

RESOLUTION NO. 4963

**A RESOLUTION OPPOSING THE PROPOSED CHANGES TO TITLE 13
OF THE ALASKA ADMINISTRATIVE CODE TO ALLOW USE OF ATVs
AND SNOWMOBILES ON PUBLIC ROADWAYS UNTIL A
COMPREHENSIVE STUDY IS DONE**

WHEREAS, the State of Alaska Department of Public Safety has proposed regulation changes to allow the use of ATVs and snowmobiles on roadways; and

WHEREAS, the proposed regulation changes have raised some significant public safety and administrative concerns with the City of Fairbanks; and

WHEREAS, the City Administration sent a letter on April 5, 2021 to the Director of the Alaska Wildlife Troopers expressing concern with the proposed changes; and

WHEREAS, on April 14, 2021, FAST Planning sent a letter to the Alaska Department of Administration and to the Director of the Alaska Wildlife Troopers expressing concerns with the proposed regulations (Attachment A); and

WHEREAS, ATVs and similar vehicles are not equipped with sufficient safety equipment including personal restraints and adequate directional lighting; and

WHEREAS, snow removal operations use large equipment such as graders, blowers, and dump trucks, which can be hazardous to motorists who follow too closely or who try to overtake equipment, and there is a public safety concern for those travelling on smaller vehicles such as ATVs and snowmobiles; and

WHEREAS, drivers of ATVs and snowmobiles may not be accustomed to following normal traffic laws, which may increase traffic violations and accidents, and more traffic and parking enforcement will be needed; and

WHEREAS, if ATVs and snowmobiles are allowed to operate on roadways, the vehicles should be registered and insured like other vehicles.

NOW, THEREFORE, BE IT RESOLVED that the Fairbanks City Council opposes the proposed changes to Title 13 of the Alaska Administrative Code to allow the use of ATVs and snowmobiles on public roadways until a comprehensive study can be done to ensure the safety and welfare of Alaska residents.

PASSED and **APPROVED** this 12th day of April 2021.

Jim Matherly, Mayor

AYES:
NAYS:
ABSENT:
POSTPONED INDEFINITELY: April 12, 2021

ATTEST:

APPROVED AS TO FORM:

D. Danyielle Snider, MMC, City Clerk

Paul Ewers, City Attorney

POSTPONED INDEFINITELY



April 14, 2021

To: Alaska Wildlife Troopers Alaska Department of Administration
Director's Office Attn. Jenna Wright
5700 E. Tudor Road 3901 Old Seward Highway, Suite 10
Anchorage, Alaska 99507 Anchorage, Alaska 99503

Subject: **Notice of Proposed Changes on the Use of ATVs and Snowmobiles on Roads in the Regulations of the Department of Public Safety**

To whom it may concern:

Fairbanks Area Surface Transportation (FAST) Planning is the State-designated Metropolitan Planning Organization (MPO) for the Fairbanks and North Pole area and supports local and statewide policy, programmatic, and infrastructure improvements that improve safety of all users of the transportation network. We recognize that off-highway vehicles fill the basic mobility needs of some Alaska residents, particularly in rural and remote locales, and has considerable contributions to tourism and our State and local economies. We also recognize that Title 13 of Alaska Administrative Code, Chapter 2, Section 455 (13 AAC 02.455) for operation of snowmobiles and other off-highway vehicles on highways has not been updated since 1979 and should be revised to reflect current practice and the needs of communities Statewide. However, the changes as proposed in the Public Notice are likely to have effects beyond issues related to enforcement and necessitates a meeting of relevant and affected agencies to jointly author the changes. Therefore, FAST Planning encourages the Alaska Department of Public Safety (DPS) to withdraw the proposed changes until a working group has been established and changes to Title 13 of the AAC can be done in a comprehensive and equitable manner that maintains the safety of the traveling public.

Some topics FAST Planning recommends the working group discuss are as follows:

Safety Data & Implications

- The proposed changes are contrary to the recommendations of the Alaska Strategic Highway Safety Plan 2018-2022 (SHSP), which highlights strategies and actions to reduce the number of all-terrain vehicle (ATV) and snowmobile fatal and serious injury crashes Statewide.
- Development of the SHSP was led by the Alaska Department of Transportation & Public Facilities (DOT&PF) and a 55-member Steering Committee, including representatives of the Alaska DPS, and meant to affect and be relevant to all State agencies.

- The most recent five-year averages of fatalities and serious injuries involving ATVs and snowmobiles exceed the goals of the SHSP and are trending upward.
- The University of Alaska Fairbanks recently completed a study in 2019 titled *Safety Evaluation of Statewide Off-Highway Vehicle Use in Alaska*¹ with funding from the Alaska DOT&PF and Pacific Northwest Transportation Consortium, and significant findings from this study included:
 - The Alaska Trauma Registry indicates that 25% of the 1,352 incidents involving ATVs and 18% of the 936 incidents involving snowmobiles occurred on highways and other public roads between 2009 and 2014;
 - Alaska Department of Motor Vehicles (DMV) records indicate that there was a total of 317 off-highway vehicle incidents on roadways, 20% of which involved children 16 years of age or younger between 2012 to 2017;
 - There were 120 reported on-road crashes involving off-highway vehicles in the Alaska DMV crash database in 2016 and an average of 80 reported crashes per year between 2000 and 2016, and Alaska has previously seen years where the number of snowmobile fatalities on public roadways exceeded the number of fatalities in conventional automobiles;
 - Locations were identified where as many as 60 off-highway vehicles used or crossed a highway in a single day; and
 - Of the 447 total observations, 53% were observed to be using the road unlawfully of which only 30% were observed to be wearing helmets and 17% were carrying passengers on vehicles that were not intended for passengers.
- National data suggests that on-road off-highway vehicle crash victims are twice as likely to incur major trauma as compared to off-road crash victims, and on-road fatalities involving off-highway vehicles are 77% more likely to involve alcohol and 44% less likely to have had the operator wearing a helmet than off-road incidents resulting in fatality².
- National data also shows ATV crashes on roads account for over 60% of ATV-related fatalities and over 30% of ATV-related serious injuries³.

¹ Belz, N. (2019). Safety Evaluation of Statewide Off-Highway Vehicle Use in Alaska: Crash Review, On- and Off-Road System Use and Conflict Evaluation. DOT&PF Report No. NFWY00082, USDOT Report No. 400180. <http://dot.alaska.gov/stwddes/research/assets/pdf/4000-180.pdf>

² Denning, G., Jennissen, C., Harland, K., Ellis, D., & Buresh, C. (2013). All-Terrain Vehicles (ATVs) on the Road: A Serious Traffic Safety and Public Health Concern. *Traffic Injury Prevention*, 14(1), 78–85. <https://doi.org/10.1080/15389588.2012.675110>

³Denning, G., Jennissen, C., Harland, K., & Ellis, D. (2012). More Fatal All-terrain Vehicle Crashes Occur On the Roadway than Off: Increased Risk-taking Characterizes Roadway Fatalities. *Injury Prevention*. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3717765/>

Local Government Control

- The proposed changes include a provision to allow municipalities to prohibit snowmobiles or all-purpose vehicles from using roadways, but the usability of this provision raises some questions:
 - In Fairbanks, for example, the City of Fairbanks and City of North Pole have road powers and Police Departments to enforce local traffic code within their City Limits; however, the Fairbanks North Star Borough is a 2nd Class Borough and does not have road or

police powers and cannot use the provision to prohibit snowmobiles or all-purpose vehicles from using roadways without taking on duties against the will of the voters and exceeding statutory limitations. Many other Borough governments throughout the State face this same challenge, making this provision useful to only a few municipalities.

- Most of the State is unincorporated and communities in unincorporated areas could not use this provision.
- Some municipalities may be successful in using this provision if their legislative bodies adopt new Ordinances; however, the topic may be very controversial with their residents and fail to advance despite what safety data demonstrates and other implications with respect to driver licensing, insurance requirements, and adaptations to make ATVs and snowmobiles “street legal.”

Vehicle Registration, Driver License, & Insurance Requirements

- Title 28 of Alaska Statute (AS) requires all motor vehicles driving on a highway or other public parking place be registered; however, driver licenses are not required for operators of snowmobiles or other off-highway vehicles. AS 28.15.011(b) states “Every person exercising the person's privilege to drive, or exercising any degree of physical control of a motor vehicle upon a highway, vehicular way or area, or other public property in this state, is required to have in the possession of the person a valid Alaska driver's license issued under the provisions of this chapter for the type or class of vehicle driven, unless expressly exempted by law from this requirement.” AS 28.15.021(5) states “The following persons are exempt from driver licensing under this chapter: A person when driving or operating an off-highway vehicle, watercraft, aircraft, or other vehicle not designed for highway use as specified by the department by regulation.” Without a change to Title 28 of Alaska Statute (by the Legislature), the supplementary public notice for changes to 02 AAC 90.210 to add the term “all-purpose vehicle” to the Class D license still does not make driver licenses required. The “Questions & Answers” posted at <https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=201929> are erroneous and misleading by stating operators of snowmobiles and all-purpose vehicles are required to have driver licenses, registration, and insurance based on our interpretation of the law and regulations.
- At a minimum, this Statute and 02 AAC 90.210 would need to be amended to explicitly require operators of snowmobiles or other off-highway vehicles obtain a driver license (Class D or R) to travel on a public roadway. Currently provisions only exist for a Class R driver license where municipalities allow them to operate on public roads through an Ordinance conforming to AS 28.01.010. Similar to Class M driver licenses for motorcycles, Class D or R would also need to establish provisions for operators of snowmobiles/ATVs for age requirements (i.e. minimum 16 years old), written knowledge exam, vision test, on-road skills test or completion of a snowmobile/ATV safety education course (which the State does not yet have established), and proof of motor vehicle liability insurance meeting the State’s minimum requirements for operating on a public roadway in accordance with AS 28.22.019.

Adaptations to Make ATVs & Snowmobiles “Street Legal”

- Another issue that would need to be addressed is adapting snowmobiles and other off-highway vehicles to be “street legal” or “roadworthy” for use on public roadways. Some provisions exist

in 13 AAC 04 for lights, reflectors, brakes, and other equipment, but ATVs do not meet U.S. DOT standards for tires and rims, lack a rear differential, have a narrow wheelbase, high center of gravity, and are prone to rollover at high speeds. Snowmobiles have skis that are not suitable for turning on smooth, plowed surfaces and some have carbide runners that can be more damaging to pavement than studded tires on motor vehicles. And, the snowmobiles and ATVs on the market today are not subject to the same emissions standards and testing requirements as conventional automobiles. Other considerations should be made for minimum top speeds, turn signals, helmet use, and flags at least six feet off the ground for better visibility to drivers.

- It should also be acknowledged that snowmobiles and other off-highway vehicles do not accelerate, stop, or turn like motor vehicles do on roadways, and roadways and their traffic control devices are designed specifically for efficient and safe movements of motor vehicle traffic (not for snowmobile/ATV traffic). For example, low-pressure tires are prone to coming completely off the rim if the brakes are applied at high rates of speed on paved surfaces. Specialized “street-legal” tires designed specifically for use on pavement would be necessary to ensure safety of the operator and that the vehicle could come to a complete stop in a reasonable distance. Snowmobiles also do not have adequate braking distance on surface types such as hard-packed snow, ice, and pavement unless they have “picks” which cause significant damage to pavements and related surfaces. These factors could create confusion on public roadways and lead to sharp increases in snowmobile/ATV fatal and serious injury crashes, especially with young drivers of snowmobile and ATVs that are currently allowed to operate these off-highway vehicles without a license.
- The Specialty Vehicle Institute of America (SVIA), a not-for-profit association representing ATV manufacturers and dealers, has a strong policy statement against the use of ATVs on public roads. A training manual for ATV riders from the ATV Safety Institute, a division of SVIA, states “Remember, ATVs are intended for off-road use only. Never operate an ATV on public roads, and always avoid paved surfaces. ATVs are not designed for use on public roads and other motorists may not see you. ATVs are not designed to be used on paved surfaces because pavement may seriously affect handling and control⁴.”
- SVIA also makes clear that ATVs are designed, manufactured and sold for off-road use only. On-road vehicles must be manufactured and certified to comply with U.S. Department of Transportation Federal Motor Vehicle Safety Standards. These safety standards consist of extensive and detailed compliance requirements. Since ATVs are not intended to be used on-road, they are not designed, equipped or tested to meet such standards⁵.
- All of the above could have significant cost implications to manufacturers, private businesses, consumers, and the State, as well as jeopardize federal highway funding opportunities for communities Statewide.

⁴ Tips and Practice Guide for the All-Terrain Vehicle Rider, ATV Safety Institute.

http://atvsafety.org/downloads/ATV_Riding_Tips.pdf

⁵ Specialty Vehicle Institute of America, Position in Opposition to On-Road Operation of ATVs.

<http://www.svia.org/Downloads/PositionPaperOpposingOn-RoadUse.pdf>

Links between Federal Funding & Transportation Actions

- In accordance with Section 490 of Title 23 of the Code of Federal Regulations (23 CFR 490) the State of Alaska (through the Alaska DOT&PF and Alaska Highway Safety Office) is required to establish performance measures and targets for the Highway Safety Improvement Program (HSIP). The most recent targets for 2021 (attached) approved by the Alaska DOT&PF Commissioner were ≤75 fatalities and ≤330 serious injuries on public roads Statewide. The proposed regulation changes will undoubtedly increase in the number of fatalities and serious injuries on roads Statewide, and State DOTs that have not met or made significant progress toward meeting their targets must: (1) Use a portion of their obligation authority only for HSIP projects, and (2) submit an annual implementation plan that describes actions the State DOT will take to meet their targets. This would not only reduce the flexibility of how the Alaska DOT&PF programs its federal highway funds, but also create a time-intensive and costly burden for the Alaska DOT&PF and Alaska Highway Safety Office to develop new plans and actions to meet their targets.
- A secondary issue is Fairbanks is within a Serious Non-attainment Area for PM2.5 emissions, and a contributing source is motor vehicle emissions. Since snowmobiles and ATVs are not subject to the same emissions standards and testing requirements as conventional automobiles, increased use of these motor vehicles as a result of the proposed regulation changes can put in jeopardy the State Implementation Plan to make progress towards attainment of air quality standards. And, if the State (through the Alaska Department of Environmental Conservation) does not make adequate progress each year towards attainment Federal funding for transportation projects can be frozen by the U.S. Environmental Protection Agency and Federal Highway Administration for the Fairbanks area.

Other Provisions in 13 AAC 02.455

- The proposed changes are contradictory to other, unmodified sections of the 13 AAC 02.455 and would generate confusion and misinterpretation of the intent of the code.
- Additional provisions are needed in 13 AAC 02.455 to:
 - Improve safety and reduce conflicts for bicyclists and pedestrians with off-highway vehicles traveling on sidewalks and other locations officially designated for non-motorized use only.
 - Prohibit the crossing of divided and controlled-use highways by off-highway vehicles.
 - Limit the use of off-highway vehicles on and across roadways by operators under the age of 16.
- An alternative to removing prohibitions within 13 AAC 02.455 as proposed by the Alaska DPS would be to instead propose a list of exemptions to this AAC section for rural and remote locales where snowmobiles and other off-highway vehicles serve as the primary means of mobility. Exemptions/provisions could also be proposed for:
 - Allowing the use of off-highway vehicles on roads and highways if there has been a declaration of emergency; and
 - Allowing the use of off-highway vehicles on roads and highways during special events when a permit has been granted by an appropriate governing body.

Thank you in advance for your consideration of our request to the Alaska DPS to withdraw the proposed changes until a working group has been established to discuss the topics outlined above. FAST Planning agrees that revisions are needed to 13 AAC 02.455 to reflect current practice and the needs of communities Statewide, but we believe this proposal needs more thought and analysis considering the implications to the safety and welfare of Alaska residents. We look forward to working with Alaska DPS on the proposed changes in this and other sections of AAC. If you have any questions or need additional information from our MPO, please contact me at Jackson.fox@fastplanning.us or (907) 205-4276.

Sincerely,

Jackson C. Fox
Executive Director

Attachments: Alaska DOT&PF 2021 Safety Performance Measure Targets
Alaska Strategic Highway Safety Plan 2018-2022, Figures 2.21 & 2.22
Safety Evaluation of Statewide Off-Highway Vehicle Use in Alaska: Crash Review, On-
and Off-Road System Use and Conflict Evaluation (2019)

Copy: [FAST Planning Policy Board](#)
Ryan Anderson, P.E., Northern Region Director – Alaska DOT&PF
Alice Edwards, Director – ADEC Division of Air Quality
Bryce Ward, Mayor – Fairbanks North Star Borough (FNSB)
Frank Tomaszewski, Assembly Member – FNSB
Jim Matherly, Mayor – City of Fairbanks
Aaron Gibson, Council Member – City of Fairbanks
Michael Welch, Mayor – City of North Pole