

ARTICLE 48-C  
RULES FOR OPERATION OF ALL TERRAIN VEHICLES

Section

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§ 2400. Legislative purpose.

It is the purpose of this article to promote the safe and proper use of ATVs for recreation and commerce in this state, to ensure the safety and well-being of all persons concerning the use of ATVs, to minimize detrimental effects of such use upon the environment, and to provide a method whereby municipalities shall consider the designation of appropriate public lands for ATV use and regulation thereof.

§ 2401. Definitions.

As used in this article, unless the context requires otherwise:

1. "Governmental agency" means any agency of the state of New York and all municipalities within the state.
2. "All terrain vehicle" or "ATV" means an all terrain vehicle or ATV as defined in section twenty-two hundred eighty-one of this chapter.
3. "Owner" means any person having a title to an ATV. If an ATV is sold under a contract of conditional sale whereby the title remains in the vendor, such vendor or his assignee shall not, after delivery of such ATV, be deemed an owner within the provisions of this section, but the vendee or his assignee, upon receipt of possession thereof, shall be deemed such owner notwithstanding the terms of such contract, until the vendor or his assignee shall retake possession. A person holding only a security interest in an ATV shall not be deemed an owner unless such person also has possession of such ATV.
4. "Operate" means to ride in or on, other than as a passenger, or use or control the operation of an ATV in any manner, whether or not said ATV is under way.
5. "Operator" means every person who operates or is in actual physical control of an ATV.

6. "Special event" shall mean an organized rally, race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested.

7. "Authorized emergency ATV" shall mean an ATV designated as such in writing by the chief executive officer of any duly organized volunteer ambulance company, fire department, or paid fire department, operated by a member thereof and equipped with emergency lights as provided in section twenty-four hundred six of this article.

8. "Authorized police ATV" shall mean an ATV operated by a police or other peace officer while engaged in the performance of his official duties within the area of his territorial jurisdiction.

9. "Authorized civil defense ATV" shall mean an ATV designated as such in writing by the chief executive officer of a municipality and operated by a member of a civil defense organization of the municipality and equipped with emergency lights as provided in section twenty-four hundred six of this article.

10. "Operation as emergency vehicle" shall mean the operation or parking of an authorized emergency ATV, police or civil defense ATV, including attendant equipment, displaying emergency lights as provided in section twenty-four hundred six of this article and which ATV is engaged in transporting a sick or injured person to the nearest medical facility or appropriate site for transfer to an ambulance as defined in article thirty of the public health law, transporting emergency medical services, personnel and equipment to sick or injured persons, pursuing an actual or suspected violator of the law or responding to, or working or assisting at the scene of an accident, disaster, police call, alarm or other emergency but shall not include returning from such service.

#### § 2402. Rules and regulations.

With a view of achieving enjoyable and proper use of ATVs and minimizing the detrimental effect thereof upon the environment, rules and regulations relating to, but not limited to, the following may be adopted and promulgated as herein provided.

1. The commissioner may adopt rules and regulations:

(a) For conducting special events as provided in section twenty-four hundred eight of this article:

(b) For the administration and enforcement of the provisions of section twenty-four hundred seven of this article relating to liability insurance;

(c) Establishing comprehensive ATV information and safety education and training program or programs including provision for issuance of ATV safety certificates for operation of ATVs by youthful operators;

(d) With respect to uniform signs or markers to be used by governmental agencies which are necessary or desirable to control, direct or regulate the operation and use of ATVs. Such signs as may be designated for use on highways shall also be approved by the commissioner of transportation; and

(e) With respect to such other matters as may be necessary or desirable to provide for the effective administration and enforcement of the provisions of this article.

2. Any state agency may adopt rules and regulations not inconsistent with the provisions of the vehicle and traffic law in a manner appropriate to such agency to permit or regulate the use of ATVs on specifically designated land, including highways, under its jurisdiction.

§ 2403. Operation of ATVs: where permitted.

1. Highways. No person shall operate an ATV on a highway except as provided herein.

(a) An ATV may make a direct crossing on a highway other than an interstate highway or a controlled access highway, provided:

(i) 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:

(ii) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway:

(iii) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard:

(iv) In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway, and

(v) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are lighted.

(b) An ATV may be operated on any highway which has been designated and posted as open for travel by ATVs in accordance with the provisions of section twenty-four hundred five of this article.

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.

3. Private property. No person shall operate an ATV on the private property of another without the consent of the owner or lessee thereof.

4. Emergency vehicle. The provisions of subdivisions one, two and three of this section shall not apply to operation as emergency vehicle by any authorized emergency, police or civil defense all terrain vehicle.

§ 2404. Operating rules.

1. No person shall operate an ATV:

(a) At a rate of speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing:

(b) In a careless, reckless or negligent manner so as to unreasonably endanger the person or property of another or cause injury or damage thereto;

(c) On the tracks or right-of-way of an operating railroad;

(d) In any tree nursery or planting in a manner that damages or destroys growing stock, or creates a substantial risk thereto;

(e) While pulling a person on skis or drawing or towing a sleigh, sled, toboggan or trailer which carries or transports any person unless attached by a rigid support, connection or towbar;

(f) On the frozen surface of public waters: within one hundred feet of any person other than a person riding on an ATV except at the minimum speed required to maintain forward movement of the ATV, nor within one hundred feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the ATV nor on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water;

(g) Within one hundred feet of a dwelling between midnight and six a.m., at a speed greater than minimum required to maintain forward movement of the ATV;

(h) On public lands, other than highways, or on private property of another while in an intoxicated condition or under the influence of narcotics or drugs.

2. The operator of an ATV shall:

(a) Stop and yield to an authorized ambulance, civil defense, or police ATV or police vehicle being operated as an emergency vehicle and approaching from any direction;

(b) Comply with any lawful order or direction of any police officer or other person duly empowered to enforce the laws relating to ATVs.

3. No person shall ride on or in a sleigh, sled, toboggan or trailer which is being towed or trailed by an ATV unless attached by a rigid support, connection or tow bar.

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.

5. For the purposes of title seven of this chapter, an ATV shall be a motor vehicle and the provisions of such title shall be applicable to ATVs.

6. Local laws and ordinances. Nothing contained in this article 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 ATVs than are provided or authorized by this section 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.

§ 2405. Designation of highways and public lands for travel by ATVs.

1. Highways. Except with respect to interstate highways or controlled access highways, the department of transportation with respect to state highways, maintained by the state and any other governmental agency with respect to highways, including bridge and culvert crossings, under its jurisdiction may designate and post any such public highway or portion thereof as open for travel by ATVs when in the determination of the governmental agency concerned, it is otherwise impossible for ATVs to gain access to areas or trails adjacent to the highway. Such designations by a state agency shall be by rule or regulation, and such designations by any municipality other than a state agency shall be by local law or ordinance.

2. Public lands other than highways. A governmental agency other than a municipality, by regulation or order, and a municipality, by ordinance or local law, may designate any appropriate public lands, waters and properties other than highways under its jurisdiction as a place open for travel by ATVs upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of ATVs on such public property, such as travel on designated trails and hours of operation. In addition thereto, such agency or municipality may not require the operator of an ATV to possess a motor vehicle operator's license. A municipality may charge a fee for use of ATVs on such public lands.

3. Signs and markers.

(a) Such designated highways or portions thereof or designated lands shall be identified by markers in such manner as may be provided by rules and regulations of the commissioner.

(b) All signs or markers shall be erected at the expense of the state or municipality, provided, however, that the municipality may accept funds or contributions therefore from private persons, clubs or associations interested in the promotion of ATVs.

4. Any regulation, order, local law or ordinance which designates a highway or portion thereof or designated lands which may be used for ATV operations may include rules and impose restrictions and conditions for the regulation and safe operation of ATVs on the highways and lands so designated, such as travel on designated trails and hours of operation. Any restriction or condition not contained in this chapter must be posted.

5. Copies of orders, regulations, local laws or ordinances adopted by governmental agencies pursuant to this section shall be filed with the commissioner.

#### § 2406. Equipment.

1. No person shall operate an ATV unless it is equipped with:

- (a) Brakes in good operating condition;
- (b) A muffler system in good operating condition which meets federal standards as established in 40 CFR (Code of Federal Regulations) Part 205.166, sub Part E;
- (c) A spark arrester approved by the United States Forest Service;
- (d) Tires having at least two-thirty seconds of an inch of tread with no visible breaks, cuts, exposed cords, bumps or bulges;
- (e) A lighted white headlight approved by the commissioner and a lighted red taillight approved by the commissioner when operated for one-half hour after sunset to one-half hour before sunrise.

2. No person shall operate an ATV or ride as a passenger on an ATV unless he is wearing a protective helmet of a type approved by the commissioner pursuant to subdivision six of section three hundred eighty-one of this chapter.

3. No person shall operate an ATV:

- (a) On a highway with tires equipped with any studs other than automotive studs;
- (b) Except as an authorized emergency ATV, police, or civil defense ATV as an emergency vehicle, while displaying one or more lighted red or a combination red or white lights, which are revolving, rotating, flashing, oscillating or constantly moving;
- (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.

#### § 2407. Liability insurance.

1. An ATV which is operated anywhere in this state other than on lands of the owner of the ATV shall be covered by a policy of insurance, in such language and form as shall be determined and established by the superintendent of insurance, issued by an insurance carrier authorized to do business in this state. Such policy shall provide for coverage's required of an "owner's policy of liability insurance" as set forth in

paragraph (a) of subdivision four of section three hundred eleven of this chapter.

In lieu of such insurance coverage as hereinabove provided, the commissioner, in his discretion and upon application of a governmental agency having registered in its name one or more ATVs, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when he is satisfied that such governmental agency is possessed of financial ability to respond to judgments obtained against it, arising out of the ownership, use or operation of such ATVs. The commissioner may also waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance upon application of any person or any other corporation, having registered in its name, one or more ATVs and furnishing of proof that a certificate of self-insurance has been issued and is in effect pursuant to the provisions of section three hundred sixteen of this chapter.

2. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such ATV upon the request of any magistrate or any person having authority to enforce the provisions of this chapter. The failure to produce such proof upon the request of any such person shall not be an offense but shall be presumptive evidence that the ATV is being operated without having such insurance in force and effect.

3. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such ATV to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of such ATV by the owner or operator, if such insurance coverage was required under the circumstances of such operation. It shall be an affirmative defense to any prosecution for a violation of this subdivision that such proof was so produced or displayed within twenty-four hours of receiving notice of such injury or damage, or the claim of such injury or damage.

4. No owner of an ATV shall operate or permit the same to be operated anywhere in this state other than on lands of the owner of the ATV without having in full force and effect the liability insurance coverage required by this section, and no person shall operate an ATV anywhere in this state other than on lands of the owner of the ATV with the knowledge that such insurance is not in full force and effect.

#### § 2408. Special events.

1. The commissioner shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to permit and designating the equipment and facilities necessary for safe operation of ATVs and for the safety of operators, participants, and observers in such special events. Copies of such regulations shall be furnished by the commissioner to any person making an application therefore.

2. Whenever a special event is proposed to be held, the person in charge thereof shall, at least thirty days prior thereto, file an application with appropriate governmental agencies having jurisdiction over the site of such event to hold such special event. The application shall set forth the date and location of the proposed special event and such other information as the governmental agencies may require, and such event shall not be conducted without written authorization from such governmental agencies.

Governmental agencies shall either grant or deny authorization to hold a special event within thirty days after receipt of an application for authorization. The commissioner shall be furnished with a copy of all such applications. No permit shall be required for a closed-circuit special event held entirely on private property, but appropriate governmental agencies shall be notified of such event at least thirty days prior thereto.

3. ATVs operated at special events shall be exempted from the provisions of this article concerning mufflers, lights and tires during the time of such event, including all pre-race practice at the location of said event.

§ 2409. ATV safety course and safety certificate.

1. Safety course or courses. The commissioner shall establish a curriculum or curricula for an ATV safety training course or courses. Any such curriculum may include, but not be limited to, on-vehicle training and safe riding practices. The commissioner may establish different courses and curricula for different types of all terrain vehicles. The commissioner may permit any such safety training course to be given by any private person, club, association or municipality which meets standards established by the commissioner. The commissioner may establish a reasonable fee which any such person or entity may charge for such course or courses.

2. Safety certificate. Upon successful completion of a safety course given in conformity with subdivision one of this section by a person ten years of age or over, the person or entity which gave the course shall notify the commissioner of such completion in a manner prescribed by the commissioner. The commissioner shall, upon receipt of such information, issue an ATV safety certificate to the person who has successfully completed the course. Such certificate may be limited to the type of vehicle for which the course was given.

§ 2410. Operation by minors.

1. Except as provided by subdivision two of this section, no person under the age of sixteen years shall operate an ATV except upon lands owned or leased by his parent or guardian, unless he is under general supervision of a person eighteen years of age or over or a person sixteen years of age or over who holds an ATV safety certificate. "Leased lands" as herein used shall not include lands leased by an organization of which said operator or his parent or guardian is a member.

2. A person ten years of age but less than sixteen years of age who has received safety training as prescribed by the commissioner and has received the appropriate ATV safety certificate issued by the commissioner may operate an ATV in the same manner as a person who is sixteen years of age or older.

3. The failure of a person to exhibit an ATV safety certificate upon demand to any magistrate or any other officer having authority to enforce the provisions of this article shall not be an offense, but shall be presumptive evidence that such person is not the holder of such certificate.

4. No parent or guardian shall authorize or knowingly permit his child or ward, if under sixteen years of age, to operate an ATV in violation of any provision of this article, any rules or regulations promulgated thereunder, or the provisions of any local law or ordinance.

5. No owner or other person in possession of any ATV shall authorize or knowingly permit any person under sixteen years of age to operate such an ATV in violation of any provision of this article, any rules or regulations promulgated thereunder, or the provisions of any local law or ordinance.

§ 2411. Liability for negligence.

Negligence in the use of operation of an ATV shall be attributable to the owner. Every owner of an ATV used or operated in this state shall be liable and responsible for death or injury to person or damage to property resulting from negligence in the use or operation of such ATV by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.

§ 2412. Service on nonresidents and certain residents, administrators or executors.

For the purposes of section two hundred fifty-two of this chapter, an ATV shall be a vehicle and the provisions of that section and section two hundred fifty-three of this chapter shall apply to ATVs.

§ 2413. Accidents; reports.

1. The operator of any ATV involved in any accident resulting in injuries to or death of any person or in which property damage in the estimated amount of six hundred dollars or more is sustained, shall immediately notify the nearest law enforcement agency and shall within ten days after such accident report the matter in writing to the department, with a copy thereof to the sheriff or police commissioner of the county in which said accident occurred. If such operator is physically incapable of making such report and there is another participant in the accident not so incapacitated such participant shall make the report within the allotted time after such accident. In the event that there is no other participant and the operator is other than the owner, then the owner shall within the prescribed period of time, after learning of the facts of such accident, report the matter to the department, together with such information as may have come to his knowledge relating to such accident. Every such operator of an ATV, or participant of any such accident, or the owner, of the ATV involved in any such accident, shall make such other and additional reports as the commissioner shall require.

2. Whenever any ATV meets with an accident involving a loss of life, personal injury or damage to property and the operator thereof has knowledge of such accident, he shall stop and give his name and address, the name and address of the owner thereof and the registration number assigned to said ATV to the injured person or the person sustaining the damage, or to a peace or police officer. In the event the person sustaining the damage is not present at the place where the damage occurred, the operator shall, as soon as physically able, report the same to the nearest law enforcement agency.

3. A peace, police, or judicial officer who investigates or receives information of an accident involving an ATV shall make a written report of the investigation or information received, and such additional facts relating to the accident as may come to his knowledge and mail the same within forty-eight hours to the department and keep a record thereof in his office.

4. Failure of any person to report an accident as herein provided or failure to give correctly the information required of him by the commissioner in connection with such report shall be a misdemeanor and shall constitute a ground for suspension or revocation of the ATV safety certificate of any person or the certificate of registration of any ATV involved in the accident. The commissioner may temporarily suspend the ATV safety certificate of the person failing to make such report or the certificate of registration of the ATV involved in the accident until such report has been filed.