



STATE OF NEW YORK DEPARTMENT OF MOTOR VEHICLES

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Dear Mr. Graham:

This is in response to your request for a written opinion regarding the following issues regarding "side-by-side" (two seats) ATV's, also known as "Utility Terrain Vehicles" or "UTV's" and hereafter referred by that name.

You ask:

- If a New York resident legally registers a UTV in Pennsylvania, will that registration be recognized in New York?
- Can Lewis County permit the use of UTV's on privately owned portions of the trail system?
- Can UTV's participate in "special events" under VTL §2408?

First, it is important to note that a UTV is *not* an ATV under current state law. The definition of Vehicle and Traffic Law (VTL) §2281 restricts an ATV to 70 inches in width and 1,000 pounds dry weight. While theoretically an ATV might have two seats and still fit these parameters, to our knowledge all UTV's at the very least exceed the weight parameter. Therefore, any provision of the VTL that applies to ATV's, such as VTL §2282, does not apply to a UTV. Obviously, a UTV that *did* fit these parameters would be acknowledged as an "ATV" under New York law, and all the statutes would apply to them as such.

VTL §2282(12), incidentally, allows out-of-state residents ("non-resident owners") to be exempt from ATV registration in New York, but it does not apply to New York residents who register their ATV's in another state. In any case, this provision only applies to ATV's, not UTV's.

A UTV currently cannot be registered in New York. It is a "motor vehicle" under VTL §125, in that it is a motorized vehicle and not excepted (as are ATV's) in that section. Because it can't be registered, it can't be used on the public highways of the state (VTL §401). An ATV, however, can be used on the highways in limited circumstances [VTL §2403(1)] or public lands designated and posted for travel (VTL §2403(2)).

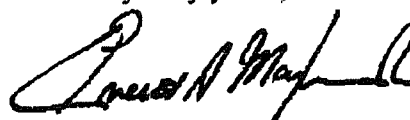
However, there is no provision barring the use of a UTV on private property. Ironically, ATV's, for which New York has a statutory scheme, must be registered to operate *anywhere* "within the state", including, presumably, private property. VTL §2282.

Therefore, it is our opinion that a Pennsylvania registration of a UTV has no effect on its status in New York, both because there is no reciprocity. A UTV can *only* be operated on private property with the permission of the owner. That does not include *public* lands pursuant to VTL §2403(2).

As for special events under VTL §2408, this again is applicable to vehicles defined as ATV's under the law, and not to UTV's. UTV's can only be used on private property.

The remedy for the restrictions on UTV's is ultimately legislative, as it is with any vehicle not contemplated under the current statutory scheme. I would also like to emphasize that any two-seat ATV that fits the definition of VTL §2281 (70 inches/ 1,000 pounds or less) would be considered an ATV under the law.

Very truly yours,



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EAM/cs

cc: Ms. Leanne Mosher
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