

## Model Bill

### *All-Terrain Vehicle Safety Act*

A BILL TO REGULATE ALL-TERRAIN VEHICLES (“ATVs”) BY: BANNING THE SALE OF THREE—WHEEL ATVS, PROHIBITING OPERATION OF ADULT-SIZE ATVS BY PERSONS UNDER SIXTEEN YEARS OF AGE; REQUIRING OPERATOR LICENSING, VEHICLE REGISTRATION AND INSURANCE REQUIREMENTS, PROHIBITING OPERATION OF ATVS UNDER CERTAIN CONDITIONS AND REQUIRING VEHICLE AND OPERATING SAFETY REQUIREMENTS

#### **Section 1. Title**

This Act shall be known as and may be cited as the “All-Terrain Vehicle Safety Act.”

#### **Section 2. Legislative Findings**

(a) The legislature hereby finds that nationwide:

- (1) The average adult-size ATV now weighs 550 pounds. Many ATVs can travel as fast as 75 miles per hour.
- (2) All-terrain vehicles (ATVs) are involved in the severe injury of at least 136,100 people every year.
- (3) The estimated number of ATV-related fatalities reached 740 in 2003 up from 621 in 2002.
- (4) Children under 16 suffered 44,700 injuries in 2004 up from 38,600 injuries in 2003, 37,100 injuries in 2002 and 34,300 in 2001. Children made up 31 of all injuries. This age group received more serious injuries than any other.
- (5) In 2004, ATV crashes killed at least 130 children younger than 16 accounting for 28 percent of all fatalities.
- (6) Between 1985 and 2004, children under 16 accounted for 31 percent of all injuries and 31 percent of all deaths.
- (7) Less than four percent of injured ATV drivers received formal safety training from a dealer, salesperson or organized training program.
- (8) More than 40 percent of drivers injured in 2001 stated that their ATV did not have warning labels or they did not know if it did at the time of their crash.
- (9) Nearly 90 percent of children under 16 were injured while riding adult-size ATVs in spite of the industry’s voluntary policy not to sell these machines for use by children.
- (10) Medical experts have repeatedly found that children under sixteen years old do not have the mental reasoning and level of judgment necessary to make the split –second decisions required for the safe operation of adult-size all-terrain vehicles.
- (11) A majority of ATV deaths and injuries involve individuals not wearing appropriate protective equipment.
- (12) Three-wheel ATVs were banned from new production in 1997 yet still cause approximately 10% of ATV injuries and thus continue to pose a substantial risk of

injury to the public.

(b) It is therefore the purpose of this act to regulate the sale and use of ATVs in this state.

**Section 3. Definitions**

(a) “All-terrain vehicle” or “ATV” means any motorized off-highway vehicle designed to travel on three or more low- pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and such other off-highway vehicles as may be designated by the Department.

(b) “Adult-size ATV” means any ATV with an engine size of over 90 ccs.

(c) “Commissioner” means the Commissioner of the [insert appropriate Department(s)].

(d) “Dealer” means any person engaged in the business of selling, leasing or renting ATVs.

(e) “Department” means the Department of [insert names] as specified in this Act

(f) “Manufacturer” means any person engaged in the business of manufacturing ATVs or any importer, distributor, factory branch or factory representative of the manufacturer.

(g) “Owner” means any person having a property interest or title to an ATV who is entitled to the use and possession of the vehicle.

(h) “Operator” means any person who drives or otherwise controls the operation of the ATV.

(i) “Person” means every natural person, firm, copartnership, association or corporation.

(j) “Register” means the act of assigning and recording a registration number for an ATV pursuant to State law.

**Section 4. Ban of Three-Wheel All-Terrain Vehicles**

(a) The sale of three-wheel ATVs by manufacturers, dealers, or other persons is prohibited.

(b) The use of three-wheel ATVs by any person is prohibited.

**Section 5. Requirements for Dealers to Distribute Safety Information.**

Dealers shall distribute information to ATV purchasers including, but not limited to: state laws, safety requirements, training programs, licensing and registration requirements,

operating characteristics, and the most recent annual state and national death and injury statistics involving ATVs as compiled and released by the United States Consumer Product Safety Commission.

**Section 6. Prohibition Against Use of Adult-Size ATVs by Persons Under Sixteen Years of Age.**

No person under the age of sixteen shall operate or otherwise use an adult-size ATV anywhere in this state.

**Section 7. Prohibition on Sale of Adult-size ATV for Use for Person under 16.**

(a) No person shall knowingly sell or offer to sell an adult-size ATV for use by a person under the age of 16. Person selling ATV must use best efforts to determine whether adult-size ATV will be used for person under age 16.

(b) No later than 90 days after enactment of this Act, Commissioner shall promulgate rules establishing guidelines for best efforts to be used by ATV seller to determine age of intended user of ATVs.

**Section 8. Licensing and Training Requirement.**

(a) No person sixteen years of age or older shall operate an ATV within this state unless the person satisfies the following conditions:

(1) the person operating the vehicle participated in and received proof of completion of a prescribed vehicle safety education, training and skills demonstration program which is under the direct supervision of a certified ATV safety instructor;

(2) the person holds a current motor vehicle operator's license issued by this state or issued under the authority of another state or province of Canada; provided, however, that an operator's license issued under the authority of another state or province of Canada shall only be valid in this state if the Commissioner has previously certified that said state or province's licensing are substantially comparable to those of this state; and

(3) the person operating the ATV must carry proof of both completion of an approved training program and documentation of a valid motor vehicle operator's license when ever operating an ATV within this state.

(b) No later than ninety days after the enactment of this act, the Commissioner shall promulgate rules establishing a comprehensive ATV safety education, training and skills demonstration program. The program shall include knowledge and skills test incorporating minimum requirements designed to develop and instill the knowledge,

attitudes, habits and skills necessary for the safe operation of an ATV. Rules shall also require that the operator of an ATV possess proof of completing such training.

**Section 9. Registration and Insurance Requirement**

(a) Except as provided in subsection (b), no person may operate an ATV within this state after [DATE] unless the ATV has been registered annually with the Department and there is displayed on the ATV, a decal showing the registration number and expiration date. The Commissioner shall prescribe by regulation the size of the decal and its location on the ATV provided that the size be sufficiently visible during daylight hours from a distance of not less than 50 feet.

(b) Registration is not required for the following ATVs:

- (1) those owned and operated by the United States, another state, or subdivision thereof ;
- (2) those owned and operated by this state, municipality or subdivision thereof; and
- (3) those covered by a valid registration of another state or country that have not been within this state for more than 30 days.

(c) A person may not register any ATV unless there is a liability insurance policy in force on the vehicle covering claims by the operator or other persons for any injuries to them or their property that might arise out of the operation of the vehicle.

- (1) the liability insurance shall provide coverage for at least:
  - (i) \$25,000 bodily injury per individual
  - (ii) \$50,000 bodily injury per crash; and
  - (iii) \$10,000 property damage protection.

[Note: many states have set liability coverage for motor vehicle operations. Liability insurance coverage for ATVs should be comparable to liability coverage for motor vehicles.]

- (2) the owner of the vehicle shall furnish proof of insurance to the Commissioner or Department annually at the time that the vehicle is registered. The owner shall notify the Commissioner or Department immediately if the coverage terminates for any reason before the expiration of the annual registration of the vehicle.

(d) no later than 90 days after the enactment of this Act, the Commissioner shall promulgate rules relating to ATVs, including:

- (1) application for, and registration of, ATVs and display of registration numbers;
- (2) uniform signs to be used by the state, municipalities and political subdivisions of the state to control, direct or regulate the operation and use of ATVs, and
- (3) assessment of a reasonable registration fee.

**Section 10. Operation of All-Terrain Vehicle in Careless or Reckless Manner Prohibited**

No person shall operate an ATV in a careless and reckless manner, as defined by the Commissioner in regulation, so as to endanger or cause injury or damage to any person or property.

**Section 11. Operation on Streets, Roads and Highways Prohibited**

(a) Except as provided in this section, an ATV shall not be driven or operated on any public street, road, or highway of this state.

(b) The crossing of a street, road, or highway is permitted only if:

- (1) the crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
- (2) the ATV is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
- (3) the operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
- (4) in crossing a divided highway, the crossing is made only at an intersection of the highway with another public street, road, or highway;
- (5) it is within day light hours; and
- (6) if equipped, both the headlight and taillight are on when the crossing is made.

(c) The crossing of any interstate or limited access highway is not permitted.

**Section 12. Helmet, Eye and Body Protection Required**

No person shall operate or ride an ATV within this state unless the person wears a safety helmet meeting United States federal government standards for motorcycle helmets, eye protection and body protection. If no federal government safety standard exists for eye and body protective equipment, deference should be made to existing voluntary safety standards.

**Section 13. Passengers Prohibited**

No operator of an ATV shall carry a passenger when operating a vehicle within this state unless the ATV is specifically designed by the manufacturer to carry a passenger.

**Section 14. Operating Under the Influence of Alcohol or a Controlled Substance Prohibited**

A person shall not operate or be in actual possession or control of an ATV in this state when the person is:

- (a) under the influence of alcohol;
- (b) under the influence of one or more controlled substances;
- (c) under the influence of a prescription or non-prescription drug that impairs vision or motor coordination; or
- (d) under the influence of a combination of any of the elements in subsections (a) through (c).

**Section 15. Operation After Sunset Prohibited**

No person shall operate an ATV between sunset and sunrise other than for agricultural or industrial use.

**Section 16. Service Brakes**

Every ATV must be equipped with a brake system maintained in good operating condition.

**Section 17. Muffler**

Every ATV must be equipped with a muffler system in good working condition.

**Section 18. Spark Arrester**

Every ATV must be equipped with a United States Forest Service qualified spark arrester.

**Section 19. Exhaust System Modifications Prohibited**

No person shall:

- (a) equip the exhaust system of an ATV with a cutout, bypass or similar device;
- (b) operate an ATV with an exhaust system so modified; or
- (c) operate an ATV with the spark arrester removed or modified.

**Section 20. Responsibility of Owner**

No owner shall authorize or permit an ATV to be operated contrary to this Act.

**Section 21. Accident and Accident Reports**

(a) If an accident results in the death of any person, or in the injury of any person which results in the treatment of the person by a physician, the operator or owner of each ATV involved in the incident shall give notice of this incident in accordance with Department Regulations.

(b) No later than ninety days after the date of enactment of this act, the Commissioner shall promulgate rules for giving such notice.

**Section 22. Civil Penalties**

(a) any person who violates section 4(a) and/or section 7(a) of this Act shall be subject to a civil penalty of \$2,000 for each such violation. A violation of section 4(a) and/or section 7 shall constitute a separate violation with respect to each sale prohibited thereby.

(b) Any person who violates any section of this Act other than section 4(a) shall be subject to a civil penalty not to exceed \$200 for first such violation, \$300 for second such violation and \$400 for the third or more violations of this Act.

**Section 23. Effective Date**

This Act shall become effective immediately upon being enacted into law.