

SUBJECT: Allowing all-terrain vehicles on public roadways for agricultural purposes

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 6 ayes — Swinford, McReynolds, Christian, Miller, B. Brown, Green

0 nays

3 absent — Hardcastle, Hupp, Kolkhorst

WITNESSES: For — Ken Hodges, Harold Stone, Texas Farm Bureau; Phil Ryan

Against — None

On — Clifton R. Burdette, Texas Department of Public Safety

BACKGROUND: Transportation Code, sec. 663.037 restricts the use of all-terrain vehicles (ATVs) on public roadways, except for crossings. ATVs may cross any public road that is not an interstate or a limited-access highway. A limited-access highway, typically an interstate or freeway, is accessible only at certain designated locations and has no crossing streets or crossovers. Limited-access highways have no right of access from abutting property.

Sec. 663.031 requires operators of ATVs on public property, such as parks, to have safety certificates issued by the state or be enrolled in safety training courses. Sec. 663.033 requires various safety features on ATVs used on public property, including brakes, mufflers, headlights, tail lights, and spark arresters.

Agriculture Code, sec. 52.002 defines agricultural products as horticultural, viticultural, forestry, dairy, livestock, poultry, bee products, and any farm and ranch product.

Transportation Code, secs. 502.276, 502.351, 502.355, 547.371, 547.372, and 545.361 set forth various requirements for the public roadway operation of agricultural machinery and equipment, such as farm tractors, including lights and speed limits.

DIGEST: CSHB 651 would allow ATVs to operate on public streets, roads or highways, other than interstate or limited-access highways, if they were being used in connection with agricultural purposes.

The operator would have to be licensed to drive in Texas and be using the ATV in the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling or use of agricultural products as defined in Agriculture Code, sec. 52.002. An eight-foot-long pole topped by a triangular orange flag would have to be attached to the back of the ATV. The Department of Public Safety (DPS) would be required to adopt standards and specifications for the color, size, and mounting position of the flag.

The bill would take effect September 1, 2001.

SUPPORTERS SAY: CSHB 651 would help agricultural producers conduct their daily business without worry of penalty. ATVs are becoming increasingly popular with farmers and ranchers. Though designed for off-road recreation, they are useful for hauling small loads, feeding livestock, checking fences, and monitoring irrigation. Doing so often requires operators briefly to traverse public roadways for short distances to access different areas of their farm or ranchland otherwise inaccessible. Farmers and ranchers should not be subject to citations for moving violations or limited to crossing public roadways simply for using an ATV in the course of making a living.

HB 651 would create a safe, legal, and limited use for a more and more common rural practice. The licensing requirement would deter under-age and unauthorized operators, and the flagpole requirement would provide a safety mechanism to warn drivers in oncoming traffic to take necessary precautions.

Allowing ATVs on public roadways would make operators subject to existing laws governing use of ATVs on public property. Consequently, drivers would have to take safety certification courses; carry safety certificates with them while driving an ATV; wear helmets and goggles or safety glasses; not drive recklessly; and not carry passengers.

ATVs used in agriculture would be on the roads almost exclusively during daylight hours and for short periods of time. They would operate mostly in

rural areas on roads with low traffic volumes, thereby reducing safety hazards and limiting dangerous driving situations. Some ATVs can reach speeds of up to 50 mph, which should allow them to enter and exit traffic without significant disruption if operated properly.

OPPONENTS
SAY:

CSHB 651 would create dangerous traffic situations and potentially serious enforcement problems by allowing ATVs on the public roadways.

ATVs are not designed for roadway driving and should not be driven in high-speed traffic with cars and trucks. They do not have the same safety features as conventional vehicles. With top speeds of only 50 mph, they are not fast enough to share highways with faster vehicles. Mixing them may create difficult and unexpected driving situations that neither ATV operators nor conventional motorists are prepared to handle. This would increase the likelihood of more traffic accidents, injuries, and deaths. Some of the worst car wrecks occur in rural areas where high speed traffic traveling on highways or sparsely traveled backroads unexpectedly encounters slower-moving local vehicles.

Giving ATVs roadway access would create another enforcement responsibility for state and local peace officers. DPS may have to undertake an education program to explain the new law to the public. But because most agricultural use of ATVs would occur on county and farm-to-market roads, most enforcement likely would be performed by local authorities, who may be more reluctant to issue citations.

The bill specifically would not apply existing statutory requirements for ATV operation on public property to agricultural-related roadway use. This would create two classes of ATV operators and place the least amount of regulation where it is needed most. ATVs driven on public roads should have at least the same restrictions and requirements as those used in parks, if not more.

The agricultural-purpose exemption is ambiguous and would be difficult for law enforcement officers to refute were citations challenged in court, where the state has the burden of proof. Recreational users would find ways to exploit it, leading to abuse. Creating a loophole for farmers and ranchers

could lead to more exceptions for other ATV operators who believed their uses were equally legitimate.

Farmers and ranchers already have access to their fields and pastures using conventional vehicles. ATVs are fine for moving between adjacent tracts of land, but they would be inappropriate and unnecessary for traversing public roads and inevitably would be used for the operators' convenience.

OTHER
OPPONENTS
SAY:

If ATVs were going to be allowed on public roadways for agricultural purposes, they should be required to adhere to the same or similar regulations as farm tractors, including restrictions on speed and requirements for extra safety features. The bill also should clarify that ATV operators on public roadways should have to meet the same certification and safety equipment standards as are required for ATVs used on public property.

NOTES:

The original bill did not specify that ATV operators driving on public roadways be licensed drivers.