

ATVs “NON-HIGHWAY VEHICLES” ON LOCAL ROADS



Dear TOIRMA Member:

The TOIRMA Team receives numerous questions from our members on a regular basis. Questions relating to the use of All-Terrain Vehicles (ATVs) on road district roads are becoming more and more common. Members are inquiring as to whether these types of vehicles, known by Illinois Statute as “non-highway vehicles,” are permitted on township/road district roads, or if officials have the ability to allow such use.

By definition, a “non-highway vehicle” is a motor vehicle not specifically designed to be used on public highways. The mixing of “non-highway vehicles” with automobiles and trucks logically creates exposures not in-place when most roads were designed and constructed.

Although state law does provide a mechanism for local governments to allow for the operation of “non-highway vehicles” on township/road district roads, this process and decision should be carefully evaluated and considered prior to even considering implementation. Keep in mind that the authority to permit the operation of “non-highway vehicles” does NOT exist on streets with a speed limit over 35 miles per hour.

In risk management we identify and assess certain risks and coordinate our objectives to minimize the possibility of loss and/or injury. As your risk partner, TOIRMA has developed the following questions and answers to ensure that our members have a clear understanding of the exposures involved with the operation of “non-highway vehicles” on local roads.

Thank you for your consideration.

Sincerely,

Jim Donelan
Executive Director



CHECKLIST

- Completed an engineering study/evaluation determining that public safety will not be jeopardized by the operation of “non-highway vehicles” which consider:
 - Volume of the traffic on the roadway;
 - Speed of the traffic on the roadway;
 - Character of the traffic on the roadway; and
 - Determine whether “non-highway vehicles” may safely travel on or cross the roadway.
- Study/evaluation only on streets where the posted speed limit is 35 miles per hour or less.
- Shared a copy of the study/evaluation with TOIRMA for review.



ATVs “Non-Highway Vehicles” on Local Roads

The following questions and answers have been developed to help township officials better understand the serious considerations regarding the use of “non-highway vehicles” on road district roads.

Question 1: Do “non-highway vehicles” alter liability exposures on road district roads?

Answer: Yes. The mixing of vehicles such as automobiles, trucks, and “non-highway vehicles” logically creates considerations that were not in place when roads were designed and constructed. This alone creates a possibility of a loss for which there may be consequences.

Question 2: What is a “non-highway vehicle”?

Answer: According to the Illinois Vehicle Code [625 ILCS 5/11-1426.1] a “non-highway vehicle” is a motor vehicle not specifically designed to be used on a public highway including:

1. an “all-terrain vehicle,” as defined by [625 ILCS 5/1-101.8]
2. a “golf cart,” as defined by [625 ILCS 5/1-123.9]
3. an “off-highway motorcycle,” as defined by [625 ILCS 5/1-153.1]
4. a “recreational off-highway vehicle,” as defined by [625 ILCS 5/1-168.8]



Question 4: Does a highway commissioner have a choice on whether to allow the use of “non-highway vehicles” on road district roads?

Answer: Yes. Highway commissioners have the ability to not exercise the statutory authority, or to follow the statutory requirements, then decide whether or not to proceed.

Question 5: Can a road district allow the use of “non-highway vehicles” on any road district road?

Answer: No. There are specific statutory requirements outlined below that must be followed. Further, “non-highway vehicles” may be operated only on streets where the posted speed limit is 35 miles per hour or less.

Question 6: Are there insurance coverage issues when considering allowing “non-highway vehicles” on township/road district roads?

Answer: Yes. Following the statute, [605 ILCS 5/11-14.56.1] is extremely important. Deviating from the statute in any way creates potential insurance coverage issues.



Question 3: Do road districts have the authority to allow “non-highway vehicles” on road district roads?

Answer: The Illinois Vehicle Code [625 ILCS 5/11-1426.1] provides road districts with the ability to allow “non-highway vehicles” on road district roads. However, there are specific steps that must be considered (see question 7).

Question 7: What are the statutory requirements relating to the use of “non-highway vehicles” on road district roads?

Answer: According to the Illinois Vehicle Code [625 ILCS 1426.1(d)], a road district (highway commissioner) may authorize, by ordinance or resolution, the operation of “non-highway vehicles” on roadways under its jurisdiction if:

1. The unit of government (road district) determines that public safety will not be jeopardized.
2. Before allowing the operation of “non-highway vehicles” on its roadways a road district must consider:
 - a. Volume of the traffic on the roadway;
 - b. Speed of the traffic on the roadway;
 - c. Character of the traffic on the roadway; and
 - d. Determine whether “non-highway vehicles” may safely travel on or cross the roadway.

TOIRMA strongly recommends the involvement of a licensed engineer when evaluating the volume, speed, and character of the roadways, when assessing that public safety will not be jeopardized, and when determining that “non-highway vehicles” may safely travel on or cross the roadway.

Question 8: Does a road district have the ability to allow only certain types of “non-highway vehicles” as defined above on road district roads?

Answer: Yes. The unit of government (road district) may restrict the types of “non-highway vehicles” that are authorized to be used on its roads (i.e., “golf cart” only).

Question 9: Are there signing considerations when allowing “non-highway vehicles” on road district or township roads?

Answer: Yes. The statute requires that appropriate signs be posted when determining that “non-highway vehicles” may safely operate on a roadway. The highway commissioner would need to receive written approval from the county engineer to post the appropriate 35 mile per hour speed limit signs and any recommended “non-highway vehicle” warning signs along the applicable roads.

Question 10: Our township/road district already has a non-highway vehicle ordinance in place. Should we notify TOIRMA?

Answer: Yes. As your risk management partner, TOIRMA would like to keep the ordinance on file (or review the ordinance) to know of the increased risk and exposure to the township/road district.

Question 11: Should a highway commissioner contact TOIRMA when considering/evaluating “non-highway vehicles” on road district roads?

Answer: Yes. As your risk partner, prior to allowing “non-highway vehicles,” TOIRMA needs to see the professional evaluation as outlined in Question 7. Also, TOIRMA would like to review any draft ordinance or resolution before it’s adopted.



Question 12: People are already using “non-highway vehicles” on road district roads, why shouldn’t the highway commissioner adopt an ordinance or resolution?

Answer: The operator of the “non-highway vehicle” is doing so at their own risk and the liability is on them, not the road district.

Question 13: Are “non-highway vehicles” presently allowed for use on road district roads for farming purposes?

Answer: Yes. There is no need for a road district to adopt an ordinance or resolution for farming purposes, for existing statute [625 ILCS 1426.1(h)] allows the operation of “all-terrain vehicles” and “recreational off-highway vehicles” on road district roads for the purpose of conducting farm operations to and from the home, farm, farm buildings, and any adjacent or nearby farmland. Note that this does not apply to “golf carts” and “off-highway motorcycles.”

Thank you for your attention to these matters. As always, if you have any additional questions, please feel free to contact TOIRMA at (888) 562-7861.

Think Safe ... Drive Safe ... Work Safe





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