



**DATE:** March 8, 2017

**TO:** House Committee on Transportation Policy

**FROM:** Amy Joyce, Legislative Liaison

**SUBJECT:** HB 2910, ATVs and Snowmobiles on Highways

## INTRODUCTION

House Bill 2910 amends Oregon law to allow all-terrain vehicle and snowmobiles to cross highways to travel on public highways in certain circumstances, providing for better connections between trails.

## BACKGROUND

The 2015 Oregon Legislature, in SB 192, created a work group to research and make recommendations on the topic of All Terrain Vehicles (ATVs) on state highways. The Oregon Department of Transportation (ODOT) participated in the workgroup, which also include ATV users, ATV dealers, county government representatives, federal representatives (BLM and USFS), and law enforcement. The workgroup looked at options for allowing ATVs to operate on state highways. The workgroup made a number of recommendations, many of which were incorporated into HB 2910.

## DISCUSSION

The bill provides a mechanism for a road authority, including ODOT, to allow incidental use of ATVs within highway right of way statewide, by designating ATV access routes. The idea behind these access routes is to provide short-distance connections between areas that are used by ATVs and where it makes sense for them to go. For example, if a trail ends at a road, and another trail picks up a short distance down the road on the other side, it might make sense to allow the ATV to travel along or down the road to pick up the next trail. Another example would be to travel from a campground to the nearby grocery store, gas station, or restaurant. Whether those make sense depends on many factors, such as roadway safety and local acceptance. The bill creates an Access Route Advisory Committee to analyze proposed routes and make recommendations to the Oregon Transportation Commission (OTC). The Commission then decides whether to approve a route. Each evaluation, recommendation, and decision is made case-by-case, taking several listed factors into consideration.

The bill also makes a technical change to the legal crossing of a state highway. The bill would allow an ATV, which is permissibly on a local road and approaching an intersection with a state highway, to cross at that intersection. Current law, perhaps a hold-over from a time when ATVs were not allowed on any public roads, required crossing a particular distance from an intersection.

ODOT has a few concerns with how the bill was drafted. First, the bill gives the OTC authority to designate these ATV routes throughout the state, not only on state highways. We anticipate

the intention was to limit the OTC authority to state highways, not city streets and county roads. Also, the bill uses “shall” regarding what the OTC must do. We anticipate this directs the authority to the OTC but does not require a particular outcome in any particular case.

Second, as advised by Department of Justice, ODOT is concerned that as drafted the bill may implicate the constitutional restriction on the Highway Fund. Gas tax revenue attributed to off-road ATV use is sent to the Parks Department for use in their recreational ATV program. Bringing ATVs back onto the highway means they are using the system for which they are not paying. The work group was aware of, and wrestled with, this issue. The group discussed that funding for access route improvements, maintenance, and signage would be paid for by the Parks Department. DOJ has remaining concerns, but suggests there is a simple fix that could satisfy the constitutional requirement and not disrupt the goal of the bill.

Third, the bill does not currently include the work group recommendations around vehicle equipment and driver safety. One recommendation was to exempt ATVs on access routes from the equipment standards applicable to motor vehicles on public roads. That is included in the bill. Another recommendation was for ODOT to write ATV equipment rules applicable on these routes. That is not in the bill. The recommendation regarding driver safety – driver license, helmet, safety belt (if available), and insurance – also is not part of this bill. ODOT suggests these safety provisions be included in this legislation. This would help ensure the riders using these access routes are protected as they interact with the larger motor vehicles on the highway.

ODOT has been working with the sponsor on amendments that more closely follow the recommendations of the work group, and resolve the Highway Fund issue.

#### **SUMMARY**

HB 2910 creates a mechanism for a case-by-case allowance for incidental use of ATVs on highways. The bill largely contains the recommendations of the interim work group. Those recommendations not in the bill cause ODOT concern. We look forward to working with the committee, and continuing to work with the sponsor, on changes to reflect the recommendations of the work group.