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

4356

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. MORELLE, HOYT, ORTIZ, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. BOYLAND, CANESTRARI, CHRISTENSEN, COOK, DelMONTE, DESTITO, GALEF, MAGEE, MARKEY, McENENY, P. RIVERA, TOWNS -- 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 state finance law, the vehicle and traffic law and the environmental conservation law, in relation to the all terrain vehicle trail development, maintenance and enforcement fund and to amend the vehicle and traffic law, in relation to the enforcement of the operation of all terrain vehicles and to the registration of such vehicles; and to repeal certain provisions of the vehicle and traffic law relating thereto

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

Section 1. 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 JURISDICTION OF OFFICE.
26.03 FEE FOR ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT.
26.05 RULES AND REGULATIONS.

S 26.01 JURISDICTION OF OFFICE. THE CONTROL AND SUPERVISION OF THE PROVISIONS OF THIS TITLE SHALL BE UNDER THE JURISDICTION OF THE OFFICE.

S 26.03 FEE FOR ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT. 1. A FEE OF TEN DOLLARS IS HEREBY IMPOSED UPON A RESIDENT, AND TWENTY DOLLARS UPON A NON-RESIDENT, OWNER OF AN ALL TERRAIN VEHICLE

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

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FOR THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND, TO BE PAID TO THE COMMISSIONER OF MOTOR VEHICLES UPON THE REGISTRATION OF SUCH VEHICLE IN ADDITION TO THE REGISTRATION FEE REQUIRED BY THE VEHICLE AND TRAFFIC LAW, THE PAYMENT OF WHICH FEE HEREBY IMPOSED SHALL BE A CONDITION PRECEDENT TO SUCH INDIVIDUAL RESIDENT, INDIVIDUAL NON-RESIDENT OR DEALER REGISTRATION.

2. THE ALL TERRAIN VEHICLE FEE PAID BY ALL TERRAIN VEHICLE OWNERS SHALL BE DEPOSITED INTO THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND PURSUANT TO PARAGRAPHS (A) AND (B) OF SUBDIVISION FOUR OF SECTION TWENTY-TWO HUNDRED EIGHTY-TWO OF THE VEHICLE AND TRAFFIC LAW AND SECTION NINETY-TWO-O OF THE STATE FINANCE LAW FOR USE IN THE PURCHASE, LEASE OR OTHER ACQUISITION OF PRIVATE PROPERTY AND FOR THE MAINTENANCE AND DEVELOPMENT OF ALL TERRAIN VEHICLE TRAILS ON PROPERTY HELD BY LOCAL GOVERNMENTS AUTHORIZED TO RECEIVE ASSISTANCE UNDER THIS TITLE.

3. OF THE MONIES IN THE FUND, NOT LESS THAN TWENTY-FIVE PERCENT SHALL BE DEPOSITED INTO THE ALL TERRAIN VEHICLE ENFORCEMENT ACCOUNT ESTABLISHED WITHIN THE FUND PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION NINETY-TWO-O OF THE STATE FINANCE LAW AND NOT LESS THAN TWENTY PERCENT SHALL BE DEPOSITED INTO THE ALL TERRAIN VEHICLE DAMAGE REMEDIATION ACCOUNT ESTABLISHED WITHIN THE FUND PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION NINETY-TWO-O OF THE STATE FINANCE LAW.

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

S 2. The parks, recreation and historic preservation law is amended by adding four new sections 27.19, 27.21, 27.23 and 27.25 to read as follows:

S 27.19 STATE AID; ALL TERRAIN VEHICLES ENFORCEMENT. 1. THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND EVERY COUNTY, CITY, TOWN OR 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, INCLUDING EXPENDITURES INCURRED FOR SIGNS AND MARKERS THEREFOR, SHALL SUBMIT TO THE COMMISSIONER BY JANUARY FIRST OF EACH YEAR EVIDENCE THAT A DEDICATED ALL TERRAIN VEHICLE ENFORCEMENT UNIT AND PROGRAM FOR ENFORCEMENT EXISTS, OR THAT SUCH EXPENDITURES ARE NECESSARY FOR THE IMPLEMENTATION OF AN ALL TERRAIN VEHICLE ENFORCEMENT PROGRAM THAT IS CONSISTENT WITH A PLAN ADOPTED AS POLICY BY AN ENFORCEMENT AGENCY WITHIN SUCH COUNTY, CITY, TOWN OR VILLAGE, AND 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, NUMBER OF CITATIONS ISSUED, AND A DESCRIPTION OF THE ACTIVITIES OF THE ALL TERRAIN VEHICLE ENFORCEMENT UNIT, 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 BY THIS SUBDIVISION BY THE AMOUNT OF ALL SUCH AUTHORIZED EXPENDITURES AND MULTIPLYING THE RESULT BY FIVE

PERCENT OF MONEYS DERIVED FROM THE REGISTRATION OF ALL TERRAIN VEHICLES AND DEPOSITED TO THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT ACCOUNT PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION NINETY-TWO-O OF THE STATE FINANCE LAW FOR THE FISCAL YEAR.

S 27.21 STATE AID; SAFETY; EDUCATION AND TRAINING. 1. EVERY COUNTY, CITY, TOWN, VILLAGE, OR A QUALIFIED NOT-FOR-PROFIT ORGANIZATION AS DEFINED IN SECTION 1.03 OF THIS CHAPTER, SHALL BE ENTITLED TO RECEIVE STATE AID AS PROVIDED IN THIS SECTION. A COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT 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 NOT-FOR-PROFIT 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 NOT-FOR-PROFIT ORGANIZATION. OF THE AMOUNT THE COMMISSIONER DETERMINES EACH COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT 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 OR QUALIFIED NOT-FOR-PROFIT ORGANIZATION SHALL RECEIVE THE STATE AID AUTHORIZED BY DIVIDING ITS AUTHORIZED EXPENDITURES AS DETERMINED BY THIS SUBDIVISION BY THE AMOUNT OF ALL SUCH AUTHORIZED EXPENDITURES AND MULTIPLYING THE RESULT BY FIVE PERCENT OF MONEYS DERIVED FROM THE REGISTRATION OF ALL TERRAIN VEHICLES AND DEPOSITED TO THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND PURSUANT TO SECTION NINETY-TWO-O OF THE STATE FINANCE LAW.

S 27.23 STATE AID; ALL TERRAIN VEHICLE TRAIL DEVELOPMENT AND MAINTENANCE. 1. EVERY COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT ORGANIZATION ENGAGING OR ASSISTING IN THE DEVELOPMENT AND MAINTENANCE OF A SYSTEM OF ALL TERRAIN VEHICLE TRAILS AND/OR A PROGRAM WITH RELATION 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 COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT 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, MAINTENANCE AND ENFORCEMENT FUND PURSUANT TO SECTION NINETY-TWO-O OF THE STATE FINANCE LAW FOR EXPENSES, INCLUDING PERSONAL SERVICES, AS APPROVED BY THE COMPTROLLER AND IS HEREBY AUTHORIZED TO ASSIGN UP TO TWO EMPLOYEES 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 A STATEWIDE NOT-FOR-PROFIT ORGANIZATION CERTIFIED BY THE COMMISSIONER AS REPRESENTING THE INTERESTS OF ALL TERRAIN VEHICLE USERS TO MAXIMIZE THE EFFECTIVENESS OF THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND. SUCH COOPERATION SHALL 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 WITHIN THREE YEARS OF THE EFFECTIVE DATE OF

THIS SECTION 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 THE 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 COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT 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 THAT ARE OPEN TO THE PUBLIC; 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 WITH RELATION THERETO WITHIN ITS BOUNDARIES. SUCH GRANTS SHALL BE MADE BY THE COMMISSIONER AND MAY CONSTITUTE UP TO ONE HUNDRED PERCENT OF THE COST OF SUCH PROGRAM INCLUDING EXPENDITURES INCURRED FOR SIGNS AND MARKERS OF ALL TERRAIN VEHICLE TRAILS. ANY COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT 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 NOT-FOR-PROFIT ORGANIZATION IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SIX OF THIS SECTION. OF THE AMOUNT THE COMMISSIONER DETERMINES EACH COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT 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 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 COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT ORGANIZATION, SHALL BE DRAWN UPON THE MONIES REMAINING IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND PURSUANT TO SECTION NINETY-TWO-O OF THE STATE FINANCE LAW 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 AS HEREINAFTER PROVIDED. THE COMMISSIONER SHALL DETERMINE THE PERCENTAGE PROPORTION WHICH THE AUTHORIZED EXPENDITURES OF EACH INDIVIDUAL COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED

NOT-FOR-PROFIT ORGANIZATION, SHALL BEAR TO THE TOTAL AUTHORIZED EXPENDITURES OF ALL THE COUNTIES, CITIES, TOWNS, VILLAGES OR NOT-FOR-PROFIT 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, MAINTENANCE AND ENFORCEMENT FUND PURSUANT TO SECTION NINETY-TWO-O OF THE STATE FINANCE LAW. THE AMOUNT THUS DETERMINED SHALL CONSTITUTE THE MAXIMUM AMOUNT OF STATE AID TO WHICH EACH COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT ORGANIZATION, SHALL BE ENTITLED. THE COMMISSIONER SHALL CERTIFY TO THE COMPTROLLER THE AMOUNT THUS DETERMINED FOR EACH COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT ORGANIZATION AS THE AMOUNT OF STATE AID TO BE APPORTIONED TO SUCH COUNTY, CITY, TOWN, VILLAGE OR QUALIFIED NOT-FOR-PROFIT ORGANIZATION.

7. THE COMMISSIONER IS HEREBY AUTHORIZED TO ACCEPT APPLICATIONS AND CERTIFY QUALIFIED NOT-FOR-PROFIT ORGANIZATIONS AS PROVIDED IN 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, 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, MAINTENANCE AND ENFORCEMENT FUND AND SHALL BE MADE AVAILABLE FOR GRANTS IN THE FOLLOWING FISCAL YEAR.

9. THE COMMISSIONER IS DIRECTED TO REPORT IN THE PUBLIC RECORD AND ON ITS WEB SITE, THE BALANCE OF THE FUND AT THE BEGINNING OF EACH FISCAL YEAR AND THE INDIVIDUAL AND COMBINED TOTALS OF EACH OF THE EXPENDITURES AUTHORIZED UNDER THIS CHAPTER, AND ANY OTHER INFORMATION ABOUT THE STATUS OF THE PROGRAM AS HE OR SHE MAY DIRECT.

S 27.25 STATE AID; ALL TERRAIN VEHICLE DAMAGE REMEDIATION. 1. THE STATE, ITS AGENCIES, ANY COUNTY, CITY, TOWN OR VILLAGE, AND ANY PRIVATE LANDOWNERS SUFFERING PROPERTY DAMAGE OF ANY KIND DIRECTLY ATTRIBUTABLE TO THE UNAUTHORIZED USE AND TRESPASS OF ALL TERRAIN VEHICLES ON THEIR PROPERTY, WHEN SUCH PERSON OR ENTITY HAVE NOT THEMSELVES OPERATED AN ALL TERRAIN VEHICLE ON SUCH DAMAGED PROPERTY IN A MANNER WHICH IS CONSISTENT WITH CAUSING OR EXACERBATING SUCH DAMAGE, SHALL BE ELIGIBLE TO SEEK REPARATIONS FROM THE ALL TERRAIN VEHICLE DAMAGE REMEDIATION ACCOUNT FOR DAMAGES SUFFERED. ALL AWARDS DRAWN ON THIS ACCOUNT ARE SUBJECT TO THE PROVISIONS SET FORTH IN PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION NINETY-TWO-O OF THE STATE FINANCE LAW.

2.THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS FOR A SYSTEM BY WHICH INJURED PARTIES CAN RECEIVE AWARDS FROM THE ACCOUNT FOR DAMAGES INCURRED BY THE UNAUTHORIZED USE OF ALL TERRAIN VEHICLES ON THEIR PROPERTY.

(A) SUCH SYSTEM MUST INCLUDE, BUT MAY NOT BE LIMITED TO, THE FOLLOWING:

(I) A METHOD BY WHICH COMPLAINANTS CAN PRESENT THEIR CLAIM FOR DAMAGES;

(II) A SYSTEM WHICH PROVIDES FOR THE FAIR AND EQUITABLE EVALUATION OF ALL CLAIMS IN A TIMELY MANNER;

(III) A PROCESS FOR THE ACCEPTANCE OF EVIDENCE, AND THE REVIEW OF CITATIONS OR VIOLATIONS ISSUED BY ANY LAW ENFORCEMENT AGENCY WITH REGARD TO THE DAMAGES IN QUESTION; AND

(IV) ANY OTHER PROCESS DETERMINED BY RULE OR REGULATION THAT THE COMMISSIONER DEEMS NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION.

(B) SUCH RULES AND REGULATIONS MUST INCLUDE, BUT MAY NOT BE LIMITED TO, THE FOLLOWING:

(I) CLAIMS FOR DAMAGES MUST BE FILED WITHIN NINETY DAYS OF THE OCCURRENCE AND MUST BE ACCOMPANIED BY PROOF THAT A COMPLAINT WAS FILED WITH THE LAW ENFORCEMENT AGENCY OF JURISDICTION;

(II) COMPLAINANTS SEEKING DAMAGES IN SMALL CLAIMS COURT AGAINST A SPECIFIC ENTITY, PERSON OR PERSONS FOR SAID INJURIES TO PERSONAL PROPERTY MAY NOT ALSO FILE A CLAIM UNDER THIS SECTION;

(III) NO SINGLE AWARD FOR DAMAGES MAY EXCEED TEN THOUSAND DOLLARS;

(IV) NO CLAIMANT SHALL ENTER A CLAIM FOR DAMAGES WHEN SUCH CLAIMANT, OR PERSONS EMPLOYED OR VOLUNTEERING FOR SUCH CLAIMANT IN ANY MANNER, HAVE THEMSELVES OPERATED AN ALL TERRAIN VEHICLE ON SUCH DAMAGED PROPERTY IN A MANNER WHICH IS CONSISTENT WITH CAUSING, OR EXACERBATING SUCH DAMAGE; AND

(V) ANY OTHER RULES OR REGULATIONS THAT THE COMMISSIONER DEEMS NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION.

S 3. Section 2282 of the vehicle and traffic law is amended by adding a new subdivision 13 to read as follows:

13. REGISTRATION AT TIME OF SALE. ALL TERRAIN VEHICLES SOLD BY DEALERS SHALL BE REGISTERED AT THE TIME OF SUCH SALE. SUCH REGISTRATION SHALL BE VALID UNTIL THE THIRTY-FIRST DAY OF AUGUST FOLLOWING THE DATE OF SUCH SALE; PROVIDED HOWEVER THAT ALL TERRAIN VEHICLES SOLD AFTER APRIL FIRST OF EACH YEAR SHALL BE ISSUED A REGISTRATION VALID UNTIL THE THIRTY-FIRST DAY OF AUGUST IN THE YEAR FOLLOWING THAT IN WHICH THE ALL TERRAIN VEHICLE IS SOLD. ALL TERRAIN VEHICLES PURCHASED TO BE USED IN ACCORDANCE WITH SUBDIVISION ELEVEN OF THIS SECTION OR FOR USE EXCLUSIVELY OUTSIDE OF THE STATE OF NEW YORK SHALL NOT REQUIRE REGISTRATION AT THE TIME OF PURCHASE, AND THE PURCHASER OF SUCH ALL TERRAIN VEHICLE SHALL SIGN A DECLARATION, PROVIDED BY THE DEALER, WHICH SHALL STATE THAT SUCH PURCHASER UNDERSTANDS THE CONDITIONS UNDER WHICH AN ALL TERRAIN VEHICLE MUST BE REGISTERED AND THE PENALTY FOR VIOLATION OF SUCH REGISTRATION PROVISIONS; THE FORM OF SUCH DECLARATION SHALL BE PROVIDED BY THE COMMISSIONER TO EACH DEALER AND SHALL BE FORWARDED TO THE COMMISSIONER.

S 4. Section 2291 of the vehicle and traffic law, as amended by section 3 of part G of chapter 59 of the laws of 2006, is amended to read as follows:

S 2291. Disposition of fees. The commissioner shall deposit all monies received from the registration of ATVs and all fees otherwise collected under this article to the credit of the general fund, [as prescribed by section twenty-two hundred eighty-two of this chapter] EXCEPT THAT ALL FEES COLLECTED BY THE COMMISSIONER AS REQUIRED BY SECTION 26.03 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW SHALL BE DEPOSITED TO THE CREDIT OF THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND AS ESTABLISHED BY SECTION NINETY-TWO-O OF THE STATE FINANCE LAW.

S 5. The state finance law is amended by adding a new section 92-o to read as follows:

S 92-O. ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT 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, MAINTENANCE AND ENFORCEMENT FUND".

2. THE COMPTROLLER SHALL ESTABLISH THE FOLLOWING SEPARATE AND DISTINCT ACCOUNTS WITHIN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND:

(A) THE ALL TERRAIN VEHICLE ENFORCEMENT ACCOUNT: THE ACCOUNT SHALL BE CREDITED WITH TWENTY-FIVE PERCENT OF THE TOTAL COLLECTIONS FOR ALL TERRAIN VEHICLE REGISTRATIONS COLLECTED BY THE COMMISSIONER OF THE

DEPARTMENT OF MOTOR VEHICLES PURSUANT TO SUBDIVISION THREE OF SECTION 26.03 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW; AND

(B) THE ALL TERRAIN VEHICLE DAMAGE REMEDIATION ACCOUNT;

(I) SUCH ACCOUNT SHALL BE CREDITED WITH TWENTY PERCENT OF THE TOTAL COLLECTIONS FOR ALL TERRAIN VEHICLE REGISTRATIONS COLLECTED BY THE COMMISSIONER OF THE DEPARTMENT OF MOTOR VEHICLES PURSUANT TO SUBDIVISION THREE OF SECTION 26.03 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW,

(II) SUCH ACCOUNT SHALL BE ADMINISTERED BY THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION AS PROVIDED FOR IN SUBDIVISION TWO OF SECTION 27.23 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW, AND

(III) NOTHING SHALL PRECLUDE THE STATE, OR ITS AGENCIES, FROM SEEKING REPARATIONS FROM THE FUND, PROVIDED THAT SUCH DAMAGE CAN BE FOUND DIRECTLY ATTRIBUTABLE TO THE UNAUTHORIZED USE AND TRESPASS OF ALL TERRAIN VEHICLES ON THEIR PROPERTY, WHEN SUCH PERSON OR ENTITY HAVE NOT THEMSELVES OPERATED AN ALL TERRAIN VEHICLE ON SUCH DAMAGED PROPERTY IN A MANNER WHICH IS CONSISTENT WITH CAUSING OR EXACERBATING SUCH DAMAGE.

3. 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, 27.23 AND 27.25 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW, INCLUDING COSTS AND EXPENSES INCIDENTAL AND APPURTENANT THERETO.

4. MONIES IN THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT 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.

5. THE ALL TERRAIN VEHICLE TRAIL DEVELOPMENT, MAINTENANCE AND ENFORCEMENT FUND SHALL CONSIST OF THE REVENUES REQUIRED TO BE DEPOSITED THEREIN PURSUANT TO THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF SUBDIVISION FOUR OF SECTION TWENTY-TWO HUNDRED EIGHTY-TWO OF THE VEHICLE AND TRAFFIC LAW AND ALL MONIES CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

6. THE MONIES IN SUCH FUND SHALL BE APPROPRIATED BY THE LEGISLATURE AND PAID OUT PURSUANT TO SECTIONS 27.19, 27.21, 27.23 AND 27.25 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.

7. MONEYS FROM THE ALL TERRAIN VEHICLE ENFORCEMENT ACCOUNT SHALL BE AVAILABLE, PURSUANT TO APPROPRIATION AND UPON CERTIFICATE OF APPROVAL OF AVAILABILITY OF THE DIRECTOR OF THE BUDGET, TO THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND ANY COUNTY, CITY, TOWN OR VILLAGE FOR THE STATED PURPOSES OF ALL TERRAIN VEHICLE ENFORCEMENT PROGRAMS PURSUANT TO SECTION 27.19 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW.

8. MONEYS FROM THE ALL TERRAIN VEHICLE DAMAGE REMEDIATION ACCOUNT SHALL BE AVAILABLE, PURSUANT TO APPROPRIATION AND UPON CERTIFICATE OF APPROVAL OF AVAILABILITY OF THE DIRECTOR OF THE BUDGET, TO ENTITIES PURSUANT TO SECTION 27.25 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW.

S 6. 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 NOT-FOR-PROFIT ORGANIZATION" SHALL MEAN AN ORGANIZATION WHICH HAS AS ONE OF ITS PURPOSES THE PROMOTION AND ENHANCEMENT OF RECREATIONAL OPPORTUNITIES AND HAS BEEN CERTIFIED BY THE COMMISSIONER.

S 7. 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 IS DIRECTED TO 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 THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION PURSUANT TO SUBDIVISION TWO OF SECTION 27.23 OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW.

S 8. 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 COMMISSIONER OF MOTOR VEHICLES MAY ASSESS A SURCHARGE OF TWO DOLLARS AND FIFTY CENTS IN ADDITION TO THE FEE FOR REGISTRATION OF AN ALL TERRAIN VEHICLE FOR THE COSTS ASSOCIATED WITH MANUFACTURING LICENSE PLATES FOR ALL TERRAIN VEHICLES.

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 SUCH LAW WITHIN AN EIGHTEEN MONTH 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, ENVIRONMENTAL CONSERVATION OFFICER OR PEACE OFFICER MAY IMMEDIATELY IMPOUND AN ATV OPERATED FOR THE FOLLOWING REASONS:

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

(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 OF THE INITIAL INFRACTION AND IS A VIOLATION OF SUBDIVISION TWO OR THREE 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 ACT 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 SUBDIVISION.

3. 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 LEGAL PARENT OR GUARDIAN OF SUCH MINOR SHALL BE WHOLLY RESPONSIBLE FOR THE REMITTANCE OF SUCH FINE.

5. FIFTY PERCENT OF THE PROCEEDS 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 THAT IN CASES WHERE THE ARRESTING OFFICER IS A PEACE OFFICER EMPLOYED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, WHEREIN THE DEPARTMENT SHALL RECEIVE ONE HUNDRED PERCENT OF SUCH PROCEEDS.

S 10. Subdivision 4 of section 2404 of the vehicle and traffic law is REPEALED and subdivisions 5 and 6 are renumbered subdivisions 4 and 5.

S 11. Section 2406 of the vehicle and traffic law is amended by adding a new subdivision 4 to read as follows:

4. A PERSON OPERATING AN ATV SHALL RIDE 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 12. Section 9-0303 of the environmental conservation law is amended by adding a new subdivision 8 to read as follows:

8. ALL TERRAIN VEHICLE ROUTES. NO DESIGNATION OR DEVELOPMENT OF ALL TERRAIN VEHICLE ROUTES FOR USE BY THE GENERAL PUBLIC SHALL OCCUR ON LANDS WITHIN THE FOREST PRESERVE AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION.

S 13. Nothing in this act shall be deemed to limit the authority of a 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 as of the effective date of this act.

S 14. This act shall take effect on the one hundred twentieth day after 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 two of this act shall be payable in fiscal years commencing one year thereafter; provided, however, 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 made on or before such effective date.