

2156

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 15, 2009

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Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the  
Committee on Tourism, Arts and Sports Development

AN ACT to amend the environmental conservation law, in relation to  
prohibiting the use of all-terrain vehicles within the forest  
preserve, the Long Island central pine barrens and the Albany pine  
bush preserve, and providing penalties for violations of all-terrain  
vehicle laws in such sensitive areas

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 9-0303 of the environmental conservation law is  
2     amended by adding a new subdivision 8 to read as follows:  
3     8. ALL-TERRAIN VEHICLES. A. FOR THE PURPOSES OF THIS SUBDIVISION:  
4     (I) "ALL-TERRAIN VEHICLE" SHALL MEAN A MOTOR VEHICLE WHICH IS MANUFAC-  
5     TURED FOR OPERATION PRIMARILY FOR OFF-HIGHWAY USE OR OFF-HIGHWAY COMPE-  
6     TITIONS AND ONLY INCIDENTALLY OPERATED ON PUBLIC HIGHWAYS; PROVIDED,  
7     HOWEVER, SUCH TERM SHALL NOT INCLUDE A SNOWMOBILE.  
8     (II) "SNOWMOBILE" SHALL MEAN A MOTOR VEHICLE DESIGNED FOR TRAVEL ON  
9     SNOW OR ICE BY MEANS OF A COMBINATION OF TRACKS AND A SKI OR SKIS.  
10     B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE USE  
11     OF ALL-TERRAIN VEHICLES BY THE GENERAL PUBLIC WITHIN THE FOREST PRESERVE  
12     IS PROHIBITED.  
13     C. A QUALIFIED PERSON WITH A DISABILITY TO WHOM THE DEPARTMENT HAS  
14     ISSUED A NONTRANSFERABLE TEMPORARY REVOCABLE PERMIT PROVIDING MOTOR  
15     VEHICLE ACCESS TO CERTAIN STATE LANDS UNDER THE JURISDICTION OF THE  
16     DEPARTMENT MAY USE AN ALL-TERRAIN VEHICLE PURSUANT TO THE TERMS AND  
17     CONDITIONS OF SUCH PERMIT.  
18     D. EMPLOYEES OF THE DEPARTMENT MAY USE ALL-TERRAIN VEHICLES FOR APPRO-  
19     PRIATE ADMINISTRATIVE PURPOSES WHERE NECESSARY AND CONSISTENT WITH THE  
20     PROVISIONS OF THE ADIRONDACK PARK STATE LAND MASTER PLAN OR THE CATSKILL  
21     PARK STATE LAND MASTER PLAN. THE DEPARTMENT SHALL NOT DELEGATE ITS  
22     AUTHORITY PURSUANT TO THIS PARAGRAPH.  
23     E. ALL-TERRAIN VEHICLES MAY BE USED BY APPROPRIATE OFFICIALS WHERE  
24     NECESSARY FOR LAW ENFORCEMENT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 F. ALL-TERRAIN VEHICLES MAY BE USED, BY OR UNDER THE SUPERVISION OF  
2 APPROPRIATE OFFICIALS, IN CASES OF SUDDEN, ACTUAL AND ONGOING EMERGEN-  
3 CIES THAT INVOLVED THE PROTECTION OR PRESERVATION OF HUMAN LIFE OR  
4 INTRINSIC RESOURCE VALUES, AND THAT INVOLVE SEARCH AND RESCUE OPER-  
5 ATIONS, FOREST FIRES OR LARGE-SCALE CONTAMINATION OF WATER BODIES.

6 S 2. Subparagraph (v) of paragraph a of subdivision 2 of section  
7 46-0111 of the environmental conservation law, as added by chapter 792  
8 of the laws of 1988, is amended to read as follows:

9 (v) other recreational uses; PROVIDED, HOWEVER, THAT, NOTWITHSTANDING  
10 ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE USE OF ALL-TERRAIN VEHI-  
11 CLES BY THE GENERAL PUBLIC WITHIN THE ALBANY PINE BUSH PRESERVE IS  
12 PROHIBITED.

13 S 3. Paragraph (d) of subdivision 2 of section 57-0121 of the environ-  
14 mental conservation law, as added by chapter 262 of the laws of 1993, is  
15 amended to read as follows:

16 (d) promote active and passive recreational and environmental educa-  
17 tional uses that are consistent with the land use plan; PROVIDED, HOWEV-  
18 ER, THAT, NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
19 THE USE OF ALL-TERRAIN VEHICLES BY THE GENERAL PUBLIC WITHIN THE CENTRAL  
20 PINE BARRENS AREA IS PROHIBITED; and

21 S 4. The environmental conservation law is amended by adding a new  
22 section 71-0717 to read as follows:

23 S 71-0717. ADDITIONAL ALL-TERRAIN VEHICLE ENFORCEMENT ON SENSITIVE STATE  
24 LANDS.

25 1. IN ADDITION TO THE PENALTIES SET FORTH IN SUBDIVISION ONE OF  
26 SECTION 71-0703 OF THIS TITLE, AND SECTIONS 71-4001 AND 71-4003 OF THIS  
27 ARTICLE, A POLICE OFFICER OR PEACE OFFICER MAY IMMEDIATELY IMPOUND ANY  
28 ALL-TERRAIN VEHICLE OPERATED IN VIOLATION OF SUBDIVISION EIGHT OF  
29 SECTION 9-0303, PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION 57-0121 OR  
30 SUBPARAGRAPH (V) OF PARAGRAPH A OF SUBDIVISION TWO OF SECTION 46-0111 OF  
31 THIS CHAPTER. SUCH IMPOUNDED ALL-TERRAIN VEHICLE SHALL BE PROCESSED  
32 CONSISTENT WITH THE PROVISIONS OF SECTION FIVE HUNDRED ELEVEN-B OF THE  
33 VEHICLE AND TRAFFIC LAW; PROVIDED, HOWEVER, THAT A SURCHARGE OF ONE  
34 HUNDRED DOLLARS SHALL BE PAID BY THE OWNER OF SUCH VEHICLE, AND SUCH  
35 FUNDS SHALL BE DEPOSITED INTO A SEPARATE, NON-LAPSING ALL-TERRAIN VEHI-  
36 CLE ENFORCEMENT FUND OF THE IMPOUNDING LAW ENFORCEMENT AGENCY, EXCEPT AS  
37 PROVIDED BY SUBDIVISION TWO OF THIS SECTION.

38 2. WHERE THE IMPOUNDING OFFICER IS A PEACE OFFICER EMPLOYED BY THE  
39 DEPARTMENT, THE ENVIRONMENTAL REGULATORY ACCOUNT OF THE ENVIRONMENTAL  
40 CONSERVATION SPECIAL REVENUE FUND SHALL BE CREDITED WITH THE MONIES  
41 RECEIVED FROM THE SURCHARGE REQUIRED BY SUBDIVISION ONE OF THIS SECTION.  
42 MONIES COLLECTED PURSUANT TO THIS SUBDIVISION SHALL BE MADE AVAILABLE TO  
43 THE DEPARTMENT FOR THE PURPOSE OF ENFORCING ALL-TERRAIN VEHICLE LAWS  
44 APPLICABLE TO THE FOREST PRESERVE, LONG ISLAND CENTRAL PINE BARRENS AREA  
45 AND THE ALBANY PINE BUSH PRESERVE.

46 S 5. Nothing in this act shall be deemed to limit the authority of any  
47 county, city, town or village to adopt or amend any local law or ordi-  
48 nance which imposes stricter restrictions and conditions on the opera-  
49 tion of all-terrain vehicles than are provided or authorized by this  
50 act, so long as such local law or ordinance is consistent with the  
51 authority to protect the order, conduct, health, safety and general  
52 welfare of persons or property. Nothing in this act shall be deemed to  
53 alter or invalidate any local law or ordinance in effect on the effec-  
54 tive date of this act.

55 S 6. This act shall take effect immediately.