

Non-Conventional Vehicles Study 2013 Report

November 2013
Virginia Department of Motor Vehicles

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Executive Summary

In September 2011, Chairman Joe May, House Transportation Committee, and then Chairwoman Yvonne Miller, Senate Transportation Committee, called upon the Department of Motor Vehicles to establish an ongoing work group to address the increasing consumer demand for vehicles that do not fit into the current motor vehicle definitions provided in the *Code of Virginia*. During the first year of the Non-Conventional Vehicles Study, the work group focused on low-speed vehicles, motorcycle classifications, mopeds, and all-terrain vehicles. Those proposed recommendations passed the General Assembly earlier this year (see Chapter 783 of the Virginia Acts of Assembly of 2013).

During this second year of the Non-Conventional Vehicles Study, in addition to the issues carried over from the first year of the study, Chairman Steve Newman referred several issues to the group for further review. The group was divided into six separate committees, each with its own charge. After holding numerous committee meetings throughout the spring and summer, the entire stakeholder group met in September to review and finalize the group's recommendations as follows:

All-Terrain Vehicles Committee

Charge: To consider the definitions of all-terrain vehicles and recreational off-highway vehicles submitted by the Motorcycle Industry Council, and to review the concept of affixing a decal to all-terrain vehicles to indicate that the vehicle has been titled.

Recommendation: The work group chose not to recommend any changes to the all-terrain vehicle definition at this time or to require that all-terrain vehicles display decals indicating titling. The group will continue to work with the Motorcycle Industry Council to monitor national activity on these definitions should any amendments become necessary in the future.

Moped Legislation Committee

Charge: To review (1) moped passenger restrictions; (2) increasing the penalty for certain moped operational requirements; (3) prohibiting moped operation on roads with posted speed limits over 35 miles per hour; and (4) clarifying DUI restrictions for the operation of mopeds.

Recommendation: The work group decided not to recommend any changes to moped passenger restrictions, to penalties, or to any road restrictions at this time. However, the work group recommended that DMV continue its review of the language on DUI restrictions for the operation of mopeds to determine if any further clarification is necessary. In addition, DMV will continue tracking moped activity so that the group has a more accurate count of the number of mopeds being operated on Virginia highways and their involvement in crashes.

Moped Dealer Licensing Committee

Charge: To review whether moped dealers should be licensed.

Recommendation: The group recommended that no licensing requirements be placed on moped dealers at this time. DMV will continue to gather information on the mopeds being titled and registered that were not sold by an already licensed dealer in order to get a better understanding of what types of retail outlets are selling mopeds and what impact any licensing requirements would have on them.

Taxes Committee

Charge: To look at the taxation structure of all-terrain vehicles, off-road motorcycles, and mopeds.

Recommendation: The group recommended that no changes to the taxation structure be made at this time. Once the requirement that mopeds be titled and registered becomes mandatory (on July 1, 2014), the group will have a much clearer picture of the number of mopeds in operation on Virginia highways and the impact of any change to the taxation structure.

Specially Constructed Vehicles Committee

Charge: To develop a procedure for reviewing specially constructed vehicles presented to DMV for registration.

Recommendation: The group recommended that if a specially constructed vehicle is denied registration, that vehicle can be submitted to the Specially Constructed Vehicles Committee for further review. The group also recommended that DMV convene another stakeholder group involving those familiar with the mechanics of these types of vehicles (such as representatives from body shops) to develop an inspection program for specially constructed vehicles.

Three-Wheel Vehicles Committee

Charge: To consider a way to differentiate those three-wheel vehicles that operate and handle more as passenger cars than as motorcycles.

Recommendation: The group recommended creating a separate definition ("autocycle") and requirements for those three-wheel vehicles that operate and handle more as automobiles than motorcycles. Such a recommendation is in line with the American Association of Motor Vehicle Administrators best practices for regulating operation and registration of three-wheel vehicles.

In addition to the above specific charges, during the final stakeholder meeting in September, Commissioner Holcomb identified the need for the work group to examine the operation of autonomous, or self-driving, vehicles on Virginia's public highways. Autonomous vehicles have been tested at the Virginia Tech Transportation Institute's Smart Road. It was recommended that DMV continue to work with the Non-Conventional Vehicles group as well as other impacted stakeholders should any legislation on autonomous vehicles be required.

1. Introduction

Seeing an increase in consumer demand for vehicles that do not fit into the current motor vehicle definitions provided in the *Code of Virginia*, in September 2011, Chairman Joe May, House Transportation Committee, and then-Chairwoman Yvonne Miller, Senate Transportation Committee, called upon the Department of Motor Vehicles (DMV) to establish an ongoing work group to address these non-conventional vehicles. The charge was to meet no fewer than two times a year and to propose legislation as needed regarding the definition, titling and registration, and licensing of drivers of these vehicles. The work group was also asked to take into account the statutes and regulations governing these non-conventional vehicles in other states, particularly those that border Virginia, with the goal of promoting cross-border standardization.

The work group is led by DMV staff and includes, among others, representatives from the Virginia Automobile Dealers Association, Virginia Motorcycle Dealers Association, Virginia Coalition of Motorcyclists, the insurance industry, Virginia State Police, Virginia Department of Environmental Quality, Virginia Department of Transportation, Virginia Department of Aviation, Virginia Department of Game and Inland Fisheries, Virginia Sheriff's Association, Virginia Association of Chiefs of Police, Motor Vehicle Dealer Board, American Automobile Association, Motorcycle Safety League of Virginia, Farm Bureau, the Virginia Municipal League, and the Virginia Agribusiness Council. Specific stakeholders were included on an as needed basis depending on the issues under discussion.

After the first year of the study, the group made recommendations relating to motorcycle operator classifications, mopeds, all-terrain vehicles, and low-speed vehicles.¹ The resulting legislation (Senate Bill 1038) passed the General Assembly and can be found in Chapter 783 of the Virginia Acts of Assembly of 2013.

During the 2013 General Assembly Session, Chairman Steve Newman referred Senate Bill 731 and certain provisions of Senate Bill 1007 to the Non-Conventional Vehicles Study for further review. Identical to a bill introduced in the 2012 General Assembly Session (see Senate Bill 333), Senate Bill 731 would restrict the operation of mopeds on highways with posted speed limits exceeding 35 miles per hour. The work group examined this issue during the study's first year and determined that such a prohibition would greatly reduce - and in some instances restrict entirely - the ability of operators to use their mopeds for travel on Virginia's highways. However, because the issue is still a concern, Chairman Newman requested that the group revisit this issue, paying particular attention this time to urban versus rural roads. Regarding Senate Bill 1007, Chairman Newman requested that the Non-Conventional Vehicles Study review its provisions restricting passengers on mopeds and increasing the upper penalty limit for certain moped operational requirements from \$50 to \$250.

¹ A copy of the 2012 Non-Conventional Vehicles Report can be found at the following link: [http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD3802012/\\$file/RD380.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD3802012/$file/RD380.pdf)

Though not related to specific referred bills, Chairman Newman also requested that the work group take another look at the tax issues relating to all-terrain vehicles, off-road motorcycles, and mopeds (i.e. whether these vehicles should continue to be assessed the retail sales and use tax or instead should be subject to the motor vehicle sales and use tax, commonly referred to as the titling tax). Finally, during the debate on the House floor over the legislation resulting from last year's study, there was much confusion surrounding the issue of whether or not someone who has had their license suspended for a DUI can operate a moped on Virginia's highways. Chairman Newman requested that the work group review this issue to see if any further clarification is warranted.

In addition to those issues Chairman Newman requested that the Non-Conventional Vehicles group review this year, there are a few items that were carried over from the first year of the study. As the study was winding down last fall, Commissioner Holcomb agreed to take another look at the definition of all-terrain vehicle in order to consider recent recommendations of the Motorcycle Industry Council. Also, the issue of whether moped dealers should be licensed was carried over to the second year of the study. The work group also revisited the definition of three-wheel vehicles. Three-wheel vehicles are typically treated as motorcycles, yet many look and handle more like a passenger car. Finally, the group was tasked with developing a process for reviewing specially constructed vehicles presented to DMV for titling and registration.

To study all of these issues, six separate committees were organized so that stakeholders could focus on the specific issues that directly impacted them.² The committees were organized into the following subject areas:

- All-terrain vehicles
- Moped legislation follow-up
- Moped dealer licensing
- Taxes
- Specially constructed vehicles
- Three-wheel vehicles

The recommendations of these committees were then brought to the entire Non-Conventional Vehicles work group for final discussion and approval and are summarized in this report.

² A list of the committees and members can be found at Appendix C.

2. All-Terrain Vehicles

During the first year of the Non-Conventional Vehicles Study, one of the group's recommendations was to update the definition of all-terrain vehicle (ATV) in order to make it more inclusive of the types of ATVs coming onto the market. As the report and legislation were being finalized, another approach to defining ATVs was suggested by the Motorcycle Industry Council. In addition to amending the definition of ATV, The Motorcycle Industry Council recommended that states create a new, separate definition for recreational off-highway vehicle (ROV). At that time, it was determined that the recommendation of the work group would move forward as originally approved but Commissioner Holcomb agreed to have the issue looked at again this year. Therefore, the ATV committee was charged with reconsidering the definition of ATV and considering the creation of a separate definition for ROV. In addition to looking at these definitions, the committee was charged with reviewing the concept of affixing a decal to ATVs as indication that the vehicle had been titled.

ATV Definition

The Motorcycle Industry Council recommended creating separate definitions for ATVs and ROVs. Generally, the ATV definition would include straddle seating, handlebars, and three or more wheels. The ROV definition would include four or more wheels, side-by-side bench seating, a steering wheel, and a rollover protection bar.³ The Motorcycle Industry Council explained that these definitions were also supported by the Specialty Vehicle Institute of America and the Recreational Off-Highway Vehicle Association. The Motorcycle Industry Council recommends that ATVs and ROVs be defined separately because safety provisions differ for them. It was noted that the United States Consumer Product Safety Commission has initiated a rule making process for both of these vehicles. Since the ROVs are still a relatively new class of vehicles, many states are just starting to provide for these vehicles in their state laws.

Therefore, it was the consensus of the work group not to recommend any changes to the ATV definition at this time. The definition was amended during the 2013 General Assembly Session and the committee was hesitant to make any additional changes and submit legislation amending the definition at this time. The group will continue to monitor national activity on the issue in case any amendments become necessary in the future.

ATV Decals

During the discussion on ATVs last year, it was suggested that a decal or other type of sticker be placed on the ATV as an indication that it has been properly titled with DMV. Pursuant to Va. Code § 46.2-644.1, all ATVs purchased as new on or after July 1, 2006 are

³ A copy of the proposed definitions for ATVs and recreational off-highway vehicles can be found at Appendix E.

required to be titled with DMV. Commissioner Holcomb had been advised that Maryland was issuing decals to ATVs in connection with titling those vehicles in that state. Maryland began issuing decals to ATVs, snowmobiles, and off-road motorcycles on October 1, 2010. The decal was developed to provide easy retrieval of vehicle and owner information by law-enforcement and the Maryland Motor Vehicle Administration.

The group did not recommend affixing a decal or sticker to ATVs. While it might be an easily identifiable way for law-enforcement to visually see if an ATV had been properly titled with DMV, the decals could also fall off or be removed by the owner. If the owner sold the ATV, then the decal would no longer contain valid owner information. The group did not see enough benefit to requiring that ATVs display a decal indicating that they are titled.

3. Moped Legislation Committee

This committee reviewed several issues arising out of legislation from the 2013 General Assembly Session (Senate Bills 731 and 1007) as well as a clarification of a DUI issue that arose as the Non-Conventional Vehicles legislation was discussed on the floor of the House. The moped legislation committee reviewed the following issues:⁴

- Moped passenger restrictions
- Increasing moped penalties from an upper limit of \$50 to an upper limit of \$250
- Prohibition on operating mopeds on roads where the posted speed limit is greater than 35 miles per hour
- Clarification of moped DUI restrictions

Passenger Restrictions

Senate Bill 1007 would have provided that “No person shall operate a moped on any highway with more than one passenger.” Chairman Newman requested that the work group review moped passenger restrictions and whether there should be any age limits placed on moped passengers.

The *Code of Virginia* already places restrictions on moped passengers. Section § 46.2-906 provides that: “No . . . moped shall be used to carry more persons at one time than the number of persons for which it was designed or is equipped” Mopeds that are designed or equipped to carry passengers typically have a footrest or passenger foot area for the passenger to use while being transported on that moped. This is similar to the motorcycle passenger

⁴ While there were additional issues raised in Senate Bill 1007, those issues were not referred to the work group by Chairman Newman for further review as they had already been extensively discussed or are current law. For instance, Senate Bill 1007 would require that moped operators wear helmets, but that provision was already included in the Non-Conventional Vehicles legislation and mandatory helmet use for moped operators and passengers is now current law. Senate Bill 1007 also would have required that moped operators pass a special examination and possess a valid driver’s license. These issues were extensively reviewed during the first year of the study and the group declined to recommend that moped operators be tested or possess a valid driver’s license.

requirement, which states that no other person “shall ride on a motorcycle unless the motorcycle is designed to carry more than one person.” (Va. Code § 46.2-909). However, a passenger is prohibited when the motorcycle is being operated by a person holding a learner’s permit (see Va. Code § 46.2-335). As moped operators are not required to be licensed, such a restriction would not be feasible for a moped operator. Moped industry representatives also noted that, for those mopeds designed to carry passengers, they are typically not designed to carry more than one passenger.

Next, the group discussed whether or not there should be an age restriction placed on moped passengers. While there is currently an age restriction on moped operators (they must be at least 16 years old), there is no age restriction placed on moped passengers. There were concerns about placing an age restriction on moped passengers when there are no such restrictions on motorcycle and bicycle passengers. As the Virginia State Police noted, if we placed an age restriction on moped passengers, we would be singling out one classification of vehicle and it seems inconsistent to treat passengers on a moped differently than passengers on motorcycles or bicycles. Adding an age restriction for moped passengers would be placing an extra requirement on them when it is unclear if there is really a problem with moped passengers. For calendar years 2011 and 2012, there were no convictions for violation of § 46.2-906. Therefore, it was the recommendation of the group to place no additional restrictions on moped passengers. Current law (Va. Code § 46.2-906) addresses moped passengers sufficiently at this time.

Penalty Increase

Senate Bill 1007 would have increased the penalties under § 46.2-914 (i.e. driving a moped over 35 miles per hour, driving a moped when the operator is under age 16 years, operating a moped with no identification, and operating a moped on any Interstate Highway System component) from a fine of up to \$50 to a fine of up to \$250. The legislation also proposed the same increase (from up to \$50 to up to \$250) for not wearing a helmet while operating a moped.

The work group expressed reservations with raising the upper fine limit so significantly, especially as several of those moped requirements were only implemented this year. For instance, effective July 1, 2013 moped operators are required to wear helmets and carry an official form of identification. Raising the fines by 400% when some moped operators may not be aware of the new requirements is too steep of an increase at this time. In addition, since all mopeds are to be titled and registered by July 1, 2014, the group felt it would be more appropriate to revisit the issue, if necessary, once we know the entire population of mopeds operating on Virginia’s roadways. During calendar year 2011, there were 174 convictions under § 46.2-914. The majority of those (104) were for underage operation of a moped. Therefore, the group recommended no increase to the fine structure at this time. DMV will continue to track

the conviction data and monitor any law-enforcement concerns that might warrant a penalty increase in the future.

Road Restrictions

Senate Bill 731 sought to prohibit moped operation on highways with posted speed limits exceeding 35 miles per hour. This bill is identical to Senate Bill 333 from the 2012 General Assembly Session, which was also sent to the Non-Conventional Vehicles Study for review. In reviewing the issue last year, the work group recommended that such a restriction not be placed on moped operation – it would simply make it too difficult for many to use mopeds as an effective mode of transportation to get to their destinations. However, Chairman Newman felt this issue was important enough to send back to the group for additional study, this time with more emphasis on the types of roads involved (i.e. rural roadways versus urban roadways and roadways with posted speed limits over certain amounts). As such, the committee included law-enforcement representatives more familiar with the rural roadways.

Under current law, mopeds are already prohibited from being operated on any Interstate System Highway component (see Va. Code § 46.2-914). In addition, § 46.2-905 requires that any person operating a moped at less than the normal speed of traffic shall ride as close as safely practicable to the right curb or edge of the roadway. Section 46.2-877 provides that no person shall operate a vehicle “at such a slow speed as to impede the normal and reasonable movement of traffic.”

In other states that codify moped travel restrictions, most seem to have the same restrictions as are already in place in Virginia: mopeds are prohibited on federal interstates and must ride to the right side of the road when operating at less than the normal speed of traffic. Few states have anything more restrictive regarding travel for mopeds. However, one neighboring state, Maryland, does prohibit mopeds on roads where the speed limit is greater than 50 miles per hour.

Though Senate Bill 731 sought to prohibit mopeds on roads with speed limits exceeding 35 miles per hour, the group felt this would be far too restrictive and instead focused the discussion on prohibiting them on roadways with speed limits exceeding 45 miles per hour. On the following page are available statistics on the number of moped crashes, fatalities, and injuries by posted speed limits over and under 45 miles per hour. The majority of crashes involving mopeds occurred on roads with posted speed limits of 45 miles per hour and under.

Moped Crashes by Posted Speed Limit

| Posted Speed Limit | 2010 | % of Total | 2011 | % of Total | 2012 | % of Total |
|--------------------|------------|------------|------------|------------|------------|------------|
| 45 and Under | 345 | 86% | 377 | 89% | 498 | 89% |
| Over 45 | 39 | 10% | 33 | 8% | 39 | 7% |
| Not Stated | 15 | 4% | 12 | 3% | 24 | 4% |
| Total | 399 | | 422 | | 561 | |

Moped Fatalities in Crashes by Posted Speed Limit

| Posted Speed Limit | 2010 | % of Total | 2011 | % of Total | 2012 | % of Total |
|--------------------|----------|------------|----------|------------|----------|------------|
| 45 and Under | 4 | 67% | 4 | 80% | 2 | 40% |
| Over 45 | 2 | 33% | 1 | 20% | 3 | 60% |
| Total | 6 | | 5 | | 5 | |

Moped Injuries in Crashes by Posted Speed Limit

| Posted Speed Limit | 2010 | % of Total | 2011 | % of Total | 2012 | % of Total |
|--------------------|------------|------------|------------|------------|------------|------------|
| 45 and Under | 338 | 85% | 368 | 88% | 486 | 91% |
| Over 45 | 34 | 9% | 37 | 9% | 38 | 7% |
| Unknown | 28 | 7% | 12 | 3% | 12 | 2% |
| Total | 400 | | 417 | | 536 | |

While these statistics are helpful, it is also important to keep in mind that the total number of mopeds using the roadways is currently unknown, therefore, it is impossible to know what percentage of the overall number of mopeds these numbers represent. However, that should change next year as mopeds are required to be titled and registered by July 1, 2014. The statistics do show that the total number of crashes involving mopeds has increased each of the last three years, which is not surprising as we are seeing more and more mopeds on the roads.

The Virginia Department of Transportation (VDOT) supports the prohibition of mopeds on roads with speed limits over 45 miles per hour. VDOT explained that the risk of crashes increases with increasing speed differentials. Since moped and car differentials can be 15 miles per hour or higher, prohibiting mopeds on roads where the speed limit is over 45 miles per hour (i.e. posted limits of 50 miles per hour or greater) lessens that speed differential and decreases the chances of crashes involving the slower moving mopeds. According to VDOT, most roads within cities and suburbs are posted at 25, 30, 35, 40, and 45 miles per hour and prohibiting mopeds on roads with posted speed limits of 50 miles per hour and higher would have a

minimum impact on their mobility. Of the approximately 62,000 centerline miles of non-interstate, non-limited access roadways, approximately 7,700 miles are posted at 50 miles per hour or above. Therefore, VDOT's proposal would restrict mopeds from using about 12% of the roadways. However, of those approximately 7,700 miles posted at 50 miles per hour or above, the majority of those (6,811 miles of roads) are rural roads.

Virginia State Police and the Sheriff's Association expressed concerns about such a restriction as it would prevent rural parts of Virginia from using mopeds as transportation. There are rural parts of the state where the only speed limit for large stretches of road is over 45 miles per hour. Prohibiting mopeds on these roads would make it impossible to use mopeds as an effective form of transportation in those parts of the state. In addition, concerns were raised about a proposal that would restrict mopeds on certain roads, but would allow bicycles on those same roadways, especially in light of the fact that moped operators must be at least 16 years old, wear helmets, and the mopeds titled and registered by July 1, 2014. No such requirements are placed on bicycles and their operators.⁵ With that in mind, the group still expressed concerns with placing those road restrictions on mopeds at this time. The limited crash statistics available show the majority of moped crashes occurring on roadways with speed limits of 45 miles per hour and under. Though the insurance industry and the Virginia State Police recognized the safety concerns, they also understood that such road restrictions would severely limit moped operation. Virginia State Police suggested gathering statistics on nighttime versus daytime moped crashes. If more crashes occurred at nighttime, one alternative might be to prohibit mopeds on roadways over 45 miles per hour at nighttime.⁶

After much discussion, the work group reached the conclusion that no moped travel restrictions be recommended this year. The group decided to wait until after July 1, 2014 when DMV can compile and analyze more data on mopeds. As mopeds are required to be registered at that time, the statistics will give a much better picture of the moped crashes in the context of the entire moped population in Virginia. DMV plans to work with the State Police, Sheriff's Association, and Chiefs of Police Association on funding opportunities for training and tools for enforcement. DMV will also review the moped brochure to determine if any additional information should be added to it to ensure that moped operators are familiar with the current laws, safety concerns, and safe practices for moped operation on Virginia highways.⁷

⁵ In 2010, there were 641 crashes involving bicycles (with 12 fatalities and 618 injuries); in 2011, there were 749 crashes involving bicycles (with 6 fatalities and 726 injuries).

⁶ Under *Va. Code* § 46.2-1015, mopeds operating "between sunset and sunrise shall be equipped with a headlight on the front emitting a white light visible in clear weather from a distance of at least 500 feet to the front and a red reflector visible from a distance of at least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle."

⁷ A copy of DMV's moped brochure can be found at Appendix G.

DUI Clarification

As Senate Bill 1038 was being debated on the floor of the House during the 2013 Session, there appeared to be some confusion surrounding the issue of whether or not someone who has had his license revoked for DUI can legally operate a moped on Virginia's highways. Due to this confusion, Chairman Newman asked that the Non-Conventional Vehicles Study take a closer look at this issue in order to get clarification. Though it takes quite a few steps to get there, the *Code of Virginia* does already provide that someone who has had his license revoked for a DUI is prohibited from operating a moped in Virginia.

Under § 18.2-266 of the *Code*, a person cannot operate a motor vehicle with a blood alcohol content of .08. At the end of this section, it states that "For the purposes of this article [i.e., Article 2 of Chapter 7, sections 18.2-266 through 18.2-273], the term "motor vehicle" includes mopeds, while operated on the public highways of the Commonwealth." If you are convicted of a DUI (violation of § 18.2-266), your privilege to drive is revoked pursuant to § 46.2-389.

The provisions for driving while having a DUI-revoked license are under § 18.2-272 and refusal to submit to a blood or breath test to determine blood alcohol content are at § 18.2-268.3 (in that same Article 2, where "motor vehicle" includes mopeds). Subsection A of § 18.2-272 states that: any person who drives or operates any motor vehicle during the time for which he was deprived of the right to do so after his license has been revoked pursuant to § 46.2-389 is guilty of a Class 1 misdemeanor. A Class 1 misdemeanor is punishable by jail for up to 12 months and/or a fine of up to \$2,500. Even though a driver's license is not required to operate a moped, under current provisions of the *Code*, if a person's license is revoked due to DUI, he is prohibited from operating a moped.

DMV staff will continue to look at this issue and how best to clarify the moped DUI language in the *Code* if necessary.

Of note, during the discussion on moped DUI restrictions, it was pointed out that someone who has had his or her license suspended under DMV's medical review process is *not* currently restricted from operating a moped. The group decided that this is an important issue and that further review may be warranted.

4. Moped Dealer Licensing

During the first year of this study, the Non-Conventional Vehicles group discussed whether or not moped dealers should be licensed. While the group did see a benefit to licensing moped dealers, there were concerns over the fact that we simply did not know how many moped dealers were currently operating in Virginia and did not want to recommend any legislation for moped dealers without their involvement.

In order to get a better idea of the universe of moped dealers, DMV sent a survey to motorcycle dealers and to those automobile dealers also licensed to sell motorcycles to determine if they also sell mopeds (a total of 671 surveys were sent). The data indicated that out of the 305 dealers responding to the survey, 81 also sell mopeds and only one of those dealers sells mopeds only.

However, what the survey does not capture are those instances where mopeds are sold by non-licensed entities, such as retail outlets. Those are the types of sellers that would be most impacted by any requirement that moped dealers be licensed. The group does not want to recommend any changes that would impact their business without their involvement in the study.

As a result of last year's Non-Conventional Vehicles legislation, mopeds are required to be titled and registered by July 1, 2014. As these mopeds are being titled and registered at DMV, staff will be able to identify those mopeds sold by any entity that is not licensed as a dealer. This will provide us with a much more accurate idea of who is selling mopeds and whether they should be licensed as dealers. It will also allow the work group to bring these sellers into the discussion as stakeholders. Such information may also show that very few mopeds are sold by entities not already licensed as dealers so it may not be necessary to create an entirely new scheme of dealer licensing for just a handful of retail outlets selling mopeds only.

The group recommends that no licensing requirements be placed on moped dealers at this time. Instead, as mopeds are being titled and registered, DMV will collect and analyze information on mopeds sold by those entities that are not currently licensed.

5. Taxation of ATVs, Off-Road Motorcycles, and Mopeds

This committee examined the taxation methods of mopeds, ATVs, and off-road motorcycles and considered if changes are warranted to Virginia laws in order to improve the efficacy and equitability of such taxation. Virginia law currently taxes these vehicles under the retail sales and use tax of 5.3%-6%. As such, they are not charged the motor vehicle sales and use tax (titling tax) of 4%.

Sales in Virginia and Current Taxation

Currently, there is no authoritative source for sales figures of mopeds, ATVs, and off-road motorcycles in Virginia. However, based on the collection of available data, the following estimates can be used to determine the magnitude of the issue. These estimates were developed in consultation with committee members who provided data for this purpose.

- ATVs and off-road motorcycles: Based on data reported by members of the Virginia Motorcycle Dealers Association, it is estimated that sales of ATVs and off-road motorcycles from these dealers total approximately \$28.2 million annually with an average sales price of \$5,119. This estimate generates total retail sales and use tax

collections of \$1.5 million (\$1.2 million state, \$300,000 local) from the statewide 5.3% sales tax rate.

- Mopeds: There is no available data on statewide moped sales. If Virginia produced 3,000 sales at an average sales price of \$1,750, the statewide retail sales and use tax of 5.3% on these sales would generate \$278,250 in revenue (\$225,750 state, \$52,500 local).

Virginia's retail sales and use tax is levied on taxable sales at the retail level. The rate is currently 5.3-6%, depending on where in the Commonwealth the taxes are levied. Retail sales and use tax is not levied on private sales, whereby someone resells one of these vehicles. For example, if someone were to sell a used moped - the seller would not be required to assess retail sales and use tax on the transaction, nor would the buyer be required to pay retail sales and use tax on the transaction, unless it is sold through a licensed retail dealer. Virginia law does require individuals who purchase these vehicles out of state (over the internet or in person) to remit the tax due to the Virginia Department of Taxation. However, currently there is no mechanism to enforce this provision. The retail sales and use tax is distributed to the state General Fund (3.5%), Commonwealth Transportation Funds⁸ (0.8%), and localities (1%).

Virginia's motor vehicle sales and use tax (also known as the "titling tax") rate is currently 4%, and is levied at the time of titling on taxable vehicles. The motor vehicle sales and use tax does not apply to mopeds, ATVs, or off-road motorcycles. However, for those vehicles that are subject to the titling tax, the tax can be collected by a licensed dealer and remitted to DMV on behalf of the customer, but it can also be remitted directly by the customer through one of DMV's service options. Unlike the retail sales and use tax, the motor vehicle sales and use tax is levied at the resale of taxable vehicles both through private sales and licensed dealers at the time of titling. Virginia has a statutory minimum of \$75 for the motor vehicle sales and use tax. If customers purchase vehicles in other states and bring them to Virginia for titling, they must demonstrate that tax was paid in the previous state or they are required to pay Virginia's titling tax. The motor vehicle sales and use tax is distributed in full to the Commonwealth Transportation Funds (4%).

Taxation Models in Neighboring States

There are a variety of taxation models which are utilized in neighboring states. For example, Maryland does not charge a retail sales and use tax on mopeds, ATVs, or off-road motorcycles.⁹ Instead, Maryland charges a titling tax (based on the value of the vehicle¹⁰) to

⁸ The "Commonwealth Transportation Funds" includes the Transportation Trust Fund and the Highway Maintenance and Operating Fund.

⁹ Maryland adopted this model as a result of its neighbor, Delaware, not having a retail sales and use tax or a titling tax. Because Delaware assessed no tax on mopeds, ATVs, or off-road motorcycles, Maryland residents might travel to Delaware to purchase such vehicles. During this time, the state of Maryland did not yet require that any of these sorts of vehicles be titled, and thus there was no mechanism to collect a titling tax from those Maryland residents who went to Delaware to purchase their untaxed mopeds, ATVs, and off-road motorcycles. As a result of

those individuals who title their vehicles within the state. As a result of this taxation model, Maryland does not tax residents of other states who purchase their vehicle in Maryland, but title the vehicle in another state. Thus, a Virginia resident can purchase an ATV in Maryland - where he is not assessed a retail sales and use tax - bring the ATV back to Virginia and avoid taxation altogether. This practice occurs even though the Virginia resident is required to pay sales tax to the Department of Taxation, not unlike the commonly referenced absence of taxation on internet sales. On the other hand, if an individual from Maryland purchases an ATV in Virginia, they are charged the retail sales and use tax at the point of sale, and then subsequently charged the titling tax when they title it in Maryland. This varied taxation can create an inequitable environment that negatively impacts Virginia consumers and businesses and discourages out of state consumers from purchasing in Virginia.

While Maryland's tax model helps ensure that all possible state revenue is collected, it installs a road "usage" tax¹¹ on vehicles, at least in part,¹² that cannot be lawfully operated on the road. Furthermore, as a result of the type of tax (titling tax) being levied on mopeds, ATVs, and off-road motorcycles in Maryland, the revenue that is collected goes to the state's (non-general) transportation fund. This causes a decrease in revenue to the general fund, which helps fund education, public safety, and other general government expenses. Therefore, while Maryland's taxation model for mopeds, ATVs, and off-road motorcycles does ensure that all possible revenue is collected, the model does not restrict collection of titling tax to only vehicles that use the roads.

Maryland's taxation model is dissimilar to other neighboring states such as West Virginia and Kentucky, both of which employ a simpler model that only requires assessing a titling tax on consumers if they purchase the vehicle out of state or are unable to prove that they have already paid a retail sales and use tax within the state. The titling tax is, in most cases, the same rate as the retail sales and use tax, and thus, the taxing state is always generating the same amount of revenue regardless of where the vehicle was purchased and what tax the consumer was assessed.¹³ In West Virginia, Kentucky, and several other states¹⁴ the retail sales and use tax is

this revenue shortfall, Maryland began to require titling of mopeds, ATVs, and off-road motorcycles, and adopted the taxation scheme they have today. At the time the law that implemented this model was passed, there was little to no concern over the state budget shift away from the general fund (which is fed in part by retail sales and use tax) and into the transportation fund (which is fed in part by the titling tax) that resulted from the switch in tax type, due to the need to find alternative sourcing for the already grossly underfunded transportation fund.

¹⁰ The minimum titling tax is based on \$320.00 (\$19.20 excise tax). The titling tax is exempt if you have paid Maryland sales or use tax at the time of purchase and have proof of the payment.

¹¹ An excise tax, in this case the titling tax, is justified on the basis that the consumer is paying a little extra to help pay for the usage of the vehicle. In a conventional setting, a consumer justly pays his or her titling tax for a motor vehicle with the notion that said titling tax will go to the transportation fund to help fund the highways, where the vehicle will be used.

¹² With the exception of mopeds which can be used on roads.

¹³ Where the revenue goes varies state to state. Of course, retail sales and use tax is always going to go to the general fund; however many states have created specialized funds for the titling tax revenues from mopeds, ATVs, and off-road motorcycles. These specialized funds often portion the revenue between the general and the non-general transportation fund, sometimes portioning a small segment for recreation vehicle enforcement and trail

assessed at the point of sale for all mopeds, ATVs, and off-road motorcycles to state residents. If out-of-state residents, like citizens of the Commonwealth, purchase any of the aforementioned vehicles, the retail sales and use tax is exempted. From a Virginia moped, ATV, or off-road motorcycle dealer's perspective this is not favorable, since Virginia residents are able to go into these neighboring states and purchase recreational vehicles without being taxed at the point of sale. Furthermore, since there is no titling tax in Virginia - there is an incentive for Virginia residents to travel across state lines to purchase mopeds, ATVs, and off-road motorcycles.

While the group reviewed the taxation schemes from other states, such as Kentucky, West Virginia, and Maryland, the group decided not to recommend any changes to the taxation of mopeds, ATVs, and off-road motorcycles at this time. It is too soon to consider a change in the taxation of mopeds. Owners have until July 1, 2014 to have their mopeds properly titled and registered. It would be beneficial to wait a period of time to assess the impact of the new moped laws before determining which option would best address this issue in the future. Right now, we simply do not have enough definitive data on the number of mopeds sold in Virginia. Because we do not have this data, it is difficult to determine what type of impact switching from the retail sales and use tax to the motor vehicle sales and use tax for mopeds, ATVs, and off-road motorcycles would have on the General Fund, as such a change would send that revenue to be used for transportation funding instead. In addition, switching to the motor vehicle sales and use tax would subject mopeds, ATVs and off-road motorcycles to the \$75 statutory minimum tax (which was increased from \$35 during the 2013 General Assembly Session as part of the transportation funding bill). This could be very harmful to casual buyers of used mopeds, ATVs, and off-road motorcycles. If any of these vehicles only costs the new owner a few hundred dollars, he would still be required to pay this \$75 minimum, which could be a significant and unexpected cost for some purchasers of used mopeds. With all of this in mind, the group did not recommend any changes to the taxation of mopeds, ATVs, and off-road motorcycles at this time, but will continue to monitor the data received on mopeds as they are titled.

6. Specially Constructed Vehicles

This committee looked at developing a DMV/stakeholder process for reviewing specially constructed vehicles that are presented to DMV for registration. Additionally, the committee reviewed the inspection process for specially constructed vehicles.

maintenance for state-owned parks. It is important to realize that most of the revenue collected by these states goes to the general fund, via the retail sales and use tax, since the titling tax really is just a contingency plan for those vehicles that were purchased out of state or not assessed retail sales and use tax in error.

¹⁴ In researching other states' moped, ATV, and off-road motorcycle taxation models, there was ample investigation of states that assessed no retail sales and use tax (Delaware, Oregon, New Hampshire, and Montana), to study whether such states dealt with similar problems for dealers losing sales to other nearby, non-taxing states. Most of the states that were researched (Nevada, California, Idaho, Maine, and North Dakota) implement a taxation model that mirrors the West Virginia/Kentucky Model, which only assesses a titling tax if the vehicle was purchased out of state or proof of retail sales and use tax payment cannot be provided.

Under § 46.2-100 of the *Code of Virginia*, a specially constructed vehicle “means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.”¹⁵ Specially constructed vehicles do not resemble a specific manufacturer make or model, past or present. They may include so-called “kitcars.” In calendar years 2011 and 2012, 65 and 62 applications, respectively, were received by DMV to register these types of vehicles.

In order to register a specially constructed vehicle, the owner must submit documentation to DMV’s Vehicle Branding Work Center. This documentation includes a title, manufacturer’s certificate of origin, or an affidavit in lieu of title, an application for an assigned vehicle number, the bill of sale for the frame body and transmission, and a notarized statement as to how the vehicle was constructed (including pictures). The owner also submits an Application for Certificate of Title and Registration (Form VSA-17A). Titles are issued to show ownership of the vehicle, but registration may or may not be approved for these vehicles. Once the paperwork is processed, the vehicle documentation is then sent to DMV’s Law Enforcement Services for inspection of that vehicle. However, this inspection focuses on ensuring that no stolen parts have been used in that specially constructed vehicle – it does not determine the road worthiness of that vehicle.

DMV will not register a vehicle if it does not meet federal highway standards. However, the owners of these specially constructed vehicles can self-certify that the vehicle does meet those standards. DMV has no mechanism for challenging that self-certification. Virginia State Police indicated they inspect “the items that are there” and that their stations do not have the expertise to inspect these vehicles for road worthiness. It would require someone with an extensive background to take the time to inspect these vehicles and know what to look for. DMV Law Enforcement’s inspection of these vehicles focuses on looking for stolen parts.

In November 2012, the American Association of Motor Vehicles Administrators (AAMVA) published its “Best Practices for Title and Registration of Rebuilt and Specially Constructed Vehicles” guide. AAMVA surveyed states and found that there is no uniform method of registering and titling these types of vehicles and that there is no clear way for one state to identify a specially constructed vehicle when it is transferred to another jurisdiction or to identify what inspections the vehicle has passed. Among the best practices, AAMVA recommends requiring a structural integrity inspection and mechanical safety inspection prior to titling or registration of specially constructed vehicles.

¹⁵ A reconstructed vehicle “means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a “converted electric vehicle” as defined in this section.” See Va. Code § 46.2-100.

Therefore, it was the consensus of the group that another stakeholder group, to include those familiar with the mechanics of these types of vehicles (such as representatives from body shops), be formed to develop an inspection program for specially constructed vehicles. This initiative may also include rebuilt, replica, and salvaged vehicles and should develop guidelines to inspect for road worthiness. It would be similar to the procedure used to develop inspection guidelines for converted electric vehicles and would be in line with AAMVA's best practices guidance.

It was also the consensus of the group to continue to have DMV Vehicle Services review specially constructed vehicle requests for registration. If the vehicle is denied registration and the customer chooses to challenge it then the vehicle would be submitted to the Specially Constructed Vehicles Committee for further review. The customer would have the opportunity to discuss that vehicle with the committee, either in person or via conference call. The review template, which can be found at Appendix F, would be used in this process. Members of this review committee include representatives from the Virginia State Police, Virginia Farm Bureau, Coalition of Motorcyclists, Motorcycle Dealers Association, Virginia Automobile Dealers Association, the insurance industry, and the Motor Vehicle Dealer Board.

7. Three-Wheel Vehicles

Last year, the work group began the discussion on differentiating three-wheel motorcycles from three-wheel vehicles. Three-wheel vehicles are typically treated as motorcycles, yet many look and handle more like a passenger car. Different skill sets are required to operate each of these vehicles. Due to the increase in these three-wheel vehicles that handle more like passenger cars than motorcycles, AAMVA formed the Three-Wheel Vehicle Working Group and charged it with the development of best practices and recommendations for regulating operation and registration of three-wheel vehicles. As a result of the work of the Three-Wheel Vehicle Working Group, AAMVA recommends the use of the term "autocycle" to define these three-wheel vehicles that operate more as passenger cars than as motorcycles.¹⁶ The Non-Conventional Vehicles group agreed it would be a good idea to proceed with using the term "autocycle" to separate those three wheel vehicles that share more of the characteristics of a passenger car than of a motorcycle.

The AAMVA working group identified certain key characteristics that distinguish autocycles from three-wheel motorcycles. Three-wheel motorcycles have handlebars for steering

¹⁶ A copy of the final AAMVA report on Best Practices for the Regulation of Three-Wheel Vehicles can be found on AAMVA's website: <http://www.aamva.org/Best-Practices-and-Model-Legislation/>.

and the operator straddles or sits astride the motorcycle's seat. With an autocycle, the operator sits in a seat and steers the vehicle with a steering wheel, as one would do when operating a motor vehicle. There was much discussion about any other specific requirements that should be placed on autocycles. In addition to these basic distinguishing characteristics, the Non-Conventional Vehicles work group decided to set out some other requirements for autocycles. Autocycles would have to comply with motorcycle standards promulgated by the National Highway Traffic Safety Administration (NHTSA). Even though autocycles may look like passenger cars, passenger cars have to meet established crash test requirements, while autocycles must meet the safety standards established for motorcycles. The group agreed that autocycles should be equipped with an approved safety belt system and have side mirrors. The group also discussed whether operators of autocycles should be required to wear helmets. It was noted that those driving convertible cars do not have to wear helmets. However, those cars have to meet different safety standards than motorcycles and autocycles and have safety features that would not be required on autocycles. Since the group agreed that autocycles should meet motorcycle safety standards, it seems logical to require that operators and passengers be subject to the same helmet requirements as motorcycles. Therefore, the group agreed to require helmet use for operators and passengers of autocycles without a permanent, fixed roof. If the autocycle has a fixed roof, then helmet use would not be required. This approach is consistent with current Virginia law on helmet use for motorcycle operators.

The group also discussed the safety inspection requirements for autocycles. The group agreed that autocycles should comply with motorcycle safety inspection standards. However, since the group did determine that some additional requirements would be placed on autocycles (such as safety belts), there was some concern raised by the Virginia State Police about how inspectors would know about the additional autocycle requirements if they are being inspected as motorcycles, so there would need to be some communication with the inspection stations about any additional equipment required on autocycles.

A number of other issues the group discussed involved autocycle license plates, dealer requirements and operator licensing requirements. The group agreed that, as with motorcycles, autocycles should display just one license plate on the rear of the vehicle. The autocycle license plate would be the same size as the current motorcycle plate and there would be no need to display the term "autocycle" on those plates. It would be hard to fit that term on the smaller motorcycle license plates (note that motorcycle license plates also do not display the term "motorcycle" on them) and the Virginia State Police indicated that it was not necessary. The registration card would identify the vehicle as an autocycle. Officers could also look up the registration through VCIN and know that the vehicle is registered as an autocycle and not a motorcycle. The group also agreed that autocycles should continue to be sold by licensed motorcycle dealers. There would be no separate category for autocycle dealer. Finally, the group agreed with AAMVA's recommendation that operators of autocycles be required to have a

regular driver's license - they would not need to have a separate motorcycle classification on their license in order to operate an autocycle.¹⁷

The Non-Conventional Vehicles work group does plan on moving forward with developing legislative language that creates a definition for autocycle and sets out other autocycle requirements. The language will be based on AAMVA's recommendation, but will also take into account some requirements which were outside of the scope of AAMVA's charge (such as inspection and other safety requirements).

8. Autonomous Vehicles

During the final stakeholder meeting in September, Commissioner Holcomb identified the need for the work group to examine the operation of autonomous, or self-driving, vehicles on Virginia's public highways. Autonomous vehicles are motor vehicles equipped with autonomous technology which has the capability of driving a motor vehicle without active physical control or monitoring by a human operator. Virginia Tech and VDOT's research arm, the Virginia Center for Transportation Innovation and Research, are involved in initiating research and testing of these vehicles in Virginia. Autonomous vehicles have already been tested at the Virginia Tech Transportation Institute's Smart Road.

DMV is researching autonomous vehicle legislation and laws in other states to determine what types of issues need to be taken into account when preparing legislation for these vehicles. Nevada, Florida, California, and Washington, DC have already enacted legislation addressing autonomous vehicles. NHTSA is also researching issues related to autonomous vehicles and has provided guidance to states that want to permit testing of these vehicles on public roads. In addition, AAMVA is currently in the process of organizing a working group to develop a library of state legislation and information on autonomous vehicles.

DMV will continue to work with the impacted stakeholders from the Non-Conventional Vehicles Study as legislation is contemplated. Representatives from the research institutions involved with autonomous vehicles will also be included. The Non-Conventional Vehicles group will continue to monitor autonomous vehicle activity and make any additional recommendations as the use of autonomous vehicles becomes more imminent.

9. Conclusion

In this second year of the Non-Conventional Vehicles Study, the stakeholders were charged with reviewing numerous issues relating to ATVs, mopeds, moped dealers, specially constructed vehicles, and three-wheel vehicles. While in many cases the decisions of the group

¹⁷ Of note, in AAMVA's Best Practices for Three-Wheel Vehicles, the group recommended that states have separate tests and endorsements for operators of two and three-wheel motorcycles. This is exactly what the Non-Conventional Vehicles group determined last year and is now law in Virginia.

were in fact to recommend no changes or simple clarifications at this time, in other cases, the group determined that changes should be considered. For three-wheel vehicles, that meant coming up with a new term (autocycle) and requirements for those three-wheel vehicles that act more like cars than motorcycles. For specially constructed vehicles, that meant coming up with a review procedure for the registration of these vehicles.

Though not a specific charge for the study this year, during the final stakeholder meeting, it was recommended that DMV review the possibility of developing legislation, if needed, relating to autonomous vehicles. DMV will involve the impacted stakeholders and the institutions initiating this research on autonomous vehicles for any proposed legislation.

DMV is especially thankful for the time and hard work that the participants dedicated to the study again this year. With six separate committees meeting and reviewing recommendations over an eight-month period, it was certainly another busy year for the Non-Conventional Vehicles Study. We look forward to our continued cooperation as we study other non-conventional vehicles in the future.

Appendices

Appendix A:
Letter from Senator Newman

SENATE OF VIRGINIA



COMMITTEE ASSIGNMENTS:
TRANSPORTATION, CHAIR
COMMERCE AND LABOR
EDUCATION AND HEALTH
FINANCE
RULES

STEPHEN D. NEWMAN
23RD SENATORIAL DISTRICT
ALL OF BOTETOURT AND CRAIG COUNTIES;
ALL OF THE CITY OF BEDFORD; PART OF BEDFORD,
CAMPBELL, AND ROANOKE COUNTIES;
AND PART OF THE CITY OF LYNCHBURG
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February 14, 2013

Mr. Richard D. Holcomb
Commissioner
Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond, Virginia 23220

Dear Commissioner Holcomb:

I want to offer my thanks to you and your staff for bringing together the numerous stakeholders to participate in the first year of the Non-Conventional Vehicles Study. The comprehensive report and proposed legislation are a testament to the hard work put in by DMV and all the stakeholders. I am pleased to be the patron for Senate Bill 1038, which encompasses the recommendations of the work group relating to mopeds, all-terrain vehicles, low-speed vehicles, and licensure of motorcycle operators. As you know, there were two other bills introduced during the 2013 General Assembly Session, Senate Bill 1007 and Senate Bill 731, that also touched on various issues involving mopeds.

Senate Bill 1007, introduced by Senator McWaters, amends several requirements relating to operation of mopeds. The bill provides that: (1) moped operators be required to pass a special examination, including a written and road test; (2) moped operators be required to possess a valid driver's license; (3) moped operators be required to wear helmets; (4) no person shall operate a moped with more than one passenger; and (5) the penalty for violation of certain moped operation requirements be increased from \$50 to \$250. As you know, the first three issues were reviewed by the Non-Conventional Vehicles group this past year. The group declined to recommend that moped operators be tested or possess a valid driver's license as such a requirement would be unduly burdensome on those that use mopeds as their main source of transportation to and from their place of employment. The group agreed helmet use should be mandatory, and that provision has been included in my Senate Bill 1038 and Chairman May's House Bill 1984. As for the passenger restriction and increased penalty provisions included in Senate Bill 1007, I request that these issues be more fully studied by the Non-Conventional Vehicles group this year. I am especially interested in the group's recommendation regarding passenger restrictions on juvenile operators and passengers.

Senate Bill 731, introduced by Senator Carrico, prohibits moped operation on highways with posted speed limits exceeding 35 miles per hour. This bill is identical to Senate Bill 333 from 2012, which was sent to the Non-Conventional Vehicles Study for review last year. It was determined that prohibiting moped operation on highways with speed limits exceeding 35 miles per hour would greatly reduce the ability of moped operators to reach their destinations. However, as this issue is still a concern, I am requesting that the Non-Conventional Vehicles group review the issue further, particularly as it relates to moped operation in the rural and mountainous parts of the Commonwealth.

In addition, in order to stay within the procedural guidelines for revenue bills, the final version of my Senate Bill 1038 that passed out of the House and Senate on February 13 was amended to retain the current taxing structure for ATVs, off-road motorcycles, and mopeds (i.e. they would continue to pay the 5% retail sales and use tax and not the 3% motor vehicle sales and use tax). As you know, the stakeholders had hoped for a different outcome on what taxes these vehicles would pay. Therefore, I am requesting that the Non-Conventional Vehicles group again review the tax issues relating to these vehicles.

As Senate Bill 1038 was being debated on the floor of the House, there was much confusion surrounding the issue of whether or not someone who has had their license suspended for DUI can in fact operate a moped on the highways of Virginia. Though this is not something that the legislation addressed, due to this confusion, I am asking that the group take a closer look at the DUI concerns so that we can get clarification on what the law in fact says in this area.

Since DMV, as directed by the Chairs of the House and Senate Transportation Committees, has convened an on-going work group focusing on non-conventional vehicles, I am requesting that the issues raised in Senate Bill 1007 (relating to passenger restrictions and penalties) and Senate Bill 1007, as well as the tax and DUI concerns raised as Senate Bill 1038 was being debated, be included in the Non-Conventional Vehicles Study for the upcoming year. I look forward to hearing from you with the outcome of the second year of this study.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steve Newman", with a long horizontal flourish extending to the right.

Steve Newman

CC: The Honorable Joe T. May
The Honorable Charles W. Carrico
The Honorable Jeffrey L. McWaters

Appendix B:
Project Structure and Stakeholder List

Non-Conventional Vehicles Study Project Structure

Executive Oversight Team

| | |
|---|--|
| Richard Holcomb (DMV) | Karen Grim (DMV) |
| Ellen Marie Hess (DMV) | Matt Wells (DMV) |
| Tom Ballou (Dept. of Environmental Quality) | Randall P. Burdette (Dept. of Aviation) |
| Matt Koch (Dept. of Game and Inland Fisheries) | Lt. Col. Robert Northern (Virginia State Police) |
| Richard Walton (Virginia Dept. of Transportation) | |

DMV Core Team

| | | |
|--|--|--|
| Janet Smoot (Project Coordinator) | Millicent Ford (Driver Services) | John Saunders (Highway Safety) |
| Bruce Biondo (Motorcycle Program) | Barbara Klotz (Legislative Services) | Rushawna Senior (Business/Analytical Services) |
| Tonya Blaine (Vehicle Services) | Richard Lampman (Business/Analytical Services) | Caroline Stalker (Legislative Services) |
| Sharon Brown (Driver Services) | Matt Martin (Legal Services) | Sheila Stephens (Vehicle Services) |
| Lynwood Butner (Government Affairs) | John Mohrmann (Legal Services Intern) | Robert Stone (Law Enforcement Services) |
| William Childress (Vehicle Services) | Myrt Quinlan (Customer Service) | |
| Andrew D'Amato (Legislative Services Intern) | Jeff Ryan (Financial Management Services) | |

Stakeholders

| | | |
|--|--|---|
| Robert Baratta (Polaris) | Vicki Harris (State Farm Insurance) | Cpt. Milt Robinson (Dept. of Game and Inland Fisheries) |
| Sgt. Ken Burnett (Henrico County Police Department) | Raymond Khoury (VA Dept. of Transportation) | Stephen Read (VA Dept. of Transportation) |
| Jim Cannon (VA Coalition of Motorcyclists) | J. Christopher LaGow (Insurance Industry) | Cpt. Ronald Saunders (VA State Police) |
| Prin Cowan (VA Motor Vehicle Dealer Board) | Chelsea Lahmers (Scoot Richmond) | Michele Schmitt (Fredericksburg Motor Sports) |
| Cpt. Richard Denny (VA State Police) | Joe Lerch (VA Municipal League) | Cundiff Simmons (Motorcycle Safety League of VA) |
| Charlie Finley (VA Motorcycle Dealers Association) | Mena Lockwood (VA Dept. of Transportation) | Andrew Smith (VA Farm Bureau) |
| Anne Gambardella (VA Automobile Dealers Association) | Keith McCrea (Dept. of Aviation) | Kathy Van Kleeck (Motorcycle Industry Council) |
| Lt. Danny Glick (VA State Police) | Martha Meade (American Automobile Association) | David Young (Tanom Motors) |
| Bruce Gould (VA Motor Vehicle Dealer Board) | Richard Olin (Dept. of Environmental Quality) | |

Vehicle Review

All Terrain Vehicles
(ATVs)

Vehicle Review

Three Wheel Vehicles

Vehicle Review

Moped Dealers

Vehicle Review

Moped Legislative

Vehicle Review

Specially Constructed

Vehicle Review

Taxes

Executive Oversight Team

Richard Holcomb
Commissioner
Department of Motor Vehicles

Karen Grim
Assistant Commissioner for Driver, Vehicle & Data
Management Services
Department of Motor Vehicles

Ellen Marie Hess
Assistant Commissioner for Government Affairs
Department of Motor Vehicles

Matt Wells
Legislative Services
Department of Motor Vehicles

Tom Ballou
Director of Data Analysis and Planning
Department of Environmental Quality

Randall Burdette
Director
Department of Aviation

Matt Koch
Chief Operating Officer
Department of Game and Inland Fisheries

Lt. Col. Robert Northern
Deputy Superintendent
Virginia State Police

Richard Walton
Chief of Policy and Environment
Virginia Department of Transportation

Project Staff

Janet Smoot
Department of Motor Vehicles
Project Coordinator

Bruce Biondo
Department of Motor Vehicles

Tonya Blaine
Department of Motor Vehicles

Sharon Brown
Department of Motor Vehicles

Lynwood Butner
Department of Motor Vehicles

William Childress
Department of Motor Vehicles

Andrew D'Amato
Department of Motor Vehicles

Millicent Ford
Department of Motor Vehicles

Barbara Klotz
Department of Motor Vehicles

Richard Lampman
Department of Motor Vehicles

Matt Martin
Department of Motor Vehicles

John Mohrmann
Department of Motor Vehicles

Myrt Quinlan
Department of Motor Vehicles

Jeff Ryan
Department of Motor Vehicles

Rushawna Senior
Department of Motor Vehicles

Caroline Stalker
Department of Motor Vehicles

Sheila Stephens
Department of Motor Vehicles

Robert Stone
Department of Motor Vehicles

Stakeholders and Other Participants

Lt. Lee Bailey
New Kent Sheriff's Office

Sgt. Rod Brown
Chesterfield County Police Department

Robert Baratta
Polaris

Sgt. Ken Burnett
Henrico County Police Department

Jim Cannon
Virginia Coalition of Motorcyclists

Brad Copenhaver
Virginia Agribusiness Council

Prin Cowan
Virginia Motor Vehicle Dealer Board

Cpt. Richard Denny
Virginia State Police

Charlie Finley
Virginia Motorcycle Dealers Association

Katie Frazier
Virginia Agribusiness Council

Anne Gambardella
Virginia Automobile Dealers Association

Lt. Danny Glick
Virginia State Police

Bruce Gould
Virginia Motor Vehicle Dealer Board

Lt. A.J. Gordon
Henrico County Division of Police

Vicki Harris
State Farm Insurance

Raymond Khoury
Virginia Department of Transportation

Matthew Koch
Department of Game and Inland Fisheries

J. Christopher LaGow
Insurance Industry

Chelsea Lahmers
Scoot Richmond

Joe Lerch
Virginia Municipal League

Mena Lockwood
Virginia Department of Transportation

Keith McCrea
Department of Aviation

Marth Meade
American Automobile Association

Miles Morin
Polaris

Richard Olin
Department of Environmental Quality

Capt. Milt Robinson
Department of Game and Inland Fisheries

Stephen Read
Virginia Department of Transportation

Capt. Ronald Saunders
Virginia State Police

Michele Schmitt
Fredericksburg Motor Sports

Cundiff Simmons
Motorcycle Safety League of Virginia

Andrew Smith
Virginia farm Bureau

Kathy Van Kleeck
Motorcycle Industry Council

Brandon Woodruff
Department of Game and Inland Fisheries

David Young
Tanom Motors

Appendix C:

Committee Assignments

**Non-Conventional Vehicles Study
Committee Assignments**

| All-Terrain Vehicle Committee | |
|--|---|
| Stakeholders | |
| Robert Baratta (Polaris) | Andrew Smith (Virginia Farm Bureau) |
| Kathy Van Kleeck (Motorcycle Industry Council) | Katie Frazier (Virginia Agribusiness Council) |
| Charlie Finley (Virginia Motorcycle Dealers Association) | Michele Schmitt (Fredericksburg Motor Sports) |
| DMV Staff | |
| Lynwood Butner | Richard Lampman |
| William Childress | Janet Smoot |
| Caroline Stalker | Rushawna Senior |

| Moped Legislation Committee | |
|--|---|
| Stakeholders | |
| Ray Khoury (Virginia Department of Transportation) | Mena Lockwood (Virginia Department of Transportation) |
| Lieutenant Danny Glick (Virginia State Police) | Cundiff Simmons (Motorcycle Safety League) |
| Charlie Finley (Motorcycle Dealers/Association) | Michele Schmitt (Motorcycle Dealers/ Association) |
| Chelsea Lahmers (Moped Dealers) | Cpt. Richard Denney (Virginia State Police) |
| J. Christopher LaGow (Insurance Industry) | Vicki Harris (State Farm) |
| DMV Staff | |
| Millicent Ford | Janet Smoot |
| Caroline Stalker | Bruce Biondo |
| Robert Stone | John Mohrmann |
| Rushawna Senior | Karen Grim |
| Barbara Klotz | |

| Moped Dealer Licensing | |
|--|---|
| Stakeholders | |
| Chelsea Lahmers (Scoot Richmond) | Bruce Gould (Virginia Motor Vehicle Dealer Board) |
| Charlie Finley (Virginia Motorcycle Dealers Association) | Michele Schmitt (Fredericksburg Motor Sports) |
| DMV Staff | |
| Tonya Blaine | William Childress |
| Janet Smoot | Caroline Stalker |
| Rushawna Senior | |

| Taxes Committee | |
|--|---|
| Stakeholders | |
| Charlie Finley (Virginia Motorcycle Dealers Association) | Michele Schmitt (Fredericksburg Motor Sports) |
| Chelsea Lahmers (Scoot Richmond) | Joe Lerch (Virginia Municipal League) |
| DMV Staff | |
| Jeff Ryan | Diana Patriquin |
| Janet Smoot | Karen Grim |
| Barbara Klotz | Caroline Stalker |
| John Mohrmann | Lynwood Butner |
| Rushawna Senior | |

| Specially Constructed Vehicles Committee | |
|--|--|
| Stakeholders | |
| Captain Ronald Saunders (Virginia State Police) | Andrew Smith (Virginia Farm Bureau) |
| Jim Cannon (Coalition of Motorcyclists) | Charlie Finley (Motorcycle Dealers/Association) |
| Michele Schmitt (Motorcycle Dealers/Association) | Anne Gambardella (Virginia Automobile Dealers Association) |
| Vicki Harris (State Farm Insurance) | Prin Cowan (Virginia Motor Vehicle Dealer Board) |
| DMV Staff | |
| William Childress | Lynwood Butner |
| Barbara Klotz | Richard Lampman |
| Salome Davis | Sheila Stephens |
| Janet Smoot | Caroline Stalker |
| Robert Stone | Matt Martin |
| John Mohrmann | Rushawna Senior |
| Karen Grim | |

| Three-Wheel Vehicle Committee | |
|---|--|
| Stakeholders | |
| Captain Ronald Saunders (Virginia State Police) | Lieutenant Danny Glick (Virginia State Police) |
| Jim Cannon (Coalition of Motorcyclists) | Charlie Finley (Motorcycle Dealers/Association) |
| Michele Schmitt (Motorcycle Dealers/Association) | Anne Gambardella (Virginia Automobile Dealers Association) |
| Vicki Harris (State Farm Insurance) | J. Christopher LaGow (Insurance Industry) |
| Cundiff Simmons (Motorcycle Safety League) | David Young (Tanom Motors) |
| Bruce Gould (Virginia Motor Vehicle Dealer Board) | |
| DMV Staff | |
| William Childress | Lynwood Butner |
| Barbara Klotz | Richard Lampman |
| John Saunders | Sheila Stephens |
| Janet Smoot | Caroline Stalker |
| Robert Stone | Matt Martin |
| John Mohrmann | Rushawna Senior |
| Karen Grim | Bruce Biondo |

Appendix D:
2013 Legislation Referred to Study

13102253D

SENATE BILL NO. 731

Offered January 9, 2013

Prefiled December 12, 2012

A *BILL to amend and reenact § 46.2-914 of the Code of Virginia, relating to the operation of mopeds on highways.*

Patrons—Carrico; Delegate: Ransone

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-914 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-914. Limitations on operation of mopeds.

A. No moped shall be driven on any highway or public vehicular area faster than 35 miles per hour. Any person who operates a moped faster than 35 miles per hour shall be deemed, for all the purposes of this title, to be operating a motorcycle.

B. No moped shall be driven on any highway by any person under the age of 16, and every person driving a moped shall carry with him some form of identification that includes his name, address, and date of birth.

C. Operation of mopeds is prohibited on any Interstate Highway System component.

D. *Operation of mopeds is prohibited on any highway where the posted speed limit is greater than 35 miles per hour.*

E. Violation of this subsection shall constitute a traffic infraction punishable by a fine of no more than \$50.

INTRODUCED

SB731

13100442D

SENATE BILL NO. 1007

Offered January 9, 2013

Prefiled January 8, 2013

A BILL to amend and reenact § 46.2-914 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-337.1, relating to the operation of mopeds.

Patron—McWaters

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-914 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered as follows:

§ 46.2-337.1. Examination and road test required to operate a moped.

No person shall drive a moped on a highway in the Commonwealth unless he has passed a special examination, including written material and a road test, pertaining to his ability to drive a moped with reasonable competence and with safety to other persons using the highways. The Department shall adopt regulations as may be necessary to provide for special examination of persons desiring to qualify to drive mopeds in the Commonwealth.

After successful completion of such special examination, drivers shall be provided with a certificate evidencing their successful completion by the Commissioner.

§ 46.2-914. Limitations on operation of mopeds.

A. No moped shall be driven on any highway or public vehicular area faster than 35 miles per hour. Any person who operates a moped faster than 35 miles per hour shall be deemed, for all the purposes of this title, to be operating a motorcycle.

B. No moped shall be driven on any highway by any person under the age of 16, and every person driving a moped shall carry with him some form of identification that includes his name, address, and date of birth. No person shall operate a moped on any highway unless he has in his possession a valid driver's license and a certificate pursuant to § 46.2-337.1.

C. No person shall operate a moped on any highway unless he is wearing a helmet.

D. No person shall operate a moped on any highway with more than one passenger.

E. Operation of mopeds is prohibited on any Interstate Highway System component.

Violation of this subsection shall constitute a traffic infraction punishable by a fine of no more than \$50 \$250.

2. That the provisions of this act shall become effective on July 1, 2015.

INTRODUCED

SB1007

Appendix E:
**Motorcycle Industry Council ATV and ROV
Definitions**



Model SVIA ATV Legislation Definition

(a) "All-Terrain Vehicle" or "ATV" means a motorized off-highway vehicle designed to travel on 3 or 4 low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control.

ANSI Standard Definition – (compliance with ANSI Standard made mandatory by Consumer Product Safety Improvement Act)

all-terrain vehicle (ATV). A motorized off-highway vehicle designed to travel on four low pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control.

ANSI Voluntary Standard /Model ROV Legislation Definition

(a) "Recreational Off-Highway Vehicle" or "ROV" means a motorized off-highway vehicle designed to travel on four or more tires, intended by the manufacturer primarily for recreational use by one or more persons and having the following characteristics: a steering wheel for steering control; a Roll Over Protective Structure, complying with ANSI/ROHVA-1, an Occupant Retention System, complying with ANSI/ROHVA-1; non-straddle seating; maximum speed capability greater than 30 mph; less than 80 inches in overall width, exclusive of accessories; engine displacement of less than 1,000cc; identification by means of a 17 character PIN or VIN.

STATES WITH ATV AND ROV DEFINITIONS

(As of March 2013)

CALIFORNIA

"All-terrain vehicle" means a motor vehicle subject to subdivision (a) of Section 38010 which is all of the following:

- a) Designed for operation off of the highway by an operator with no more than one passenger.
- b) 50" or less in width.
- c) 900 lbs. or less unladen weight.
- d) Suspended on 3 or more low-pressure tires.
- e) Has a single seat designed to be straddled by the operator, or a single seat designed to be straddled by the operator and a seat for no more than one passenger.
- f) Has handlebars for steering control.

"Recreational off-highway vehicle" means a motor vehicle meeting all of the following criteria:

- (a) Designed by the manufacturer for operation primarily off of the highway.
- (b) Has a steering wheel for steering control.
- (c) Has nonstraddle seating provided by the manufacturer for the operator and all passengers.
- (d) (1) Has a maximum speed capability of greater than 30 miles per hour.
(2) A vehicle designed by the manufacturer with a maximum speed capability of 30 miles per hour or less but is modified so that it has a maximum speed capability of greater than 30 miles per hour satisfies the criteria set forth in this subdivision.
- (e) Has an engine displacement equal to or less than 1,000cc (61 ci).

FLORIDA

"ATV" means any motorized off-highway or all-terrain vehicle 50" or less in width, having a dry weight of 1,200 pounds or less, designed to travel on 3 or more nonhighway tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger.

"Two-rider ATV" means any ATV that is specifically designed by the manufacturer for a single operator and one passenger.

"ROV" means any motorized recreational off-highway vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, designed to travel on four or more nonhighway tires, having nonstraddle seating and a steering wheel, and manufactured for recreational use by one or more persons. The term "ROV" does not include a golf cart as defined in ss. 320.01(22) and 316.003(68) or a low-speed vehicle as defined in s. 320.01(42).

IDAHO

"All-terrain vehicle" means any recreation vehicle with 3 or more tires and 50" or less in width, having a wheelbase of 61" or less, has handlebar steering and seat designed to be straddled by operator.

"Utility type vehicle (UTV)" means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in section 67-7101, Idaho Code, designed for and capable of travel over designated roads, traveling on 4 or more tires, maximum width less than 74", maximum weight less than 2,000 pounds and having a wheelbase of 110" or less. A utility type vehicle must have a minimum width of 50", a minimum weight of at least 900 pounds or a wheelbase of over 61". Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code. A "utility type vehicle" or "UTV" also means a recreational off-highway vehicle or ROV.

ILLINOIS

All-terrain vehicle - Any motorized off-highway device designed to travel primarily off-highway, 50" or less in width, having a manufacturer's dry weight of 1,500 pounds or less, traveling on 3 or more non-highway tires, designed with a seat or saddle for operator use, and handlebars or steering wheel for steering control, except equipment such as lawnmowers.

Recreational off-highway vehicle - Any motorized off-highway device designed to travel primarily off-highway, 64 inches or less in width, having a manufacturer's dry weight of 2,000 pounds or less, traveling on 4 or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawnmowers.

INDIANA

"All-terrain vehicle" means a motorized, off-highway vehicle that:

- (1) Is 50" or less in width;
- (2) Has a dry weight of 1,200 pounds or less;
- (3) Is designed for travel on at least 3 nonhighway or off-highway tires;
- (4) Is designed for recreational use by 1 or more individuals;

- (5) Has a seat or saddle designed to be straddled by the operator; and
- (6) Has handlebars for steering control.

The term includes parts, equipment, or attachments sold with the vehicle.

Recreational off-road vehicle" means a motorized, off-highway vehicle that:

- 1) is sixty-four (64) inches or less in width;
- 2) has a dry weight of two thousand (2,000) pounds or less;
- 3) is designed for travel on at least four (4) nonhighway or off-highway tires;
- 4) is designed for recreational use by one (1) or more individuals;
- 5) has a nonstraddle seat or saddle; and
- 6) has a steering wheel for steering control.

IOWA

"All-terrain vehicle" means a motorized vehicle with not less than 3 and not more than 6 nonhighway tires that is limited in engine displacement to less than 1,000 cc and in total dry weight to less than 1,200 lbs. and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

"Off-road utility vehicle" means a motorized vehicle with 4-8 nonhighway tires or rubberized tracks, less than 1,500 cc, total drive weight to not more than 2,000 lbs., has a seat that is of bucket or bench design, not intended to be straddled by the operator and a steering wheel or control levers for control.

KANSAS

"All terrain vehicle" means any motorized nonhighway vehicle 50" or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires, having a seat designed to be straddled by the operator. As used in this subsection, nonhighway tire means any pneumatic tire 6" or more in width, designed for use on wheels with rim diameter of 14" or less.

"Recreational off-highway vehicle" means any motor vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires, having a nonstraddle seat and steering wheel for steering control.

MASSACHUSETTS

"All-Terrain Vehicle" means a motorized recreational vehicle designed or modified for travel on 4 low pressure tires and having a seat designed to be straddled by the operator and handlebars for steering control.

Recreation Utility Vehicle or Utility Vehicle: A motorized flotation tire vehicle with not less than 4 and not more than 6 low pressure tires that is less than 1,500 cc, not more than 1,800 lbs. in total dry weight, a seat that is of bench design not intended to be straddled by the operator and a steering wheel for control.

MISSOURI

"All-terrain vehicle" means any motorized vehicle manufactured and used exclusively for off-highway use which is 50" or less in width, with an unladen dry weight of 1,500 pounds or less, traveling on 3, 4 or

more non-highway tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control.

“Recreational off-highway vehicle”, any motorized vehicle manufactured and used exclusively for off-highway use which is 64” or less in width, with an unladen dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires, with a nonstraddle seat, and steering wheel, which may have access to ATV trails.

NEBRASKA

"ATV" means any motorized off-highway vehicle which is (1) 50" or less in width, (2) has a dry weight of 900 lbs. or less, (3) travels on 3 or more low-pressure tires, (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control.

Utility-type vehicle means any motorized off-highway device which:

- a) is not less than 48” nor more than 74” in width,
- b) is not more than 135”, including the bumper, in length,
- c) has a dry weight of not less than 900 pounds nor more than 2,000 pounds,
- d) travels on 4 or more low-pressure tires, and
- e) is equipped with a steering wheel and bench or bucket-type seating designed for at least 2 people to sit side-by-side.

Utility-type vehicle does not include golf carts or low-speed vehicles.

NEW MEXICO

"All-terrain vehicle" means a motor vehicle 50" or less in width, having an unladen dry weight of 1,000 pounds or less, traveling on 3 or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control.

Recreational off-highway vehicle means a motor vehicle designed for travel on 4 or more non-highway tires, for recreational use by one or more persons, and having:

- a) a steering wheel for steering control;
- b) non-straddle seating;
- c) maximum speed capability greater than 35 mph;
- d) gross vehicle weight rating no greater than 1,750 lbs.;
- e) less than 80" in overall width, exclusive of accessories;
- f) engine displacement of less than one thousand cubic centimeters; and;
- g) identification by means of a 17-character vehicle identification number.

NORTH DAKOTA

(39-29-01)

"Off-highway vehicle" means any wheeled motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:

Class II off-highway vehicle is less than fifty inches { 1270.00 millimeters } in width, travels on three or more low-pressure tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control.

Class III off-highway vehicle weighs less than eight thousand pounds, travels on four or more tires, has a seat and a wheel for steering control, and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless registered by the department under chapter 39-04.

OKLAHOMA

"All-terrain vehicle" means a vehicle manufactured and used exclusively for off-highway use, traveling on four or more non-highway tires, and having a seat designed to be straddled by the operator and handlebars for steering.

"Recreational off-highway vehicle" means a vehicle manufactured and used exclusively for off-highway use, traveling on four or more non-highway tires, having non-straddle seating and which is steered by a steering wheel.

OREGON

"Class I all-terrain vehicle" means a motorized off-highway recreational vehicle 50" or less in width with a dry weight of 1,200 lbs. or less that travels on 3 or more pneumatic tires that are 6" or more in width and that are designed for use on wheels with a rim diameter of 14" or less, uses handlebars for steering, has a seat designed to be straddled for the operator and is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain.

"Class II all-terrain vehicle" means any motor vehicle that:

- a) Weighs more than or is wider than a Class I ATV;
- b) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;
- c) Is actually being operated off a highway; and
- d) Is not a Class IV all-terrain vehicle.

"Class III all-terrain vehicle" means a motorcycle that travels on two tires and that is actually being operated off highway.

"Class IV all-terrain vehicle" means any motorized vehicle that:

- a) Travels on four or more pneumatic tires that are 6" or more in width and that are designed for use on wheels with a rim diameter of 14" or less;
- b) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;
- c) Has nonstraddle seating;
- d) as a steering wheel for steering control;
- e) Has a dry weight of 1,800 pounds or less; and
- f) Is 65" wide or less at its widest point.

TEXAS

"All-terrain vehicle" means a motor vehicle that is:

- a) Equipped with a saddle for the use of:
 - (1) The rider; and
 - (2) A passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
- b) Designed to propel itself with three or four tires in contact with the ground;

- c) Designed by the manufacturer for off-highway use by the operator only; and
- d) Not designed by the manufacturer for farming or lawn care.

"Recreational off-highway vehicle" means a motor vehicle that is:

- (A) equipped with a non-straddle seat for the use of:
 - (i) the rider; and
 - (ii) a passenger, if the vehicle is designed by the manufacturer to transport a passenger;
- (B) designed to propel itself with four or more tires in contact with the ground;
- (C) designed by the manufacturer for off-highway use by the operator only; and
- (D) not designed by the manufacturer primarily for farming or lawn care.

UTAH

"All-terrain type I vehicle" means any motor vehicle 52" or less in width, having an unladen dry weight of 1,500 lbs. or less, traveling on 3 or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

"All-terrain type II vehicle" means any other motor vehicle, except all-terrain type I vehicles, motorcycles and snowmobiles, designed for or capable of travel over unimproved terrain; includes "Class A side-by-side vehicle" which means any motor vehicle 65" or less in width, having an unladen dry weight of 2,000 lbs. or less, traveling on 4 or more non-highway tires, and designed for or capable of travel over unimproved terrain; does not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors.

WEST VIRGINIA

"All-terrain vehicle" means any motor vehicle, designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer to be used by a single operator or by an operator and no more than one passenger.

Utility terrain vehicle means any motor vehicle with four or more low-pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control.

WISCONSIN

"All-terrain vehicle" means an engine-driven device which has a net weight of 900 lbs. or less, which is originally manufactured with a width of 50" or less, which is equipped with a seat designed to be straddled by the operator and which is designed by the manufacturer to travel on 3 or more low-pressure tires.

"Utility terrain vehicle" means:

- a) Motor driven device that does not meet federal motor vehicle safety standards in effect on 7/1/12, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with, all of the following:
 - (1) Net weight of less than 2,000 pounds.
 - (2) Four or more low-pressure tires.
 - (3) Cargo box installed by the manufacturer.
 - (4) Steering wheel.

- (5) Tail light.
 - (6) Brake light.
 - (7) Two headlights.
 - (8) Width of not more than 65”.
 - (9) Seats for at least 2 occupants, all of which seating is designed not to be straddled.
 - (10) System of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
 - (11) System of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device; or
- b) Motor driven device that has net weight of more than 900 pounds, that is originally manufactured with width of 50” or less, that is equipped with a seat designed to be straddled by the operator, and that is designed by the manufacturer to travel on 3 or more low-pressure tires.

Definitions in Surrounding States

Delaware

"Off-highway vehicle" means a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a motorcycle or related 2-wheel vehicle, an amphibious machine, a ground effect air-cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. "OHV" does not include a farm vehicle being used for farming, a vehicle used for military, fire emergency or law enforcement purposes, a construction or logging vehicle used in performance of its common function or a registered aircraft. However, nothing in this chapter shall be construed to include snowmobiles.

Maryland

Off-road vehicle means a motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain and includes: 4-wheel drive or low-pressure tire vehicle, motorcycle or related 2-wheel vehicle, amphibious machine, ground-effect vehicle, and air-cushion vehicle.

North Carolina

"All-terrain vehicle" - A motorized off-highway vehicle designed to travel on three or four low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control.

Pennsylvania

"All-Terrain Vehicle" or "ATV":

A motorized off-highway vehicle which travels on three or more inflatable tires and which has:

- (1) a maximum width of 50 inches and a maximum dry weight of 1,000 pounds; or
- (2) a width which exceeds 50 inches or a dry weight which exceeds 1,000 pounds. ATV's described in paragraph (1) may be referred to as Class I ATV's, and ATV's described in paragraph (2) may be referred to as Class II ATV's. This term does not include snowmobiles, trail bikes, motorboats, golf carts, aircraft, dune buggies, automobiles, construction machines, trucks or home utility machines; military, fire, emergency and law enforcement vehicles; implements of husbandry; multipurpose agricultural vehicles; vehicles used by the department; or any vehicle that is, or is required to be, registered under Chapter 13 (relating to registration of vehicles). In addition, this term does not include off-road motor vehicles used exclusively as utility vehicles for agricultural or business operations and incidentally operated or moved upon the highway.

West Virginia

"All-terrain vehicle" means any motor vehicle, designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and

handlebars for steering control and intended by the manufacturer to be used by a single operator or by an operator and no more than one passenger.

Utility terrain vehicle means any motor vehicle with four or more low-pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control.

Appendix F:
Specially Constructed Vehicle Review Template

Specially Constructed Vehicle Review and Summary

| | |
|---|---|
| Vehicle Type: | Date(s) of Review : |
| Definitions: | |
| Description: | |
| Background Information: | |
| Stakeholders Represented: | |
| Recommendations: | |
| Attachments: | |
| Relevant Code Sections: Y ____ or N ____ | Pictures: Y ____ or N ____ |
| Safety Stats : Y ____ or N ____ | Information from other Jurisdictions: Y ____ or N ____00 |

| Area of Review | Current Practice | Relevant Code Sections | Notes/Concerns | Recommendations |
|----------------|------------------|------------------------|----------------|-----------------|
|----------------|------------------|------------------------|----------------|-----------------|

| | | | | |
|--|--|--|--|--|
| <u>Vehicle Safety:</u> | | | | |
| Federal Motor Vehicle Safety Standards Certified | | | | |
| State Safety Inspection Requirements | | | | |
| Federal Motorcycle Safety Standards | | | | |
| Other Jurisdictions | | | | |
| <u>Driver Licensing:</u> | | | | |
| License Required | | | | |
| License Requirements | | | | |
| License Restrictions | | | | |
| Driver Testing Requirements | | | | |
| <u>Operator Safety</u> | | | | |
| Noted Safety Concerns | | | | |
| Safety Standards Required | | | | |
| Helmets | | | | |

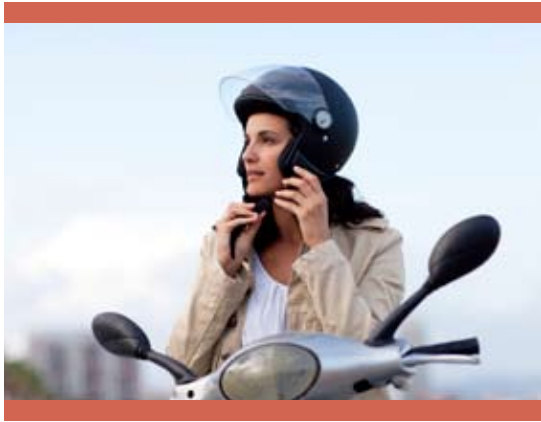
| Area of Review | Current Practice | Relevant Code Sections | Notes/Concerns | Recommendations |
|----------------|------------------|------------------------|----------------|-----------------|
|----------------|------------------|------------------------|----------------|-----------------|

| | | | | |
|--|--|--|--|--|
| Goggles | | | | |
| Windshield | | | | |
| Seatbelts | | | | |
| Other: | | | | |
| Other Jurisdictions | | | | |
| <u>Travel Restrictions:</u> | | | | |
| Travel On Road or Off Road Only | | | | |
| Travel speed restrictions | | | | |
| Any Other Travel Route Restrictions (Secondary or Smaller Roads) | | | | |
| HOV Access | | | | |
| Other Jurisdictions | | | | |
| <u>Law Enforcement:</u> | | | | |
| Issues/Concerns: | | | | |
| Salvage Exam Required? | | | | |

| Area of Review | Current Practice | Relevant Code Sections | Notes/Concerns | Recommendations |
|----------------|------------------|------------------------|----------------|-----------------|
|----------------|------------------|------------------------|----------------|-----------------|

| | | | | |
|---|--|--|--|--|
| <u>Legal Impact</u> | | | | |
| Code Sections Impacted | | | | |
| Legislation Needed? If Yes, Explain | | | | |
| Administrative Policy Changes | | | | |
| <u>Safety Data</u> | | | | |
| Is Safety Data Currently Collected? What Data is collected? | | | | |
| Changes in Safety Data Collection and Analysis | | | | |
| <u>Vehicle Registration</u> | | | | |
| Able to be registered? | | | | |
| Insurance Requirements | | | | |
| Other Jurisdictions | | | | |
| <p>Overall Concerns:</p> <p>Key Discussion Points:</p> | | | | |

Appendix G:
DMV Moped Brochure



Safety Tips

Wear safety equipment: Moped drivers and passengers are encouraged to wear Virginia State Police-approved helmets and other proper clothing. Avoid sandals, shorts and short sleeves. Consider wearing gloves and a riding jacket to increase your protection. Do not carry more people at one time than the number the moped is designed or equipped to carry.

Be observant: Keep an eye on your surroundings. Make sure you have both side mirrors and angle them so you can see the most possible area behind you. It is against the law for any person to operate a moped while using earphones on or in both ears.

Ride defensively: Don't be aggressive; mopeds are smaller than most other vehicles sharing the road. Night riding is not recommended, but if necessary, wear bright colored clothing, reflective strips on your jacket and your helmet and keep your headlight in good working order.

Take a training course: Many driver training schools in Virginia offer courses specific to mopeds. Visit www.dmvNOW.com/mopeds to find out about a driver training course near you.

Moped Requirements

- ▶ Wear a helmet
- ▶ Use eye-protection if no windshield
- ▶ Carry a government-issued photo ID while riding (does not have to be a driver's license)
- ▶ Title and register by July 1, 2014
- ▶ Do not operate over 35 mph

Make it Personal

Personalize your moped plate for \$10 in addition to the registration fee.

Six characters: endless possibilities.



DMV
www.dmvNow.com
 Virginia Department of Motor Vehicles
 Post Office Box 27412
 Richmond, Virginia 23269-0001
 (804) 497-7100

A New Window is *Now* Open

DMV 264 (07/19/2013)
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 Department of Motor Vehicles
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Please recycle.

Mopeds in Virginia



The Basics

The following provisions apply to mopeds operating on Virginia roadways. They do not apply to mopeds that are **solely** operated on private property.

- ▶ In Virginia, you must be at least age 16 to drive a moped.
- ▶ Effective July 1, 2013, Virginia law requires every moped driver operating on Virginia roadways to carry a government-issued photo ID (does not have to be a driver's license) and every driver and passenger must wear a helmet* while riding a moped. Drivers must also wear a face shield, safety glasses or goggles unless the moped has a windshield.
- ▶ Operation of mopeds is prohibited on the interstate.
- ▶ If your driving privileges are suspended or revoked based on a DUI-related conviction or as a habitual offender, you must be in full compliance with all requirements imposed by DMV and the court before operating a moped.
- ▶ Customers with outstanding fines for HOT lane or toll violations cannot register any motor vehicle, including mopeds, until those fines have been paid.



*Virginia State Police-approved helmet required for moped riders. Helmets should meet or exceed the standards and specifications of the Snell Memorial Foundation, the American National Standards Institute, Inc., or the U.S. Department of Transportation.

Titling and Registration

Virginia law requires mopeds operated on Virginia roadways to be titled and registered by July 1, 2014.* A title is \$10. The annual registration fee is \$20.25.

DMV will issue one license plate per moped to be placed on the rear of the vehicle.



When registering moped, customers will fill out a Moped Certification (DMV form VSA 31) indicating how you intend to operate the vehicle.

DMV will **not** require/collect the following for mopeds:

- ▶ Hybrid fee
- ▶ Insurance
- ▶ Odometer reading
- ▶ Safety inspection
- ▶ Sales and use tax (You will still have to pay retail sales tax if you purchase a moped in Virginia. Mopeds are exempt from personal property tax.)

Power-assisted vehicles operated 25 mph or less on Virginia roadways with a speed limit of 25 mph or less are exempt from the above requirements; however, if a power-assisted vehicle is operated in excess of 25 mph, it is considered a moped and you would be required to register and comply with all applicable laws.

If a moped is operated in excess of 35 mph it is considered a motorcycle. You would be required to comply with all vehicle registration, insurance and inspection requirements, and driver-licensing laws.

* Your locality may require registration in addition to these requirements. Every moped rider, even if a temporary resident of Virginia, must meet the above requirements if you intend to operate your moped on Virginia roadways, even if not required in your home state.

Documentation

To register mopeds, owners should bring to DMV the ownership document (title or manufacturers certificate of origin) that came with the vehicle purchase.

Customers without an ownership document can bring in documentation such as a bill of sale with a completed Moped and All-Terrain Vehicle Affidavit in Lieu of Title Certificate (DMV form VSA 12M). VSA 12M forms can be printed online at www.dmvNOW.com or are available at the information desk at any DMV or DMV Select office.

Customers without documentation can call DMV at (804) 497-7100 for assistance.

Traffic Laws

Generally, drivers operating a moped must abide by the same traffic laws as the drivers of any other motor vehicles; however, there are some rules specific to mopeds.

Red lights: A moped operator may proceed through the intersection on a steady red light if the driver does ALL of the following:

- ▶ Comes to a full and complete stop at the intersection for two complete cycles of the traffic light or for two minutes, whichever is shorter

- ▶ Treats the traffic control device as a stop sign
- ▶ Determines that it is safe to proceed
- ▶ Yields the right of way to the driver of any vehicle approaching from another direction.

Turning: You must signal to turn or stop when riding a moped. If your moped does not have a mechanical turn signal, signal by hand. Moped drivers must comply with traffic signs or signals and should approach and complete the turn as close as safely possible to the right curb or edge of the roadway.

Speed: Moped drivers should ride as close as safely possible to the right curb or edge of the roadway when traveling at less than normal speed on Virginia roadways, except under the following circumstances:

- ▶ When passing another vehicle proceeding in the same direction
- ▶ When turning left at an intersection or into a private road or driveway
- ▶ When reacting to conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right curb or edge
- ▶ When avoiding riding in a lane that must turn right
- ▶ When riding on a one-way road or highway, a person may also ride as near the left-hand curb or edge of the roadway

Appendix H:
Written Response to Report

Virginia Motorcycle Dealers Association

1011 East Main Street, Suite LL 90, Richmond, VA 23219

Phone and Fax 804-648-0357

charfinley@mindspring.com

*Charlie F. Finley, Jr. CAE
Executive Vice President*

The Honorable Rick Holcomb
DMV Commissioner
2300 West Broad Street
Richmond VA 23220-0999

October 21, 2013

Dear Mr. Holcomb,

First off, I would like to commend your staff —especially Janet Smoot—for the excellent job they have done this year convening the task forces dealing with the various non-conventional vehicles. She asked us to respond by this date stating that we had read the 40+page report.

With regard to Item #5 beginning on page 15 dealing with the taxation of ATVs, Off-road motorcycles and Mopeds, we note that on page 18 the report states that the group decided not to recommend any changes in the methods of taxation. In a task force as diverse as those you assembled we understand it may be sometimes impossible to reach a unanimous decision and the report must go forward by “consensus.” In our case we have tried over the past two years to show that Virginia is losing tax dollars by not changing the tax on these three types of vehicles to a titling tax, instead of the retail sales tax. We estimate that at least 20% of those purchasing these units can effectively go out of state to make their purchases and bring them back into Virginia without paying any tax. We continue to feel that in all fairness, this is a loophole that must be closed.

During the 2013 Session of the General Assembly we provided you with data taken from our franchised dealers in Virginia substantiating the position to change the retail sales tax to the titling tax. We had sponsors for this effort but due to several “miscues” in the House Transportation Committee and the fact that our bill was not correctly sent to House Appropriations before their last meeting, the bill failed. I have also attached a letter we sent to Delegate May this spring before his defeat in the Republican Primary. He had experienced personally the ability for Virginia residents to “go out of state to make their purchases” without paying any tax. He also confided that he did not yield to this temptation and correctly paid his legal taxes on a piece of farm equipment. Thus, we seem to be back at square one and are currently debating whether to pursue this legislation again in 2014.

We are aware of the many changes ahead with a new governor et al., but would like to keep our options open. I hope you will be supportive of this effort if we follow that path; several legislators have already agreed to sponsor legislation for us. Indeed, the report notes that it may be too soon to consider these changes, and that may be the case. At some point the “out of state loophole” needs to be closed for the good of the Commonwealth. We will keep you posted on our efforts.

Sincerely,

Charles F. Finley, Jr.
Executive Vice President.