manner that damages
24 or destroys growing stock;

25 (5) without a brake operational by either hand or foot; or

26 (6) on forest lands under the authority of the
27 commissioner, as defined in section 89.001, subdivision 13,
28 other than inventoried forest roads; or

29 (7) in a manner that violates rules adopted by the
30 commissioner.

31 Sec. 17. Minnesota Statutes 2004, section 84.922,
32 subdivision 2, is amended to read:

33 Subd. 2. [APPLICATION, ISSUANCE, REPORTS.] (a) Application
34 for registration or continued registration shall be made to the
35 commissioner of natural resources, the commissioner of public
36 safety or an authorized deputy registrar of motor vehicles in a

1 form prescribed by the commissioner. The form must state the
2 name and address of every owner of the vehicle.

3 (b) A person who purchases an all-terrain vehicle from a
4 retail dealer shall make application for registration to the
5 dealer at the point of sale. The dealer shall issue a temporary
6 ten-day registration permit to each purchaser who applies to the
7 dealer for registration. The dealer shall submit the completed
8 registration application and fees to the deputy registrar at
9 least once each week. No fee may be charged by a dealer to a
10 purchaser for providing the temporary permit.

11 (c) Upon receipt of the application and the appropriate
12 fee, the commissioner or deputy registrar shall issue to the
13 applicant, or provide to the dealer, a 60-day temporary receipt
14 and shall assign a registration number that must be affixed to
15 the vehicle in a manner prescribed by the commissioner. A
16 dealer subject to paragraph (b) shall provide the registration
17 materials and temporary receipt to the purchaser within the
18 ten-day temporary permit period. The commissioner shall use the
19 snowmobile registration system to register vehicles under this
20 section.

21 (d) Each deputy registrar of motor vehicles acting under
22 section 168.33, is also a deputy registrar of all-terrain
23 vehicles. The commissioner of natural resources in agreement
24 with the commissioner of public safety may prescribe the
25 accounting and procedural requirements necessary to assure
26 efficient handling of registrations and registration fees.
27 Deputy registrars shall strictly comply with the accounting and
28 procedural requirements.

29 (e) In addition to other fees prescribed by law, a filing
30 fee of \$4.50 is charged for each all-terrain vehicle
31 registration renewal, duplicate or replacement registration
32 card, and replacement decal and a filing fee of \$7 is charged
33 for each all-terrain vehicle registration and registration
34 transfer issued by:

35 (1) a deputy registrar and shall be deposited in the
36 treasury of the jurisdiction where the deputy is appointed, or

1 retained if the deputy is not a public official; or

2 (2) the commissioner and shall be deposited to the state
3 treasury and credited to the all-terrain vehicle account in the
4 natural resources fund.

5 (f) The registration numbers and decal must be displayed on
6 plates that are not less than six inches high and 12 inches
7 wide, clearly visible on the front and back of the vehicle, and
8 at least 12 inches from the ground. The plates, registration
9 numbers, and registration decal must be maintained in a clear
10 and legible condition. Letters and numbers on the plates shall
11 be at least three inches high and not less than one-half inch
12 wide.

13 Sec. 18. Minnesota Statutes 2004, section 84.928,
14 subdivision 2, is amended to read:

15 Subd. 2. [OPERATION GENERALLY.] A person may not drive or
16 operate an all-terrain vehicle:

17 (1) at a rate of speed greater than reasonable or proper
18 under the surrounding circumstances;

19 (2) in a careless, reckless, or negligent manner so as to
20 endanger or to cause injury or damage to the person or property
21 of another;

22 (3) without headlight and taillight lighted at all times if
23 the vehicle is equipped with headlight and taillight;

24 (4) without a functioning stoplight if so equipped;

25 (5) in a tree nursery or planting in a manner that damages
26 or destroys growing stock;

27 (6) without a brake operational by either hand or foot;

28 (7) with more persons on the vehicle than it was designed
29 for, except as allowed under section 84.9257;

30 (8) on public lands or public waters with an air-intake
31 pipe that is more than six inches above the manufacturer's
32 original air-intake pipe;

33 (9) after December 31, 2006, on public lands with tires
34 that have a tread depth of greater than one inch;

35 (10) at a speed exceeding ten miles per hour on the frozen
36 surface of public waters within 100 feet of a person not on an

1 all-terrain vehicle or within 100 feet of a fishing shelter; or
 2 ~~(9)~~ (11) in a manner that violates operation rules adopted
 3 by the commissioner.

4 Sec. 19. Minnesota Statutes 2004, section 97A.315,
 5 subdivision 2, is amended to read:

6 Subd. 2. [LICENSE REVOCATIONS.] (a) If a person is
 7 convicted of trespassing under subdivision 1 while exercising or
 8 attempting to exercise an activity licensed under the game and
 9 fish laws ~~or~~, requiring off-highway motorcycle registration
 10 under section 84.788, requiring off-road vehicle registration
 11 under section 84.798, requiring snowmobile registration under
 12 section 84.82, or requiring all-terrain vehicle registration
 13 under section 84.922, the applicable license and registration
 14 are null and void.

15 (b) A person convicted of a gross misdemeanor under
 16 subdivision 1, paragraph (b), may not be issued a license to
 17 take game for two years after the conviction.

18 Sec. 20. [REVISOR'S INSTRUCTION.]

19 In each section of Minnesota Statutes referred to in column
 20 A, the revisor of statutes shall delete the reference in column
 21 B and insert the reference in column C.

22	<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
23	<u>84.777</u>	<u>84.805</u>	<u>84.804</u>
24	<u>84.777</u>	<u>84.929</u>	<u>84.928</u>
25	<u>84.787, subd. 1</u>	<u>84.796</u>	<u>84.795</u>
26	<u>84.788, subd. 9</u>	<u>84.796</u>	<u>84.795</u>
27	<u>84.791, subd. 4</u>	<u>84.796</u>	<u>84.795</u>
28	<u>84.794, subd. 2</u>	<u>84.796</u>	<u>84.795</u>
29	<u>84.795, subd. 8</u>	<u>84.796</u>	<u>84.795</u>
30	<u>84.797, subd. 1</u>	<u>84.805</u>	<u>84.804</u>
31	<u>84.798, subd. 8</u>	<u>84.805</u>	<u>84.804</u>
32	<u>84.804, subd. 6</u>	<u>84.805</u>	<u>84.804</u>
33	<u>84.92, subd. 1</u>	<u>84.929</u>	<u>84.928</u>
34	<u>84.922, subd. 9</u>	<u>84.929</u>	<u>84.928</u>
35	<u>84.925, subd. 3</u>	<u>84.929</u>	<u>84.928</u>
36	<u>84.9256, subd. 4</u>	<u>84.929</u>	<u>84.928</u>

1 84.927, subd. 2 84.929 84.928
2 84.928, subd. 1 84.929 84.928
3 84.928, subd. 6 84.929 84.928

4 Sec. 21. [REPEALER.]

5 Minnesota Statutes 2004, sections 84.796; 84.805; 84.929;
6 and 296A.18, subdivision 6, are repealed.

APPENDIX
Repealed Minnesota Statutes for 05-1981

84.796 PENALTIES.

(a) A person who violates a provision of section 84.788, 84.789, 84.793, or 84.795 is guilty of a misdemeanor.

(b) A person who violates a provision of a rule adopted under section 84.79 is guilty of a petty misdemeanor.

84.805 PENALTIES.

A person who violates any provision of sections 84.797 to 84.804 is guilty of a misdemeanor.

84.929 PENALTIES.

Any person who violates any provision of sections 84.92 to 84.928 or rules of the commissioner is guilty of a misdemeanor.

296A.18 APPORTIONMENT OF TAX; DEPOSIT OF PROCEEDS.

Subd. 6. Off-road vehicle. Approximately 0.164 of one percent of all gasoline received or produced in or brought into this state, except gasoline used for aviation purposes, is being used for the off-road operation of off-road vehicles, as defined in section 84.797, in this state, and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than aviation purposes, 0.164 of one percent is the amount of tax on fuel used for off-road operation of off-road vehicles in this state.

1 Senator moves to amend S.F. No. 720 as follows:

2 Page 2, line 14, after "vehicle" insert "off-road"

3 Page 19, line 27, after the third comma, insert "including
4 tax-forfeited lands held in trust for the taxing districts,"

5 Page 21, after line 12, insert:

6 "Sec. 18. Minnesota Statutes 2004, section 84.928,
7 subdivision 1, is amended to read:

8 Subdivision 1. [OPERATION ON ROADS AND RIGHTS-OF-WAY.] (a)
9 Unless otherwise allowed in sections 84.92 to 84.929, a person
10 shall not operate an all-terrain vehicle in this state along or
11 on the roadway, shoulder, or inside bank or slope of a public
12 road right-of-way of a trunk, county state-aid, or county
13 highway other than in the ditch or the outside bank or slope of
14 a trunk, county state-aid, or county highway unless prohibited
15 under paragraph (b).

16 (b) A road authority as defined under section 160.02,
17 subdivision 25, may after a public hearing restrict the use of
18 all-terrain vehicles in the ditch or outside bank or slope of a
19 public road right-of-way under its jurisdiction.

20 (c) The restrictions in paragraphs (a) and (b) do not apply
21 to the operation of an all-terrain vehicle on the shoulder,
22 inside bank or slope, ditch, or outside bank or slope of a
23 trunk, county state-aid, or county highway when the all-terrain
24 vehicle is:

25 (1) owned by or operated under contract with a publicly or
26 privately owned utility; and

27 (2) used for work on utilities.

28 (d) The commissioner may limit the use of a right-of-way
29 for a period of time if the commissioner determines that use of
30 the right-of-way causes:

31 (1) degradation of vegetation on adjacent public property;

32 (2) siltation of waters of the state;

33 (3) impairment or enhancement to the act of taking game; or

34 (4) a threat to safety of the right-of-way users or to

35 individuals on adjacent public property.

36 ~~(d)~~ (e) The commissioner must notify the road authority as

1 soon as it is known that a closure will be ordered. The notice
2 must state the reasons and duration of the closure.

3 ~~(e)~~ (f) A person may operate an all-terrain vehicle
4 registered for private use and used for agricultural purposes on
5 a public road right-of-way of a trunk, county state-aid, or
6 county highway in this state if the all-terrain vehicle is
7 operated on the extreme right-hand side of the road, and left
8 turns may be made from any part of the road if it is safe to do
9 so under the prevailing conditions.

10 ~~(f)~~ (g) A person shall not operate an all-terrain vehicle
11 within the public road right-of-way of a trunk, county
12 state-aid, or county highway from April 1 to August 1 in the
13 agricultural zone unless the vehicle is being used exclusively
14 as transportation to and from work on agricultural lands. This
15 paragraph does not apply to an agent or employee of a road
16 authority, as defined in section 160.02, subdivision 25, or the
17 Department of Natural Resources when performing or exercising
18 official duties or powers.

19 ~~(g)~~ (h) A person shall not operate an all-terrain vehicle
20 within the public road right-of-way of a trunk, county
21 state-aid, or county highway between the hours of one-half hour
22 after sunset to one-half hour before sunrise, except on the
23 right-hand side of the right-of-way and in the same direction as
24 the highway traffic on the nearest lane of the adjacent roadway.

25 ~~(h)~~ (i) A person shall not operate an all-terrain vehicle
26 at any time within the right-of-way of an interstate highway or
27 freeway within this state."

28 Amend the title as follows:

29 Page 1, line 18, delete the second "subdivision" and insert
30 "subdivisions 1,"

Senators Bakk, Nienow, Saxhaug, Stumpf and Olson introduced--
S.F. No. 1442: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; regulating off-highway
3 vehicles; requiring rulemaking and modifying certain
4 rulemaking exemptions; modifying certain state trail
5 provisions; modifying designation of state forest
6 roads; modifying forest classification provisions;
7 requiring a study; providing civil penalties;
8 appropriating money; amending Minnesota Statutes 2004,
9 sections 84.775, subdivision 1; 84.788, subdivision 3;
10 84.789, by adding a subdivision; 84.791, subdivision
11 1; 84.798, subdivision 1; 84.925, subdivision 1, by
12 adding a subdivision; 84.9256, subdivision 1; 84.9257;
13 84.926; 84.928, subdivisions 1, 2, 6; 85.015,
14 subdivision 13; 89.19, subdivision 2; 89.71, by adding
15 a subdivision; Laws 2003, chapter 128, article 1,
16 section 167, subdivision 1; proposing coding for new
17 law in Minnesota Statutes, chapter 84; repealing
18 Minnesota Statutes 2004, section 84.901.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

20 Section 1. Minnesota Statutes 2004, section 84.775,
21 subdivision 1, is amended to read:

22 Subdivision 1. [CIVIL CITATION; AUTHORITY TO ISSUE.] (a) A
23 conservation officer or other licensed peace officer may issue a
24 civil citation to a person who operates:

25 (1) an off-highway motorcycle in violation of sections
26 84.773, subdivision 1; 84.777; 84.788 to 84.795; or 84.90;

27 (2) an off-road vehicle in violation of sections 84.773,
28 subdivision 1; 84.777; 84.798 to 84.804; or 84.90; or

29 (3) an all-terrain vehicle in violation of sections 84.773,
30 subdivision 1; 84.777; 84.90; or 84.922 to 84.928.

31 (b) A civil citation under paragraph (a) shall require
32 restitution for public and private property damage and impose a

1 penalty of:

2 (1) \$100 for the first offense;

3 (2) \$200 for the second offense; and

4 (3) \$500 for third and subsequent offenses.

5 (c) A conservation officer of other licensed peace officer
6 may issue a civil citation to a person who operates an
7 off-highway motorcycle, off-road vehicle, or all-terrain vehicle
8 in violation of section 84.773, subdivision 2. A civil citation
9 under this paragraph shall require restitution for damage to
10 property or wetlands and impose a penalty of:

11 (1) \$100 for the first offense;

12 (2) \$500 for the second offense; and

13 (3) \$1,000 for third and subsequent offenses.

14 (d) If the peace officer determines that there is damage to
15 property requiring restitution, the commissioner must send a
16 written explanation of the extent of the damage and the cost of
17 the repair by first class mail to the address provided by the
18 person receiving the citation within 15 days of the date of the
19 citation.

20 Sec. 2. [84.781] [USE OF DEPARTMENT RESOURCES.]

21 The commissioner of natural resources may permit Department
22 of Natural Resources personnel and equipment to be used to
23 assist local units of government in maintaining off-highway
24 vehicle trails located on property owned by or under the control
25 of the local unit of government.

26 Sec. 3. [84.785] [OFF-HIGHWAY VEHICLE SAFETY AND
27 CONSERVATION GRANT PROGRAM.]

28 Subdivision 1. [CREATION.] The commissioner of natural
29 resources shall establish an off-highway vehicle safety and
30 conservation grant program to award grants to organizations that
31 meet the eligibility requirements under subdivision 3.

32 Subd. 2. [PURPOSE.] The purpose of the off-highway vehicle
33 safety and conservation grant program is to encourage
34 off-highway vehicle clubs to assist in safety and environmental
35 education and in improving, maintaining, and monitoring trails
36 on state forest land and other public lands.

1 Subd. 3. [ELIGIBILITY.] To be eligible for a grant under
2 this section, an organization must:

3 (1) be a statewide organization that has been in existence
4 at least five years and that promotes the operation of
5 off-highway vehicles in a manner that is safe, responsible, and
6 does not harm the environment;

7 (2) promote the operation of off-highway vehicles in a
8 manner that does not conflict with the laws and rules that
9 relate to the operation of off-highway vehicles;

10 (3) have an interest limited to the operation of motorized
11 vehicles on motorized trails and other designated areas;

12 (4) have a board of directors that has 80 percent of its
13 members who are representatives of all-terrain vehicle clubs,
14 off-highway motorcycle clubs, or off-road vehicle clubs; and

15 (5) provide support to off-highway vehicle clubs.

16 Subd. 4. [USE OF GRANTS.] An organization receiving a
17 grant under this section shall use the grant money to promote
18 and provide support to the Department of Natural Resources by:

19 (1) encouraging off-highway vehicle clubs to assist in
20 improving, maintaining, and monitoring trails on state forest
21 land and other public lands;

22 (2) providing assistance to the department in locating,
23 recruiting, and training instructors;

24 (3) assisting the commissioner and the director of tourism
25 in creating an outreach program to inform local communities of
26 appropriate off-highway vehicle use in their communities and of
27 the economic benefits and costs that may be attributed to
28 promoting tourism to attract off-highway vehicles;

29 (4) publishing a manual in cooperation with the
30 commissioner that will be used to train volunteers in monitoring
31 the operation of off-highway vehicles for safety, environmental,
32 and other issues that relate to the responsible operation of
33 off-highway vehicles; and

34 (5) collecting data on the operation of off-highway
35 vehicles in the state.

36 Sec. 4. Minnesota Statutes 2004, section 84.788,

1 subdivision 3, is amended to read:

2 Subd. 3. [APPLICATION; ISSUANCE; REPORTS.] (a) Application
3 for registration or continued registration must be made to the
4 commissioner or an authorized deputy registrar of motor vehicles
5 in a form prescribed by the commissioner. The form must state
6 the name and address of every owner of the off-highway
7 motorcycle.

8 (b) A person who purchases from a retail dealer an
9 off-highway motorcycle shall make application for registration
10 to the dealer at the point of sale. The dealer shall issue a
11 temporary ten-day registration permit to each purchaser who
12 applies to the dealer for registration. The dealer shall submit
13 the completed registration applications and fees to the deputy
14 registrar at least once each week. No fee may be charged by a
15 dealer to a purchaser for providing the temporary permit.

16 (c) Upon receipt of the application and the appropriate
17 fee, the commissioner or deputy registrar shall issue to the
18 applicant, or provide to the dealer, a 60-day temporary receipt
19 and shall assign a registration number that must be affixed to
20 the motorcycle ~~in-a-manner-prescribed-by-the-commissioner~~
21 according to paragraph (f). A dealer subject to paragraph (b)
22 shall provide the registration materials and temporary receipt
23 to the purchaser within the ten-day temporary permit period.

24 (d) The commissioner shall develop a registration system to
25 register vehicles under this section. A deputy registrar of
26 motor vehicles acting under section 168.33, is also a deputy
27 registrar of off-highway motorcycles. The commissioner of
28 natural resources in agreement with the commissioner of public
29 safety may prescribe the accounting and procedural requirements
30 necessary to ensure efficient handling of registrations and
31 registration fees. Deputy registrars shall strictly comply with
32 the accounting and procedural requirements.

33 (e) In addition to other fees prescribed by law, a filing
34 fee of \$4.50 is charged for each off-highway motorcycle
35 registration renewal, duplicate or replacement registration
36 card, and replacement decal and a filing fee of \$7 is charged

1 for each off-highway motorcycle registration and registration
2 transfer issued by:

3 (1) a deputy registrar and must be deposited in the
4 treasury of the jurisdiction where the deputy is appointed, or
5 kept if the deputy is not a public official; or

6 (2) the commissioner and must be deposited in the state
7 treasury and credited to the off-highway motorcycle account.

8 (f) Unless exempted in paragraph (g), the owner of an
9 off-highway motorcycle must display a registration decal issued
10 by the commissioner. If the motorcycle is licensed as a motor
11 vehicle, a registration decal must be affixed on the upper left
12 corner of the rear license plate. If the motorcycle is not
13 licensed as a motor vehicle, the decal must be attached on the
14 side of the motorcycle and may be attached to the fork tube.
15 The decal must be attached in a manner so that it is visible
16 while a rider is on the motorcycle. The issued decals must be
17 of a size to work within the constraints of the electronic
18 licensing system, not to exceed three inches high and three
19 inches wide.

20 (g) Display of a registration decal is not required for an
21 off-highway motorcycle:

22 (1) while being operated on private property; or

23 (2) while competing in a closed-course competition event.

24 Sec. 5. Minnesota Statutes 2004, section 84.789, is
25 amended by adding a subdivision to read:

26 Subd. 3. [NOISE EMISSIONS.] (a) On and after January 1,
27 2006, off-highway motorcycles, when operating on public lands,
28 shall at all times be equipped with a silencer or other device
29 that limits noise emissions according to this subdivision.

30 (b) Noise emissions of competition off-highway motorcycles
31 manufactured on or after January 1, 1998, are limited to not
32 more than 96 dbA and, if manufactured prior to January 1, 1998,
33 to not more than 99 dbA, when measured from a distance of 20
34 inches using test procedures established by the Society of
35 Automotive Engineers under Standard J-1287, as applicable.

36 (c) Noise emissions of all other off-highway motorcycles

1 are limited to not more than 96 dbA if manufactured on or after
2 January 1, 1986, and not more than 99 dbA if manufactured prior
3 to January 1, 1986, when measured from a distance of 20 inches
4 using test procedures established by the Society of Automotive
5 Engineers under Standard J-1287, as applicable.

6 Sec. 6. Minnesota Statutes 2004, section 84.791,
7 subdivision 1, is amended to read:

8 Subdivision 1. [PROGRAM ESTABLISHED; WHEN REQUIRED.] (a)
9 The commissioner shall establish a comprehensive off-highway
10 motorcycle environment and safety education and training
11 program, including the preparation and dissemination of vehicle
12 information and safety advice to the public, the training of
13 off-highway motorcycle operators, and the issuance of
14 off-highway motorcycle safety certificates to operators under
15 the age of 16 years who successfully complete the off-highway
16 motorcycle environment and safety education and training courses.

17 (b) An individual who receives a citation for violating a
18 law related to the operation of an off-highway motorcycle must
19 successfully complete the environment and safety education and
20 training program established under paragraph (a) before
21 continuing operation of an off-highway motorcycle.

22 Sec. 7. Minnesota Statutes 2004, section 84.798,
23 subdivision 1, is amended to read:

24 Subdivision 1. [GENERAL REQUIREMENTS.] (a) Unless exempted
25 under paragraph (b) or subdivision 2, after January 1, 1995, a
26 person may not operate and an owner may not give permission for
27 another to operate ~~a-vehicle-off-road, nor may a person have an~~
28 ~~off-road vehicle not-registered-under-chapter-168-in-possession~~
29 ~~at-an-off-road-vehicle-staging-area, or-designated-trail on~~
30 lands administered by the commissioner on off-road
31 vehicle-designated trails or area areas, or on off-road vehicle
32 grant-in-aid trails and areas funded under section 84.803,
33 unless the vehicle has been registered under this section.

34 (b) Annually on the third Saturday of May, the commissioner
35 shall allow the operation of nonregistered off-road vehicles at
36 the Iron Range Off-Highway Vehicle Recreation Area.

1 Sec. 8. Minnesota Statutes 2004, section 84.925,
2 subdivision 1, is amended to read:

3 Subdivision 1. [PROGRAM ESTABLISHED.] (a) The commissioner
4 shall establish a comprehensive all-terrain vehicle
5 environmental and safety education and training program,
6 including the preparation and dissemination of vehicle
7 information and safety advice to the public, the training of
8 all-terrain vehicle operators, and the issuance of all-terrain
9 vehicle safety certificates to vehicle operators over the age of
10 12 years who successfully complete the all-terrain vehicle
11 environmental and safety education and training course.

12 (b) For the purpose of administering the program and to
13 defray a portion of the expenses of training and certifying
14 vehicle operators, the commissioner shall collect a fee of \$15
15 from each person who receives the training. The commissioner
16 shall collect a fee for issuing a duplicate all-terrain vehicle
17 safety certificate. The commissioner shall establish the fee
18 for a duplicate all-terrain vehicle safety certificate that
19 neither significantly overrecovers nor underrecovers costs,
20 including overhead costs, involved in providing the service.
21 Fee proceeds shall be deposited in the all-terrain vehicle
22 account in the natural resources fund. In addition to the fee
23 established by the commissioner, instructors may charge each
24 person up to \$5 for class material and expenses.

25 (c) The commissioner shall cooperate with private
26 organizations and associations, private and public corporations,
27 and local governmental units in furtherance of the program
28 established under this section. School districts may cooperate
29 with the commissioner and volunteer instructors to provide space
30 for the classroom portion of the training. The commissioner
31 shall consult with the commissioner of public safety in regard
32 to training program subject matter and performance testing that
33 leads to the certification of vehicle operators. By June 30,
34 2003, the commissioner shall incorporate a riding component in
35 the safety education and training program.

36 Sec. 9. Minnesota Statutes 2004, section 84.925, is

1 amended by adding a subdivision to read:

2 Subd. 5. [TRAINING REQUIREMENTS.] (a) An individual who
3 was born after July 1, 1987, and who is 16 years of age or
4 older, must successfully complete the independent study course
5 component of all-terrain vehicle safety training.

6 (b) An individual who receives a citation for violating a
7 law related to the operation of an all-terrain vehicle must
8 successfully complete the independent study course component of
9 all-terrain vehicle safety training before continuing operation
10 of an all-terrain vehicle.

11 (c) An individual who receives three or more citations for
12 violating a law related to the operation of an all-terrain
13 vehicle in a two-year period must successfully complete the
14 independent study and the testing and operating course
15 components of all-terrain vehicle safety training before
16 continuing operation of an all-terrain vehicle.

17 (d) An individual must present evidence of compliance with
18 this subdivision before an all-terrain vehicle registration is
19 issued or renewed.

20 [EFFECTIVE DATE.] This section is effective January 1, 2006.

21 Sec. 10. Minnesota Statutes 2004, section 84.9256,
22 subdivision 1, is amended to read:

23 Subdivision 1. [PROHIBITIONS ON YOUTHFUL OPERATORS.] (a)
24 Except for operation on public road rights-of-way that is
25 permitted under section 84.928, a driver's license issued by the
26 state or another state is required to operate an all-terrain
27 vehicle along or on a public road right-of-way.

28 (b) A person under 12 years of age shall not:

29 (1) make a direct crossing of a public road right-of-way;

30 (2) operate an all-terrain vehicle on a public road
31 right-of-way in the state; or

32 (3) operate an all-terrain vehicle on public lands or
33 waters, except as provided in paragraph (e).

34 (c) Except for public road rights-of-way of interstate
35 highways, a person 12 years of age but less than 16 years may
36 make a direct crossing of a public road right-of-way of a trunk,

1 county state-aid, or county highway or operate on public lands
2 and waters, only if that person possesses a valid all-terrain
3 vehicle safety certificate issued by the commissioner and is
4 accompanied on another all-terrain vehicle by a person 18 years
5 of age or older who holds a valid driver's license.

6 (d) All-terrain vehicle safety certificates issued by the
7 commissioner to persons 12 years old, but less than 16 years
8 old, are not valid for machines in excess of 90cc engine
9 capacity unless:

10 (1) the person successfully completed the safety education
11 and training program under section 84.925, subdivision 1,
12 including a riding component; and

13 ~~(2) the riding component of the training was conducted~~
14 ~~using an all-terrain vehicle with over 90cc engine capacity; and~~

15 ~~(3) the person is able to properly reach and control the~~
16 ~~handle bars and reach the foot pegs while sitting upright on the~~
17 ~~seat of the all-terrain vehicle.~~

18 (e) A person at least ten years of age but under 12 years
19 of age may operate an all-terrain vehicle with an engine
20 capacity up to 90cc on public lands or waters if accompanied by
21 a parent or legal guardian.

22 Sec. 11. Minnesota Statutes 2004, section 84.9257, is
23 amended to read:

24 84.9257 [PASSENGERS.]

25 (a) A parent or guardian may operate an all-terrain vehicle
26 carrying one passenger who is under 16 years of age and who
27 wears a safety helmet approved by the commissioner of public
28 safety.

29 (b) For the purpose of this section, "guardian" means a
30 legal guardian of a person under age 16, or a person 18 or older
31 who has been authorized by the parent or legal guardian to
32 supervise the person under age 16.

33 (c) A person 18 years of age or older may operate an
34 all-terrain vehicle carrying one passenger who is 16 or 17 years
35 of age and wears a safety helmet approved by the commissioner of
36 public safety.

1 for a period of time if the commissioner determines that use of
2 the right-of-way causes:

3 (1) degradation of vegetation on adjacent public property;

4 (2) siltation of waters of the state;

5 (3) impairment or enhancement to the act of taking game; or

6 (4) a threat to safety of the right-of-way users or to
7 individuals on adjacent public property.

8 (d) The commissioner must notify the road authority as soon
9 as it is known that a closure will be ordered. The notice must
10 state the reasons and duration of the closure.

11 (e) A person may operate an all-terrain vehicle registered
12 for private use and used for agricultural purposes on a public
13 road right-of-way of a trunk, county state-aid, or county
14 highway in this state if the all-terrain vehicle is operated on
15 the extreme right-hand side of the road, and left turns may be
16 made from any part of the road if it is safe to do so under the
17 prevailing conditions.

18 (f) A person shall not operate an all-terrain vehicle
19 within the public road right-of-way of a trunk, county
20 state-aid, or county highway from April 1 to August 1 in the
21 agricultural zone unless the vehicle is being used exclusively
22 as transportation to and from work on agricultural lands. This
23 paragraph does not apply to an agent or employee of a road
24 authority, as defined in section 160.02, subdivision 25, or the
25 Department of Natural Resources when performing or exercising
26 official duties or powers.

27 (g) A person shall not operate an all-terrain vehicle
28 within the public road right-of-way of a trunk, county
29 state-aid, or county highway between the hours of one-half hour
30 after sunset to one-half hour before sunrise, except on the
31 right-hand side of the right-of-way and in the same direction as
32 the highway traffic on the nearest lane of the adjacent roadway.

33 (h) A person shall not operate an all-terrain vehicle at
34 any time within the right-of-way of an interstate highway or
35 freeway within this state.

36 Sec. 14. Minnesota Statutes 2004, section 84.928,

1 subdivision 2, is amended to read:

2 Subd. 2. [OPERATION GENERALLY.] A person may not drive or
3 operate an all-terrain vehicle:

4 (1) at a rate of speed greater than reasonable or proper
5 under the surrounding circumstances;

6 (2) in a careless, reckless, or negligent manner so as to
7 endanger or to cause injury or damage to the person or property
8 of another;

9 (3) without headlight and taillight lighted at all times if
10 the vehicle is equipped with headlight and taillight;

11 (4) without a functioning stoplight if so equipped;

12 (5) in a tree nursery or planting in a manner that damages
13 or destroys growing stock;

14 (6) without a brake operational by either hand or foot;

15 (7) with more persons than one person on the vehicle than
16 ~~it-was-designed-for~~, except as allowed under section 84.9257;

17 (8) at a speed exceeding ten miles per hour on the frozen
18 surface of public waters within 100 feet of a person not on an
19 all-terrain vehicle or within 100 feet of a fishing shelter; or

20 (9) in a manner that violates operation rules adopted by
21 the commissioner.

22 Sec. 15. Minnesota Statutes 2004, section 84.928,
23 subdivision 6, is amended to read:

24 Subd. 6. [REGULATIONS BY POLITICAL SUBDIVISIONS.] (a)
25 Notwithstanding any law to the contrary, a city or town, acting
26 through its governing body, may by resolution or ordinance
27 prohibit the operation of all-terrain vehicles on city streets
28 or town roads in its jurisdiction provided the regulations are
29 otherwise consistent with sections 84.92 to 84.929.

30 (b) A county or city, or a town acting by its town board,
31 may regulate the operation of all-terrain vehicles on public
32 lands, waters, and property under its jurisdiction other than
33 public road rights-of-way within its boundaries, by resolution
34 or ordinance of the governing body and by giving appropriate
35 notice, provided:

36 (1) the regulations must be consistent with sections 84.92

1 to 84.929 and rules adopted under section 84.924;

2 (2) an ordinance may not impose a fee for the use of public
3 land or water under the jurisdiction of either the Department of
4 Natural Resources or other agency of the state, or for the use
5 of an access to it owned by the state or a county or a city; and

6 (3) an ordinance may not require an all-terrain vehicle
7 operator to possess a motor vehicle driver's license while
8 operating an all-terrain vehicle.

9 (c) Notwithstanding any law to the contrary, a county board
10 by ordinance may allow the operation of all-terrain vehicles on
11 the road right-of-way shoulder, or inside bank or slope of a
12 county highway or county state-aid highway, if:

13 (1) the highway is in the agricultural zone; or

14 (2) safe operation in the ditch or outside slope is
15 impossible, and the county posts the appropriate notice; or

16 (3) the road is unpaved or designated as a
17 minimum-maintenance road under section 160.095.

18 Sec. 16. Minnesota Statutes 2004, section 85.015,
19 subdivision 13, is amended to read:

20 Subd. 13. [ARROWHEAD REGION TRAILS, IN COOK, LAKE, ST.]

21 Louis, Koochiching and Itasca Counties. (a)(1) The Taconite
22 Trail shall originate at Ely in St. Louis County and extend
23 southwesterly to Tower in St. Louis County, thence westerly to
24 McCarthy Beach State Park in St. Louis County, thence
25 southwesterly to Grand Rapids in Itasca County and there
26 terminate;

27 (2) The Northshore Trail shall originate in Duluth in St.
28 Louis County and extend northeasterly to Two Harbors in Lake
29 County, thence northeasterly to Grand Marais in Cook County,
30 thence northeasterly to the international boundary in the
31 vicinity of the north shore of Lake Superior, and there
32 terminate;

33 (3) The Grand Marais to International Falls Trail shall
34 originate in Grand Marais in Cook County and extend
35 northwesterly, outside of the Boundary Waters Canoe Area, to Ely
36 in St. Louis County, thence southwesterly along the route of the

1 Taconite Trail to Tower in St. Louis County, thence
2 northwesterly through the Pelican Lake area in St. Louis County
3 to International Falls in Koochiching County, and there
4 terminate.

5 (b) The trails shall be developed primarily for riding and
6 hiking. The Northshore Trail may also be used by all-terrain
7 vehicles and the commissioner of natural resources shall
8 designate the following portion as an all-terrain vehicle
9 trail: from the existing parking lot on Normanna Road, St.
10 Louis County 38, in the Southeast Quarter of the Southwest
11 Quarter, Section 16, Township 52 North, Range 13 West, to the
12 Moosewalk grant-in-aid trail junction near Hockamin Creek in the
13 Northeast Quarter of the Northwest Quarter, Section 26, Township
14 57 North, Range 8 West.

15 (c) In addition to the authority granted in subdivision 1,
16 lands and interests in lands for the Arrowhead Region trails may
17 be acquired by eminent domain. Before acquiring any land or
18 interest in land by eminent domain the commissioner of
19 administration shall obtain the approval of the governor. The
20 governor shall consult with the Legislative Advisory Commission
21 before granting approval. Recommendations of the Legislative
22 Advisory Commission shall be advisory only. Failure or refusal
23 of the commission to make a recommendation shall be deemed a
24 negative recommendation.

25 Sec. 17. Minnesota Statutes 2004, section 89.19,
26 subdivision 2, is amended to read:

27 Subd. 2. [RULEMAKING EXEMPTION.] Designations of forest
28 trails and changes to the designations by the commissioner shall
29 be by written order published in the State Register.
30 Designations and changes to designations are not subject to the
31 rulemaking provisions of chapter 14 and section 14.386 does not
32 apply. Before designating or changing a designation of forest
33 trails, the commissioner shall hold a public meeting in the
34 county where the largest portion of the forest lands are located
35 to provide information to and receive comment from the public
36 regarding the proposed trail designation or change in

1 designation. Sixty days before the public meeting, notice of
2 the proposed forest trail designation or change in designation
3 shall be published in the legal newspapers that serve the
4 counties in which the lands are located, in a statewide
5 Department of Natural Resources news release, and in the State
6 Register.

7 Sec. 18. Minnesota Statutes 2004, section 89.71, is
8 amended by adding a subdivision to read:

9 Subd. 8. [COUNTY-ADMINISTERED LAND.] The commissioner may
10 not install a gate to obstruct access to a state forest road if
11 the road is used by:

12 (1) a private landowner to cross county-administered land
13 within a state forest to access the landowner's private
14 property;

15 (2) a lessee of county land to access the lessee's
16 leasehold; or

17 (3) a county to gain access to county-administered land
18 within a state forest for county forest management purposes.

19 Sec. 19. Laws 2003, chapter 128, article 1, section 167,
20 subdivision 1, is amended to read:

21 Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a)
22 By December 31, 2006, the commissioner of natural resources
23 shall complete a review of the forest classification status of
24 all state forests classified as managed or limited, all forest
25 lands under the authority of the commissioner as defined in
26 Minnesota Statutes, section 89.001, subdivision 13, and lands
27 managed by the commissioner under Minnesota Statutes, section
28 282.011. The review must be conducted on a forest-by-forest and
29 area-by-area basis in accordance with the process and criteria
30 under Minnesota Rules, part 6100.1950. After each forest is
31 reviewed, the commissioner must change its status to limited or
32 closed, and must provide a similar status for each of the other
33 areas subject to review under this section after each individual
34 review is completed.

35 (b) If the commissioner determines on January 1, 2005, that
36 the review required under this section cannot be completed by

1 December 31, 2006, the completion date for the review shall be
2 extended to December 31, 2008. By January 15, 2005, the
3 commissioner shall report to the chairs of the legislative
4 committees with jurisdiction over natural resources policy and
5 finance regarding the status of the process required by this
6 section.

7 (c) Until December 31, 2010, the state forests and areas
8 subject to review under this section are exempt from Minnesota
9 Statutes, section 84.777, unless an individual forest or area
10 has been classified as limited or closed.

11 Sec. 20. [REQUIRED RULEMAKING.]

12 (a) The commissioner of natural resources shall amend
13 Minnesota Rules, part 6232.0300, subpart 7, to permit an
14 individual to operate an all-terrain vehicle on privately owned
15 land in an area open to taking deer by firearms during the legal
16 shooting hours of the deer season, regardless of whether the
17 individual is licensed to take deer on the day of operation, if
18 the individual is:

19 (1) pursuing an occupation when operating the all-terrain
20 vehicle;

21 (2) not in possession of a firearm; and

22 (3) the owner of the land on which the all-terrain vehicle
23 is operated, an employee of the land owner, or an immediate
24 family member of the land owner.

25 (b) The commissioner may use the good cause exemption under
26 Minnesota Statutes, section 14.388, subdivision 1, clause (3),
27 in amending the rule under paragraph (a). Minnesota Statutes,
28 section 14.386, does not apply, except to the extent provided
29 under Minnesota Statutes, section 14.388

30 Sec. 21. [DETERMINATION OF TAX ALLOCATION; REPORT TO
31 LEGISLATURE.]

32 The commissioners of natural resources, revenue, and
33 transportation shall jointly determine the amount of unrefunded
34 gasoline tax attributable to all-terrain vehicle use in the
35 state and shall report to the legislature by March 1, 2006, with
36 an appropriate proposed revision to Minnesota Statutes, section

1 296A.18.

2 Sec. 22. [APPROPRIATION.]

3 (a) \$200,000 is appropriated from the natural resources
4 fund to the commissioner of natural resources for the
5 off-highway vehicle safety and conservation grant program under
6 section 3. Of this amount, \$10,000 is from the off-highway
7 motorcycle account, \$20,000 is from the off-road vehicle
8 account, and \$170,000 is from the all-terrain vehicle account.

9 (b) \$75,000 is appropriated from the all-terrain vehicle
10 account in the natural resources fund for the study required in
11 section 21. This is a onetime appropriation.

12 (c) \$..... is appropriated from the natural resources
13 fund to the commissioner of natural resources for additional
14 grants-in-aid. Of this amount, \$..... is from the all-terrain
15 vehicle account, \$..... is from the off-road vehicle account,
16 and \$..... is from the off-highway motorcycle account.

17 (d) \$..... is appropriated from the natural resources
18 fund to the commissioner of natural resources to produce an
19 interactive CD-ROM training tool for the off-highway motorcycle
20 education and training program under Minnesota Statutes, section
21 84.791.

22 Sec. 23. [REPEALER.]

23 Minnesota Statutes 2004, section 84.901, is repealed.

APPENDIX
Repealed Minnesota Statutes for 05-2309

84.901 OFF-HIGHWAY VEHICLE SAFETY AND CONSERVATION PROGRAM.

Subdivision 1. Creation. The commissioner of natural resources shall establish a program to promote the safe and responsible operation of off-highway vehicles in a manner that does not harm the environment. The commissioner shall coordinate the program through the regional offices of the Department of Natural Resources.

Subd. 2. Purpose. The purpose of the program is to encourage off-highway vehicle clubs to assist, on a volunteer basis, in improving, maintaining, and monitoring of trails on state forest land and other public lands.

Subd. 3. Agreements. (a) The commissioner shall enter into informal agreements with off-highway vehicle clubs for volunteer services to maintain, make improvements to, and monitor trails on state forest land and other public lands. The off-highway vehicle clubs shall promote the operation of off-highway vehicles in a safe and responsible manner that complies with the laws and rules that relate to the operation of off-highway vehicles.

(b) The off-highway vehicle clubs may provide assistance to the department in locating, recruiting, and training instructors for off-highway vehicle training programs.

(c) The commissioner may provide assistance to enhance the comfort and safety of volunteers and to facilitate the implementation and administration of the safety and conservation program.

Subd. 4. Worker displacement prohibited. The commissioner may not enter into any agreement that has the purpose of or results in the displacement of public employees by volunteers participating in the off-highway safety and conservation program under this section. The commissioner must certify to the appropriate bargaining agent that the work performed by a volunteer will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

1 Senator moves to amend S.F. No. 1442 as follows:

2 Page 1, lines 26, 28, and 30, after "1" insert "or 2,
3 clause (1)"

4 Page 2, line 5, delete "of" and insert "or"

5 Page 2, line 8, after "2" insert ", clause (2) or (3)"

6 Page 2, line 10, delete "property or"

7 Page 5, line 26, delete "NOISE" and insert "SOUND" and
8 delete "January" and insert "July"

9 Page 5, line 29, delete "noise" and insert "sound"

10 Page 5, lines 30 and 36, delete "Noise" and insert "Sound"

11 Page 6, after line 36, insert:

12 "Sec. 8. [84.8015] [EDUCATION AND TRAINING.]

13 Subdivision 1. [PROGRAM ESTABLISHED WHEN REQUIRED.] (a)

14 The commissioner shall establish a comprehensive off-road
15 vehicle environment and safety education and training program,
16 including the preparation and dissemination of vehicle
17 information and safety advice to the public, the training of
18 off-road vehicle operators, and the issuance of off-road vehicle
19 safety certificates to operators 16 to 18 years of age who
20 successfully complete the off-road vehicle environment and
21 safety education and training courses.

22 (b) Beginning July 1, 2006, an individual who receives a
23 citation for violating a law related to the operation of an
24 off-road vehicle must successfully complete the environment and
25 safety education and training program established under
26 paragraph (a) before continuing operation of an off-road vehicle.

27 Subd. 2. [FEES.] For the purposes of administering the
28 program and to defray a portion of the expenses of training and
29 certifying vehicle operators, the commissioner shall collect a
30 fee not to exceed \$..... from each person who receives the
31 training. The commissioner shall collect a fee for issuing a
32 duplicate off-road vehicle safety certificate. The commissioner
33 shall establish the fee for a duplicate off-road vehicle safety
34 certificate that neither significantly overrecovers nor
35 underrecovers costs, including overhead costs, involved in
36 providing the service. The fees must be deposited in the state

1 treasury and credited to the off-road vehicle account.

2 Subd. 3. [COOPERATION AND CONSULTATION.] The commissioner
3 shall cooperate with private organizations and associations,
4 private and public corporations, and local governmental units in
5 furtherance of the program established under this section. The
6 commissioner shall consult with the commissioner of public
7 safety in regard to training program subject matter and
8 performance testing that leads to the certification of off-road
9 vehicle operators.

10 Subd. 4. [RECIPROCITY WITH OTHER STATES.] The commissioner
11 may enter into reciprocity agreements or otherwise certify
12 off-road vehicle environment and safety education and training
13 courses from other states that are substantially similar to
14 in-state courses. Proof of completion of a course subject to a
15 reciprocity agreement or certified as substantially similar is
16 adequate to meet the safety certificate requirements of this
17 section.

18 Subd. 5. [EXEMPTION FROM RULEMAKING AND LEGISLATIVE
19 APPROVAL.] The fees provided for under subdivision 2 are not
20 subject to the rulemaking provisions of chapter 14 and section
21 14.386 does not apply. The commissioner may establish the fees
22 under subdivision 2 notwithstanding section 16A.1283."

23 Page 9, line 6, after "(d)" insert "To be issued an" and
24 strike everything after "safety"

25 Page 9, line 7, strike "commissioner to persons" and insert
26 "certificate, a person at least"

27 Page 9, line 8, strike everything after the comma

28 Page 9, line 9, strike "capacity unless" and insert "must"

29 Page 9, line 10, strike "the person" and strike "completed"
30 and insert "complete"

31 Page 9, line 15, strike "the person is" and insert "be"

32 Page 16, delete section 18

33 Page 18, after line 21, insert:

34 "(e) \$..... is appropriated from the off-road vehicle
35 account in the natural resources fund to the commissioner of
36 natural resources to establish the off-road vehicle environment

1 and safety education and training program under Minnesota
2 Statutes, section 84.8015."

3 Renumber the sections in sequence and correct the internal
4 references

5 Amend the title accordingly

Senators Stumpf, Saxhaug, Bakk and Skoe introduced--

S.F. No. 1406: Referred to the Committee on Environment and Natural Resources.

1 A bill for an act

2 relating to natural resources; modifying requirements

3 for forest classification for off-highway vehicles;

4 amending Laws 2003, chapter 128, article 1, section

5 167, subdivision 1.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Laws 2003, chapter 128, article 1, section 167,

8 subdivision 1, is amended to read:

9 Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a)

10 Except as provided in paragraph (d), by December 31, 2006, the

11 commissioner of natural resources shall complete a review of the

12 forest classification status of all state forests classified as

13 managed or limited, all forest lands under the authority of the

14 commissioner as defined in Minnesota Statutes, section 89.001,

15 subdivision 13, and lands managed by the commissioner under

16 Minnesota Statutes, section 282.011. The review must be

17 conducted on a forest-by-forest and area-by-area basis in

18 accordance with the process and criteria under Minnesota Rules,

19 part 6100.1950. After each forest is reviewed, the commissioner

20 must change ~~its~~ the status of the lands within each forest to

21 limited or closed~~7--and~~. The commissioner may classify portions

22 of a forest as limited or closed. The commissioner must also

23 provide a similar status for each of the other areas subject to

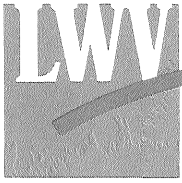
24 review under this section after each individual review is

25 completed.

1 (b) If the commissioner determines on January 1, 2005, that
2 the review required under this section cannot be completed by
3 December 31, 2006, the completion date for the review shall be
4 extended to December 31, 2008. By January 15, 2005, the
5 commissioner shall report to the chairs of the legislative
6 committees with jurisdiction over natural resources policy and
7 finance regarding the status of the process required by this
8 section.

9 (c) Until December 31, 2010, the state forests and areas
10 subject to review under this section are exempt from Minnesota
11 Statutes, section 84.777, unless an individual forest or area
12 has been classified as limited or closed.

13 (d) This subdivision does not apply to forest lands north
14 of U.S. Highway 2. All forest lands under the authority of the
15 commissioner as defined in Minnesota Statutes, section 89.001,
16 subdivision 13, and lands managed by the commissioner under
17 Minnesota Statutes, section 282.011, that are north of U.S.
18 Highway 2 shall be classified as managed for the purpose of
19 off-highway vehicle use.



THE LEAGUE
OF WOMEN VOTERS

M I N N E S O T A

550 RICE STREET ST. PAUL, MN 55103 PHONE (651) 224-5445 FAX (651) 290-2145

March 14, 2005

Senator John Marty, Chair
Senate Environment and Natural Resources Committee
323 Capitol
75 Rev. Dr. Martin Luther King , Jr., Blvd.
St. Paul, MN 55155

Re: Support for SF 720

Dear Senator Marty and Members:

The League of Women Voters of Minnesota (LWVMN) is a "good government" organization and we write today because we believe that an essential feature of good government is protecting our ecosystem for our children and grandchildren. We are committed to the protection and wise management of our natural resources. Irresponsible use of off-highway vehicles (OHVs) can cause enormous damage, as demonstrated at Spider Lake in Foot Hills State Forest, in wetlands across the state which have been turned into mud holes, along trout streams crossed and recrossed for sport, and on forest paths rutted and eroding into local waters.

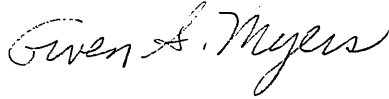
LWVMN has worked with a coalition of environmental groups for several years to promote legislation that will both protect our natural resources and give OHV users trails and guidelines so that they might pursue their sport without harming the environment. The required review and reclassification of our state forests contained in the 2003 OHV bill went a long way toward achieving these goals. The 2004 OHV bill was an effort to define activities that are specifically prohibited.

However, enforcing OHV laws has proven to be an on-going problem for conservation officers. A minority of OHV enthusiasts, the "few bad apples," has respect neither for the environment nor for the officers charged with protecting it. A few have been caught and charged, often after giving the arresting officer considerable grief. Some of these people appear to believe the tickets and fines are just part of the cost of having a "good time."

The goal of S.F. 720 is to increase the stakes for egregious and repeat offenders in an effort to protect Minnesota's public lands from reckless OHV operators. It will not affect any law-abiding OHV rider, because it is aimed directly at the "bad apples" who apparently believe that state laws are meant for others. One can be charged with a gross misdemeanor only for willful disregard of signs or for repeat or especially egregious offenses. These are not the actions of the law-abiding OHV operator.

We urge your support for S.F. 270. The good of the OHV community can only be enhanced by holding scofflaws accountable for the damage they do to the environment and to the reputation of their sport.

Sincerely,

A handwritten signature in cursive script that reads "Gwen S. Myers".

Gwen S. Myers
Action Chair
League of Women Voters of Minnesota

SUPPORT RESPONSIBLE OFF-HIGHWAY RIDING AND STRENGTHEN THE LAW!

PROTECT OUR WATER

Protecting Wetlands Creates Healthy Waters

Minnesota has been blessed with an abundance of natural areas, including our 12,000 plus lakes, 92,000 miles of rivers and streams, and vast wetlands, which are vital in maintaining our state's water quality and providing wildlife habitat.

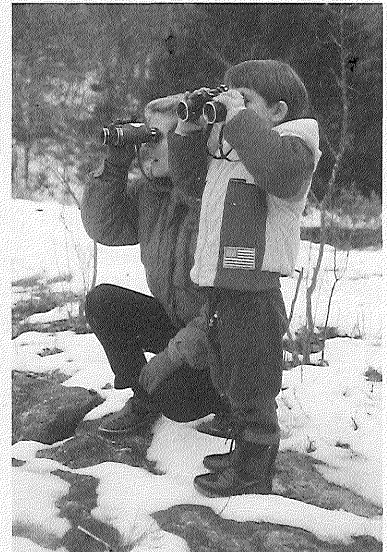
Wetlands play a critical role in creating and protecting our state's clean water, including filtering and storing water and recharging groundwater. Without wetlands, our lakes, rivers, and streams would face an increased threat from pollution such as pesticides, phosphorus, fertilizers, and runoff. Unfortunately, half of Minnesota's wetlands have been lost, so we must ensure that we protect what is left.

Wetlands are often in a delicate state of balance. Reckless drivers of off-highway vehicles (OHVs) can do an incredible amount of damage in a short period of time. To protect our wetlands, as well as our waterways and other public land, we must enforce and strengthen the laws that encourage responsible off-highway riding.

Off-Highway Vehicles in Minnesota



Minnesota has 206,000 registered all-terrain vehicles (ATVs), a figure that approximates snowmobile registrations. In addition, there are more than 6,000 registered dirt-bike motorcycles and 1,400 off-road trucks in Minnesota. The increasing popularity of these off-highway vehicles emphasizes the need for a balance between recreational riding and conservation for future generations.



Protect Our Great Outdoors

In some cases our public and private lands are being damaged by reckless OHV riding that harms trout streams, causes rutting in wetlands, and breaks the silence of the outdoors. To protect the state's natural heritage will require vigilance and a stronger approach toward reigning in such lawbreakers.

Hold Reckless Riders Responsible

Reckless OHV drivers who destroy public or private land must be held responsible for the damage they cause. Some lawbreakers have been repeatedly ticketed. We need strong enforcement measures to ensure responsible recreational driving. Enforcement can be done through increasing fines, placing moving violations on a driver's record, and seizing vehicles from repeat and flagrant offenders.

Protect our great outdoors and support responsible riders.

- Raise violation fines.
- Make access to funds in damage account permanent.
- Prohibit snorkels, excessive engine noise and extreme tires.
- Create a hotline to report violations.
- Repeal dedicated gas tax funds for 4x4 trucks.
- Place larger license plates on front and back of ATVs.
- Restrict 4x4 trucks in state forests to forest roads.
- Place moving violations on a driver's license record.
- Seize OHVs from flagrant or repeat offenders.



Photo courtesy of Department of Natural Resources. Shows a "mudder truck" after ravaging through a wetland. This driver was ticketed twice within 24 hours.

Eighty-five percent of Minnesotans in a recent statewide poll supported increasing fines for OHV violators who destroy fragile natural areas.

For more information contact:

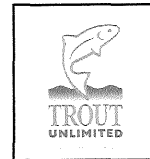
Susan Solterman
Audubon Minnesota
651.260.7040 mobile

Anne Hunt
Minnesota Environmental Partnership
651.290.0154 MEP
651.276.0380 mobile

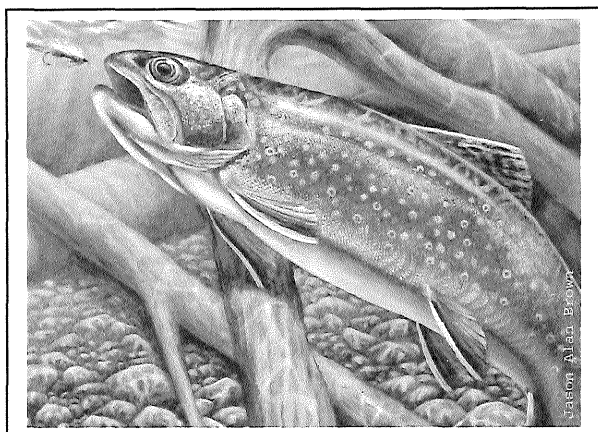
John Tuma
Minnesota Environmental Partnership
612.991.1093 mobile

www.ProtectOurWater.info





Off Road / ATV impact on Minnesota Trout Habitat



The 2005 Minnesota Trout Stamp features the brook trout as a symbol of trout streams yet it is present in fewer than 80% of it's historical range in Minnesota and ATV traffic in watersheds and wetlands will put the remaining habitat at further risk..

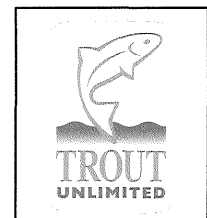
- **When trout spawn they typically move into shallow gravel beds to build 'redds' this is the area in which they lay their eggs. These redds then protect the eggs and allows for aeration of the eggs until they hatch several months later. Unfortunately this type of gravel habitat is in shallow areas that may be perceived as a suitable ford to cross a stream. The potential of direct destruction is not the only threat. The riding in and out of and along streams and through wetlands causes a general degradation of bank stability increasing erosion threats to the watershed. This erosion places an increased amount of silt into the river/stream eventually burying these gravel beds. Now to those who may say, "Fine let's just stock the rivers" one thing to consider this same erosion not only chokes out the redds but eliminates the insect and invertebrate life that trout and other species depend upon as food sources.**
- **The FY2006 proposed Federal Budget will reduce the funding for environmental and conservation programs in Minnesota by \$32 million. Why are we considering expanding a recreational activity that has demonstrated routine damage to habitat when funding may not be available to repair the damage?**
- **Agriculture has improved it's soil conservation by modifying it's plowing practices while the typical off-road recreation deliberately creates erosion risks by riding up hills and disrupting soil integrity.**
- **The manufacturers do an excellent job marketing their products however; one visual that is used often is that of the ATV driver driving through a stream or river bed. The manufacturers of off road recreational ATV's are in essence using an image in the promotion of their products that under existing Minnesota law is essentially an illegal act and is irresponsible.**
- **By DNR estimates there are approximately 7000 miles of ATV trails both sanctioned and unsanctioned in the state of Minnesota, currently there are less than 2000 miles of trout streams and over 50% of that habitat is either marginal or impaired.**

- **What is really at issue here is whether special privileges will be granted to one recreation group that will negatively impact and impair the recreational activities of other groups. The impact is not simply restricted to that of trout angling. Healthy watersheds support a large number of recreational activities from upland game bird hunting, turkey hunting, hiking, canoeing and kayaking not to mention that the gradual degradation of wetlands, watersheds will have a cascading affect all along and downstream of the damage to include other angling sports such as bass fishing.**
- **The angling industry in Minnesota is an estimated \$1 billion a year industry with literally thousands of jobs and businesses dependent upon a healthy wetlands and watershed systems.**
- **Many watersheds and rivers originate within public lands both state and federal and as such their management exists as a direct result of the public largess. As lawmakers it is your responsibility to see that all of these lands are protected and managed properly for the benefit of the greater good of recreational sports and future generations of Minnesotans.**

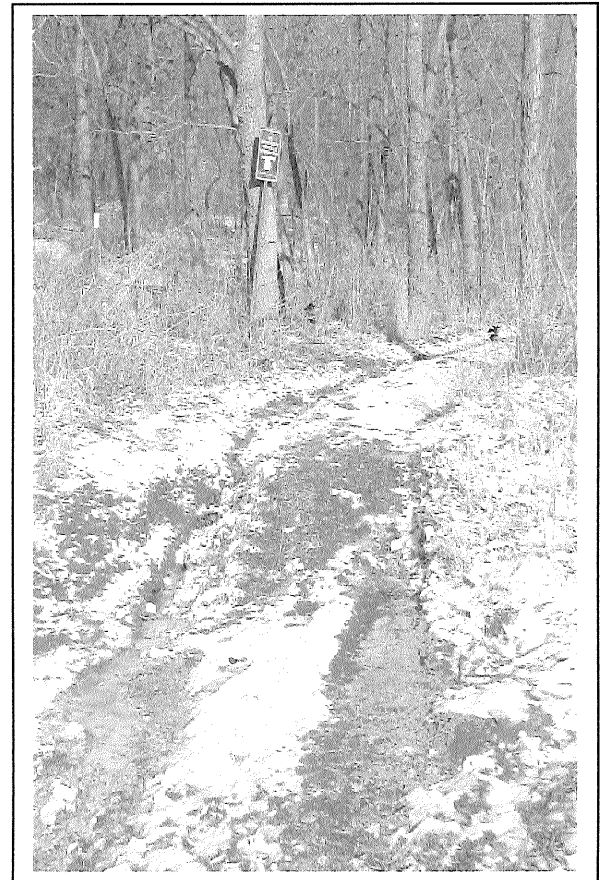


Sign in Whitewater prohibiting motorized vehicles, tracks clearly drive around the sign and the designation signs riddled with bullet holes

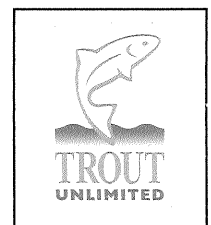
(Photos taken 03/13/2005)

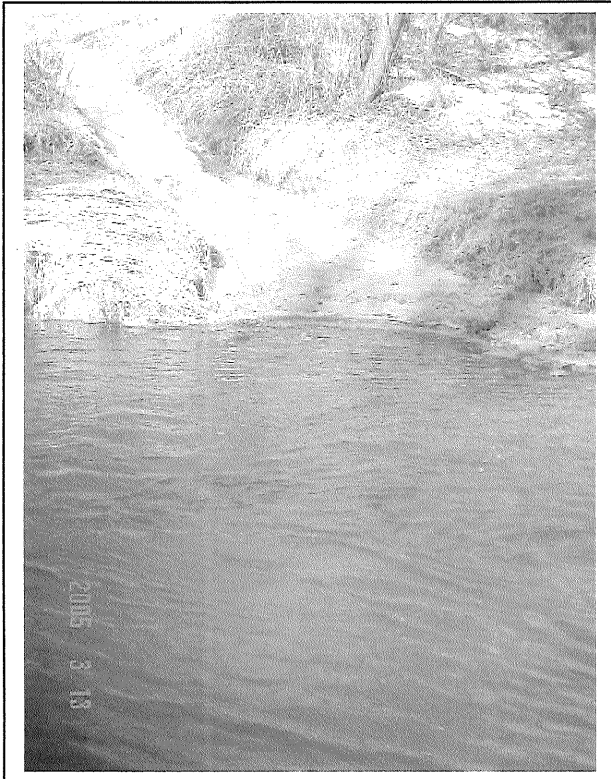


No motorized vehicle signs, evidence of recent traffic on the trail, even though the ground is frozen soil integrity is compromised and as soon as the spring melt begins along with the rains the erosion into the nearby trout streams will begin.



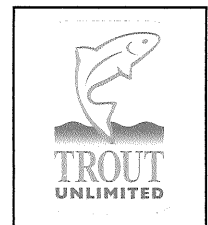
Recent rutting occurring in watershed along a trail that is clearly marked as non-motorized.





**Tracks like these along river banks
ad to destabilization and increased
erosion and general degradation
of trout habitat and the overall
ecosystem.**

**These photos were taken by a Trout Unlimited member on Sunday March 13, 2005
Along the south branch of the Whitewater River, damage along the North Branch is
reported as more severe and wide spread. Whitewater State park is a popular destination
for many Minnesotans to pursue a wide range of recreational activities.**



Recent Angler reports along streams that are currently open.

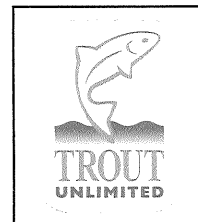
The south branch of the Whitewater: ATV trails start outside the barbed wire of Altura, upstream a washed out bridge near Crystal Springs. It runs through a camping area and continues upstream. As it continues upstream it ruts deeply in places parallel to the stream. ATV trails (unauthorized) run in both Directions in the area and crosses the streams in a half dozen places within a mile and half from public Parking and access to the stream system.

The south fork of the Root River: This ATV trail (unauthorized) starts near Choice, MN on highway 43 and runs parallel to the stream and then crosses Nepstad creek a 'brook trout' stream then cuts back again upstream from Cty Road #12 (note: it does not use an existing bridge). Then back along the Root the trail cuts back and forth across the stream bed in several places.

The north branch of the Whitewater: This trail (unauthorized) runs from the west side of the parking area along an area known as Fairwater along the river shed to the confluence of with Logan Creek and onto the Wabasha County Road #4. In this area the riders cross the streambed in numerous areas, in recent years the habitat has suffered severe damage as a result of serious flooding and erosion due to poor erosion control and damage to key aspects of the riparian zone that normally would counteract the effect of heavy rains.

A recent anecdotal report by an angler: On March 10, one of our members reported having his license check by a DNR enforcement officer. He told the officer that he was grateful that the DNR was out checking licenses. At that time they were both standing within sight of recent and extensive damage done by ATV traffic. When he queried the CO as to when the DNR would begin enforcing the laws and doing something about the 'routine' ATV traffic the officer merely shrugged his shoulders and walked away.

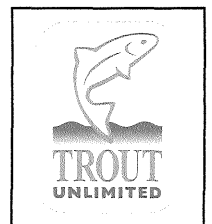
The weekend of March 5, 6 another member reported fishing in the Whitewater area when a teen aged rider on an ATV with no apparent physical impairments came riding along the river (bombing along was the term used) with his fishing gear on the back. When he saw that this part of the river was in use he proceeded to cross the stream and head on off perhaps to find another spot. Needless to say the fishing for that particular angler was ended for him by this rider's crossing.



Economic Impact of anglers in Minnesota*

- **The angling and fishing industry in Minnesota represents a \$1 billion dollar industry which supports tourism travel, local businesses, lodging, etc**
- **Coldwater angling (sportsmen who target trout and trout species, i.e. salmon) with all categories combined (streams, lakes, Lake Superior) represents approximately \$148 million in direct sales that supports \$90 million in resident income and supports approximately 3,300 jobs.**
- **Stream anglers (coldwater for primarily trout) represents over \$46 million with over 60% captured in direct sales retained in Minnesota amounting to over \$30 million in revenue and supports approximately 740 jobs.**
- **On an average day/trip coldwater anglers spend approximately \$105/person/day**
- **When anglers were queried by this study besides the aspect of catching fish anglers listed nature appreciation and habitat conditions as being the most important experience.**

* 2002 study conducted by the Minnesota DNR on economic impact of coldwater angling



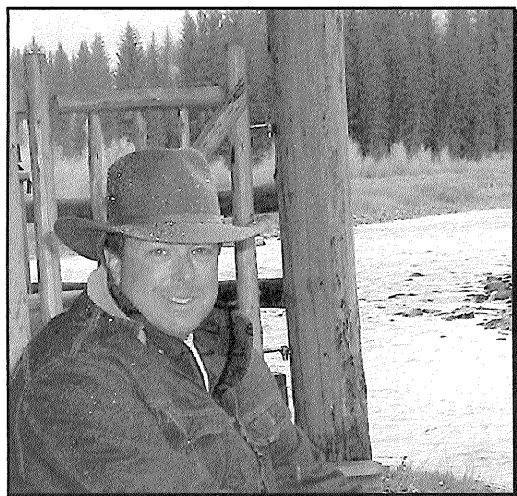
Trout Unlimited's Habitat Conservation Position

For more than forty years the Twin Cities Chapter of Trout Unlimited has worked towards coldwater conservation. Beyond the obvious goal of clean water our strategic initiatives are driven by several key factors that affect the historical range of trout in Minnesota:



First, well over half of the historic habitat capable of sustaining trout populations has been lost or hold diminished populations due to damage from logging, agriculture and general population development; **Second**, over 80% of the historic habitat of the fabled Minnesota Brook Trout no longer holds this fish. The renown coaster (Lake Superior Brook Trout that reached enormous proportions of 15+ pounds) no longer run in the rivers of the north shore or northern Wisconsin and are only found reproducing in one river in the Canadian province of Ontario; **Finally**, a significant amount of river/stream miles that hold trout are marginal at best and in serious need of habitat improvement if they are to continue to support recreational use and significant trout populations.

Our mission is to work towards protecting and restoring coldwater habitat and the education of the general public on the importance of healthy trout streams. We commit these resources in the hope that future generations of anglers will be able to experience the natural beauty of our streams and continue the fine heritage of our sport.



Kevin Biegler is the chapter president of Twin Cities Trout Unlimited; he was raised on the trout streams of Southwest Montana and attended Montana State University. He has worked in a varied career in sales and marketing in the Medical/Pharmaceutical Industry.

He invites you to become actively involved in Trout Unlimited. "Give us just a few hours of your time to help make a difference in the future of our natural resources". If you have any questions for Kevin or suggestions for TCTU feel free to email him at: kevin@twincitiestu.org

