

Consider the applicability of aspects of New Brunswick's new legal framework to the BC situation and particular hurdles that might arise in the BC context

Overall

- New Brunswick has implemented its program for ORVs (including snow vehicles) through one very comprehensive Act; a single Regulation merely sets fees
- While Minister of Public Safety is in charge, the Registrar of Motor Vehicles is given general supervision over all matters relating to off-road vehicles in the province, other than trails and trail permits
- BC's Act currently falls far short of the comprehensiveness of the New Brunswick example, so our Act would have to be amended, replaced, or bolstered via one or more Regs, to come even close to the program set out

Registration

- New Brunswick riders register ownership of their vehicles with the Registrar of Motor Vehicles, which includes the Deputy Registrar of Motor Vehicles and an Acting Registrar
- Must display a valid decal or plate
- Owner must be 16+
- Pay fee prescribed by regulation
- Have to produce evidence of liability insurance prior to Registrar registering the vehicle
- The New Brunswick system assumes a private system of insurance; the insurance required is under section 243 and 264 of the Insurance Act (New Brunswick) (liability for injury or property damage to \$200K, medical surgical dental etc., accident insurance benefits to an insured person)
- Upon registering, owner receives a numbered plate or decal, a numbered registration certificate
- NB under section 8, these *all* expire on the 31st Dec following the date of issuance
- Trail permits are separate, and currently are only for snow: under s. 7.2(3)(a) the Minister of Tourism is authorized to enter into an agreement with the snow vehicle trail manager to process applications for snow vehicle trail permits; manager agreement with Minister of Tourism may allow manager to receive and retain fees
- Registrar records the name and address of the owner and the registration certificate number
- Vehicle must be registered before it is sold or transferred
- On transfer, owner completes a Notice of Transfer form and transferor forwards it to Registrar
- On change of address, owner must notify Registrar
- There are also provisions re: registration and licensing for dealers (exempts from registration requirement those vehicles that are only kept for sale and not for renting or leasing and are only operated for testing or demonstration purposes – section 3(5) and 3(5.1))
- There are also provisions re: vehicles that are owned by residents of other jurisdictions

-->particular hurdles that might arise in the BC context

- ICBC (Crown corporation) is the comparable "department" to New Brunswick's Registrar of Motor Vehicles
- ICBC is charged with registration, licensing and insurance of motor vehicles, as set out in MVA and also the registration and identification of "all-terrain vehicles" designated under Motor Vehicle (All Terrain) Act and "form, amount and terms of insurance coverage" for dealer rental vehicles
- The government is loathe to take on new administrative burdens, or at least anything that won't pay for itself – so either have to contract out, or have to ensure that the system is self-sustaining from a cost perspective, if ICBC is to take it on
- The anniversary date is one year from date of issuance

- BC has to decide whether it wishes to make insurance compulsory, whether insurance would be public or private

Licensing

- “Registration” is the annual process in New Brunswick, not “licensing”; registration certificates, number plates and decals all expire December 31
- cost is \$41
- the carrot for paying such a high fee is the trail system and funds for trail management and maintenance
- the money is inseparably linked with the Trail Management Trust Fund; money under programs is funneled to two Trail Managers which distribute funds to the clubs
- the system encourages a club-based system

-->particular hurdles that might arise in the BC context

- Annual registration or annual licensing or permitting would be an administrative burden for ICBC or other government department
- For annual renewal of registration or licence we could consider an annual tag system like the hunters and fishers, with private sector administering the program and making contact more widely distributed – such commercial vendors act under authority of section 102 of the Wildlife Act and retain commissions for their trouble
- Commercial vendors authorized by section 102 Wildlife Act:
 - Commercial vendors of licences
 - 102** Despite the *Financial Administration Act*, the Lieutenant Governor in Council may
 - (a) authorize a commercial vendor of licences to retain a prescribed fee or commission for issuing licences, and
 - (b) prescribe a different fee or commission for different licences
- (NB non-resident hunting licenses or non-resident alien hunting licenses may only be purchased from a government agent or WLAP office via mail – not from private vendor)
- Wildlife Act General Regulation 340/82, Division 6, section 6.01: **6.01** A commercial vendor of licences issued under the Act may retain a commission of \$1.50 per licence issued by him or her)
- N.B. If we make it so that insurance has to be verified annually by registrar, then I expect Registrar would have to be a licensed insurance agent verifying the validity of the insurance

Trail Management Trust Fund

- Funded by annual registration fee allocation
- Paid into the Consolidated Fund but the Trust Fund is a separate account in the Consolidated Fund, and is subject to the Trust
- Act specifies how much money of all the fees goes into the Trust Fund
- All interest from the Fund shall be paid into and form part of the Fund
- Trustee of the Trail Management Trust Fund is the Minister of Natural Resources and Energy, with advisor in the Trail Management Trust Fund Advisory Board, having reps as follows (section 39.4):
 - Five voting members:
 - Two reps of the all-terrain vehicle manager
 - Two reps of the motorized snow vehicle manager
 - One rep of the RCMP
 - Five non-voting members:
 - One rep from the Dept of Public Safety
 - One rep from the Dept of Natural Resources and Energy
 - One rep from the Dept of Tourism and Parks
 - One rep from the Dept of Transportation

- One rep from the Dept of Environment and Local Government
- Two layers of trail managers – ATV and snow vehicle
- The motorized snow vehicle managed trails are managed by the Motorized Snow Vehicle Trail Manager, which is appointed by the Minister of Tourism and Parks
- The all-terrain vehicle managed trails are managed by the All-Terrain Vehicle Trail Manager, which is appointed by the Minister of Natural Resources and Energy,
- Two different ministries are involved
- Act specifies for what purposes payments out of the Fund are authorized (section 39.3)

-->*particular hurdles that might arise in the BC context*

- We have been told that users would prefer arm's length from government
- We would have to legislate a similar Trust Fund or other provision re: registration fees, as currently the Act stipulates all fees are part of the consolidated fund
- A legislated advisory board with stipulated representation of all stakeholders would help to protect broad public interest in ORV issues
- Could have two layers of trail management, as in New Brunswick, for snow and ATV
- For reps on an advisory board we could consider:
 - ORV trail manager
 - Snow trail manager
 - RCMP
 - WLAP
 - SRM
 - Public Safety and Solicitor General
 - ICBC
 - Forests
 - maybe Land and Water BC
 - maybe Transportation
- Our land use/land access process is already well developed; therefore trail *creation* would still be subject to existing processes; once the authorization to proceed with a trail is in place, the designated trail managers could take over management, using trust fund monies as distributed