

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 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.

LBD05438-01-9

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.