



**Rural Ontario
Municipal Association**

Representing Rural Ontario

Sent via e-mail: minister.mto@ontario.ca

April 10, 2015

The Honourable Steven Del Duca
Minister of Transportation
Ferguson Block
3rd Floor
77 Wellesley Street West
Toronto, ON M7A1Z8

RE: Reviewing Off-Road Vehicle Safety in Ontario

Dear Minister:

On behalf of the Rural Ontario Municipal Association (ROMA), I am pleased to provide our input to the Ministry of Transportation's (MTO) review of off-road vehicle (ORV) safety. ROMA shares the Ministry's goal of improving overall road safety in Ontario, however, ORV activity continues to be a divisive issue amongst rural residents.

ROMA appreciates that there are many benefits from ORV use in communities across Ontario. ORV operators enjoy using local municipal trails and outdoor spaces in rural and northern communities. This helps to bolster tourism to rural and remote parts of the province and creates jobs and opportunities in service industries. In areas of northern Ontario, ORVs are often the primary means of transportation for residents to access places of employment or for places to hunt and fish. ORVs are also used by farmers in rural communities to assist in their agricultural operations. However, in areas of rural southern Ontario where there are many communities, limited space for multi-use road activities, and varying perspectives on ORV road use, the matter is more complicated.

We request that MTO consider the following issues as part of its review of ORV safety in Ontario. Many of these are ongoing concerns for rural municipal governments.

Liability

Joint and several liability continues to be an issue that all municipal governments face when activities are occurring on municipal roads and trails. ROMA urges MTO to address municipal liability concerns and create an approach that would allow municipalities to open their roads to additional ORV types without fear of additional lawsuits. Until liability fears are allayed, and despite the Ministry's best intentions to open up provisions that would allow additional ORV types to access local roads, municipal governments may opt to prohibit ORV activity on their roads. This could also apply to cycling activities that use local road shoulders as well.

Municipalities meet or exceed the minimum standards required for road shoulders that single rider ATVs are currently permitted to use. By permitting additional ORV types to use road shoulders, there is concern that road shoulder conditions may deteriorate more rapidly, displace loose gravel and create potholes that could place drivers (ORV operators, cyclists and cars/trucks) at serious risk of injury. This could lead to more legal actions against the municipality.

We have also heard that at the roundtable session that was held with ORV stakeholders in January, MTO tabled a suggestion that ORVs be permitted to travel in ditches along the side of roads. ROMA strongly opposes this suggestion as ditches are not constructed for ORVs, let alone any, vehicular use. Again, there could be liability issues should an operator come into contact with infrastructure that is found in ditches such as culverts. Rural municipal governments do not want to see riders hurt or infrastructure damaged as a result of travelling in ditches.

The Ministry must consider municipal liability concerns in any amendments to the *Highway Traffic Act* that would allow ORV activities on local road shoulders.

Sharing of Roads

ROMA is interested in how MTO intends to align its ORV safety proposals with its principle of improving road sharing, and minimizing conflict, between motorized and non-motorized vehicles such as bicycles. MTO has made it clear in the Cycling Strategy (#CycleON) that the government wants to enhance and improve cyclist safety on local roads, in particular by giving cyclists access to road shoulders. ROMA requests that the Ministry ensure that measures are guaranteed so that all users will be safe and able to share roads. Our interests are aligned in keeping all users of roads and road shoulders safe and minimizing conflict between motorized and non-motorized users.

There is currently some funding for provincial and municipal cycling infrastructure. As you know, part of the government's \$25 million program to invest in cycling infrastructure could be used to pave road shoulders for cyclists. While ROMA and AMO support

initiatives to increase cycling in communities, we foresee that it may be necessary for further funding to ensure that paved road shoulders are well maintained so that motorized and non-motorized vehicles can continue to enjoy access to local roads.

We would also suggest that MTO consider the safety of electric buggies, notably used by many seniors or people with disabilities, who often use municipal roads to travel. These users must also be afforded the same safety measures when sharing the road.

Permissive Use

The proposal creates permissive use of additional ORV types on local roads and leaves the responsibility of administration and road access to municipal governments through by-laws. This may be problematic for rural municipal governments that will need to contend with multiple pressures from rider organizations and residents in favour and against permitting ORV access on local roads. Rural municipal governments could be inundated by requests from different interest groups that could lead to dividing residents further, leaving the local council to make difficult decisions. The Ministry may want to explore a proposal for limiting the types of roads that are eligible for ORV use. Assisting municipal governments in drafting appropriate model by-laws that reflect local needs and circumstances would also be helpful.

We also understand that ORV rider organizations are concerned with municipal boundary issues. There will be circumstances where some local governments decide to allow certain types of ORV use and where some do not, and this may occur between neighbouring municipalities. While this is appropriate in responding to local contexts, ROMA suggests that ORV organizations work with municipalities so that they can understand which rules and by-laws apply between jurisdictions since it is ultimately the decision of the local government to permit ORVs on local roads. We would also suggest that any signage used to distinguish what types of ORVs are permitted within municipal boundaries be a requirement placed on ORV rider organizations.

Enforcement

Permitting additional types of ORVs on local roads will mean that further enforcement measures will be required to ensure that rules are being followed. For example, that ORV operators are not shortcutting through farmers' fields to access a road/trail. MTO does not address enforcement related matters in its proposal which will certainly become a local responsibility. Additionally, while age restrictions on ORV operators is an appropriate safety measure to address, age checks will need to be enforced to ensure that rules are not being broken. Like ensuring appropriate behaviour on local roads, this measure will most likely fall onto the shoulders and the pocketbooks of local law

enforcement. Even enforcement, with extensive training, cannot always ensure appropriate behaviour.

If the expectation is that either municipal by-law enforcement officers or local police will be made responsible for ensuring ORV public safety enforcement, then municipal governments must be compensated for the time that is spent on this work as it is not a currently funded mandate.

Training

Any proposed mandatory training of ORV operators should not be the responsibility of local governments. MTO or a nationally recognized program that is administered by a third party, such as a trail organization, is the more appropriate body to offer training to ORV operators under the age of 16.

ROMA requests that the Ministry clarify how it will address these ongoing concerns of rural municipal governments in its review of ORV safety. We believe that certainty is needed so that rural municipal governments will not be exposed or impacted by any unintended consequences from this proposed initiative.

Attached is ROMA's recent refreshed Rural and Northern Lens that can help you and Ministry staff understand the consequences of this and any other MTO initiative or policy proposal before it is fully implemented.

Sincerely,



Ron Holman
ROMA Chair

Attachments

cc: Teepu Khawja, Director (Acting), Safety Policy and Education Branch, Ministry of Transportation
Logan Purdy, Manager, Road Safety Policy Office, Ministry of Transportation