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

444

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to prohibiting the storage and operation of all terrain vehicles in certain places

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

Section 1. Subdivision 2 of section 2403 of the vehicle and traffic law, as added by chapter 402 of the laws of 1986, is amended to read as follows:

2. Public lands other than highways. No person shall operate an ATV on any public lands, waters and property other than a highway, except that an ATV may be operated on any such lands which have been designated and posted for travel by ATVs in accordance with the provisions of section twenty-four hundred five of this article. PUBLIC LANDS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY PUBLIC STREET OR SIDEWALK IN ANY CITY WITH A POPULATION OF A MILLION OR MORE.

S 2. The vehicle and traffic law is amended by adding a new section 2414 to read as follows:

S 2414. STORAGE OF ATVS. 1. IN ANY CITY WITH A POPULATION OF A MILLION OR MORE, NO PERSON SHALL STORE AN ATV INSIDE ANY PRIVATE RESIDENTIAL PREMISES, EXCEPT IN A GARAGE OR OTHER AREA WHICH IS STRUCTURALLY SEGREGATED FROM RESIDENTIAL LIVING AREAS.

2. ANY PERSON WHO VIOLATES SUBDIVISION ONE OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE BY NOT MORE THAN NINETY DAYS IMPRISONMENT OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR BY BOTH SUCH FINE AND IMPRISONMENT. A NOTICE OF VIOLATION OF THIS SECTION SHALL BE PERSONALLY SERVED UPON SUCH PERSON IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LOCAL LAW, WHERE A SUMMONS OR A NOTICE OF VIOLATION IS ISSUED FOR A VIOLATION OF SUBDIVISION ONE OF THIS SECTION, A MEMBER OF A POLICE DEPARTMENT IN

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

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ANY CITY WITH A POPULATION OF A MILLION OR MORE MAY SEIZE AND IMPOUND THE ALL TERRAIN VEHICLE.

(A) AN ALL TERRAIN VEHICLE SEIZED AND IMPOUNDED PURSUANT TO THIS SECTION SHALL BE RELEASED TO THE OWNER OR OTHER PERSON LAWFULLY ENTITLED TO POSSESSION UPON PAYMENT OF THE COSTS OF REMOVAL AND STORAGE AND PROOF OF PAYMENT OF ANY FINE OR CIVIL PENALTY IMPOSED FOR THE VIOLATION OR, IF A PROCEEDING IN CONNECTION WITH THE VIOLATION IS PENDING BEFORE A COURT, UPON THE POSTING OF A BOND OR OTHER FORM OF ACCEPTABLE SECURITY IN AN AMOUNT WHICH WILL SECURE THE PAYMENT OF SUCH COSTS AND ANY FINE OR CIVIL PENALTY WHICH MAY BE IMPOSED FOR THE VIOLATION. IF A COURT FINDS IN FAVOR OF THE RESPONDENT, THE OWNER SHALL BE ENTITLED FORTHWITH TO POSSESSION OF THE ALL TERRAIN VEHICLE WITHOUT CHARGE AND TO THE EXTENT THAT ANY AMOUNT HAS BEEN PREVIOUSLY PAID FOR RELEASE OF THE ALL TERRAIN VEHICLE SUCH AMOUNT SHALL BE REFUNDED.

(B) UPON THE SEIZURE OF AN ALL TERRAIN VEHICLE PURSUANT TO THIS SECTION, WRITTEN NOTICE SHALL BE GIVEN OF THE PROCEDURE FOR REDEMPTION OF THE ALL TERRAIN VEHICLE. WHERE THE ALL TERRAIN VEHICLE IS REGISTERED PURSUANT TO THIS CHAPTER, SUCH NOTICE SHALL ALSO BE MAILED TO THE REGISTERED OWNER.

(C) THE COMMISSIONER, IN CONSULTATION WITH A POLICE COMMISSIONER OF ANY CITY WITH A POPULATION OF A MILLION OR MORE AND A FIRE COMMISSIONER OF SUCH A CITY, SHALL PROMULGATE SUCH RULES AS ARE NECESSARY, TO SET FORTH THE PROCEDURES WHICH MUST BE FOLLOWED REGARDING THE SEIZURE AND RELEASE OF ANY ALL TERRAIN VEHICLE PURSUANT TO THIS SECTION; TO ESTABLISH THE TIME WITHIN WHICH AN ALL TERRAIN VEHICLE WHICH IS NOT REDEEMED SHALL BE DEEMED ABANDONED, AND THE PROCEDURES FOR SUBSEQUENT DISPOSAL; AND TO PROVIDE FOR REASONABLE FEES FOR THE TRANSPORTATION AND STORAGE OF SUCH VEHICLES.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.