

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 189 (Sixth Edition)

SHORT TITLE: All-Terrain Vehicle Regulation.

SPONSOR(S): Senator Purcell

FISCAL IMPACT					
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
<b>GENERAL FUND</b>					
<b>Judicial</b>	Exact amount cannot be determined (see pg. 2 for details).				
<b>POSITIONS: (cumulative)</b>	Exact amount cannot be determined; no additional positions anticipated.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Judicial Branch					
<b>EFFECTIVE DATE:</b> December 1, 2005					

**BILL SUMMARY:**<sup>1</sup> This bill would amend Article 3 of Chapter 20 of the General Statutes by adding a new Part 10C regulating the sale and operation of all-terrain vehicles. The bill would:

- 1) Enact graduated age requirements for operating an ATV with specified engine capacities.
- 2) Prohibit carrying a passenger on an ATV not specifically designed to accommodate a passenger.
- 3) Require that all persons under age 16 be under continuous visual supervision by a person 18 years old or older while operating an ATV.
- 4) Prohibit the sale of an ATV for use by a person less than the minimum applicable age based on the engine capacity of the vehicle.
- 5) Require equipment standards of brakes, mufflers, and spark arresters for every ATV sold or operated in the State.
- 6) Prohibit the operation of an ATV a) without eye protection and a safety helmet; b) while under the influence of alcohol or drugs; c) in a careless or reckless manner; d) on a public street, road, highway, interstate, or limited-access highway; or e) during hours of darkness without a lighted headlamp and taillamp.
- 7) Require safety training and certification for all ATV operators.

<sup>1</sup> Adapted from Bill Digest S.B. 189 (02/23/2005).

A violation of the provisions regulating the age of the operator, the sale of certain ATVs to underage operators, or the operation of an ATV on public roads would be a Class 2 misdemeanor. A violation of any other provision under the new Part 10C would be an infraction subject to a fine of not more than \$200.

The third edition of the bill modified the graduated age requirements for the operation and sale of ATVs with specified engine capacities and added new G.S. 20-171.17 to exempt from the provisions of the bill persons engaged in farming, hunting, or trapping. Children under the age of 8 (previously age 12) would be prohibited from operating ATVs; children under the age of 12 would be prohibited from operating an ATV with an engine capacity of 70 cubic centimeter displacement or greater; and children under the age of 16 would be prohibited from operating an ATV with an engine capacity greater than 90 cubic centimeter displacement. The restrictions on the sale of ATVs based on the operator's age and specified engine capacities are modified accordingly.

The fourth edition of the bill made a technical correction only.

The fifth edition 1) made all violations of new Part 10C infractions (eliminating the Class 2 misdemeanor); 2) eliminated the exemption for farming, hunting, and trapping as proposed in the third edition; 3) made parents or legal guardians rather than the child responsible for all violations related to age requirements; and, 4) changed the effective date from October to December 1, 2005.

The sixth edition reinserts G.S. 20-171.17 as proposed in the third edition, providing exemptions from the provisions of the bill to persons engaged in farming, hunting, or trapping. New subsection (c) is also added, providing an exemption to anyone who owned the all-terrain vehicle prior to the effective date of the bill.

## **ASSUMPTIONS AND METHODOLOGY:**

### **Department of Correction and Department of Juvenile Justice and Delinquency Prevention**

Under the fifth and subsequent editions of the bill, all violations would be infractions. Infractions are punishable with a fine only, so there would be no fiscal impact on the agencies that supervise and control offenders: the Department of Correction and the Department of Juvenile Justice and Delinquency Prevention.

### **Judicial Branch**

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The fifth and subsequent editions of this bill would create several new infraction offenses related to the operation and sale of all-terrain vehicles. Violations resulting in an infraction would affect court workload and costs. However, as the infraction offenses would be new, AOC has no historical data from which to estimate the number of violations that would occur and, therefore, the specific cost to the Courts cannot be determined.

The exception to the regulations added in the sixth edition for individuals who owned the ATV prior to the bill's effective date and for operation of ATVs while farming, hunting, or trapping would reduce the potential number of infractions under the bill. However, as the number of individuals that would own the ATV prior to the bill's effective date or operate an ATV while farming, hunting, or trapping in a manner that would otherwise be unlawful is unknown, the magnitude of any reduction in the number of infractions cannot be estimated.

Per infraction case requiring court time, AOC estimates that the cost would be roughly comparable to a Class 3 misdemeanor—approximately \$867 per trial for time in court and \$41 per guilty plea. However, AOC notes that the schedule adopted by the Conference of Chief District Court Judges is likely to make infraction offenses waiveable, which would reduce average costs. Each infraction would be punishable by a fine of up to \$200, the proceeds of which would be remitted to local governments and allocated to the local school system.

**SOURCES OF DATA:** Judicial Branch

**TECHNICAL CONSIDERATIONS:** None.

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