S T A T E O F N E W Y O R K

2156

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 9-0303 of the environmental conservation law is amended by adding a new subdivision 8 to read as follows:

8. ALL-TERRAIN VEHICLES. A. FOR THE PURPOSES OF THIS SUBDIVISION:

(I) "ALL-TERRAIN VEHICLE" SHALL MEAN A MOTOR VEHICLE WHICH IS MANUFACTURED FOR OPERATION PRIMARILY FOR OFF-HIGHWAY USE OR OFF-HIGHWAY COMPETITIONS AND ONLY INCIDENTALLY OPERATED ON PUBLIC HIGHWAYS; PROVIDED, HOWEVER, SUCH TERM SHALL NOT INCLUDE A SNOWMOBILE.

(II) "SNOWMOBILE" SHALL MEAN A MOTOR VEHICLE DESIGNED FOR TRAVEL ON SNOW OR ICE BY MEANS OF A COMBINATION OF TRACKS AND A SKI OR SKIS.

B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE USE OF ALL-TERRAIN VEHICLES BY THE GENERAL PUBLIC WITHIN THE FOREST PRESERVE IS PROHIBITED.

C. A QUALIFIED PERSON WITH A DISABILITY TO WHOM THE DEPARTMENT HAS ISSUED A NONTRANSFERABLE TEMPORARY REVOCABLE PERMIT PROVIDING MOTOR VEHICLE ACCESS TO CERTAIN STATE LANDS UNDER THE JURISDICTION OF THE DEPARTMENT MAY USE AN ALL-TERRAIN VEHICLE PURSUANT TO THE TERMS AND CONDITIONS OF SUCH PERMIT.

D. EMPLOYEES OF THE DEPARTMENT MAY USE ALL-TERRAIN VEHICLES FOR APPROPRIATE ADMINISTRATIVE PURPOSES WHERE NECESSARY AND CONSISTENT WITH THE PROVISIONS OF THE ADIRONDACK PARK STATE LAND MASTER PLAN OR THE CATSKILL PARK STATE LAND MASTER PLAN. THE DEPARTMENT SHALL NOT DELEGATE ITS AUTHORITY PURSUANT TO THIS PARAGRAPH.

E. ALL-TERRAIN VEHICLES MAY BE USED BY APPROPRIATE OFFICIALS WHERE NECESSARY FOR LAW ENFORCEMENT.

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

LBD05438-01-9

F. ALL-TERRAIN VEHICLES MAY BE USED, BY OR UNDER THE SUPERVISION OF APPROPRIATE OFFICIALS, IN CASES OF SUDDEN, ACTUAL AND ONGOING EMERGENCIES THAT INVOLVED THE PROTECTION OR PRESERVATION OF HUMAN LIFE OR INTRINSIC RESOURCE VALUES, AND THAT INVOLVE SEARCH AND RESCUE OPERATIONS, FOREST FIRES OR LARGE-SCALE CONTAMINATION OF WATER BODIES.

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

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

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

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

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

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

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

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

S 5. Nothing in this act shall be deemed to limit the authority of any county, city, town or village to adopt or amend any local law or ordinance which imposes stricter restrictions and conditions on the operation of all-terrain vehicles than are provided or authorized by this act, so long as such local law or ordinance is consistent with the authority to protect the order, conduct, health, safety and general welfare of persons or property. Nothing in this act shall be deemed to alter or invalidate any local law or ordinance in effect on the effective date of this act.

S 6. This act shall take effect immediately.