

SUBJECT: Relating to the operation of all-terrain vehicles by law enforcement officers

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 5 ayes — Driver, Garza, Hupp, Hegar, Keel

1 nay — Y. Davis

1 absent — Burnam

WITNESSES: For — Charley Wilkinson, Combined Law Enforcement Association of Texas; Jerry L. Blaisdell, Weatherford Police Department.

Against — None

BACKGROUND: The 77th Legislature enacted HB 651 by King that amended Transportation Code, sec. 663.037, to permit operation of all-terrain vehicles (ATVs) on public streets, roads, or highways, other than interstates or limited access highways, if they are used in connection with agricultural purposes.

The operator must 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 must be attached to the back of the ATV, the headlights and taillights must be illuminated, and operation of the vehicle must occur during daylight hours and not exceed 25 miles from the point of origin to the destination.

DIGEST: HB 900 would amend Transportation Code, sec. 663.037, to allow a peace officer holding a Texas driver's license to operate an ATV on a public street, road, or highway, other than interstates or limited access highways. The ATV would have to be used in the course of an officer's official duties, and operation of the vehicle could not exceed 25 miles from the point of origin to the destination. The bill also would require that an eight-foot-long pole topped by a triangular orange flag be attached to the back of the ATV and that the headlights and taillights be illuminated.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 900 would clarify the ability of law enforcement agencies to use ATVs for crowd control, street patrol, and surveillance. State law already permits limited use of ATVs on public streets, roads, and highways for agricultural purposes. Highly trained law enforcement officers should have the same right. Many agencies find these vehicles to be versatile and effective, and they should be permitted to utilize this crime-fighting tool. ATVs provide more mobility than officers on foot patrol and are less visible than patrol cars. Some agencies have used them for such innovative techniques as stopping home-invasion burglaries or patrolling areas where “cruising” by teen-aged drivers limits access and mobility along public streets.

The bill sets out specific requirements to ensure the visibility and safe operation of ATVs. For example, the Weatherford Police Department has utilized ATVs successfully and safely during the Parker County Peach Festival that attracts more than 30,000 people. Officers can move easily among the crowd and patrol an area that includes several acres and portions of two state highways that are blocked off for the festival. Citizens are familiar with the operations of ATVs because many people own and use the vehicles or they have seen them used for law enforcement or public safety purposes in popular entertainment, such as the television program “Baywatch.”

Law enforcement agencies already have wide discretion on how to manage crowd control situations and can use larger vehicles or horse patrols in potentially dangerous situations. ATVs provide an intermediate level between officers on foot or those in vehicles or on horseback. Law enforcement agencies need flexibility in responding to large gatherings of people.

**OPPONENTS
SAY:**

The use of an ATV in a crowd could be dangerous and disruptive, especially in dealing with a potentially hostile situation where congestion may preclude ready access even by a smaller vehicle. For example, use of ATVs as a crowd control technique at an anti-war demonstration, rather than at an event such as the Parker County Peach Festival, could pose risks to officers riding the ATVs and those at the gathering.

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OPPONENTS
SAY:

HB 900 would require that a law enforcement ATV's headlights and taillights be illuminated. While that might imply that these vehicles can be used at night, it reasonably could be interpreted to mean that law enforcement ATVs use these only as daytime running lights, particularly since current law restricts the operation of agricultural ATVs to daylight hours. The bill should be revised explicitly to permit operation at night and provide additional safety restrictions for nighttime use. Also, the reference to "point of origin" as a limitation on use of ATVs is vague and should be clarified.