

1 **H. B. 3148**

2
3 (By Delegates Moyer, Staggers, A. Evans, Azinger,
4 Guthrie, Perry and Perdue)

5
6 [Introduced March 25, 2013; referred to the
7 Committee on Roads and Transportation then Finance.]

8 **FISCAL
NOTE**

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §20-15A-1, §20-15A-2,
12 §20-15A-3, §20-15A-4, §20-15A-5 and §20-15A-6, all relating to
13 creating the "ATV and UTV Recreation Act;" legislative
14 findings concerning trail-oriented recreation for off-highway
15 vehicle enthusiasts; definitions; required equipment, off-
16 highway use permits, and the registration of all-terrain
17 vehicles or utility-terrain vehicles on roads and trails on
18 public lands, old timber roads and other limited use roads,
19 including national forests; authorizing the Director of the
20 Division of Natural Resources to propose rules to implement
21 the article; the Commissioner of Motor Vehicles is responsible
22 for licensing of the vehicles; duties and liabilities of
23 licensees; and use of fees generated by article.

24 *Be it enacted by the Legislature of West Virginia:*

25 That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §20-15A-1, , §20-15A-2,
2 §20-15A-3, §20-15A-4, §20-15A-5 and §20-15A-6, all to read as
3 follows:

4 **ARTICLE 15A. ATV AND UTV RECREATION ACT.**

5 **§20-15A-1. Legislative findings.**

6 The West Virginia Legislature finds that trail-oriented
7 recreation for off-highway vehicle enthusiasts significantly
8 contributes to the economy of West Virginia and is enjoyed by a
9 large and growing number of residents and nonresidents alike.
10 Since it is recognized that there are inherent risks in the
11 operation of such off-highway vehicles which should be understood
12 by each operator it is the purpose of this article to define the
13 areas of responsibility and affirmative acts to define the risk
14 which the participants expressly assume and for which there can be
15 no recovery.

16 **§20-15A-2. Definitions.**

17 The terms in this article have the following meaning, unless
18 the context clearly requires a different meaning:

19 (1) "All-terrain vehicle" or "ATV" means any motor vehicle as
20 defined in section nine, article one, chapter seventeen-f of this
21 code;

22 (2) "Director" means the Director of the Division of Natural
23 Resources;

24 (3) "Low-pressure tire" means every tire in which twenty

1 pounds per square inch or less of compressed air is designed to
2 support the load;

3 (4) "Utility-terrain vehicle" or "UTV" means any motor vehicle
4 with four or more low-pressure tires designed for off-highway use
5 having bench or bucket seating for each occupant and a steering
6 wheel for control.

7 **§20-15A-3. Scope.**

8 This article applies to required equipment, off-highway use
9 permits, and the registration of all-terrain vehicles or utility-
10 terrain vehicles as defined in section two of this article, on
11 roads and trails on public lands, old timber roads and other
12 limited use roads, including national forests.

13 **§20-15A-4. Duties of all-terrain vehicle or utility-terrain**
14 **vehicle owners; director to propose rules.**

15 Every all-terrain vehicle or utility-terrain vehicle as
16 defined in section two of this article, operating upon roads and
17 trails on public lands, old timber roads and other limited use
18 roads and national forests within this state shall be registered as
19 provided in this section:

20 (a) The owner of all-terrain vehicle or utility-terrain
21 vehicle shall file an application for license to ride on roads and
22 trails on public lands, old timber roads and other limited use
23 roads within this state with the director on forms approved by the
24 Division of Natural Resources.

1 (b) The Director of the Division of Natural Resources shall
2 propose rules for legislative approval in accordance with the
3 provisions of article three, chapter twenty-nine-a of this code for
4 the implementation of this article, including fees for licenses or
5 permits. The Commissioner of Motor Vehicles shall propose rules
6 for legislative approval in accordance with the provisions of
7 article three, chapter twenty-nine-a of this code for licensing or
8 registering these vehicles. (b) Fees for licensing of all-terrain
9 vehicles or utility-terrain vehicles generated by this article
10 shall be paid to the Treasurer of the State of West Virginia and
11 one-half shall be credited to the Division of Natural Resources and
12 one-half credited to the Lighthouse Program.

13 **§20-15A-5. Duties of licensees.**

14 (a) All licensees under this article:

15 (1) Shall comply with any requirements established by law,
16 including those in section one, article one, chapter seventeen-f of
17 this code which defines those acts prohibited by operators of all-
18 terrain vehicles;

19 (2) Shall comply with the rules established by the Director of
20 the Division of Natural Resources for use on roads and trails on
21 public lands, old timber roads and other limited-use roads,
22 including national forests in this state;

23 (3) Shall expressly assume the risk of and legal
24 responsibility for any injury, loss or damage to person or property

1 which results from participation in operating an all-terrain
2 vehicle or utility-terrain vehicle and caused by any of the
3 following:

4 (A) Variations in terrain, slope or angle of terrain;

5 (B) Surface or subsurface conditions including rocks, trees or
6 other forms of forest growth or debris;

7 (C) Collisions with signs, markers, width restrictors,
8 culverts, bridges, pipes, equipment, vehicles or any other objects
9 or fixtures used in trail management, maintenance, construction or
10 development;

11 (D) Collisions with signs, markers, pipes, equipment, vehicles
12 or any component thereof used in natural resource maintenance,
13 development or extraction;

14 (b) Each licensee shall have the sole individual
15 responsibility for:

16 (1) Knowing the range of his or her own ability to negotiate
17 any slope or trail;

18 (2) Operating the ATV or UTV within the limits of the
19 licensee's own ability;

20 (3) Maintaining reasonable control of speed and course at all
21 times;

22 (4) Heeding all posted warnings;

23 (5) Operating only on trails designated by the director; and

24 (6) Refraining from acting in a manner which may cause or

1 contribute to the injury of any person.

2 (c) If while riding an ATV or UTV, any licensee collides with
3 any object or person, the responsibility for the collision shall be
4 solely that of the licensee or licensees involved.

5 (d) After an accident, a licensee may not leave the area where
6 the accident took place without:

7 (1) Leaving personal identification, including his or her name
8 and address;

9 (2) Notifying the proper authorities; and

10 (3) Obtaining assistance when he or she knows or reasonably
11 should know that any other person involved in the accident is in
12 need of medical or other assistance.

13 (e) Where a participant is a lawful passenger, that
14 participant may not distract or perform any act which might
15 interfere with the safe operation of the all-terrain vehicle or
16 utility-terrain vehicle of which he or she is a passenger.

17 (f) Any person under the age of sixteen years shall remain
18 under the direct supervision and within sight of a parent or
19 guardian both of whom must otherwise comply with state or federal
20 laws and any rules or regulations promulgated thereunder.

21 (g) A licensee may not make any alterations or tamper with the
22 all-terrain vehicle or utility-terrain vehicle he or she is
23 operating or of which he or she is a passenger in any way which
24 would interfere with the continued safe operation of that machine.

1 **§20-15A-6. Liability of licensees.**

2 Any licensee is liable for injury, loss or damage resulting
3 from violations of the duties established in section five of this
4 article where the violation of duty is causally related to the
5 injury, loss or damage suffered.

NOTE: The purpose of this bill is to create the "ATV and UTV Recreation Act." It provides legislative findings concerning trail-oriented recreation for off-highway vehicle enthusiasts. It requires off-highway use permits, and the registration of all-terrain vehicles or utility-terrain vehicles on roads and trails on public lands, old timber roads and other limited-use roads, including national forests. The bill authorizes the Director of the Division of Natural Resources to propose rules to implement the article. The Commissioner of Motor Vehicles is responsible for licensing of the vehicles. It defines the duties and liabilities of licensees. And, states how fees generated by the article are to be used.

This article is new; therefore, it has been completely underscored.