

EXHIBIT 56
DATE 2-18-05
HB 651

To: House Transportation Committee

February 18, 2005

Chairman Mendenhall & Committee Members:

Please accept this as testimony in opposition to HB 651.

The following statements regarding HB 651 are offered from the Great Falls Trail Bike Riders Association. The members are a mix of off highway vehicle riders, motorcycle and quadricycle, from Great Falls and the surrounding communities. Our base membership is made up of families who recreate on off highway vehicles on the public land in Montana.

This bill first appeared to be written to eliminate quadricycles from the highways and streets in Montana, 23-3-821, New Section 5. The addition of "off highway vehicle" on February 3rd in Section 3 compounds the problems this bill would create for the 33,394 registered OHVs in Montana. These registered OHVs are quadricycles and motorcycles with the OHV sticker required when you ride on trails on public land (off highway).

Section 3 states "an off highway vehicle (23-2-801) may not be operated on a street (61-1-203) or on a highway (61-1-201)". This would make it illegal for our members to ride on the "publicly maintained ways"; i.e. streets, roads, and trails, in Montana. We ride dual sport motorcycles, off highway motorcycles conforming to DMV form MV70 Inspection List, and standard street legal motorcycles, all with OHV stickers. Once the OHV sticker has been purchased for a motorcycle, it now considered an off highway vehicle.

Under this bill, my dual sport motorcycle, which has an OHV sticker, a 17 digit VIN, DOT tires, neutral light, turn signals, and complies with the federal safety standards, is considered an off highway vehicle and would be prohibited from the streets and highways of Montana.

The OHV community has worked hard to make their vehicles comply with current state law. This has been costly and a time consuming process for Montana citizens. Last year a higher fee was paid for the "one time" registration, "permanent" plate and OHV sticker for all OHV's. We have been and continue to be conscientious and conform to the laws. We will continue working with state agencies and land managers to create a positive future for off highway vehicle recreation as well as work with legislators to minimize the unintended consequences of legislation negatively affecting us.

This bill would take away our ability to recreate legally; taking the quadricycle and the off highway motorcycle off any "publicly maintained way" in Montana.

We oppose this bill. We would also oppose any attempt to amend. We ask that you not pass this bill.

Mona Ehnes, President
Great Falls Trail Bike Riders Association
P O Box 602
Great Falls, MT 59403

Specific Items:

Section 1

"15-1-122 (3) (ii) (B) \$3.65 for motorcycle and \$1.83 for each quadricycle." We question the rationale for this addition. (b) (i) designates \$2.75 for each off-highway vehicle to the noxious weed account.

Section 3. Direct crossing only, using the definitions for highway and street and off highway vehicle. (see below).

(4) (b) "primary or secondary highway that has a posted speed limit of 45 miles an hour or less" This would make the much used connection from Neihart south to Jefferson Creek Road and Neihart north to Harley and Carpenter Creek road illegal. This is the only route, is on the major highway, without area in the ditches that could make a parallel trail possible. This is only one example.

(c) "operated in the barrow pit right of way" the same route: Neihart to Carpenter/Harley East barrow pit right of way, nothing but rocks/ledges, West barrow pit right of way, Belt Creek.

New Section, Section 5. The intent of this may have been to restrict quadricycles, but in fact it would eliminate the current legal use of quadricycles. The current definitions of a highway and a street were not taken into account in this section.

MCA Definitions

23-2-801. Definition. (1) As used in this part, *"off-highway vehicle"* means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(2) Off-highway vehicle does not include:

(a) vehicles designed primarily for travel on, over, or in the water;

(b) snowmobiles; or

(c) except as provided in 23-2-804, vehicles otherwise issued a certificate of title and registered under the laws of the state, unless the vehicle is used for off-road recreation on public lands.

61-1-201. Highway. *"Highway"* means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular travel, except that for the purpose of chapter 8 the term also includes ways which have been or shall be dedicated to public use.

61-1-202. Public highway. *"Public highway"* means "highway" as defined in 61-1-201.

61-1-203. Street. *"Street"* means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular travel.

February 18, 2005

TO: House Transportation Committee
FROM: Dal Smilie, Vice Chairman, American Motorcyclist Association
RE: Testimony in Opposition to HB 651

This bill greatly restricts the use of motorcycles that are able to travel off-road and quadricycles.

The bill addresses "off-highway vehicles" which term is defined in 23-2-801, MCA. The term includes motorcycles and quadricycles among other things that can be used for trail use. In section (2)(c) titled and street registered vehicles are exempted "unless the vehicle is used for off-road recreation on public lands". That means that a perfectly street legal motorcycle or quadricycle that is also used on public lands is an OHV.

OHVs are banned from utilizing a "highway" as it is defined in 61-1-201, MCA. That term is defined as a "way" open to the "public" for the "purpose of vehicle travel". That would include any paved or dirt, road, street, four-wheel drive road or trail. A "trail" certainly is a "way" open to the "public" for the "purpose of vehicle travel".

The clear reading of HB 651, using the statutory definitions, bans travel by any motorcycle capable of traveling on a trail from being used on any road or even a trail! This will eliminate many street legal motorcycles including those manufactured for both street and trail by the manufacturer.

The bill does allow some use on "streets" as that term is defined by 61-1-203, MCA. But of course the section cited also defines a "street" as a "way" open to the "public" for the "purposes of vehicle travel" so there is no distinction between a "street" and a "highway" and the same bad results for motorcyclists occur.

Some use is allowed on a few roads posted 45 mph or less, there are few of those. Borrow pits can be used where they exist but on many backroads they do not. Plus it isn't particularly safe to ride in and out of borrow pits.

Quadricycles and dirt bikes have been allowed to modify the machines to make them street legal, dual sport bikes are street legal. This bill will essentially terminate the permanent registration citizens have already paid for. This is an unconstitutional "taking" in its own right.

Banning quadricycles from paved roads is unnecessary. They are used by Montanans and tourists to hunt, rock hound and for many recreational uses. Banning them from coming into our towns to fill up a gas tank, get to a campground or motel or café is counterproductive and does not cure any problem that actually exists.

Please do not pass this bill.