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

2966

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BARCLAY, BURLING, SAYWARD, CROUCH, RABBITT, GIGLIO -- Multi-Sponsored by -- M. of A. BACALLES, BARRA, CALHOUN, CONTE, FINCH, FITZPATRICK, HAWLEY, KOLB, MILLER, OAKS, O'MARA, QUINN, RAIA, SALADINO, SCOZZAFAVA, TEDISCO, TOWNSEND, WALKER -- read once and referred to the Committee on Tourism, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law, the vehicle and traffic law and the environmental conservation law, in relation to all terrain vehicles; to amend the state finance law, in relation to establishing the all terrain vehicle trail developmental maintenance fund; to repeal subdivision 4 of section 2404 of the vehicle and traffic law relating to seating for the operator and passenger of an all terrain vehicle; and making an appropriation therefor

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

Section 1. Section 1.03 of the parks, recreation and historic preservation law is amended by adding a new subdivision 19 to read as follows:

19. "QUALIFIED ORGANIZATION" SHALL MEAN AN ORGANIZATION WHICH HAS AS ONE OF ITS PRIMARY PURPOSES THE DEVELOPMENT, MAINTENANCE, PROMOTION AND ENHANCEMENT OF ALL TERRAIN VEHICLE RECREATIONAL OPPORTUNITIES, AND WHICH HAS BEEN CERTIFIED AS SUCH AN ORGANIZATION BY THE COMMISSIONER.

S 2. The parks, recreation and historic preservation law is amended by adding a new title D-1 to read as follows:

TITLE D-1
ALL TERRAIN VEHICLES

ARTICLE 26
GENERAL PROVISIONS

SECTION 26.01 LEGISLATIVE FINDINGS AND PURPOSE.
26.03 JURISDICTION OF OFFICE.

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

LBD02806-01-9

26.05 RULES AND REGULATIONS.

S 26.01 LEGISLATIVE FINDINGS AND PURPOSE. THE LEGISLATURE HEREBY FINDS THAT IT IS IN THE PUBLIC INTEREST TO REGISTER ALL TERRAIN VEHICLES AS RECREATIONAL VEHICLES FOR THE PURPOSE OF ENFORCEMENT OF REASONABLE PROVISIONS CONCERNING THEIR USE AND CONTROL; TO ENCOURAGE THE SPORT OF ALL TERRAIN VEHICLE RIDING AS A FAMILY ACTIVITY; TO PROMOTE THE PROPER AND SAFE USE AND OPERATION OF ALL TERRAIN VEHICLES; TO PROVIDE AN ADEQUATE SAFETY EDUCATIONAL PROGRAM FOR YOUTHFUL OPERATORS; TO LIMIT THE OPERATION OF ALL TERRAIN VEHICLES UPON PUBLIC HIGHWAYS AND PRIVATE PROPERTY WITHOUT THE CONSENT OF THE OWNER; TO PROTECT AND PRESERVE THE STATE'S NATURAL RESOURCES, INCLUDING WILDLIFE, WILD FORESTS, WATERS, AND SCENIC AND WILDERNESS CHARACTER; TO REDUCE THE EFFECT ON THE ENVIRONMENT OF EXCESS NOISE; AND TO INSURE PRIVACY OF REMOTE AREAS. IT IS THE PURPOSE OF THIS TITLE TO PROMOTE THE SAFE AND PROPER USE OF ALL TERRAIN VEHICLES FOR RECREATION AND COMMERCE IN THIS STATE BY ENCOURAGING THEIR USE IN DESIGNATED AREAS, ON PROPERTY HELD BY LOCAL GOVERNMENTS AND PRIVATE INDIVIDUALS WORKING IN CONJUNCTION WITH A PRIVATE ALL TERRAIN VEHICLE TRAIL DEVELOPER AUTHORIZED TO RECEIVE ASSISTANCE PURSUANT TO THIS TITLE AND BY PRIVATE OWNERS, PREPARED FOR SUCH USE.

S 26.03 JURISDICTION OF OFFICE. THE CONTROL AND SUPERVISION OF ANY ACTIVITY CONDUCTED PURSUANT TO THE PROVISIONS OF THIS TITLE SHALL BE UNDER THE JURISDICTION OF THE OFFICE.

S 26.05 RULES AND REGULATIONS. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.

S 3. The parks, recreation and historic preservation law is amended by adding three new sections 27.19, 27.21 and 27.23 to read as follows:

S 27.19 STATE AID; ALL TERRAIN VEHICLES ENFORCEMENT. 1. EVERY COUNTY, CITY, TOWN AND VILLAGE ENFORCING THE PROVISIONS OF THE VEHICLE AND TRAFFIC LAW RELATING TO ALL TERRAIN VEHICLES SHALL BE ENTITLED TO RECEIVE STATE AID AS PROVIDED IN THIS SECTION. A COUNTY, CITY, TOWN OR VILLAGE SEEKING REIMBURSEMENT FOR EXPENDITURES INCURRED IN THE ENFORCEMENT OF THE VEHICLE AND TRAFFIC LAW RELATING TO ALL TERRAIN VEHICLES SHALL SUBMIT TO THE COMMISSIONER BY JANUARY FIRST OF EACH YEAR AN ESTIMATE OF SUCH EXPENDITURES FOR THE CURRENT FISCAL YEAR, IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE COMMISSIONER MAY REQUIRE. WITHIN ONE MONTH AFTER THE CLOSE OF THE FISCAL YEAR, EACH SUCH COUNTY, CITY, TOWN OR VILLAGE SHALL SUBMIT TO THE COMMISSIONER A STATEMENT OF AUTHORIZED EXPENDITURES ACTUALLY INCURRED, IN SUCH FORM AND CONTAINING SUCH INFORMATION AS HE OR SHE MAY REQUIRE. FOR THE PURPOSES OF THIS SECTION AND SECTION 27.21 OF THIS ARTICLE, "FISCAL YEAR" SHALL MEAN THE PERIOD FROM APRIL FIRST THROUGH MARCH THIRTY-FIRST.

2. THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF AUTHORIZED EXPENDITURES BY EACH COUNTY, CITY, TOWN AND VILLAGE. EACH COUNTY, CITY, TOWN AND VILLAGE SHALL RECEIVE THE STATE AID AUTHORIZED BY DIVIDING ITS AUTHORIZED EXPENDITURES AS DETERMINED PURSUANT TO THIS SUBDIVISION BY THE AMOUNT OF ALL SUCH AUTHORIZED EXPENDITURES AND MULTIPLYING THE RESULT BY TWENTY-FIVE PERCENT OF THE MONEYS DEPOSITED IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND FOR THE FISCAL YEAR. ENFORCEMENT MONEYS SHALL BE KEPT BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE SOLE PURPOSE OF ALL TERRAIN VEHICLE ENFORCEMENT IN THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ENFORCEMENT FUND.

S 27.21 STATE AID; SAFETY; EDUCATION AND TRAINING. 1. EVERY COUNTY, CITY, TOWN, VILLAGE AND QUALIFIED ORGANIZATION SHALL BE ENTITLED TO RECEIVE STATE AID AS PROVIDED IN THIS SECTION. A COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED ORGANIZATION SHALL BE ELIGIBLE FOR A GRANT FOR THE

DEVELOPMENT AND FACILITATION OF SAFETY, EDUCATION AND TRAINING PROGRAMS RELATED TO THE ALL TERRAIN VEHICLE USE. SUCH GRANTS SHALL BE MADE BY THE COMMISSIONER AND MAY CONSTITUTE UP TO ONE HUNDRED PERCENT OF THE COST OF SUCH PROGRAM. ANY COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED ORGANIZATION APPLYING FOR SUCH GRANT SHALL SUBMIT TO THE COMMISSIONER BY JANUARY FIRST OF EACH YEAR AN ESTIMATE OF SUCH EXPENDITURES FOR THE FOLLOWING FISCAL YEAR, IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL REVIEW ALL SUCH APPLICATIONS AND SHALL DETERMINE THE AMOUNT OF STATE AID TO BE ALLOCATED TO EACH COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED ORGANIZATION. OF THE AMOUNT THE COMMISSIONER DETERMINES EACH COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED ORGANIZATION IS ELIGIBLE TO RECEIVE, DISTRIBUTION SHALL BE MADE ACCORDING TO A SCHEDULE TO BE DETERMINED BY THE COMMISSIONER WITH SUCH DISTRIBUTION TO BE MADE IN FULL ON OR BEFORE THE COMPLETION OF THE PROGRAM.

2. EACH COUNTY, CITY, TOWN, VILLAGE AND QUALIFIED ORGANIZATION SHALL RECEIVE THE STATE AID AUTHORIZED BY DIVIDING ITS AUTHORIZED EXPENDITURES AS DETERMINED PURSUANT TO THIS SECTION BY THE AMOUNT OF ALL SUCH AUTHORIZED EXPENDITURES AND MULTIPLYING THE RESULT BY FIVE PERCENT OF THE MONEYS DEPOSITED IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND.

S 27.23 STATE AID; ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND. 1. EVERY QUALIFIED ORGANIZATION ENGAGING OR ASSISTING IN THE DEVELOPMENT AND MAINTENANCE OF A SYSTEM OF ALL TERRAIN VEHICLE TRAILS AND/OR A PROGRAM RELATING THERETO SHALL BE ENTITLED TO RECEIVE, IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER, STATE AID AS PROVIDED IN THIS SECTION. ANY FUNDS RECEIVED BY SUCH ORGANIZATION PURSUANT TO THIS SECTION SHALL BE DEDICATED FOR ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND PROGRAMS EXCLUSIVELY.

2. THE COMMISSIONER MAY DRAW UPON THE MONIES DEPOSITED IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND FOR EXPENSES, INCLUDING PERSONAL SERVICES, AS APPROVED BY THE STATE COMPTROLLER, AND IS HEREBY AUTHORIZED TO ASSIGN UP TO ONE EMPLOYEE OF HIS OR HER OFFICE TO CARRY OUT SUCH RESPONSIBILITIES AND TO PAY THEIR SALARIES, BENEFITS AND EXPENSES OUT OF SUCH FUND. THE COMMISSIONER SHALL DIRECT SUCH STAFF TO WORK IN COOPERATION WITH ONE OR MORE STATEWIDE ORGANIZATIONS CERTIFIED BY THE COMMISSIONER AS REPRESENTING THE INTERESTS OF ALL TERRAIN VEHICLE USERS TO MAXIMIZE THE EFFECTIVENESS OF THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND. SUCH COOPERATION MAY INCLUDE, BUT NOT BE LIMITED TO, THE DEVELOPMENT OF A STATEWIDE ALL TERRAIN VEHICLE TRAIL MAP AND USER GUIDE TO BE MADE AVAILABLE TO THE DEPARTMENT OF MOTOR VEHICLES FOR THE PURPOSES OF DISTRIBUTION TO ALL TERRAIN VEHICLE USERS UPON REGISTRATION OF THEIR ALL TERRAIN VEHICLE, PURSUANT TO SUBDIVISION TWO-A OF SECTION TWENTY-TWO HUNDRED EIGHTY-TWO OF THE VEHICLE AND TRAFFIC LAW. AN ANALYSIS OF ANTICIPATED REVENUES FOR SUCH FUND AND AN ANALYSIS OF THE PERCENTAGE OF REVENUE ANTICIPATED TO BE USED BY THE COMMISSIONER FOR EXPENSES, PERSONAL SERVICES AND STAFF SHALL BE DRAFTED AND FORWARDED ANNUALLY TO THE GOVERNOR AND THE DIRECTOR OF THE BUDGET.

3. EVERY QUALIFIED ORGANIZATION SHALL BE ELIGIBLE FOR A GRANT, EXCEPT AS PROHIBITED IN SUBDIVISION FOUR OF THIS SECTION, TO BE USED FOR DEVELOPMENT AND MAINTENANCE OF ALL TERRAIN VEHICLE TRAILS; LEASING OR PURCHASE OF PROPERTY WHERE TRAILS MAY BE DEVELOPED; FACILITIES RELATED TO THE USE AND ENJOYMENT OF TRAILS; MAINTENANCE, AND PURCHASE OR LEASE OF EQUIPMENT RELATED TO THE DEVELOPMENT AND UPKEEP OF TRAILS AND RELATED FACILITIES; AND/OR ANY OTHER COSTS OF ADMINISTERING A PROGRAM RELATING THERETO WITHIN ITS BOUNDARIES. SUCH GRANTS SHALL BE MADE BY THE COMMIS-

SIONER AND MAY CONSTITUTE UP TO FIFTY PERCENT OF THE COST OF SUCH PROGRAM INCLUDING EXPENDITURES INCURRED FOR SIGNS AND MARKERS OF ALL TERRAIN VEHICLE TRAILS. ANY QUALIFIED ORGANIZATION APPLYING FOR SUCH GRANT SHALL SUBMIT TO THE COMMISSIONER BY JANUARY FIRST OF EACH YEAR AN ESTIMATE OF SUCH EXPENDITURES FOR THE FOLLOWING FISCAL YEAR, IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL REVIEW ALL SUCH APPLICATIONS AND SHALL DETERMINE THE AMOUNT OF STATE AID TO BE ALLOCATED TO EACH QUALIFIED ORGANIZATION IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SIX OF THIS SECTION. OF THE AMOUNT THE COMMISSIONER DETERMINES EACH QUALIFIED ORGANIZATION IS ELIGIBLE TO RECEIVE, DISTRIBUTION SHALL BE MADE ACCORDING TO A SCHEDULE TO BE DETERMINED BY THE COMMISSIONER WITH SUCH DISTRIBUTION TO BE MADE IN FULL ON OR BEFORE THE COMPLETION OF THE PROGRAM.

4. NO STATE AID SHALL BE ALLOCATED PURSUANT TO THIS SECTION FOR USE IN ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE ON PUBLIC LANDS UNDER JURISDICTION OF THIS STATE, INCLUDING LANDS ON WHICH THE STATE OWNS CONSERVATION OR RECREATION EASEMENTS, OR WHERE THE COMMISSIONER DETERMINES THAT THE EXPENDITURE IS NOT IN THE BEST INTERESTS OF THE STATE AND ISSUES A WRITTEN DETERMINATION THERETO.

5. NO MORE THAN TEN PERCENT OF THE REMAINING MONEYS IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND SHALL BE USED PURSUANT TO THIS SECTION FOR OWNERS WHO PRESENT A CLAIM TO THE FUND FOR PAYMENT FOR THE REMEDIATION OF DAMAGES CAUSED BY THE UNLAWFUL USE OF THEIR PROPERTY BY ALL TERRAIN VEHICLES PROVIDED THE CLAIM IS FILED WITHIN THIRTY DAYS OF THE DAMAGE HAVING OCCURRED, THE CLAIM IS FOR THREE THOUSAND DOLLARS OR LESS, THE PRIVATE PROPERTY OWNER HAS NOT FILED A CLAIM WITHIN THE PRECEDING TEN YEARS AND THERE EXISTS CLEAR AND CONVINCING EVIDENCE THAT THE ALLEGED DAMAGE WAS CAUSED BY THE ILLEGAL USE OF ALL TERRAIN VEHICLES. NO APPLICATION MAY BE MADE FOR DAMAGES THAT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION. ADDITIONALLY, NO STATE AID SHALL BE ALLOCATED PURSUANT TO THIS SECTION FOR USE IN ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE WHERE THE COMMISSIONER DETERMINES, IN WRITING, THAT THE EXPENDITURE OR PROJECT IS NOT IN THE BEST INTERESTS OF THE STATE. IN MAKING SUCH A DETERMINATION THE COMMISSIONER MAY CONSIDER, BUT NOT BE LIMITED TO, THE FOLLOWING FACTORS WHEN DETERMINING THE APPROPRIATENESS OF AN ALL TERRAIN VEHICLE TRAIL PROJECT: (A) THREAT TO PUBLIC LANDS DUE TO THE PROJECT'S CLOSE PROXIMITY TO SUCH LANDS AND (B) LOCATION ADJACENT TO RECOGNIZED NATURE AREAS OR WILDLIFE HABITAT AREAS.

6. THE AMOUNT OF STATE AID TO BE ALLOCATED TO EVERY QUALIFIED ORGANIZATION, SHALL BE DRAWN UPON THE MONIES REMAINING IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND AFTER WITHDRAWAL PURSUANT TO SUBDIVISIONS TWO AND FOUR OF THIS SECTION AND SECTIONS 27.19 AND 27.21 OF THIS ARTICLE AS SHALL BE DETERMINED BY THE COMMISSIONER PURSUANT TO THIS SUBDIVISION. THE COMMISSIONER SHALL DETERMINE THE PERCENTAGE PROPORTION WHICH THE AUTHORIZED EXPENDITURES OF EACH INDIVIDUAL QUALIFIED ORGANIZATION, SHALL BEAR TO THE TOTAL AUTHORIZED EXPENDITURES OF ALL ORGANIZATIONS FOR ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND/OR PROGRAMS PURSUANT TO THIS SECTION DURING THE FISCAL YEAR. SUCH PERCENTAGE PROPORTION SHALL BE MULTIPLIED BY THE MONIES REMAINING IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND. THE AMOUNT THUS DETERMINED SHALL CONSTITUTE THE MAXIMUM AMOUNT OF STATE AID TO WHICH EACH QUALIFIED ORGANIZATION, SHALL BE ENTITLED. THE COMMISSIONER SHALL CERTIFY TO THE STATE COMPTROLLER THE AMOUNT THUS DETERMINED FOR EACH QUALIFIED ORGANIZATION AS THE AMOUNT OF STATE AID TO BE APPORTIONED TO QUALIFIED ORGANIZATIONS.

7. THE COMMISSIONER IS AUTHORIZED TO ACCEPT APPLICATIONS AND CERTIFY QUALIFIED ORGANIZATIONS, WHETHER PUBLIC, PRIVATE OR GOVERNMENT ENTITIES, PURSUANT TO SUBDIVISION NINETEEN OF SECTION 1.03 OF THIS CHAPTER. THE COMMISSIONER IS ALSO AUTHORIZED TO ADOPT RULES AND REGULATIONS TO ACCOMPLISH THESE PURPOSES.

8. IN THE EVENT THAT ANY FUNDS REMAIN AFTER DISTRIBUTION AS AUTHORIZED IN THIS SECTION, AND SECTIONS 27.19 AND 27.21 OF THIS ARTICLE IN A FISCAL YEAR, SUCH FUNDS SHALL BE RETAINED IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND AND SHALL BE MADE AVAILABLE FOR GRANTS IN THE FOLLOWING FISCAL YEAR.

9. THE COMMISSIONER SHALL REPORT UPON THE PUBLIC RECORD AND ON THE OFFICE WEB SITE, THE BALANCE OF THE FUND AT THE BEGINNING OF EACH FISCAL YEAR AND THE INDIVIDUAL AND COMBINED TOTALS OF THE EXPENDITURES AUTHORIZED UNDER THIS SECTION, AND ANY OTHER INFORMATION ABOUT THE STATUS OF THE PROGRAM AS HE OR SHE MAY DIRECT.

S 4. Section 2282 of the vehicle and traffic law is amended by adding a new subdivision 2-a to read as follows:

2-A. THE COMMISSIONER SHALL MAKE AVAILABLE TO ALL TERRAIN VEHICLE USERS, AT THE TIME OF REGISTRATION OF AN ALL TERRAIN VEHICLE, AND ANY TIME THEREAFTER, ANY ALL TERRAIN VEHICLE TRAIL MAP AND USER GUIDE AS PROMULGATED BY THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION PURSUANT TO SUBDIVISION TWO OF SECTION 27.23 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW WITHIN THREE YEARS OF THE EFFECTIVE DATE OF THIS SUBDIVISION.

S 5. Subdivision 1 of section 2283 of the vehicle and traffic law is amended by adding four new paragraphs (a), (b), (c) and (d) to read as follows:

(A) A SET OF PERMANENT REGISTRATION NUMBER PLATES SHALL BE PLACED ON AN ALL TERRAIN VEHICLE. ONE PLATE SHALL BE PLACED ON THE FRONT OF THE VEHICLE AND ONE ON THE REAR OF THE VEHICLE, AS HIGH AS POSSIBLE ABOVE AND BETWEEN THE REAR TIRES, EACH SECURELY FASTENED SO AS TO PREVENT THE SAME FROM SWINGING.

(B) SUCH PLATES SHALL DISPLAY THE REGISTRATION NUMBER, CORRESPONDING TO THAT OF THE REGISTRATION CERTIFICATE. THERE SHALL BE A MARKED CONTRAST BETWEEN THE COLOR OF THE PLATES AND THAT OF THE NUMERALS OR LETTERS THEREON. SUCH PLATES SHALL BE OF SUCH MATERIAL, FORM, DESIGN AND DIMENSION, AS THE COMMISSIONER SHALL PRESCRIBE; PROVIDED THAT, SUCH DIMENSIONS AT A MINIMUM SHALL BE THREE AND ONE-HALF INCHES VERTICAL AND SIX INCHES HORIZONTAL.

(C) SUCH PLATES SHALL BE KEPT CLEAN AND IN A CONDITION SO AS TO BE EASILY READABLE AND SHALL NOT BE COVERED BY GLASS OR ANY PLASTIC, AND THE VIEW THEREOF SHALL NOT BE OBSTRUCTED BY ANY PART OF THE VEHICLE OR BY ANYTHING CARRIED THEREON.

(D) THE DEPARTMENT IS HEREBY AUTHORIZED TO APPLY AND USE ONE DOLLAR AND TWENTY-FIVE CENTS OF THE FEE OR CHARGE FOR SUCH PLATES FOR THE COSTS OF MANUFACTURING AND REGISTRATION.

S 6. Subdivision 4 of section 2404 of the vehicle and traffic law is REPEALED.

S 7. Subdivision 4 of section 2282 of the vehicle and traffic law, as amended by chapter 402 of the laws of 1986, is amended to read as follows:

4. Fees. Fees for registration of ATVs to be collected by the commissioner under this article are as follows.

(a) [An annual fee of ten dollars for each individual resident registration.

(b) An annual fee of ten dollars for each individual nonresident registration.

(c)] An annual fee of twenty-five dollars for each dealer registration.

[(d)] (B) An annual fee of five dollars for each additional dealer demonstrator registration number.

[(e)] (C) A fee of three dollars for replacement of a lost, mutilated or destroyed certificate.

[(f)] (D) Provided, however, that the provisions of paragraphs [(c)] (A) and [(d)] (B) of this subdivision with respect to the payment of dealer registration fees shall not apply to dealers registered pursuant to section four hundred fifteen of this chapter.

[(g)] (E) Annual fees shall not be prorated and such fees shall be applicable to a year or any portion of a year.

(F) NO NEW FEES SHALL BE AUTHORIZED TO BE IMPOSED ON ANY INDIVIDUAL RESIDENT OR NONRESIDENT FOR THE REGISTRATION OF AN ALL TERRAIN VEHICLE UNTIL THE STATE SHALL HAVE TRANSFERRED NOT LESS THAN TEN MILLION DOLLARS FROM THE GENERAL FUND TO THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND, AND SHALL HAVE EXPENDED NOT LESS THAN TEN MILLION DOLLARS FROM THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND FOR PROGRAMS TO DEVELOP AND MAINTAIN THE ATV TRAIL SYSTEM.

S 8. Paragraph (c) of subdivision 3 of section 2406 of the vehicle and traffic law, as added by chapter 402 of the laws of 1986, is amended and a new paragraph (d) is added to read as follows:

(c) as an authorized emergency ATV or civil defense ATV, as an emergency vehicle unless it is equipped with one or more lighted, red or combination red or white light or lights which is or are revolving, rotating, flashing, oscillating or constantly moving and which has or have minimum candle power of sufficient intensity to be plainly visible from a distance of five hundred feet in all directions under normal atmospheric conditions[.];

(D) UNLESS HE OR SHE IS RIDING ONLY UPON THE PERMANENT AND REGULAR SEAT ATTACHED THERETO, AND SUCH OPERATOR SHALL NOT CARRY ANY OTHER PERSON NOR SHALL ANY OTHER PERSON RIDE ON AN ATV UNLESS SUCH ATV IS DESIGNED TO CARRY MORE THAN ONE PERSON, IN WHICH EVENT A PASSENGER MAY RIDE UPON THE PERMANENT AND REGULAR SEAT IF DESIGNED FOR TWO PERSONS, OR UPON ANOTHER SEAT FIRMLY ATTACHED TO THE ATV AT THE REAR OR SIDE OF THE OPERATOR.

S 9. The vehicle and traffic law is amended by adding a new section 2414 to read as follows:

S 2414. FAILURE TO COMPLY; FINES AND PENALTIES. 1. FAILURE TO COMPLY WITH A PROVISION OF LAW REGARDING THE OPERATION OF AN ATV SHALL CONSTITUTE A VIOLATION AND SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS; PROVIDED, HOWEVER, THAT A VIOLATION OF SECTION TWENTY-FOUR HUNDRED SIX OF THIS ARTICLE SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN FIFTY DOLLARS. A REPEAT VIOLATION OF ANY SUCH PROVISION OF LAW WITHIN A FIVE YEAR PERIOD SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN TWO HUNDRED FIFTY DOLLARS, PROVIDED HOWEVER THAT A REPEAT VIOLATION OF SECTION TWENTY-FOUR HUNDRED SIX OF THIS ARTICLE SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

2. IN ADDITION TO THE PENALTIES SET FORTH IN SUBDIVISION ONE OF THIS SECTION, A POLICE OFFICER OR PEACE OFFICER MAY IMMEDIATELY IMPOUND AN ATV FOR ANY OF THE FOLLOWING REASONS:

(A) OPERATION OF AN ATV ON OTHER THAN DESIGNATED ROUTES WITHIN THE FOREST PRESERVE;

(B) VIOLATION OF SECTION TWENTY-TWO HUNDRED EIGHTY-THREE OF THIS TITLE WHEN SUCH VIOLATION CONSTITUTES BOTH A SECOND OFFENSE OF SUCH SECTION WITHIN EIGHTEEN MONTHS AND IS A VIOLATION OF SECTION TWENTY-FOUR HUNDRED THREE OF THIS ARTICLE; OR

(C) OPERATION OF AN ATV UPON ANY PUBLIC OR PRIVATE PROPERTY WITHIN THE STATE DURING THE COMMISSION OF A SEPARATE MISDEMEANOR OR FELONY AS DEFINED IN THE PENAL LAW; PROVIDED HOWEVER THAT A VIOLATION OF SUBDIVISION (A) OF SECTION 140.10 OF THE PENAL LAW SHALL NOT IN ITSELF CONSTITUTE A SEPARATE MISDEMEANOR FOR PURPOSES OF THIS PARAGRAPH.

3. EACH SUCH IMPOUNDED ATV SHALL BE PROCESSED CONSISTENT WITH THE PROVISIONS OF SECTION FIVE HUNDRED ELEVEN-B OF THIS CHAPTER.

4. IN THE EVENT THAT A FINE IS ASSESSED AGAINST A MINOR FOR ILLEGAL OPERATION OF AN ATV, THE PARENT OR LEGAL GUARDIAN OF SUCH MINOR SHALL BE WHOLLY RESPONSIBLE FOR THE REMITTANCE OF SUCH FINE.

5. FIFTY PERCENT OF THE PROCEEDS OF THE FINES COLLECTED IN ACCORDANCE WITH THIS SECTION SHALL BE PROVIDED TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE PURPOSE OF ENSURING THAT ALL TERRAIN VEHICLES DO NOT TRESPASS ONTO PUBLIC LANDS UNDER JURISDICTION OF THE STATE, EXCEPT IN CASES WHERE THE ARRESTING OFFICER IS A PEACE OFFICER EMPLOYED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, IN WHICH CASE SUCH DEPARTMENT SHALL RECEIVE ONE HUNDRED PERCENT OF SUCH PROCEEDS.

S 10. The state finance law is amended by adding a new section 91-h to read as follows:

S 91-H. ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION AND THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE "ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND". THE MONIES IN SUCH FUND SHALL BE AVAILABLE FOR PAYMENT OF ANY AND ALL COSTS AND EXPENDITURES INCURRED IN PERFORMING ANY OF THE WORK REQUIRED IN DEVELOPING AND MAINTAINING A SYSTEM OF ALL TERRAIN VEHICLE TRAILS AND/OR PROGRAMS PURSUANT TO SECTIONS 27.19, 27.21 AND 27.23 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW, INCLUDING COSTS AND EXPENSES INCIDENTAL AND APPURTENANT THERETO.

2. MONIES IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND SHALL BE KEPT SEPARATELY FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE JOINT OR SOLE CUSTODY OF THE STATE COMPTROLLER OR THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION.

3. THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE FUND SHALL CONSIST OF ALL MONIES APPROPRIATED, CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

4. THE MONIES IN SUCH FUND SHALL BE APPROPRIATED BY THE LEGISLATURE AND PAID OUT PURSUANT TO SECTIONS 27.19, 27.21 AND 27.23 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED BY THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION.

S 11. Section 17-1411 of the environmental conservation law is amended by adding a new subdivision 3 to read as follows:

3. THE COMMISSIONER MAY PROMULGATE REGULATIONS NECESSARY TO PROTECT THE STATE'S NATURAL RESOURCES FROM THE DEVELOPMENT, MAINTENANCE AND USE OF ALL TERRAIN VEHICLE TRAILS.

S 12. Nothing in this act shall be deemed to limit the authority of any county, city, town or village from adopting or amending a 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 its 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 already in effect prior to the effective date of this act.

S 13. The sum of ten million dollars ($10,000,000) is hereby appropriated to the all terrain vehicle trail development and maintenance fund out of any moneys in the state treasury in the general fund to the credit of the local assistance account, not otherwise appropriated, and made immediately available, for carrying out the purposes of the all terrain vehicle trail development and maintenance fund. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the commissioner of parks, recreation and historic preservation in the manner prescribed by law.

S 14. This act shall take effect on the first of April next succeeding the date on which it shall have become a law, except that the state aid authorized by subdivisions 2, 3, 4 and 6 of section 27.23 of the parks, recreation and historic preservation law, as added by section three of this act, shall be payable in fiscal years commencing one year after such effective date; provided however, sections five, six, eight, nine and eleven of this act shall take effect on the one hundred twentieth day after it shall have become a law; and provided further that effective immediately, the amendment, addition and/or repeal of any rule or regulation necessary for the timely implementation of this act upon its effective date is hereby authorized and directed to be completed on or before such effective date.