

***All Terrain Vehicle/Off Highway  
Vehicle Trespass:  
Reducing the Problem and Property  
Damage***

A Report to the  
Kentucky Recreational Trails Authority

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# **All Terrain Vehicle/Off Highway Vehicle Trespass: Reducing the Problem and Property Damage**

## **Executive Summary**

Under agreement with the Tourism, Arts, and Heritage Cabinet (TAH), this study of the nature and impacts of trespassing on private property, particularly on farmland, is conducted for the Kentucky Recreational Trails Authority (KRTA). Specifically, this research is designed to assist KRTA members with the directive to issue a report to the Kentucky Legislative Research Commission by December 15, 2008. The language in Senate Bill 196 which directed the study to be done is:

***SB 196. Section 4. The Kentucky Recreational Trails Authority (KRTA) is hereby directed to study the impacts of, and ways to significantly reduce, illegal trespass by all-terrain vehicles and off-highway vehicles, with an emphasis on private farmland. The KRTA shall also produce recommendations for increased, coordinated enforcement of current and proposed law that could significantly reduce trespass and damage to private landowners. By December 15, 2008, the KRTA shall submit to the Legislative Research Commission for referral to the appropriate committee or committees, a final report, with any recommendations for proposed legislation, on its implementation of the requirements provided for in this section.***

## **Study Methods:**

The use of several methods was determined to be the best course of action. A literature review, including a review of the laws of the 50 states and their related regulations, as well as the relevant regulations of federal agencies was the starting point. Using a panel of stakeholders identified by the principal researcher in cooperation with Tourism, Arts and Heritage Cabinet staff, groups of interested parties were identified for survey and/or interviews. A list of the stakeholders is listed in the report; details of their responses to the surveys are in Appendix A.

## **Findings & Conclusions:**

- All terrain vehicle/Off highway vehicle (ATV/OHV) trespass occurs throughout the Commonwealth, but a single, reliable information base on the amount of ATV/OHV trespass does not exist.
- The impacts of trespass by ATV/OHV include property damage, particularly on farmland and include fence cutting, crop damage, vandalism, arson, littering, environmental damage, and livestock injury or loss.
- Other states have implemented programs with methods to reduce trespass by ATV/OHV riders.
- The study shows there are ways to produce coordinated improved enforcement.

## **Recommendations:**

1. Information Development – A system for collecting reliable data about ATV/OHV trespass and related matters, including uniform coding of offenses, should be developed.
2. Trespass Law – Statutory changes will improve clarity of the law of trespass and support trail and riding area development.
3. Education – ATV/OHV users and landowners should be better educated on the law of trespass and how to avoid or prevent trespass.
4. ATV Rider and Machine Controls – The alternative approaches to ATV rider and machine controls which may reduce trespass should be examined for the benefit of the Commonwealth.
5. Posting and Signage – Improve signage and notice methods that offer opportunities for reducing trespass.
6. Law Enforcement Coordination– Promoting cooperation and capacity among law enforcement agencies and the courts supports deterrence of trespass. Providing law enforcement agencies with appropriate equipment to respond to ATV/OHV trespass could improve enforcement.
7. Trail and Riding Area Development – Developing places where riders can legally ride is important to preventing trespass and associated damages.

## **Summary Statement**

This study's findings recognize trespass by ATVs as a problem in the Commonwealth worthy of attention by the legislature and by the executive branch of government. The study presents seven areas of recommendations with suggestions for consideration in each of the subject areas of recommendation. More work in examining some areas of recommendation is suggested, due to the lack of data, to determine the best approach to protect the valuable agricultural and land resources of the Commonwealth, and promote appropriate economic development in tourism. Improving the lives of the people of the Commonwealth and the experiences of visitors to Kentucky is a process engaged in by the Tourism, Arts & Heritage Cabinet, the Kentucky Recreational Trails Authority, and the Kentucky legislative and executive branches of government. This study supports the collection of information and its analysis to those ends.

## **Statement of the Situation**

The use of all terrain vehicles (ATVs) as a recreational activity has grown across the nation. Kentucky is determined to take advantage of this activity both for the enjoyment of our own citizens and as a component of its important tourism development activities, through both government and private action. Trespass, particularly on farmland, is detrimental to agriculture, one of the Commonwealth's important economic sectors. Trespass represents a barrier to trail and riding area development because ninety four percent of all the land in Kentucky is privately held, making trespass to those lands a concern to all persons. This large amount of privately held land consists of property used in the economically and culturally significant agricultural activities of private farmers, including crop and animal products important to the Commonwealth, as well as important forest and coal product resource land. Development of cooperative recreational agreement with agricultural land owners represents a great potential for trails of all types, but trespass and associated property damage is a concern of private land owners who might consider opening a portion of their property to trail development. Public lands are also important resources which must be stewarded for the present and future generations.

All terrain vehicles are motorized vehicles used in recreation and agricultural activities which are produced by an industry that promotes their sale and use. Many people use all terrain vehicles in traveling to, from and about their farming activities, and many people use all terrain vehicles in association with the sport of hunting. All terrain vehicles are common in Kentucky.

The ATV is an instrument of human invention and like any human instrument; it may result in positive and negative outcomes. This study addresses two of the negative outcomes, trespass and damage to farmland. When properly and responsibly operated, ATVs offer advantages to farmers by providing relatively inexpensive and low impact movement about the farmland. When properly and responsibly operated, ATVs provide recreational riders with excitement and fun, and provide disabled persons with mobility to enjoy the outdoors. When improperly and irresponsibly used, ATVs expose the environment to abuse, private property to interference and damage; and persons, both riders and non-riders, to safety hazards.

In the face of this situation, the Kentucky legislature has directed the Kentucky Recreational Trails Authority to study ATV/OHV trespass, particularly on farmland, and to produce recommendations to reduce trespass and its damage to private property, and to improve enforcement of current law.

Information on the nature and scope of ATV trespass is not readily available. While there is anecdotal evidence and common knowledge that ATV trespass and property damage occurs, the extent of the problem is not known with a reasonable degree of certainty. In preparing this study, inquiry into law enforcement data bases and the data bases of property insurance carriers was attempted, but data was not available or accessible. Consistent with good government, elected and appointed officials determined that information on the problem needed to be collected. This study takes into account the information situation and devises methods to gather evidence to be taken into consideration to law and policy making. KRTA members, supported by the staff of the Tourism, Arts and Heritage Cabinet and the Kentucky Adventure Tourism program staff, contributed to the structure of the study, the methodologies for collecting information and the analysis of data.

## **Methodology**

There are several methods of study used here because it was determined that multiple approaches to the questions would yield better results. Consultations with parties who had expressed an interest in contributing to the development of solutions were held early in the process. The KRTA membership represents a range of persons with interests related to trail development, and members provided the initial set of persons providing input from varied perspectives. Additional persons were interviewed and participated in the information gathering and analysis process. The process of using a panel of experts and informed individuals to solicit input and then provide information on the panel's input to panel members for further refinement is known as a "Delphi process," named for the oracle of Delphi from Greek history. The use of this name does not reflect a belief that the panel may predict the future, but is merely a commonly used research term; and, the use of this method reflects the wisdom of "two heads are better than one" or more accurately, that "none of us is as smart as all of us." Further, this method is proper in public policy analysis in the tradition of the democratic government of the Commonwealth and the United States, affording coordinated collection of a variety of perspectives.

Personal and telephone interviews were used throughout the process of the study. Numerous organizations and agencies were contacted first, to determine the availability of data or information; secondly, to seek advice as to information sources; and finally to solicit opinion and perspectives on issues as they were identified. The interviews confirmed the general finding that an information data base did not exist or was not accessible. The interviews provided information that was explored in varied detail, resulting in the identification of numerous pieces of information considered in the findings and recommendations. Opinions and perspectives gathered included the identification of numerous issues related to ATV/OHV use and a range of options for

addressing those issues. Requests for information were generated by email. Each of the other 49 states' recreational trail programs were contacted in this manner.

Another element of the study, also reflecting common sense, is the "literature review," which reflects a process that is known as an environmental scan. This process identifies what is occurring in studies being conducted elsewhere. The literature review in this instance included the collection and analysis of law and regulation of ATV use in other states, as well as identification of the programs in use in other locales to address the problem of ATV trespass, especially on farmland. This element of the methodology identifies potential input into the analysis in the form of printed or web-based information, whether in the form of program descriptions or in the form of both how-to and results reporting articles.

Identification of stakeholders, persons or organizations with an interest in this problem and its solution, was an element of the study for several reasons. Since no single information base provides data for analysis, surveys and interviews were considered an important part of the information gathering process. Cooperation was solicited, and readily provided from a wide range of stakeholders for submission of online surveys to various groups. Law enforcement agencies, landowners, insurance companies, ATV rider groups, managers of public lands, and public officials, were among the stakeholders and interested persons surveyed. A list of the agencies and organizations surveyed appears in the body of this report.

The methodologies applied in this study were integrated in a dynamic process. As information was gathered, additional groups for survey or individuals for interview were identified, and these new sources of information were explored. Unlike a laboratory study, a study in a public policy issue must be dynamic and responsive to new information, exploring new sources of information as they become accessible. This study embraced that element of public policy analysis, adding new groups for survey as they were identified and interviewing additional persons as those persons emerged as potential contributors. Further elaboration and explanation of the methodologies employed is available in an examination of the appendices of this report.

# Data Collection Contacts

## Survey Contacts

### Law Enforcement

Kentucky Sheriffs' Association

Kentucky Association of Chiefs of Police

Department of Fish and Wildlife Resources  
Conservation Officers

### State Agencies and Organizations

Kentucky County Judge/Executive Association

Kentucky County Attorneys Association

Kentucky Farm Bureau  
Board of Directors  
Area Program Directors  
County Farm Bureau Presidents  
Legislative Action Team Members

University of Kentucky County Extension Agents

Kentucky Area Development Districts

Kentucky Coal Association

Energy and Environment Cabinet/Division of  
Conservation

Energy and Environment Cabinet/Division of  
Forestry

Kentucky Woodland Owners

Energy and Environment Cabinet/ Division of  
Water

Department of Parks  
Park Managers

United States National Parks Service  
Parks in Kentucky

Kentucky ATV Users

## Inquiries-Phone Interviews

### Law Enforcement

Kentucky State Police

### State Agencies and Organizations

Kentucky Association of Counties

Kentucky League of Cities

ATV Safety Officers

Eastern Kentucky University Crime Statistics Library

Kentucky State Nature Preserves Commission

Sierra Club Cumberland Chapter

Kentucky Natural Land Trust

Kentucky Department of Agriculture

### National Agencies and Organizations

United States Corps of Engineers

United States Forest Service

Rails to Trails Conservancy

National Trails Association

American Hiking Association

Recreational Trails Program State Administrators

United States Dairy Association

National Future Farmers of America Organization

## **Findings & Conclusions**

The results of research directed at public policy analysis are statements of opinion supported by evidence. Within the time and other constraints of this study, the following statements represent the opinion of the principal researcher and are not necessarily the official position of KRTA, TAH, or Morehead State University. These statements of findings and conclusions are statements of the opinion of the principal researcher, developed in the course of the information gathering process and in the analysis of the information by the principal researcher.

**ATV/OHV trespass occurs throughout the Commonwealth, but a single, reliable information base on the amount of ATV/OHV trespass does not exist.**

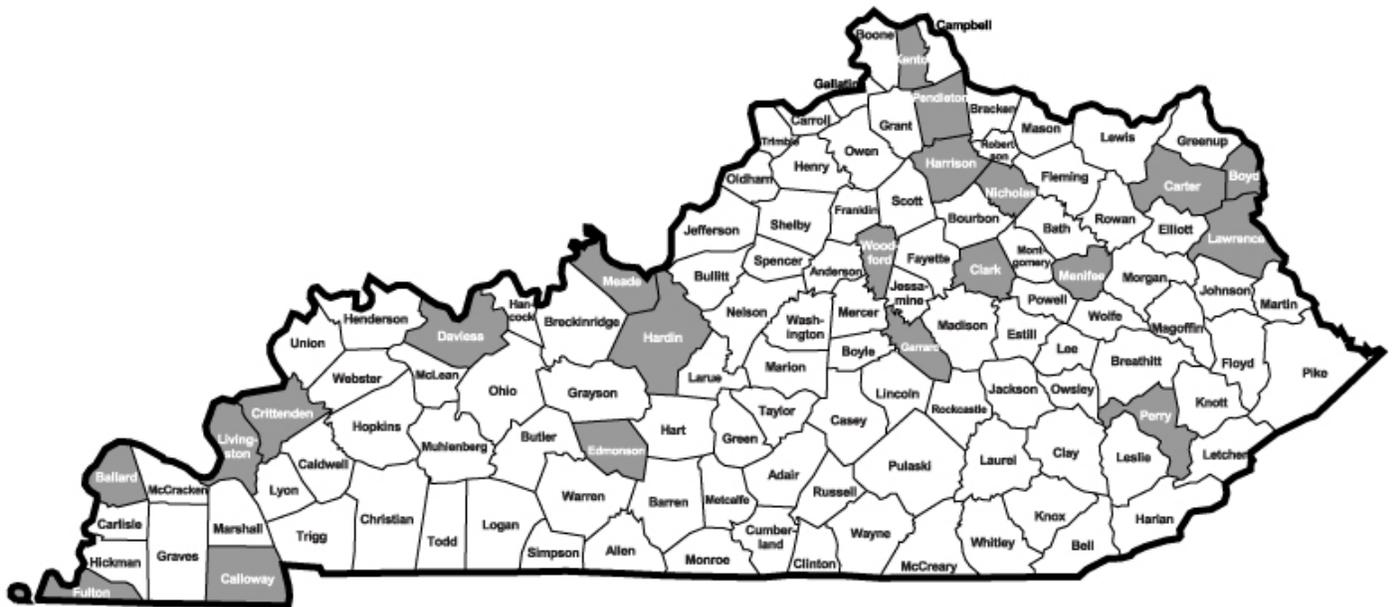
Trespass is a criminal and civil wrong, arising in common law and is codified in the penal code of the Commonwealth. Trespass to land is passing over or through the property of another without the permission of the property owner. ATVs are advertised for sale as “go anywhere vehicles,” and permit individuals to ride these vehicles consistent with their name, literally over all terrains. It is this feature of the device that attracts individuals and provides them with an instrument for trespass. Further, the current law of Kentucky places limitations on the use of ATVs on roadways, consequently people search for a place to ride. Empowered by the device to go anywhere, an increasing number of persons are riding ATVs.

ATV operation can be lawful or unlawful. When an ATV rider is riding on their own property or on the property of another with permission, no trespass occurs. When an ATV rider is riding on the property of another without permission, trespass occurs. Trespass may be intentional or unintentional, that is, an ATV rider may trespass on the property of another with knowledge of the wrong or inadvertently. While both intentional and unintentional trespass may result in damage to property, intentional trespass is often accompanied by willful commission of other wrongs, including property damage. On occasion, property owners complain to law enforcement officials and responses to those complaints are made, however, it is believed that complaints are not always made. Delay in discovery of trespass, the desire to engage in self help prevention, and a feeling of lack of ability to apprehend the wrong-doer are among the reasons for failure to make a complaint. Further, when a complaint is made it is often made in the context of another crime, such as property damage. The usual law enforcement practice is to identify crimes by the most serious offense. Consequently, an ATV trespass that involves a theft will be recorded as a theft rather than a trespass, ATV trespass that involves property damage, either as vandalism or arson, will be recorded as

accordingly, and ATV trespass that involves drug violations will be recorded in that fashion. In short, ATVs may be an instrument of crimes other than trespass and their use in crime not the central element of the crime reporting mechanism.

Absent an accessible database that identifies ATV trespassing, numerous avenues for attempting to understand the scope of the problem were explored. Surveys of law enforcement officials were undertaken, with the sheriffs of Kentucky counties asked to respond to an online survey that asked for annual incidence of complaint, arrest and conviction, and identification of the nature of any property damage. Twenty one of 120 county sheriffs responded, with a dispersal of response throughout the Commonwealth. The responses indicated a receipt of 1285 trespass complaints, of which 832 or 64.7% were ATV related. Forty one arrests, or 3.2% of all complaints, were reported with a conviction rate of 75%. The gross number of convictions reported was 31. With a variety of ways available to calculate incident approximations, some scientific methods are listed in Appendix A.

### **Kentucky Sheriffs' Association Survey Respondent Location**



Arrest rates reported by sheriffs are considered low, but are typical of the crime and the difficulty of success in apprehension. Police chiefs and the Kentucky Department Fish and Wildlife Resources officers were also surveyed and interviews conducted with officials of the Kentucky State Police. Parks and wildlife management

officials also confirmed problems with ATV trespass. Each of these surveys resulted in information consistent with the complaint and apprehension elements of the survey of the sheriffs. A more extensive discussion of the surveys and their results appears in the appendices of this report.

**The impacts of trespass by ATV/OHV include property damage, particularly on farmland and include fence cutting, crop damage, vandalism, arson, littering, environmental damage, and livestock injury or loss.**

Surveys, whether of law enforcement officials or other populations, included requests for information directed toward the discovery of the nature of property damage occurring from ATV trespass. As previously indicated, theft, vandalism, and arson were reported as associated with ATV trespass, but with respect to farmland, fence cutting for access, crop damage, and livestock injury or loss were major concerns.

Reported were:

- fence cutting
- crop damage
- vandalism
- littering
- livestock loss
- environmental damage

Integration of the literature review information provides additional insight with respect to damage type. The literature review component considered the issue of crop damage and identified a lack of understanding or a lack of care for the nature of agricultural operations by ATV trespassers. What may appear to a person unfamiliar with agricultural practices as an unused field may in fact be one under seeding or crop rotation. ATV movement from a field to which an herbicide has been applied to one where a forage crop is being initiated can transfer chemicals and damage crops. This inadvertent damage is only a part of the issue, as the survey responses and literature indicate that “tearing up ground” by rapid acceleration or by spinning in circles is a common ATV practice. In addition, the riding in and around streams and other watercourses creates erosion and soil loss and farm roads and pathways are damaged by ATV riders seeking wet areas for “mud-slinging” rides. Confirmation of these findings was achieved by the survey of farm bureau and county extension agents.

## **Other states have implemented programs with methods to reduce trespass by ATV/OHV riders.**

This study collected the opinions of survey respondents on methods to reduce trespass, as well as a review of literature on those methods. The results were consistent across the survey populations. Among the suggestions were:

- education of ATV riders with respect to the law of trespass and punishment
- enhanced enforcement capacity
- rider and machine controls by law and regulation
- posting and signage improvements
- additional or more severe penalties for trespass
- development of trail and riding area locations

A wide range of suggestions were provided from the full range of sources, some of which have been attempted in law and policy of other states and some of which represented extreme positions that while posing opportunities to reduce trespass also posed other and perhaps more serious problems or were impractical for implementation. For the purpose of this study, several elements of the research are worthy of discussion. Expanded discussion and examples of the work of other states appears in the Appendices to this report.

The study results do indicate that some reasonable measures may be implemented with a possibility for reduction of trespass. Some of these measures reflect the finding that some trespass is due to:

- a lack of understanding of private property rights
- the capacity of law enforcement to respond
- the general lack of information on ATV use

The noteworthy effort to provide trails and riding locations also arose as a reasonable method for trespass reduction. In the area of education the use of extension services and educational systems was found in numerous states. These educational processes integrated safety, law and ethics in educational components. Online educational features provided means to raise the level of understanding of various audiences and are coupled in some states with operator license requirements. ATV rider licensing in some states has a requirement for testing on laws for operation and the Commonwealth has examples of online completion of testing for licensing in the Fish and Wildlife licensing provisions that provide an example of this methodology.

Several other states are noteworthy in their approaches. Minnesota, Maine, Wyoming, Utah, Pennsylvania, and Iowa have elements of their ATV trail components of tourism and outdoor recreation programs that are particularly informative. Numerous other states provide elements of those programs that are potentially valuable to legislative and executive agency work toward the goals of the Commonwealth. In particular, the neighboring state of West Virginia has developed the Hatfield & McCoy trail program with significant impact on the local economies of counties where the program operates. The practice of the study of other state programs, a benchmarking process, is valuable but must be seasoned with cautionary consideration of the variation of the land ownership, land use, and culture of the area. Some of these states have large portions of publicly owned land, significant differences in land use and agricultural practices, and cultural influences that vary with these land use and other factors. Appendices content provides insight into the programs of other states.

### **The study shows there are ways to produce coordinated improved enforcement.**

Enforcement of trespass laws is a responsibility of various law enforcement agencies. Fish and Wildlife Resources Officers specifically have been charged in SB 196 with trespass enforcement responsibility, a duty they would have nonetheless, but one that is consistent with the common use of ATVs in hunting. County sheriffs and the Kentucky State Police also have this duty. Consequently, victims of trespass may call any of the agencies, and calls to one agency are referred to another agency if the receiving agency is involved in higher priority investigations. For example, violence against persons and injury accidents are higher in response priority.

The research demonstrates that in addition to enforcement calls to various agencies, a second call to a toll free 1-800 number could provide the range of law enforcement agencies with a single source for identification of the location of ATV trespass. Cooperation between agencies takes place and is noteworthy, but is generally accomplished through the personal networks of individual officers. A single source of ATV trespass information would permit a broad cooperative effort. In addition, the study shows that catching an ATV trespasser is difficult for an officer in a motor vehicle because the ATV riding offender will have the capacity to move off the roadways while the officer is not similarly equipped. Some states utilize ATV equipped enforcement officers.

## **Recommendations:**

Based upon the results, this study suggests seven areas for consideration of activities to reduce ATV trespass, particularly on farmland.

### **1. Information Development— A system for collecting reliable information about ATV/OHV trespass and related matters, including uniform coding of offenses should be developed.**

The study shows that information on trespassing, including location and the nature of the problems, is dispersed and/or inaccessible. A toll-free number for reporting ATV trespass would permit law enforcement the means to make informed decision for enforcement. Toll free numbers are used in other states and in the Commonwealth for a number of other offenses, including poaching, littering, and highway hazards. The effectiveness of these numbers is in need of analysis, as is the situation on trespass in general. Further review of the issue of trespass and the issues of trail and riding area development through a variety of means is encouraged.

In addition to a victim-generated information source, a uniform system of coding offenses is recommended. Interviews with law enforcement officials suggest they are interested in improving the offense coding system, improving the means of tracking of complaints and the results of investigations. In the national crime data base emphasis is given to more serious crimes. Trespass and property damage fall into a secondary classification of “property and other crimes.” It is the common practice in coding crimes for the purpose of information development to code the more serious offense and to track that crime by the more serious offense. This means that if an ATV were to be used as a means of transportation for the commission of a murder of a person in a rural home, for example, the murder is coded and the ATV trespass that is a component of the crime is not an accessible piece of data. How to address this issue of the lesser offense inclusion in the greater offense is a broad general question, but law enforcement respondents were interested and supportive of examination of means to provide rich data sources within the constraints of their human and system resources.

In general, the KRTA and TAH provide policy analysis and implementation of trail and riding area development activities, and should be supported for development of rich information systems through cooperation with law enforcement agencies.

## **2. Trespass Law– Statutory changes will improve clarity of the law of trespass and support trail and riding area development.**

In the context of Kentucky law making, two specific trespass statutes are worthy of consideration for modification. In the law of trespass, specifically KRS 511.090 (4) & (5), provisions for trespass under the penal code are the two statutes in need of review. Subsection (4) is the statute requiring “conspicuous posting” and reads:

**(4) A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.**

This statute places a burden on the landowner and presents two questions of interpretation for the facts of any trespass: specifically whether the land is “unimproved and apparently unused” and whether the posting is “conspicuous.” In the first instance, the fact that woodland portions of farms and unplowed fields appear to be unimproved or unused to the untrained eye does not necessarily reflect the agricultural or forest product practice, and damage from trespass from ATVs can be significant in terms of long term land plans for those practices. In the second instance, what is conspicuous is a question of fact that can vary over seasons and through the years, and signage--addressed earlier in this report--is both expensive and subject to removal. Statutory changes in this area may be of assistance in reducing trespass.

Subsection (5) of KRS 511.090 reads:

**(5) Private land adjoining a railtrail that is neither fenced nor otherwise enclosed shall be presumed to be land where notice against trespassing has been given by the owner of the land, and a person utilizing the railtrail shall be presumed to lack privilege or license to enter upon that land unless the person has permission from an adjoining landowner to do so.**

In this instance, the statute reflects the history of recreational trail development and its reliance on abandoned railways for locations, a situation that is not reflective of trails and riding locations at this time nor as anticipated in the future from private landowner cooperation. Noteworthy in its effort to relieve

individual landowners adjoining a recreational trail from the burden of posting, the statute may be considered inapplicable to present and future trails not developed along abandoned railways. Modification of this statute's language to address the "railtrail" ambiguity would be of assistance in reducing trespass.

Additional statutory changes are potentially numerous and for information purposes several statutes from other states are provided in the appendices of this report. Further examination of these statutes and the practices under their enforcement is recommended, and copies of selected state's statutes appear in the appendices of this report. One notable consideration lies in the practice of some states to increase the penalty for trespass on ATVs with subsequent offenses and the recommendation of this report under ATV rider and machine controls provides further discussion of statutory change.

### **3. Education – ATV/OHV users and landowners could be better educated on the law of trespass and how to avoid or prevent trespass.**

A program of education directed at ATV riders and landowners represents an important feature of an effort to reduce trespass. Examples of these programs abound, with the TREAD Lightly program representing an effort directed at ATV riders. TREAD Lightly is a program developed by the U.S. Forest Service for education of all types of recreational trail uses. The acronym TREAD stands for:

**T**Travel responsibly on designated roads and trails or in permitted areas.

**R**espect the rights of others including private property owners and all recreational trail users, campers and others to allow them to enjoy their recreational activities undisturbed.

**E**ducate yourself by obtaining travel maps and regulations from public agencies, planning for your trip, taking recreation skills classes, and knowing how to use and operate your equipment safely.

**A**void sensitive areas such as meadows, lakeshores, wetlands and streams, unless on designated routes. This protects wildlife habitat and sensitive soils from damage.

**D**o your part by leaving the area better than you found it, properly disposing of waste, minimizing the use of fire, avoiding the spread of invasive species, restoring degraded areas, and joining a local enthusiast organization.

This program, along with others available for utilization, either in cooperation or as a model, represent an opportunity to make ATV riders aware of the law and develop a more positive ethics for ATV use. Similarly, programs within the Commonwealth and other states utilize an approach known as “Ask First,” promoting the obtaining of permission for hunting on private property in the Commonwealth and for ATV riding in other states.

Another educational program of importance is the Specialty Vehicle Institute of America (SVIA) Safety training course. ATVs represent a serious threat of injury and result in hundreds of deaths and thousands of injuries each year. The SVIA is a non-profit organization supported by the ATV manufacturing industry and involved with ATV riding organizations throughout the United States. Components of that course address the law and ethics of ATV riding. Additionally, the state has a motorcycle education component. Whatever educational component for ATV riders is used, a significant opportunity in education exists by cooperation with schools, extension, the Future Farmers of America, and other organizations, particularly those that focus on youth. Web based communication with travel and recreational audiences are already an activity of the state, as is telephonic information services. Integration of trespass related elements into the web content of the travel website is an action step that could be quickly undertaken at low cost, and exists in other states. The trail locator GIS feature of the state’s adventure tourism web site could be modified to contain trespass information features to educate riders and a recorded statement on trespass could be added to any telephonic travel information system as well as provided to live travel counselors for dissemination. A resource packet on trespass and a speakers’ bureau may provide additional channels for dissemination of trespass information. Reference to some sources of educational materials identified in the course of the study appears in the appendices to this study.

In addition to education directed at ATV riders, education directed at landowners provides an important element of reduction of trespass. This educational component should have a dual focus: to address methods of trespass protection and to address trail development potential. Public service announcements and material dissemination related to signage (recommendation five below), and trail & riding location development, (recommendation seven below), are two elements of an education component. The Farm Bureau represents an important cooperating agency in this effort.

#### **4. ATV Rider and Machine Controls – Approaches to ATV rider and machine controls which may reduce trespass should be examined for the benefit of the Commonwealth.**

Kentucky is among the least restrictive on the ownership and operation of ATVs. Some states require titling of the machine, complete with licensing, and some states require operator's licenses of ATV operators, often including safety certification for operators licensing, with some focusing heavily on juvenile operators. The process of controlling a machine or rider varies across the states as each state attempts to design processes for its own purposes of addressing issues within that state.

As an alternative to titling, registration is sometimes required. Fees are collected through a variety of process, whether for titling, registration, or for use on public access areas whether owned by the government or by private parties under a use agreement. Fee amounts also vary from state to state, with some fees being for a one year period and others for a two year period. Some states utilize the motor vehicle registration process; some require the dealer of ATVs sold through the dealership to collect the fee, while others use the existing system for hunting license fee collection. Kentucky has a significant hunting license fee collection system that might serve this purpose. Whatever mechanism for fee collection might be configured in a program design, registration of ATVs used off the property of the operator or the operator's parents is a commonly used means to identify equipment used in an unlawful manner and a source of user revenue for a number of purposes, including trail and riding area development and implementing other elements of KRTA and TAH programs. Such a system and its implementation is worthy of further examination. The appendices to this report contain examples of state rider and machine control systems.

#### **5. Posting and Signage – Improve signage and notice methods that offer opportunities for reducing trespass.**

The reduction of trespass should include an effort on the part of land owners to identify boundaries of property and areas where ATV riding may or may not take place. Signage is required to be "conspicuous" under state laws, but what constitutes conspicuous posting varies depending upon the location and questions of the conspicuous nature of the posting offers a potential defense to trespassers. In addition, signs are both expensive and subject to removal by ATV trespassers. The study found that marking trees with paint represents a less expensive means to post property, coupled with educational and public service

programs to communicate the meaning of the paint. The color purple has been used to communicate no trespassing in one state and results have proven satisfactory for the effort.

In addition, the signage to direct riders to and along lawful riding locations, keeping riders on the trails and within the boundaries of riding locations is an important aspect of signage. A program of consistent signage and support for signage may add to the incentive for landowners to participate in recreational agreements. If a source of funding was identified, assistance in signage and posting expense would be an attractive element in developing recreational agreements with landowners.

## **6. Law Enforcement Coordination –Promoting cooperation among law enforcement agencies and the courts supports deterrence of trespass. Providing law enforcement agencies with appropriate equipment to respond to ATV/OHV trespass could improve enforcement.**

The Commonwealth of Kentucky is blessed by dedicated officers sworn to enforce the law. Cooperation, designation of leadership and sharing of data between agencies exists and should be encouraged on a statewide basis. Capacity for enforcement varies over the seasons and over locations. The information system recommended by this study may contribute to the effectiveness of enforcement, along with uniform coding that identifies ATV/OHV use as an element of the crime. Collaboration of law enforcement agencies at all levels of government in addressing trespass by ATVs interests all agencies surveyed or interviewed, as is the development of an information system contributing to the knowledge of trespass and to improved enforcement.

An additional element of enforcement capacity is the variation between the equipment of the perpetrator and the law enforcement officer. Some states have utilized ATV equipped law enforcement officers to improve capacity to respond. Additionally, the study has found examples of the use of a temporary or part-time enforcement officer workforce specifically for high risk areas. Additional review of these possibilities is encouraged as appropriately equipped officers in high offense areas stands to be a particularly effective enforcement tactic. Additionally, the use of motion detecting video technology was found to produce evidence of trespass for use in enforcement, subject of course to the equipment being hidden from vandalism.

## **7. Trail and Riding Area Development – Developing places where riders can ride is important to preventing trespass and associated damages.**

Trespass may be prevented by the granting of permission to enter or remain on property. This makes the development of permitted trails and riding area locations a reasonable approach to reducing trespass. Surveys and interviews addressing means for solving the problem were replete with responses indicating permitted riding locations as a tactic for trespass reduction. The surveys, interviews, literature review and associated environmental scanning, indicated a number of persons from out-of-state come to Kentucky to ride ATVs. At present, there is a safety related statute for trail riding on public lands; however, the study found some Web user sites where there was indirect discussion that the state may be promoted by private means as a place for unregulated riding. Some conservation officers verified this promotion in their survey responses. This uncontrolled projected image of a place where irresponsible riding, such as in streams and without boundaries, whether on public or private land, is not the type of adventure tourism the state is seeking to promote. Trail and riding area development represents a proposed solution to the problem of trespass and associated damage.

The Commonwealth is already engaged in trail development, including trails for ATVs and other purposes, and in the development of riding area locations. The distinction between trails and riding area locations for ATVs is that trails are for the purpose of moving between places, and riding area locations permit ATV riders to go anywhere they like within the boundary of the riding area location. The study found that one of the motivations of ATV riders is to engage in riding over land without the restrictions that might be placed on a trail, to explore places by climbing hills or other activities. Riding area locations are presently in place in Kentucky and other states, offering riders an opportunity to explore locations and satisfy this element of their motivation, but they are not widely available. The development of private ATV riding area locations represents an economic development tool and is part of the KRTA and TAH strategy for improving the economy of the Commonwealth, particularly in rural counties. Review of the best practices for ATV parks and the role the state can play in developing and promoting these locations is an important element in reducing trespass by ATVs. Commendable efforts in this element of work already exist and are worthy of further support.

## **Summary Statement**

This study's findings recognize trespass by ATVs as a problem in the Commonwealth worthy of attention by the General Assembly and executive branch. Valuable resources in the agricultural and other lands may be damaged or lost through ATV/OHV drivers who choose to irresponsibly operate these motor vehicles. All terrain vehicles represent an element of recreation that is growing in popularity across the nation and the Commonwealth. ATV use provides a source of economic development potential throughout the Commonwealth. Proper use of ATVs combined with proper promotion of ATV riding opportunities permit the Commonwealth to engage in economic development, providing benefits to Kentucky residents and visitors to the state. The Kentucky Recreational Trails Authority is aligned with the Tourism, Arts and Heritage Cabinet, through which this study was conducted and by which the economic development potential may be supported and enhanced. In light of findings concerning ATV use in the Commonwealth, areas of recommendation are presented.

The study presents seven areas of recommendation, including:

- information development
- trespass law statutory changes
- education
- ATV rider and machine control reviews
- posting and signage improvements
- enforcement coordination
- trail and riding area development

Suggestions for law and policy considerations in each of the seven areas of recommendation are provided.

The study utilized multiple methodologies including surveys, interviews, and an expert panel to reach its findings and conclusions. Those findings and conclusions are:

- ATV/OHV trespass occurs throughout the Commonwealth, but a single, reliable information base on the amount of ATV/OHV trespass does not exist.
- The impacts of trespass by ATV/OHV include property damage, particularly on farmland and include fence cutting, crop damage, vandalism, arson, littering, environmental damage, and livestock injury or loss.
- Other states have implemented programs with methods to reduce trespass by ATV/OHV riders.
- The study shows there are ways to produce coordinated improved enforcement.

Based upon these findings and conclusions, the stated recommendations provide law and policy makers with starting points for accomplishing the dual purposes of protecting valuable agricultural and land resources while promoting economic development in the state.

The Tourism, Arts and Heritage Cabinet of Kentucky has embarked upon a noteworthy and commendable promotion of the many varied and valuable attributes of the Commonwealth. The cabinet's Adventure Tourism program addresses the full range of recreational possibilities in the Commonwealth, recognizing the many benefits to persons and communities of recreation activities. Reducing ATV trespass in order to protect agricultural and land resources is an important component of the Adventure Tourism effort. By utilizing the findings of this study and by working to achieve results based upon these recommendations, the Kentucky Recreational Trails Authority, the Tourism, Arts and Heritage Cabinet, and the Adventure Tourism program will provide benefits to the residents of Kentucky and visitors to the Commonwealth. More work in examining these areas of recommendation is necessary, but through evidence based public policy analysis, the Kentucky Recreational Trails Authority, the Tourism Arts and Heritage Cabinet, and the Kentucky Adventure Tourism program support the legislature and the executive branches of government in improving the lives of the people of the Commonwealth.

# APPENDIX A

## Survey Analysis

## **Appendix A. Survey Analysis**

In the collection of survey data for a study of trespass and property damage in the months of October and November of 2008, identification of avenues for the collection of survey data resulted in the decision to utilize on line survey mechanisms. The population of persons surveyed was identified through discussions with the members of the KRTA, TAH staff, and other stakeholders in the process. Agencies and organizations cooperated by communicating the survey availability to the populations associated with the respective agency and organization. The full list of participating agencies and organizations appears in the body of the report. Following is an analysis of the survey responses (part I.) and a list of the actual survey questions posed to each identified group of respondents (part II). The analysis is a result of tabulation of the responses where quantitative responses were solicited and received, along with a content analysis of the qualitative responses. Some responses were eliminated or adjusted from tabulation in the analysis due to incompleteness or to reflect internal consistency of the response set. Content analysis by the researcher reflects assessment of the frequency of a particular or related response within the response sets. Data sets will be retained for additional analysis.

### **Appendix A. I.**

#### Survey Contacts

##### **Law Enforcement**

Survey of law enforcement included three types of law enforcement officers, including county sheriffs, city police chiefs, and fish & wildlife conservation officers. The presence of a representative from the Kentucky State Police on the expert panel provided a means of accessing information from that agency and its officers through interview rather than survey. As stated in the body of the report, absent a comprehensive information system, the prevalence of trespassing by ATV/OHV operators is not known with any certainty. Multiple complaints for the same instance or underreporting of incidents for any number of reasons may be occurring. Integrating complaint information from multiple agencies may address some of this issue.

The Kentucky Sheriffs' Association provided the information about the survey availability and 20 of the 120 counties responded in that format.

The responses indicated a receipt of 1285 trespass complaints, of which 832 or 64.7% were ATV related. Forty one arrests, or 3.2% of all complaints, were reported, with a conviction rate of 75% of arrests with a gross number of 31 convictions. Damage to property in the form of land destruction (78.9% of respondents), fence cutting (68.4% of respondents), vandalism (42.1% of respondents), and agricultural crop/livestock damage (31.6% of respondents) were reported. Sheriffs consistently reported that the ability to apprehend an ATV operator is limited by the on road vehicle operation of officers as opposed to the ATV off road capacity. Education, posting and signage, and trail development were all listed as means of addressing the problem. Juvenile use of ATV was considered an issue.

Using a simple method of expanding the reported results of the survey of sheriffs, assuming similar numbers in 120 counties, a multiplier of six would be applied to the gross number of complaints, resulting in an estimated 7,710 trespasses reported to sheriffs each year, of which 4,912 would involve ATVs. This number does not include those reported to other law enforcement officers or agencies, or account for unreported incidents.

Another mechanism for making such an estimate would integrate the populations of the counties responding as a percentage of the population of the state and utilize that as a multiplier. Kentucky's 2006 US Census estimated population is 4.2 million persons. While twenty counties responded, one county's complaint frequency was not provided in a quantitative statement, thus, the 2006 estimated population of the responding counties totaled 543,357, resulting in a percentage of state total estimated population from counties reporting data as 12.9% or a multiplier of 7.75. The 832 ATV trespass complaints multiplied by 7.75 would give an annual number of complaints across the state of 6,450. Factoring for land area provides another mechanism for estimating the statewide ATV trespass complaints. The 19 counties providing useable data had a total land area of 6,058 square miles, representing 15.2% of Kentucky's 39,728 square miles, and producing a multiplier of 6.6 and producing 5,473 ATV trespass complaints across the state.

The Association of Chiefs of Police provided the information about the survey availability and 16 police chiefs responded in that format.

Responses indicated a range of trespass complaints from zero to over a hundred in a year. Of these, as many as fifty of the complaints involved ATVs with damage type of land damage, vandalism, agricultural plant or animal damage, and fence destruction were mentioned. In addition, littering was a concern. Comparing this smaller data set with responding sheriffs indicated that police chiefs do not see the same level of fence destruction or crop damage, a result explained by the less frequent existence of fences and crops.

Kentucky Department of Fish & Wildlife Resources Conservation Officers responded to a survey, providing seventy three responses to the set of questions. Because SB 196 specifically identifies the Fish & Wildlife as an enforcement consideration, this set of questions and responses was designed to be larger in nature and address issues relevant to the specific capacity of that agency to enforce trespass laws, in addition to their tasks in the enforcement of hunting and fishing laws. In general, the officers are confident in their training, and recognize the limits of equipment available in terms of ATVs and also night vision devices for use in ATV trespass. Complaints of trespass and investigation numbers varied among the respondents from 150 a year to less than a dozen. Great concern was expressed over wildlife management areas and the impact of ATVs on hunting and fishing in those areas. The survey asked how officers received complaints and the largest means of receipt of complaint was through phone calls (67.1%), followed by personal contact (50%), and personal observation of the offense or damage (48.6%). Dispatch accounted for the smallest percentage of complaint notice (15.7%).

## **Statewide Agencies & Organizations**

The Kentucky County Judge/Executive Association provided notice of the availability of the survey and nine responses were received. Seven of the nine responses indicated receipt of complaints and an additional respondent indicated that absent of complaints the respondent was aware of the problem. While the degree of knowledge of damage was less than the knowledge of complaint, damage reported was consistent with all other surveys. Seven of the nine supported enhanced penalties and recommended trail and riding area development, and among the group rider and machine control regulation support was evident.

The Kentucky County Attorneys Association provided notice of the availability of the survey and five responses were received to this survey, with four from the western area of the state and one from the eastern area. Four of the five indicated an awareness of ATV trespass as a problem. Two of the five indicated that the problem was typically the result of juveniles, while all indicated the difficulty of apprehension posed a significant problem. The development of riding locations, education improvement, and capacity of law enforcement were issues raised.

The Kentucky Farm Bureau Advisory Committee consists of the Board of Directors (34 Farmers from across KY), the Area Program Directors (10 staff located across KY) , the County Farm Bureau Presidents (120 farmers) and the Legislative Action Team members (approximately 200 farmers across KY). Eighty seven responses were received from that population. Of the 87 responses received, 64 (73.5%) indicated ATV trespass as a problem while 23 indicated no knowledge of problems. Those reporting problems identified the damages type as fence cutting, vandalism, crop and livestock damage, littering, and damage to farm roadways.

University of Kentucky County Extension Agents responded to the survey, providing 37 completed surveys. Thirty one of the respondents reported instances of ATV trespassing and described damages consistent with other surveys, including fence destruction, crop damage, farm road and land rutting, vandalism, and littering. County involvement in trail development reported was small, but solutions of trail development, education, and increased enforcement were all suggested.

The Kentucky Area Development Districts were included in the survey sets and 6 area development districts responded to the survey request. These responses indicated a lack of personal knowledge by three of the respondents, though the respondents did indicate a belief that recreational trail development constituted a necessary program for addressing the problem.

The Kentucky Coal Association made its members aware of the survey. The survey of the Kentucky Coal Association members was identified as an important component in order to assess the issues of trespass among coal companies because they are among the current and potential cooperating land owners for trail and riding area development. Twenty nine responses were received to survey questions. Twenty of the 29 respondents (69%), indicated trespass was a significant problem. Major concerns included the potential liability arising from trespassers on the roadway, with several respondents

noting injuries to trespassing riders had occurred on the property of the coal company the respondent represented. Additional concerns were expressed over other crimes being committed, including theft, vandalism, and property damage, particularly on ground that was being reclaimed from mining operations. Five of the respondents indicated they either permit by agreement or would be willing to permit public access to areas for trail and riding area development, but the remainder of the respondents in this group were concerned over liability and other issues.

The Energy & Environment Cabinet/Division of Conservation provided awareness of survey availability to conservation district officials and field officers. Thirty six conservation district representatives responded to questions and 6 conservation field officers responded to survey requests. (Department leadership have been involved in both interview and expert panel input.) Respondents to these questions indicated that a major concern was the damage to conservation projects, including stream bed and flood control dams where riders seek thrills associated with riding in wet areas or on steep inclines. One respondent had a significant set of specific information about trespass locations and reported some success in enforcement through the use of an ATV mounted law enforcement officer. These respondents indicated trail and riding area development may provide relief to trespass and damage. One respondent indicated knowledge of an independent private publication of an area in the Commonwealth as a place to ride with abandon may have taken place, a practice that may attract out of state riders.

The Energy & Environment Cabinet/Division of Forestry provided awareness of survey availability and twenty one responses to this survey were received. Nineteen of the respondents reported knowledge of trespass. The number of reports received ranged from zero to fifteen over the course of a year, with an average of six each year by those receiving reports. Reports were received by these individuals in the course of their work on forestry issues with forestry clients who were victims of trespass. These respondents are not law enforcement officials, but provide services to an important component of the Commonwealth's agricultural industry, forest products. A telling response to this survey suggests ignorance of boundary and law as the major reason or excuse for trespass. The suggested means of addressing trespass were varied, but consistent with some form of machine and rider control, development of trail and riding areas, and increased enforcement capacity.

The Kentucky Woodland Owners Association provided awareness of the survey availability and fourteen responses to this survey were received. This set of respondents all reported ATV trespass and damage to property. Property damage consisted of damage to streams, fences, rural road and crops, including the damage to trees. This group of respondents indicated concern over lack of enforcement and expressed fear over retribution if the trespasser was confronted by the property owner or reported to law enforcement.

The Energy and Environment Cabinet/Division of Water provided awareness of the survey to its personnel and twelve responses were received from this survey population. Responses to this survey included nine who indicated knowledge of trespass and damage to property. Typical responses included environmental damage to streams and

farmland, including damage to crops and livestock management. Trail development was seen as a possible approach to resolving the problem, although this survey contained a relatively large number of responses that indicated a belief that ATV trespass was related to a general existence of lawlessness and lack of respect for private property, indicating the importance of education in reducing trespass.

The Kentucky Department of Parks, Park Managers provided awareness of the survey to park managers and 43 state park managers responded to the survey. Thirteen (30%) of the respondents reported trespass with some damage to hiking trails and to land. Respondents reported the absence of the problem is related to the particular park characteristics, for example urban locations where the park borders police patrolled city streets, and attributed the lack of problems to the high degree of availability of park rangers for enforcement. Of those reporting trespass by ATV, the availability of the trails around golf courses, hunting and simply passing through were suggested as the attractor for ATV trespass.

The U. S. National Parks in Kentucky are significant resources and attractors for tourism. Cumberland Gap National Park and Mammoth Cave National Park officials responded to survey questions. The responses indicated that ATV trespass is a problem, but arrest rates are not large. Indication of other crimes in association with ATV use was reported. Cooperation with other law enforcement agencies, education and signage were all discussed in response.

Kentucky ATV Users were identified through communication to ATV clubs. The survey of ATV users was distributed through communication through this means because with no registration process for riders or machines, no avenue for survey of ATV users in general could be identified within the time frame for study. Twenty two responses were received representing six in state and one out of state ATV riding organizations. Response to these questions indicated that two thirds of the respondents use ATVs for both work and pleasure, while one third indicated they rode exclusively for pleasure. The overwhelming majority of the respondents indicated they were aware of trespassing on private property, however, they all indicated a belief that ATV riding organization members were not engaging in that activity and, in fact, contributed to a reduction in trespass. The cause of ATV trespass, according to this set of responses, was a feature of numerous factors, including a lack of education, the absence or ineffectiveness of signage, and disrespect for private property rights that was coupled with a lack of ethics and general lawlessness that involved other crimes. Respondents supported the TREAD lightly program in particular and the development of additional trails and riding areas.

## **Appendix A. II.**

This section of Appendix A provides readers with some the actual questions posed to each of the survey groups. These are provided to further the understanding of the reader with respect to the analysis provided in Appendix A. I. Questions that provided personal identifiers do not appear here.

### Kentucky Sheriffs' Association:

How many complaints are filed annually for trespassing on property in your county?

How many such complaints are related to ATV and off-road vehicle use?

How many cases of ATV trespassing related complaints result in arrest?

How many cases of ATV trespassing related arrests result in conviction?

Please choose the type of most common property damage complaints related to ATV trespassing.

What other crimes are related to ATV use and what are their frequencies of complaint, arrest and conviction?

What actions would you suggest to help reduce trespassing What do you feel causes ATV riders to trespass onto private property by ATVs?

If you believe you have additional information that might be helpful, please provide that information.

### Kentucky Association of Police Chiefs:

How many complaints are filed annually for trespassing on property in your area?

How many such complaints are related to ATV and off-road vehicle use?

How many cases of ATV trespassing related complaints result in arrest?

How many cases of ATV trespassing related arrests result in conviction?

Please choose the type of most common property damage complaints related to ATV trespassing.

What other crimes are related to ATV use and what are their frequencies of complaint, arrest and conviction?

What actions would you suggest to help reduce trespassing by ATVs?

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

Kentucky Department of Fish & Wildlife Resources Conservation Officers:

What are the rates of incidence of ATV and off highway vehicle trespassing by which you respond?

In your estimation, what percentage of ATV and off highway vehicle trespassing occurs on private land?

In your estimation, what percentage of ATV and off highway vehicle trespassing occurs on Wildlife Management Areas?

Approximately how many complaints have you received over the past year relating to ATVs trespassing?

How do you find out about the majority of complaints?

In your estimation, what percentage of complaints involve property damage (including littering)?

Describe the type(s) of property damage that is involved in most complaints.

What percentage of arrest or violation in your enforcement activities involves perpetrators using ATVs or off highway vehicles?

In your estimation, what percentage of your time each Day, Week or Month involves responding to perpetrators using ATV or off highway vehicles?

In your estimation, what percentage of trespass citations or arrests ALSO involve hunting or fishing without permission?

What reasons/excuses for trespass do you hear most often from offenders?

What mechanisms of assistance might be provided to you or your agency in dealing with ATV and off highway vehicle trespassing and violations?

Do you believe that you have adequate equipment to respond to ATV and off highway vehicle trespassing and violations? If not, how can it be improved?

Do you believe that you have received adequate training to respond to ATV and off highway vehicle trespassing and violations? If not, how can it be improved?

Do you believe that the department has adequate manpower to respond to ATV and off highway vehicle trespassing and violations? If not, how can it be improved?

If you have any additional information that might be useful to this study, please provide it.

Kentucky Judge Executives Association:

Do you know of instances of ATV trespassing in your county? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing, particularly on farmland? (please describe)

Is your county involved in any recreational trail development?

Would you support stiffer penalties for criminal trespassing and damage to property?

What actions would you suggest to reduce trespassing by ATVs?

What do you feel causes ATV riders to trespass onto private property?

Kentucky County Attorneys Association:

Do you know of instances of ATV trespassing in your county? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing, particularly on farmland? (please describe)

Is your county involved in any recreational trail development?

Would you support stiffer penalties for criminal trespassing and damage to property?

What actions would you suggest to reduce trespassing by ATVs?

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

Kentucky Farm Bureau Board of Directors, Area Program Directors, County Farm Bureau Presidents and Legislative Action Team Members:

Do you currently use an ATV to assist in your agricultural business?

Do you know of instances of ATV trespassing on your property or other specific farmland? (Please describe)

Do you know of any damages that may have occurred as the result of ATV trespassing? (please describe)

What do you feel causes ATV riders to trespass onto private property?

What actions would you suggest the state take to help reduce trespassing by ATVs?

If you believe you have additional information that might be helpful, please provide that information.

University of Kentucky County Extension Agents:

Do you know of instances of ATV trespassing in your county? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing, particularly on farmland? (please describe)

Is your county involved in any recreational trail development?

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

Kentucky Area Development Districts:

Do you know of instances of ATV trespassing in your counties? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing? (please describe)

Are your counties involved in any recreational trail development?

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

Kentucky Coal Association:

Do you consider ATV/off highway vehicle trespassing a significant problem on your property?

Can you describe any instances of ATV/off highway vehicle trespassing on your property?

Has your property suffered any damage as a result of ATV/off highway vehicles trespassing? If yes, please describe.

Do you presently allow ATV/off highway vehicle use on your property?

Would you be interested in discussing trail development, whether for motorized vehicle, horse, mountain bike or hiking on your properties?

If you believe you have additional information that might be helpful, please provide that information.

EEC/Division of Conservation (District):

Do you know of instances of ATV trespassing in your district? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing? (please describe)

Is your district involved in any recreational trail development?

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

EEC/Division of Conservation (Field Officers):

Do you know of instances of ATV trespassing in your counties? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing? (please describe)

Are your counties involved in any recreational trail development?

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

EEC/Division of Forestry:

Do you know of ATV trespassing in your area?

In your area do you see or receive reports of ATV and off highway vehicle trespassing?

If you do know of ATVs trespassing, are there damages associated with the trespassing? Please describe.

Approximately how many reports have you received over the past year relating to ATVs trespassing?

How do you find out about the majority of complaints?

What reasons/excuses for trespass do you hear most often from offenders?

How would you suggest addressing the ATV trespassing issue?

If you have any additional information that might be useful to this study, please provide it.

Kentucky Woodland Owners Association:

Do you know of instances of ATV trespassing in your counties? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing? (please describe)

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

EEC/Division of Water:

Do you know of instances of ATV trespassing in your counties? (Please describe specifics of your knowledge)

Do you know of any damages to public or private property as a result of ATV trespassing? (please describe)

Are your counties involved in any recreational trail development?

What do you feel causes ATV riders to trespass onto private property?

If you believe you have additional information that might be helpful, please provide that information.

Kentucky Department of Parks (Park Managers):

Do you know of instances of ATV trespassing on your park? (Please describe specifics of your knowledge)

What are the most common damages to park property as a result of ATV trespassing?

What do you feel causes ATV riders to trespass onto park property?

If you believe you have additional information that might be helpful, please provide that information.

United States National Parks Service (Parks in Kentucky):

What are the rates of incidence of ATV and off highway vehicle trespassing by which you respond?

Approximately how many complaints have you received over the past year relating to ATVs trespassing?

What percentage of arrest or violation in your enforcement activities involves perpetrators using ATVs or off highway vehicles?

What mechanisms of assistance might be provided to you or your agency in dealing with ATV and off highway vehicle trespassing and violations?

If you have any additional information that might be useful to this study, please provide it.

Kentucky ATV Users:

Do you currently use an ATV for work related purposes, pleasure or both?

Do you believe that ATVs riders trespassing onto private property is an issue? (Please describe specifics of your knowledge)

If you believe ATV riders trespassing onto private property is an issue, what type of damages might be inflicted to the property?

What do you feel causes ATV riders to trespass onto private property?

What actions or deterrents would you suggest the state take to help reduce trespassing onto private property by ATVs?

If you believe you have additional information that might be helpful, please provide that information.

## **APPENDIX B**

### **Selected States Statutes, ATV Trail Program Elements and Comparative Information**

## **Appendix B. Selected State Statutes, ATV Trail Program Elements, and Comparative Information**

This appendix provides selected statutes which illustrate some of the variations in approach to trespass and all terrain vehicle law and regulation. Section one contains actual statutes related to trespass and ATV use, accessed by on-line legal database Casemaker®; section two contains a table of trespass and relates statutes for each of the fifty states, and section three contains a sets of information illustrative of state and organization web-site and resource information that provide additional information that may be useful in the understanding of ATV related issues.

### **B. I. Selected State Statutes**

This section presents the statutes of several states, presented here principally for the purpose of providing illustrations of some of the wide range of alternative approaches to the issues of ATV operation and trespass. Being separate jurisdictions, each state charts its own course in the development of its law and provides information on alternative approaches. For example, Pennsylvania has a statute (75 Pa.C.S.A. § 7724) regulating operation of ATVs on private and state land and a statute (75 Pa.C.S.A. § 3717) that expressly addresses trespass by motor vehicle. Maine has a similar statute (M.R.S. 17, §3853-D.) on motor vehicle operation on the property of another that contains definitions of farmland and forest land. Minnesota's statute (84.925) is provided because it creates a statutory education program as an element of rider control, and its trespass statute (97B.002.) is provided as an illustration of increasing fines for trespass for subsequent offenses. Missouri law (569.140) is provided to illustrate a direct reference to fencing and an alternative to the Kentucky term of "conspicuous" with respect to posting of signage. Montana law (45-6-203) provides an example of a relatively severe punishment for trespass, \$500 fine and 6 months in jail or both. Wisconsin (943.13) provides another comparative example of posting requirements, establishing the size of signage and lettering and limiting posting to two signs for every 40 acres. Two statutes from Wyoming, (6-3-303) and (31-2-704) respectively, deal with the penalty for criminal trespass and the registration decal system utilized in the state. Finally in this section, a Utah statute (76-6-206) illustrates a law of trespass that incorporates recklessness and intent as a factor in determining the severity of punishment.

These statutes are provided as illustrations only, and their principles of operation are not presented as recommendations for adoption. Rather, these statutes demonstrate some of the variables that may be incorporated into state laws. Section III of this Appendix provides a summary of each of the laws and regulations of the fifty states as provided by the ATV Safety Institute (ATVsafety.org).

## **Pennsylvania**

### **75 Pa.C.S.A. § 7724 Operation on private or State property**

#### CHAPTER 77. SNOWMOBILES AND ALL-TERRAIN VEHICLES

#### SUBCHAPTER C. OPERATION

##### (a) Private real property.--

(1) No person shall operate a snowmobile or an ATV on private real property without the consent of the owner thereof. Any person operating a snowmobile or an ATV upon lands of another shall stop and identify himself upon the request of the landowner or his duly authorized representatives and, if requested to do so by the landowner, shall promptly remove the snowmobile or ATV from the premises.

(2) When a person operates a snowmobile or an ATV in a manner as to violate section 3717 (relating to trespass by motor vehicle), the applicable fines, penalties and suspensions provided in this title for violation of section 3717 shall apply to this subsection.

##### (b) State property.--

(1) No person shall operate a snowmobile or an ATV on State-owned property except on clearly marked and previously designated snowmobile or ATV routes or as expressly permitted by the Commonwealth.

(2) (i) The department may designate any road within a State Park or State Forest over which the department has jurisdiction as a snowmobile road or an ATV road, or both, and may, in its discretion, determine whether the road shall be closed to vehicular traffic or whether snowmobiles and ATV's may share the designated road with vehicular traffic. Adequate notices of such designation and determination shall be sufficiently and prominently displayed.

(ii) No person shall operate a snowmobile or ATV on State park or State forest land except as follows:

(A) A person may operate a snowmobile on a road, trail or area that is designated and marked by the department as open for snowmobile use or on which the person has been given specific written permission to operate the snowmobile.

(B) A person may operate a Class I ATV on a road, trail or area that is designated and marked by the department as open for ATV use or on which the person has been given specific written permission to operate the ATV.

(C) A person may operate a Class II ATV on a road, trail or area if the person has been given specific written permission by the department to operate a Class II ATV on the road, trail or area.

## **75 Pa.C.S.A. § 3717 Trespass by motor vehicle**

### CHAPTER 37. MISCELLANEOUS PROVISIONS

#### SUBCHAPTER A. OFFENSES IN GENERAL

(a) General rule.--It is unlawful for a person to knowingly operate a motor vehicle on private real property other than a private road or driveway without consent of the owner or lessor of the real property.

(b) Operation of motor vehicle on private road or driveway prohibited.--Except when necessary as a result of emergency or when necessary to provide the operator a means of turning his vehicle around on portions of highways where no other means of turning around is provided, it is unlawful, without the consent of the owner or lessor, for a person to knowingly operate a motor vehicle on a private road or driveway. There shall be a rebuttable presumption that a person has knowingly violated this subsection if the owner or lessor of the road or driveway has placed, at or near the points of entry from public or private vehicular access, a gate, fence or similar obstruction or a readily visible sign that would reasonably convey that the unauthorized operation of motor vehicles on the road or driveway is prohibited.

(c) Damage to real property by operation of motor vehicle prohibited.--It is unlawful for a person to knowingly or recklessly cause damage to any real or personal property by means of the operation of a motor vehicle on private real property. There shall be a rebuttable presumption that a person has knowingly or recklessly caused damage under this subsection where digging, ground breakage or other damage to land, sod or soil or damage to trees, growing crops, ornamental flowers or shrubs or other similar flora affixed to the land or to structures, fixtures or personal property affixed to or located on the private real property has resulted from the operation of a motor vehicle on the private real property.

(d) Travel on cultivated land prohibited.--It is unlawful for a person to knowingly operate a motor vehicle on cultivated agricultural land of another without the consent of the owner or lessor. For purposes of this subsection, the term "cultivated agricultural land" includes land which is or has been recently groomed or prepared for the purpose of present or future commercial or private agricultural, silvicultural, horticultural or floricultural production, whether or not the land is currently in seed or sustaining growing crops. There shall be a rebuttable presumption that a person has knowingly operated a motor vehicle on cultivated agricultural land either if there are agricultural crops or residue from the crops visible on the land or if the owner or lessor of the land has placed near the roadside boundaries of the property visible signs which would easily convey to the operator of a motor vehicle that the land is cultivated agricultural land and that operation of a motor vehicle on it is prohibited.

(e) Offense defined.--The following penalties shall apply:

(1) A person who violates subsection (b) commits a summary offense and shall, upon conviction, be subject to a fine of \$100.

(2) A person who violates subsection (c) or (d) commits a summary offense and shall, upon conviction, be subject to the following penalties:

(i) A fine of \$500 for a first conviction of the offense.

(ii) A fine of \$1,000 plus suspension of operating privileges for a period of six months for a second or subsequent conviction of the offense. If a person is under 16 years of age at the time of the second or subsequent conviction of an offense, the period of suspension shall commence upon the person's 16th birthday.

(3) In addition, restitution shall be made for the value of damage to real or personal property which results from the violation of this section.

(f) Assessment of points.--A person whose operating privilege has been suspended pursuant to subsection (e) shall not be subject to assessment of points otherwise applicable under section 1545 (relating to restoration of operating privilege) upon restoration of privileges.

(g) Additional penalties.--This section is not intended nor shall this section be construed to preclude prosecution, conviction or imposition of penalties pursuant to other provisions of this title that may be applicable.

## **Maine**

### **M.R.S. 17, §3853-D. Operating a motor vehicle on land of another**

1. Damage or destruction to farmland or forest land. A person who, as a result of operating a motor vehicle on farmland or forest land in fact, damages or destroys crops, forest products, personal property or roads on that farmland or forest land, commits a Class E crime.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Farmland" means land used for the production of fruits, vegetables, grains, hay or herbs that consists of 5 or more contiguous acres. The term "farmland" does not include land used for the production of wood products.

A-1. "Forest land" means land used for the production of forest products.

A-2. "Forest products" means any woody stemmed plant as well as any products that have been harvested but not yet transported from the harvesting site, including logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, evergreen boughs and cones for seed production.

B. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including all-terrain vehicles as defined in Title 12, section 13001, but not including snowmobiles.

3. Application. This section does not apply to:

A. A landowner operating a motor vehicle on farmland or forest land owned by that landowner;

B. A person given permission by a landowner to operate a motor vehicle on farmland or forest land owned by that landowner;

C. An agent or employee of a landowner who operates a motor vehicle on farmland or forest land owned by that landowner in the scope of that agent's or employee's agency or employment; or

D. A law enforcement officer who, in an emergency and in the scope of that law enforcement officer's employment, operates a motor vehicle on farmland or forest land owned by another.

## **Minnesota**

### **84.925 EDUCATION AND TRAINING PROGRAM.**

Subdivision 1. Program established.

(a) The commissioner shall establish a comprehensive all-terrain vehicle environmental and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of all-terrain vehicle operators, and the issuance of all-terrain vehicle safety certificates to vehicle operators over the age of 12 years who successfully complete the all-terrain vehicle environmental and safety education and training course.

(b) For the purpose of administering the program and to defray a portion of the expenses of training and certifying vehicle operators, the commissioner shall collect a fee of \$15 from each person who receives the training. The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate all-terrain vehicle safety certificate. The commissioner shall establish the fee for a duplicate all-terrain vehicle safety certificate that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the service. Fee proceeds, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the all-terrain vehicle account in the natural resources fund. In addition to the fee established by the commissioner, instructors may charge each person the cost of class material and expenses.

(c) The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of vehicle operators. By June 30, 2003, the commissioner shall incorporate a riding component in the safety education and training program.

Subd. 2. [Repealed, 1989 c 331 s 26]

Subd. 3. All-terrain vehicle safety courses; reciprocity with other states. The commissioner may enter into reciprocity agreements or otherwise certify all-terrain vehicle environmental and safety education and training courses from other states that are substantially similar to in-state courses. Proof of completion of a course subject to a reciprocity agreement or certified as substantially similar is adequate to meet the safety certificate requirements of sections 84.92 to 84.929.

Subd. 4. Exemption from rulemaking and legislative approval. The fee to issue a duplicate all-terrain vehicle safety certificate under subdivision 1 is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the duplicate all-terrain safety certificate fee notwithstanding section 16A.1283.

Subd. 5. Training requirements.

(a) An individual who was born after July 1, 1987, and who is 16 years of age or older, must successfully complete the independent study course component of all-terrain vehicle safety training before operating an all-terrain vehicle on public lands or waters, public road rights-of-way, or state or grant-in-aid trails.

(b) An individual who is convicted of violating a law related to the operation of an all-terrain vehicle must successfully complete the independent study course component of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(c) An individual who is convicted for a second or subsequent excess speed, trespass, or wetland violation in an all-terrain vehicle season, or any conviction for careless or reckless operation of an all-terrain vehicle, must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(d) An individual who receives three or more citations and convictions for violating a law related to the operation of an all-terrain vehicle in a two-year period must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(e) An individual must present evidence of compliance with this subdivision before an all-terrain vehicle registration is issued or renewed.

## **97B.002 CIVIL TRESPASS.**

Subdivision 1. Authority to issue. Conservation officers, sheriffs, and deputies may issue citations to a person who trespasses in violation of section 84.90 or 97B.001 or removes a sign posted to prevent trespass without permission of the owner of the property.

Subd. 2. Penalty amount. The citation must impose the following penalty amounts:

(1) \$50 for the first violation;

(2) \$200 for the second violation in a three-year period;

(3) for a third or subsequent violation in a three-year period, the penalty shall be \$500 and loss of every license or registration being used; and

(4) \$50 for removal of a sign posted pursuant to this section.

Subd. 3. Appeals. Citations may be appealed under the procedures in section 116.072, subdivision 6 , if the person requests a hearing by notifying the commissioner in writing within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.

Subd. 4. Enforcement of field citations. Field citations may be enforced under section 116.072, subdivisions 9 and 10.

Subd. 5. Cumulative remedy. The authority to issue field citations is in addition to other remedies available under statutory or common law, except that the state may not seek penalties under any other provision of law for the incident subject to the citation.

Subd. 6. Payment of penalty. Penalty amounts shall be remitted within 30 days of issuance of the penalty citation to the issuer.

Subd. 7. Allocation of penalty amounts. Penalty amounts are deposited to the county or the commissioner for deposit in the game and fish fund depending upon who issues the citation.

## **Missouri**

### **569.140. Trespass in the first degree.**

1. A person commits the crime of trespass in the first degree if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.

2. A person does not commit the crime of trespass in the first degree by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner reasonably likely to come to the attention of intruders.

3. Trespass in the first degree is a class B misdemeanor.

## **Montana**

### **45-6-203. Criminal trespass to property.**

#### Part 2. Criminal Trespass and Burglary

(1) Except as provided in 15-7-139, 70-16-111, and 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

- (a) enters or remains unlawfully in an occupied structure; or
- (b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

## **Wisconsin**

### **943.13 Trespass to land.**

(1e) In this section:

(a) "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(az) "Implied consent" means conduct or words or both that imply that an owner or occupant of land has given consent to another person to enter the land.

(b) "Inholding" means a parcel of land that is private property and that is surrounded completely by land owned by the United States, by this state or by a local governmental unit or any combination of the United States, this state and a local governmental unit.

(c) "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of the political subdivision or special purpose district or a combination or subunit of any of the foregoing.

(d) "Place of employment" has the meaning given in s. 101.01 (11).

(e) "Private property" means real property that is not owned by the United States, this state or a local governmental unit.

(f) "Open land" means land that meets all of the following criteria:

1. The land is not occupied by a structure or improvement being used or occupied as a dwelling unit.

2. The land is not part of the curtilage, or is not lying in the immediate vicinity, of a structure or improvement being used or occupied as a dwelling unit.

3. The land is not occupied by a public building.

4. The land is not occupied by a place of employment.

(1m) Whoever does any of the following is subject to a Class B forfeiture:

(a) Enters any enclosed, cultivated or undeveloped land of another, other than open land specified in par. (e) or (f), without the express or implied consent of the owner or occupant.

(am) Enters any land of another that is occupied by a structure used for agricultural purposes without the express or implied consent of the owner or occupant.

(b) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises.

(e) Enters or remains on open land that is an inholding of another after having been notified by the owner or occupant not to enter or remain on the land.

(f) Enters undeveloped private land from an abutting parcel of land that is owned by the United States, this state or a local governmental unit, or remains on such land, after having been notified by the owner or occupant not to enter or remain on the land.

(1s) In determining whether a person has implied consent to enter the land of another a trier of fact shall consider all of the circumstances existing at the time the person entered the land, including all of the following:

(a) Whether the owner or occupant acquiesced to previous entries by the person or by other persons under similar circumstances.

(b) The customary use, if any, of the land by other persons.

(c) Whether the owner or occupant represented to the public that the land may be entered for particular purposes.

(d) The general arrangement or design of any improvements or structures on the land.

(2) A person has received notice from the owner or occupant within the meaning of sub. (1m) (b), (e) or (f) if he or she has been notified personally, either orally or in writing, or if the land is posted. Land is considered to be posted under this subsection under either of the following procedures:

(a) If a sign at least 11 inches square is placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the

notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as provided in this paragraph were erected or in existence upon the premises to be protected prior to the event complained of shall be prima facie proof that the premises to be protected were posted as provided in this paragraph.

(b) If markings at least one foot long, including in a contrasting color the phrase "private land" and the name of the owner, are made in at least 2 conspicuous places for every 40 acres to be protected.

(3) Whoever erects on the land of another signs which are the same as or similar to those described in sub. (2) without obtaining the express consent of the lawful occupant of or holder of legal title to such land is subject to a Class C forfeiture.

(3m) An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified conditions and it is a violation of sub. (1m) (a) or (am) for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions.

(4) Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.

(4m) This section does not apply to any of the following:

(a) A person entering the land, other than the residence or other buildings or the curtilage of the residence or other buildings, of another for the purpose of removing a wild animal as authorized under s. 29.885 (2), (3) or (4).

(b) A hunter entering land that is required to be open for hunting under s. 29.885 (4m) or 29.889 (7m).

(c) A person entering or remaining on any exposed shore area of a stream as authorized under s. 30.134.

(5) Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with the occupant in the housing area the occupant occupies.

## **Wyoming**

### **6-3-303 Criminal trespass; penalties.**

(a) A person is guilty of criminal trespass if he enters or remains on or in the land or premises of another person, knowing he is not authorized to do so, or after being notified to depart or to not trespass. For purposes of this section, notice is given by:

(i) Personal communication to the person by the owner or occupant, or his agent, or by a peace officer; or

(ii) Posting of signs reasonably likely to come to the attention of intruders.

(b) Criminal trespass is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.

**31-2-704 Payment of fees; issuance of numbered decal; trespass warning printed on decal.**

ARTICLE 7 - OFF-ROAD RECREATIONAL VEHICLES

(a) Upon receipt of user registration fees imposed under this article, the selling agent shall issue a numbered decal which shall be prominently displayed on the off-road recreational vehicle.

(b) Numbered decals issued under this article shall contain the following language: "Warning: trespass upon private property while operating an off-road recreational vehicle is punishable by imprisonment up to six (6) months, a fine up to seven hundred fifty dollars (\$750.00), or both, under W.S. 6-3-303."

**Utah**

**76-6-206. Criminal trespass.**

(1) As used in this section, "enter" means intrusion of the entire body.

(2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial terrorism:

(a) he enters or remains unlawfully on property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti as defined in Section 76-6-107;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether his presence will cause fear for the safety of another;

(b) knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders; or

(c) he enters a condominium unit in violation of Subsection 57-8-7(7).

(3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless it was committed in a dwelling, in which event it is a class A misdemeanor.

(b) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was open to the public when the actor entered or remained; and

(b) the actor's conduct did not substantially interfere with the owner's use of the property.

## **B. II.**

This section of Appendix B is dedicated to a reference to the laws of trespass and some related statutes. The title or section number is provided to each states criminal trespass statute, sourced through the Casemaker® legal database.

Alabama	Title 13A, see especially 13A-74.1
Alaska	Title 11, see especially 11.46.330
Arizona	Title 13, see also Title 37 related to public lands
California	PENAL § 602, see also CIV. PROC. § 731
Colorado	Title 18, see also Title 35 for civil recovery of agricultural damages
Connecticut	Title 52, see also Title 52 for civil recovery
Delaware	Title 11, see also Title 21 for OHV trespass
Florida	Title 46, see also Title 18 related to public lands
Georgia	Title 16, see also Title 51 for civil recovery
Hawaii	Title 37
Idaho	Title 18, see also Title 6 related to public lands
Illinois	720 ILCS 5
Iowa	Title 16, Ch. 716
Kansas	Chapter 21, Article 37
Kentucky	KRS 511 & 512, see also KRS 454 for civil recovery, KRS 56.010 for state action
Louisiana	Title 14, see also Title 41 related to public lands
Maine	MRS 7, §4041, see also MRS 17A, §4-1-405
Maryland	Title 6
Massachusetts	G.L. c.266, §120, see also §123 related to state lands
Michigan	THE MICHIGAN PENAL CODE (750.1 - 750.568)
Minnesota	Chapter 609, see also Ch. 97B on agricultural land trespass
Mississippi	Title 97, Ch 17
Missouri	Title 38, Ch. 569, see also Title 36, Ch.537 on private action
Montana	Title 45, Ch. 6
Nebraska	Ch. 28-501 to 28-523.

Nevada	Title 15, NRS 206 & 207
New Hampshire	Title 62, Ch. 635
New Jersey	Title 2C:18-5
New Mexico	Ch. 30, Article 14
New York	Penal § 140
North Carolina	Ch. 14 Article 22B
North Dakota	Penal § 140.05-22
Ohio	Title 29, ORC 2911
Oklahoma	Title 21
Oregon	Title 16, Ch. 164
Pennsylvania	18 Pa.C.S.A. § 3503, see also 75 Pa.C.S.A. § 3717 for motor vehicle trespass
Rhode Island	Title 11, Ch. 11-44
South Carolina	Title 16, Ch. 11
South Dakota	Title 22-35
Tennessee	Title 39-14
Texas	Penal Code Title 7, Chapter 30
Utah	Title 76, Ch. 6
Vermont	Title 13 §§ (3701 - 3834)
Virginia	Title 18.2, Ch. 5
Washington	Title 9A, Ch. 52
West Virginia	Ch. 61-3B
Wisconsin	Ch. 943, subchapter II
Wyoming	Title 6, Ch. 3, see also Title 31, Ch. 2 on motor vehicle registration

### **B. III.**

This section of Appendix B highlights laws and rules related to ATV operations. Materials were drawn from the web sites of various states or organizations as described.

#### **Oregon Laws and Rules relating to out of state permits**

What follows is material drawn from the Web page of the state of Oregon, containing a copy of the relevant statute and administrative regulation, including a list of states with which Oregon has a reciprocity agreement for registration.

##### **Oregon Revised Statute 821.195**

Operation of all-terrain vehicle without permit and decal; exemption; penalty.

(1) A person commits the offense of operating an all-terrain vehicle without a permit and a decal if the person operates an all-terrain vehicle without a permit and a decal in an area or on a trail designated by the appropriate authority as open to all-terrain vehicles only if they have permits and decals.

(2) This section does not apply to:

(a) An all-terrain vehicle owned and operated by a resident of another state if the other state grants a similar exemption for all-terrain vehicles owned and operated by residents of Oregon and if the vehicle has not been operated in this state for more than 60 consecutive days; or

(b) An all-terrain vehicle owned and operated by the United States, this state or any other state or any political subdivision of the United States or of a state.

(3) The offense described in this section, operating an all-terrain vehicle without a permit and a decal, is a Class C traffic violation. [Formerly 821.175; 1999 c.977 §35]

##### **Oregon Administrative Rule 736-004-0070**

###### **Reciprocity for Out-of-State Permits**

An ATV operating permit that is issued in another state shall be honored in the State of Oregon if the issuing state also honors an Oregon ATV operating permit.

(1) The ATV must have a resident state ATV operating permit or a State of Oregon ATV operating permit to operate the ATV on designated ATV areas.

(a) A State of Oregon ATV operating permit may be issued for all terrain vehicles owned by a resident of another state.

(b) An ATV operating permit is valid in those areas designated for ATV use.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00

Oregon will honor off road permits from the following states:

Alaska	California	Colorado	Idaho
Illinois	Indiana	Missouri	Montana
North Dakota	Pennsylvania	South Carolina	Utah
Vermont	Washington *	Wisconsin	

\* Anyone riding in Oregon is required to have an off road permit/decal for off road areas. This is a state law. Reciprocity is granted to those individuals who have a valid off road permit/decal. This is the only permit which we accept in our reciprocity agreement with other states. Within Washington's laws, they offer reciprocity to other states under two directions, ORV permit or vehicle license. Only one is similar to our program and that is the ATV Permit/Decal. Dual sport motorcycles with license plates do not qualify under the reciprocity agreement.

## **Iowa**

What follows is drawn from the website of the state of Iowa, illustrating the cooperative arrangement some states have with the ATV safety institute.

### **It's the Law—Quick Reference Iowa's All-Terrain Vehicle Education**

Education is mandatory in Iowa for persons ages 12-17 who ride their ATVs on designated public land or land purchased with ATV registration funds.

There is a cooperative program between the Iowa DNR and the ATV Safety Institute (ASI), a non-profit division of the Specialty Vehicle Institute of America.

- ASI's ATV course may be offered free of charge by some distributors to individuals who purchase a new ATV and the purchaser's family members may attend too. If you are not eligible for free safety training, you can take an ASI course for a fee of \$75 if you are 16 or younger or for \$125 if you are over 16. This fee is collected by ASI and is used to provide continuing education to instructors, provide course materials for students, and support the course administration.
- The course is approximately 4.5 hours in length. Students practice safety techniques with hands-on exercises covering starting, stopping, swerving, and riding over obstacles. Particular emphasis is placed on the safety.



- The course also covers protective gear, environmental concerns, and local laws. Participants receive the ATV RiderCourse® Handbook, which reinforces the safety information and riding techniques covered during the course. The instructional materials, as well as the course curriculum, have been designed in consultation with the Consumer Product Safety Commission (CPSC).
- To register for the ATV RiderCourse®, contact the ASI Enrollment Express hotline at 1-800-887-2887. To speak with a national representative about ATV safety, call 1-800-852-5344. For more information on the ASI ATV RiderCourse® and for interactive safety information, visit <http://www.atvsafety.org/>.

The Iowa Department of Natural Resources (DNR) is developing a state-sponsored course, which should be available in late 2007. This course will supplement the ASI training. The DNR will post the availability of the state course on its website—<http://www.iowadnr.gov/>

## **Pennsylvania**

What follows is the website information from the state of Pennsylvania, illustrating a short but comprehensive statement of law, regulation, trail use ethics.

Who must register and title?

All ATVs in Pennsylvania, except ATVs used solely for business or agricultural purposes, need to be registered and titled with DCNR. ATVs used in Pennsylvania must be registered and titled with DCNR's Snowmobile/ATV Section. The ATV registration and titling fees are NOT user fees for the privilege of using trails on state-owned land. The fees provide funding to administer the program, maintain trails on DCNR-managed parks and forests, and provide grants to profit and non-profit organizations for developing additional riding opportunities.

Two types of registrations apply:

### *Registration*

- For ATVs used anywhere off of your own property or property leased by you, such as designated State Forest trails
- \$20 fee every two years

### *Limited registration*

- For ATVs used solely on your own land or land leased by you
- Free registration
- No expiration, unless ownership of vehicle changes

Pennsylvania registration is NOT required for:

- ATVs used exclusively as utility vehicles for agricultural or business operations;

- ATVs owned by nonresidents covered by a valid registration in their state, province or country that honors Pennsylvania registration;
- ATVs owned and used by a federal, state or local government body;
- ATVs owned by a dealer who has been issued a dealer registration certificate and used only in connection with the dealer's business.

Titling is NOT required for:

- ATVs used exclusively as utility vehicles for agricultural or business operations;
- Snowmobiles bought or acquired prior to Oct. 23, 2001;
- ATVs owned and used by a federal, state or local government body;
- ATVs owned by a dealer before and until sale;
- ATVs owned by a nonresident;
- ATVs owned by a Pennsylvania resident, but registered and used in another state.

Fees

- Titling: \$22.50
- Registration: \$20, for a two-year period
- Limited registration: Free
- Replacement of lost or damaged registration certificate, limited registration certificate, registration decal, registration plate or expiration sticker: \$5
- Transfer of registration to a new machine by the same owner: \$5
- Dealer registration: \$25

Plates and decals

An ATV owner will be issued a registration plate for the vehicle. An expiration sticker to be affixed to the plate will be issued for standard registrations.

How to register and title your ATV

If you purchase your vehicle at a registered dealer, you will be issued a registration plate with a temporary 45-day registration sticker. The dealer will handle your application for title and registration.

If you purchase your ATV privately you will need to supply DCNR with:

- Completed application for registration and titling
- Proof of Vehicle Identification Number (VIN)
- Fees
- PA sales tax or proof that tax has been paid

Applications for registration and titling of ATVs and snowmobiles are available from the Snowmobile/ATV Registration Section, ATV and snowmobile dealers, forest district offices, and State Park offices. Applications also are available at [www.dcnr.state.pa.us/snowmobile/index.htm](http://www.dcnr.state.pa.us/snowmobile/index.htm)

The registration and titling application form must be completed and sent to the Department of Conservation and Natural Resources, Snowmobile/ATV Registration Section, P.O. Box 8553, Harrisburg, PA 17105-8553, along with the registration and titling fees and sales tax statement.

#### Liability Insurance

If you are using your ATV solely on land owned or leased by you, you are not required to get liability insurance. All other riders must carry liability insurance. Proof of that insurance must be carried with you when you ride. There are no minimum requirements or coverage standards established by DCNR or the Snowmobile/ATV Law for the liability insurance.

#### How to transfer title/ownership of your vehicle

If you are transferring the title of your ATV to a new owner, complete the assignment on the back of the certificate of title and obtain notarization. The new owner must then apply for a new certificate of title and registration in his/her name. **DO NOT REMOVE THE REGISTRATION DECAL OR PLATE FROM THE MACHINE.**

Registration cannot be transferred from one owner to the next. If you no longer need registration because you have disposed of your vehicle in some way, complete the reverse side of your certificate of registration indicating the disposition status, listing buyer's name (if applicable), signing, dating and returning to DCNR within 15 days of disposition.

You may request the remaining months of your current registration be applied to a new registration of another vehicle that you have acquired. The fee for this transaction is \$5.

#### Changes of Address

You must notify DCNR's Snowmobile/ATV Section in writing of any change of address within 15 days.

All-Terrain Vehicles are defined as follows:

- Class 1 ATV - A motorized off-highway vehicle, which travels on three or more inflatable tires and has a maximum width of 50 inches and a maximum dry weight of 800 pounds.
- Class 2 ATV - A motorized off-highway vehicle, which travels on three or more inflatable tires and has a width which exceeds 50 inches or a dry weight which exceeds 800 pounds

# Protecting the Trails, Environment and Rights of Others

Every ATV and snowmobile rider must be an ambassador for the sports. Please give careful consideration to your effect on the trails, environment and others. The future of your sport depends on it.

## **Minimizing environmental impact**

Every effort should be made to minimize the impact of your machine on the trail and surrounding environment. Using skill and common sense you can negotiate various obstacles and riding conditions that have the potential to cause damage. Remember, areas closed to ATVs and snowmobiles are done so for a reason; please respect these special areas.

The following are some suggestions offered by Tread Lightly! ®, a non-profit organization dedicated to protecting the outdoors and outdoor recreation through responsible practices:

- Stay on designated roads and trails or other areas open for use.
- Avoid "spooking" livestock and wildlife you encounter.
- Cross streams at designated crossings only.
- Use existing campsites whenever possible; avoid building fires.
- Cross obstacles at an angle, one wheel at a time.
- Don't straddle large rocks.
- Avoid mud if you can while remaining on the road or trail.
- Turn into ravines or large depressions at about a 45-degree angle.
- Straddle ruts, even if they are wider than your vehicle. This will keep your vehicle level.
- Lower the tire pressure to where you see a bulge in your tire to give you better traction and provide for a smoother ride.
- Avoid riding the brakes and clutch which can lead to brake failure.

## **Trail etiquette**

Many times ATV riders will come in contact with other user groups sharing the same lands, roadways or trails. It is important to practice common courtesies.

- Be considerate of others on the trail and keep to the right.
- Slow down when passing.
- Ride only where permitted.
- Leave gates as you find them.
- Yield the right of way to bikes, horses and hikers.
- Carry out what you carry in.
- Wave and say 'hello' as you pass.
- Report downed trees and trail maintenance needs to land managers

## **Report illegal riding**

If you see someone riding irresponsibly, off-trail or dangerously, try to record the machine's registration number. Report the activity to the local authority with jurisdiction over those lands. Remember, bad behavior by some individuals can harm the reputation of the entire sport.

## **Utah**

What follows is the table of contents from the Utah government website related to ATV operation. The table of contents alone is reproduced here, but the website provides full textual content of this law and rules.

# **Utah Off-Highway Vehicle Laws and Rules**

## **Title 41 CHAPTER 22 UCA**

### **OFF-HIGHWAY VEHICLES**

#### **Section Index**

- 41-22-1. Policy declaration.
- 41-22-2. Definitions.
- 41-22-3. Registration of vehicles - Application - Issuance of stickers and card - Proof of property tax payment - Records.
- 41-22-3.1. Repealed.
- 41-22-3.5. Staggered registration dates -- Registration renewal.
- 41-22-4. Falsification of documents unlawful - Alteration or removal of serial number unlawful - Display of sticker.
- 41-22-5.1. Rules of board relating to display of registration stickers.
- 41-22-5.5. Off-highway husbandry vehicles.
- 41-22-6. Repealed.
- 41-22-7. Duplicate registration certificates.
- 41-22-8. Registration fees.
- 41-22-9. Vehicles exempt from registration.
- 41-22-10. Powers of board relating to off-highway vehicles.
- 41-22-10.1. Vehicles operated on posted public land.
- 41-22-10.2. Off-highway vehicles - Prohibited on interstate freeway.
- 41-22-10.3. Operation of vehicles on highways - Limits.

- 41-22-10.4. Snowmobiles.
- 41-22-10.5. Local ordinances -- Designating routes -- Supervision.
- 41-22-10.6. Requiring compliance with traffic laws.
- 41-22-10.7. Vehicle equipment requirements - Rulemaking - Exceptions.
- 41-22-10.8. Protective headgear requirements - Owner duty - Penalty for violation. NON-Resident visitors to Utah should read and understand this section!
- 41-22-10.9. Repealed.
- 41-22-11. Agencies authorized to erect regulatory signs on public land.
- 41-22-12. Restrictions on use of public lands.
- 41-22-12.1. Restrictions on use of snowmobile trails.
- 41-22-12.5. Restrictions on use of privately-owned lands without permission - Unlawful for person to tamper with signs or fencing on privately-owned land.
- 41-22-13. Prohibited uses.
- 41-22-14. Repealed.
- 41-22-15. Permission required for race or organized event.
- 41-22-16. Authorized peace officers - Arrest provisions.
- 41-22-17. Penalties for violations.
- 41-22-18. Ordinances or local laws relating to operation and equipment of vehicles.
- 41-22-19. Deposit of fees and related moneys in Off-highway Vehicle Account - Use for facilities, costs and expenses of division, and education - Request for matching funds.
- 41-22-20. Public land administrating agencies to develop facilities and programs.
- 41-22-21. Publication of rules and amendments.
- 41-22-22 to 41-22-28. Repealed.
- 41-22-29. Operation by persons under eight years of age prohibited - Definitions - Exception - Penalty. NON-Resident visitors to Utah should read and understand this section!
- 41-22-30. Supervision, safety certificate, or driver license required - Penalty. NON-Resident visitors to Utah should read and understand this section!
- 41-22-31. Board to set standards for safety program - Safety certificates issued - Cooperation with public and private entities - State immunity from suit.
- 41-22-32. Certification of safety instructors.
- 41-22-33. Fees for safety and education program - Penalty - Unlawful acts.
- 41-22-34. Search and rescue fee - Amount - Deposition.

41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue. NON-Resident visitors to Utah should read and understand this section!

41-22-36. Fees to cover the costs of electronic payments.

## All State Summary

What follows is a summary of each state's laws drawn from the ATV Safety Institute Web site. No statutory reference was made and a disclaimer was accompanied as to accuracy.

### Alabama

- No one is permitted to operate an ATV on sand dunes or beaches along the Gulf of Mexico.

### Alaska

- No person under 14 may operate an ATV in a state park unless under the direct supervision of an adult 21 or older.

### Arizona

- All ATVs are required to be titled, and the owner shall receive one numbered plate valid for the life of the vehicle.
- All riders (operator and passenger) under 18 must wear a helmet at all times. (*Applies to ATVs that are operated on public highways as allowed by law.*)
- No passengers are allowed on the ATV unless it is designed to carry more than one person. (*Applies to ATVs that are operated on public highways as allowed by law.*)

### Arkansas

- An ATV can be titled if registered by the owner.
- All 3- and 4-wheeled ATVs are required to be registered, and the owner shall receive one numbered decal to be placed on the ATV.
- No ATV shall be operated without a lighted headlight and taillight from ½ hour after sunset to ½ hour before sunrise.
- A person under 12 may not operate an ATV unless with a person 18 or older, or on a parent's land, or with the permission of the land owner.
- ATVs may not be used on public streets or highways, except to cross these roads or for farming or hunting to get from one field to another. An ATV may be used on public streets outside city limits to get from one trail to another or to private property.

### California

- All operators on public lands are required to wear a helmet at all times.
- All ATVs are required to be titled and registered with the owner receiving a numbered plate for the ATV.
- Registration is to be renewed once each year.
- No one under 18 is to operate an ATV on public land unless they are in possession of a safety certificate or with an adult who possesses a safety certificate.

- No one under 14 may operate an ATV on public land unless they are in possession of a safety certificate and under the direct supervision of an adult who possesses a safety certificate.
- No passengers are allowed at any time while on public lands, except one passenger may be carried if the ATV is designed for a passenger.
- ATVs may not be used on highways, except to cross these highways.

## Colorado

- All ATVs are required to be registered and numbered, except for ATVs used for agricultural purposes or used only on the owner's private property.
- Registration is to be renewed once every year.
- No one under 10 can operate an ATV on roads designated as Off-Highway Vehicle routes, unless they are licensed or under the supervision of a person with a driver's license.
- ATVs may not be used on paved roads or highways, except to cross these roads or for agricultural purposes.
- No ATV shall be operated on public lands without a lighted headlight and taillight between sunset and sunrise.

## Connecticut

- All ATVs must be registered except those used only on the owner's private property. Registration is to be renewed every two years.
- All operators using their ATVs on public lands must possess a safety training certificate from the Environmental Protection Commissioner.
- ATV riders under age 18 must have completed a safety education course.
- Youth ATVs may not be operated after dark.
- No one may drive an ATV on paved roads and highways, except a licensed operator may cross these roads at a 90 degree angle only.
- No one under 12 may operate an ATV on state-owned land.
- Persons 12 to 15 may not operate an ATV unless they have a safety training certificate and are under the direct supervision of an adult over 18 who has completed a safety training course.

## Delaware

- All ATVs must be registered, and registration must be renewed once every 3 years.
- All 3-wheeled ATV riders (operators and passengers) must wear a helmet.
- All operators must be at least 12, unless under the parent's direct supervision or on the parent's land.
- ATV use on paved roads is prohibited, unless the ATV is pushed across the road in neutral gear or is being used for a special event.
- No ATV shall be operated without a lighted headlight and taillight between sunset and sunrise.

## Florida

- All ATVs operated on public land must be titled. There is no state registration requirement.
- All riders under 16 must wear a helmet and eye protection at all times.
- ATV use is prohibited on paved roads.

## Georgia

- ATVs are not permitted to be operated on sand dunes or beaches anywhere in the state, except as authorized.

## Hawaii

- None

## Idaho

- All ATVs must be titled.
- All ATVs must be registered, except those used solely for agricultural purposes.
- Registration is to be renewed once each year.
- ATVs are not permitted on paved roads or highways, except for agricultural purposes, or as allowed by local ordinance.
- ATV riders under age 18 must wear a helmet when riding on public property.

## Indiana

- All ATVs purchased after 12/31/05 must be titled.
- All ATVs operated on public lands must be registered; renewal is once every three years.
- No one under 14 years old can operate an ATV unless on his or her parent's land or under direct supervision of an adult 18 years of age or older.
- ATV use on paved roads is prohibited, except to cross these roads.

## Illinois

- All ATVs operated on lands in public Off- Highway Vehicle parks must have a public access sticker.
- ATVs are not permitted to be operated on paved roads or highways, except to cross the roads.

## Iowa

- All ATVs must be registered and titled if used on public lands, except for those used solely for agricultural purposes.
- All registered ATVs are to receive one numbered sticker; renewal is once every year.
- No one under 12 can operate an ATV unless on private land.

- No one under 18 can operate an ATV on public lands unless they possess a safety training certificate.
- No passengers are allowed on the ATV unless it is designed to carry more than one person.
- ATV use on highways is prohibited, except to cross these roads and for agricultural purposes and then only during daylight hours.
- ATVs operated during hours of darkness shall have lighted head lamp and tail lamp.

## Kansas

- All ATVs must be titled.
- ATVs may not be operated on any interstate or highway or within limits of cities of the first class.
- ATVs may not be operated on public roads between sunset and sunrise unless equipped with a headlight and taillight.

## Kentucky

- All riders (operator and passengers) 16 or over on public property must wear a helmet, except those using the ATV for agricultural or business purposes. All riders (operators and passengers) under age 16 must wear helmets.
- No one under 12 may operate an ATV over 70 cc in engine size.
- No one under 16 may operate an ATV over 90 cc in engine size.
- No one under 16 may operate an ATV without parental supervision.
- ATV use on public roads or highways is prohibited, except to cross these roads or for agricultural use.

## Louisiana

- All ATVs must be titled and registered, except those used solely for agricultural purposes.
- Owners of registered ATVs will receive a decal to be placed on the ATV; renewal of registration is once every two years through the Department of Motor Vehicles.
- ATVs may not be operated in state parks.

## Maine

- All operators under 18 must wear a helmet.
- Registration is required for all ATVs, except those used solely for agricultural purposes or operated on the owner's land.
- Registration is to be renewed once each year.
- All operators under 16 must have a safety training certificate and be under direct supervision of an adult to operate on any land outside of their parent's property.
- No one under 10 may operate an ATV unless on a parent's land.
- ATVs may not be operated on public roads except to cross the road.

## Maryland

- No title is required, although one can be obtained if an owner requests one.
- All ATVs operated on Department of Natural Resources lands need to be registered; renewal of registration is once each year.
- To operate an ATV in Department of Natural Resources designated areas the operator must have a license or permit, or be under the supervision of a parent and be 12 or older.

## Massachusetts

- Every rider (operator and passenger) must wear a helmet.
- All ATVs must be registered, except if operated on the owner's land, with the owner receiving a plate to be placed on the ATV.
- No one under 14 may operate an ATV unless over 10 and in a special event, or 10 to 12 and supervised by an adult while on a parent's land, or 12 to 14 if supervised by an adult over 18.
- No one under 12 may operate an ATV on Department of Environmental Management land.
- ATV use on paved roads or public ways is prohibited, except to cross these roads.
- No ATV shall be operated without a lighted headlight and taillight between sunset and sunrise.

## Michigan

- All riders (operator and passengers) must wear a helmet and eye protection at all times.
- All ATVs must be titled.
- All ATVs must be registered unless used solely on an operator's private land; renewal is once every year.
- Children under 16 years old must have a safety training certificate and be under the direct visual supervision of an adult.
- No one under 16 may operate a three-wheeled ATV.
- No one under 10 may operate an ATV except while performing farm work.
- No one under 12 may cross a highway or street on an ATV.
- No passengers are allowed on the ATV unless it is designed to carry more than one person.
- ATV use on highways is prohibited, except to cross these roads, although operators are permitted to drive on highway shoulders.
- No ATV shall be operated without a lighted headlight and taillight from ½ hour after sunset to ½ hour before sunrise.

## Minnesota

- All ATV riders (passengers and operator) under age 18 on public land must wear a helmet at all times.
- Registration is required.
- There are two types of registration: for public land use, renewal is once every three years and for private land use or agricultural purposes, registration is good for as long as the vehicle is owned.
- No one under 18 can register an ATV.
- A driver's license is required to operate an ATV along or on public road rights-of-way.
- No operator under 12 can cross public roads or drive on public roads and lands, except an operator at least 10 years old may operate an ATV up to 90cc on public lands if accompanied by parent.
- Operators between 12 and 15 must have a safety training certificate and be accompanied by an adult 18 or older who possesses a driver's license to operate on public lands.
- In order to be issued a safety training certificate, operators under 12 must have completed a safety training course and be able to reach and control the handlebars and reach the footrests.
- Effective January 1, 2006, anyone born after July 1, 1987 and is 16 or older, must complete an independent study course component of ATV safety training before operating an ATV on public land.
- ATV use on paved roads is allowed where and how designated.
- A rider may not operate an ATV on a trail designated "not for motorized use," posted public lands, state park lands, wildlife management areas, or unfrozen water.
- If an ATV is equipped with headlight and taillight, it may not be operated unless lighted at all times. All ATVs operated between ½ hour after sunset to ½ hour before sunrise must have lighted headlight and taillight.
- An ATV may not be operated with a passenger except a parent may carry one passenger under age 16, a person age 18 or older may carry one passenger age 16 or 17, and a person 18 or older may carry one passenger age 18 or older.

## Mississippi

- ATVs may not be operated in state parks, except in designated areas.

## Missouri

- All riders (passengers and operator) under 18 must wear a helmet at all times.
- All ATVs must be titled and registered; registration renewal is once every three years.
- No one under 16 may register an ATV.
- ATV use on highways is prohibited, except for agricultural or industrial purposes.
- No one under 16 may operate an ATV unless on a parent's land or accompanied by a parent.
- Passengers may not be carried except for agricultural purposes and except for ATVs designed to carry more than one person.

## Montana

- All ATVs operated on public lands must be titled.
- All ATVs must be registered one-time, with the owner receiving a decal to be placed on the ATV.

## Nebraska

- ATVs sold on or after January 1, 2004, must be titled.
- ATVs may never be registered for on-road use.
- ATV use on public streets or highways is prohibited, except to cross these roads or for agricultural purposes.
- No ATV shall be operated without a lighted headlight and taillight from ½ hour after sunset to ½ hour before sunrise.

## Nevada

- ATVs may be operated only in designated areas on state park lands.
- Except as provided in law, ATVs may not be operated on paved highways that are not designated for use by off-road vehicles

## New Hampshire

- All ATV operators and passengers under 18 must wear a helmet and all operators under 18 must wear eye protection at all times.
- All ATVs over 95 cc in engine size must be registered, with the owner receiving a license plate for the ATV.
- Registration is to be renewed once every year.
- No one under 18 can register an ATV.
- No one under 18 operating an ATV shall carry passengers at any time.
- Any person over 12 must have a safety certificate or a motor vehicle license to ride off their own property.
- Any person under 14 must be supervised by an adult over 18 when off their own property.
- ATV use on public roads and highways is prohibited, except to cross these roads.
- No ATV shall be operated without a lighted headlight and taillight from ½ hour after sunset to ½ hour before sunrise.

## New Jersey

- All riders (operator and passengers) must wear a helmet.
- All ATVs used on public roads and lands must be registered, with renewal once each year.
- No one under 18 may operate an ATV on public lands without a safety training certificate.
- No one under 14 may operate an ATV on public lands or cross roads.

- No one under age 16 shall operate an ATV over 90 cc on public lands or across a highway.
- ATV use on public roads and highways is prohibited, except to cross these roads.
- No ATV shall be operated without a lighted headlight and taillight from ½ hour before sunset to ½ hour after sunrise.

#### New Mexico

- ATVs must be titled.
- ATVs must be registered; a user fee must be paid, if the ATV is used on public lands; registration is renewed every 2 years.
- ATV riders under age 18 must wear helmets and eye protection.
- ATV riders under age 18 must have a safety permit.
- ATV operators under age 18 may not carry passengers.
- ATV riders under age 18 must be supervised except under specified circumstances.
- ATV operators under age 10 may only operate age-appropriate size-fit ATVs.
- ATVs may not be operated on paved streets, except to cross.
- No ATV shall be operated without a lighted headlight and taillight when visibility is limited.

#### New York

- No passengers are allowed on the ATV unless it is designed to carry more than one person.
- All riders (operator and passengers) must wear a helmet at all times.
- All ATVs must be registered with the Department of Motor Vehicles, renewing registration once every year.
- ATV use on highways is prohibited, except to cross these roads.
- No one under 10 may ride or operate an ATV.
- Operators between 10 and 15 may ride an ATV if they are on their parent's land and supervised by a parent, or on their parent's land and in possession of a safety training certificate.
- No ATV shall be operated without a lighted headlight and taillight from ½ hour after sunset to ½ hour before sunrise.

#### North Carolina

- No one under age 8 may operate an ATV.
- Children under age 12 may only operate an ATV under 70cc.
- Children under age 16 may only operate an ATV 90cc or less.
- Children under age 16 must be supervised by a person at least age 18.
- Passengers may not be carried unless the ATV was designed to carry passengers.
- All ATV operators must wear helmet and eye protection.
- ATV use on public streets and highways is prohibited except to cross.
- All riders (passengers and operator) must wear a helmet when operating an ATV in certain designated riding areas.

- ATVs purchased on or after July 1, 2005, shall be registered and titled.
- ATV use on streets or highways is prohibited except:
  - to cross these roads, or
  - for no more than 300 feet to cross a railroad track during daylight hours, or
  - on unpaved roads on U.S. Forest Service property.

## Oklahoma

- All ATVs must be titled and registered, renewing registration once every 3 years.
- To operate an ATV on public lands, one must have a driver's license or motorcycle endorsement; the Department of Natural Resources may permit a person at least 12 to operate on Department land if accompanied by a parent.
- No one under 16 may operate an ATV unless on land owned by a parent or accompanied by an adult 18 or older.

## Oregon

- All riders under 18 must wear a helmet, except those operating on their own private property or for agricultural or forestry purposes.
- An operating permit is required for all ATVs used on state designated trails and riding areas.
- The permit is to be renewed once every two years.
- To operate an ATV on public lands, the operator must have an ATV operator's permit issued upon completion of a safety training course, or be accompanied by a person at least 18 who has a driver's license or ATV operator's permit.
- All operators under 12 must be accompanied by someone at least 18 to cross a highway.
- ATV use on highways is prohibited, unless one is crossing these roads, a particular road's use for ATVs is permitted by the state, or the road is completely covered by snow and has been closed to traffic.
- ATVs shall not be operated without a taillight and lighted headlight during times when limited visibility conditions exist.

## Pennsylvania

- No ATV shall be operated without a lighted headlight and taillight from ½ hour after sunset to ½ hour before sunrise.
- All ATVs must be titled and registered, with the owner receiving one numbered plate.
- Registration is to be renewed once every two years.
- No one under age 8 shall operate an ATV on state-owned land.
- No one between 8 and 15 may operate an ATV unless on a parent's land or in possession of a safety training certificate.
- No one under 16 may cross a highway or operate an ATV on designated roads unless in possession of a safety certificate and with an adult 18 or older.
- ATV use on any street or highway is prohibited, except to cross and except for roads designated as ATV roads.

## Rhode Island

- All riders (operator and passengers) are required to wear helmets.
- All ATVs must be titled and registered. Registration is to be renewed once every year.
- All operators between 16 and 18 need a license to cross highways.
- No one under 16 may cross a highway while operating an ATV.
- No one under 12 may operate an ATV on Department of Environmental Management lands.
- While on Department of Environmental Management lands, all operators between 12 and 16 must be accompanied by an adult at all times.
- ATV use on streets and highways is prohibited, except to cross these roads.

## South Carolina

- ATVs may be operated on state park and forest lands, but only on designated trails.
- No one may operate an ATV on roads in state forests at any time.

## South Dakota

- All ATVs must be titled.
- ATV use on highways is prohibited, except to cross these roads. Four-wheeled ATVs of 200cc or more may be licensed for highway use if they meet motorcycle equipment requirements, and operator has a valid driver's license.
- No one under 12 and older may operate an ATV in highway ditches.

## Tennessee

- All riders (operators and passengers) on three-wheeled ATVs in designated state park riding areas must wear helmets and eye protection at all times.
- Four-wheeled ATVs are prohibited in state parks.
- ATV use on highways is prohibited, except to cross these roads.
- All ATVs must be titled with the owner receiving one identification device that shall be placed on the ATV.

## Texas

- All ATV owners must apply for a title before selling or disposing of their ATV.
- All ATVs operated on public property must be registered, renewing registration once every year.
- No passengers are allowed at any time while the ATV is on public lands, unless the ATV is designed to carry a passenger.
- ATV use on public streets is prohibited, except to cross these roads or for agricultural purposes.

- All operators under 14 must be accompanied by a parent or guardian.
- While on public lands, all operators must have a safety certificate or be with a parent who has obtained a safety certificate.
- ATVs shall not be operated from ½ hour after sunset to ½ hour before sunrise without a lighted taillight and headlight.

## Utah

- All ATVs manufactured after 1987 must be titled.
- All ATVs operated on public lands must be registered, renewing registration once each year.
- No one under 8 may operate an ATV on public lands.
- To operate an ATV on public lands, the operator must possess a safety training certificate or a driver's license.
- ATV use on streets or highways is prohibited, unless crossing these roads or the road has been designated as an Off-Highway Vehicle riding area.
- ATVs shall not be operated between sunset and sunrise without a lighted taillight and headlight.

## Vermont

- All ATVs of model year 2004 or newer must be titled.
- All ATVs must be registered, except those used solely on private property, renewing registration once every two years.
- No one between 12 and 15 may cross a highway while operating an ATV unless under the direct supervision of a parent or guardian.
- ATV use on public highways is prohibited, except to cross these roads.
- No one under 12 may operate an ATV unless they are on a parent's land, have written permission of property owner, or are under the direct supervision of an adult 18 or older.
- All operators under 18 must have a safety training certificate, unless they are operating on their own or a parent's land.
- ATVs shall not be operated from ½ hour after sunset to ½ hour before sunrise without a lighted taillight and headlight.

## Virginia

- ATVs over 50 cc's and purchased as new on or after July 1, 2006 required to be titled.
- All ATV riders must wear helmets.
- No one under 16 may operate an ATV, except that children between the ages of 12 and 16 may operate ATVs of no more than 90 cc's and children less than age 12 may operate ATVs of no more than 70 cc's.
- No passengers are permitted on an ATV at any time, except if ATV is designed to be operated with a passenger.
- ATV use on public highways is prohibited, except to cross these roads, for agricultural purposes, or while in Buchanan County.

## Washington

- All ATVs must be titled and registered, with owners receiving an Off-Road Vehicle use permit and ORV tag to place on their ATV, unless used solely on agricultural lands owned or leased by the ATV owner or operator.
- ATVs shall not be operated between dusk and dawn without a lighted taillight and headlight.
- No one under age 13 may operate an ATV on or across a highway or road except on a road designated for off-highway vehicle use under direct supervision of a person at least 18 who has a driver's license.

## West Virginia

- All ATVs must be titled.
- All riders under 18 must complete a rider safety awareness course.
- All riders under 18 shall wear helmets at all times.
- ATV use is banned from paved roads with a center line or more than 2 lanes, except to cross and except for getting from one trail or field to another when traveling up to 10 miles no faster than 25 mph.
- No passengers are permitted except if the ATV is designed for a passenger or if the passenger is at least age 18 and the operator is at least 18 and has a driver's license.
- ATVs shall not be operated from sunset to sunrise without a lighted taillight and headlight.

## Wisconsin

- Children under 12 must wear a helmet at all times except if the ATV is operated for agricultural purposes or on family's land.
- Children between age 12 and 18 must wear a helmet, unless hunting or fishing, operating for agricultural purposes, or on their family's land.
- All ATVs are required to be registered. There are two types of registration: (1) public land use, which is renewed every two years or (2) private land use, which lasts for the lifetime of the vehicle.
- No one under 12 may operate an ATV unless operating on their family's land, operating for agricultural purposes and under direct supervision of a person over age 18, or unless operating a 4-wheel ATV of 90cc or less on a designated ATV trail and accompanied by a parent.
- No one under 12 may operate an ATV on a roadway.
- Children at least age 12 and born on or after January 1, 1988, must have taken a safety training course, unless operating on family's land.
- ATV use on roads is prohibited, except for agricultural purposes or to cross these roads.
- ATVs shall not be operated during hours of darkness without a lighted taillight and headlight.

## Wyoming

- Registration is required only for ATVs used on designated off-highway vehicle trails.
- Registration is to be renewed each year, and owners receive a numbered decal.
- ATV use on public streets and highways is prohibited, except to cross these roads and except for agricultural use outside city limits.

## **Additional Web Sites**

Presented here as an additional aid, is a list of web sites identified in the literature review which provide insight into the issues of ATV operation, regulation and trespass. The list is not intended to represent an exhaustive collection of internet based information, but rather provides insight into the nature of recreational trails and/or ATV/OHV use.

<a href="http://Kytourism.com">Kytourism.com</a>	(Ky tourism website [ <a href="http://kytourism.com/outdoors">kytourism.com/outdoors</a> ] for adventure tourism)
<a href="http://atvsafety.org">atvsafety.org</a>	(ATV Safety Institute)
<a href="http://Americantrails.org">Americantrails.org</a>	(American Trails and the National Trails Training Partnership)
<a href="http://treadlightly.org">treadlightly.org</a>	(Tread Lightly)
<a href="http://sharetrails.org">sharetrails.org</a>	(Blue Ribbon Commission)
<a href="http://trailsheaven.com">trailsheaven.com</a>	(hatfield-mccoy trail in WV)
<a href="http://atvsource.com">atvsource.com</a>	(ATV commercial site)
<a href="http://atvwatch.com">atvwatch.com</a>	(ATV commercial site)
<a href="http://atvfrontier.com">atvfrontier.com</a>	(ATV commercial site)
<a href="http://Nohvcc.org">Nohvcc.org</a>	(National Off Highway Vehicle Conservation Council)
<a href="http://Sierraclub.org">Sierraclub.org</a>	(Sierra Club)
<a href="http://Eco-usa.net">Eco-usa.net</a>	(noncommercial encyclopedic site for environmental organizations)
<a href="http://Wilderness.org">Wilderness.org</a>	(Wilderness society)
<a href="http://Railstotrails.org">Railstotrails.org</a>	(Rails to Trails Conservancy)



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# STATE ALL-TERRAIN VEHICLE REQUIREMENTS

FEBRUARY 2008

State	REGISTRATION	TITLE	M/V OPERATOR'S LICENSE	MINIMUM AGE	SAFETY EDUCATION CERTIFICATE	EQUIPMENT REQUIREMENTS					ON-ROAD USE	CLASSIFIED AS	WEIGHT/WIDTH ICC LIMITS
						LIGHTING	MUFFLER	SPARK ARRESTER	HELMET/EYE PROTECTION	PASSENGER PROHIBITION			
Alabama				14DS							X	OHV	≤800lbs/≤50'/1000cc
Alaska													
Arizona													
Arkansas	*A			12D		-G	-C				Z	ATV	none/≤75"
California	*A			14EM, 18En or a	*Ein	-G	-C	*KE	-LE		Z	OHMV/ATV	≤900lbs/≤50"
Colorado	*BCE					-EG	-ICE	-CE			Z	OHV	
Connecticut	*A		*F	12E, 16Ea & n	*vE	-G	-C				Z	ATV	≤600lbs/≤50"
Delaware	*AC			12D		-G	-C				J	OHV	
Dist. of Col.													
Florida									*d	*OV	X	ORV/ATV	≤900lbs/≤50"
Georgia												ORV/ATV	≤1000lbs/≤50"+
Hawaii													
Idaho	*B						-I		*KIE		Q	ATV	<850lbs/<48"
Illinois	*BC		*F	14D		-G					Z	ATV/OHV	≤900lbs/≤50"
Indiana													
Iowa	*BE			12DE, 16aE	*IE	-G					Z (re)	ATV	<1000lbs/none/1000cc
Kansas											g	ATV	≤1000lbs/≤48"
Kentucky				12R, 16u & D					*K(d, JER)		Z	ATV	
Louisiana	*A												
Maine	*AC			10, 16D & a	*c	*u	-IC		*KI		Z	ATV	
Maryland	*BS		*PS	12S		-GS	-IS				Z	ORV	
Massachusetts	*B			10, 12S, 14D, 16½F					*K		Z	RV	
Michigan	*B			12r, 16i & D & a	*d	-G	-IC		*K	-L	Z	ORV/ATV	
Minnesota	*B			10E, 12uE, 16Ea & D	fyE	*FG	-IC		*KIE	*W	Z	ATV	<900lbs/none+
Mississippi	*A			16D			-C	-C	*KI	-L, r	X	ATV	≤1000lbs/≤50"
Montana	*A		*E								X	OHV	
Nebraska													
Nevada							*F & G				X (re)	ATV	≤900lbs/≤50"
New Hampshire	*BK		*Fa	14D & a	*q	*u	-IC				Z	OHV	≤1000lbs/≤50"
New Jersey	*AGE			x, 14E, 16uE	*ICE	-G			*K		Z	ATV	none/none/600cc
New Mexico	*A			8E, 10D & b, 18D(W)	*i	-G			*i	-i	Z	ATV/OHV	≤1000lbs/≤50"
New York	*AC			10D, 16D or a	*cD	-GC	-C		*K	-L	Z	ATV	≤1000lbs/≤70"
North Carolina				8, 12R, 16u & D, p, h	*s	-G					X	Class II OHV	none/≤50"
North Dakota	*ACE		*a	12, 16D or a	*d	-G			*KI	-L	Z	ATV	
Ohio	*A		*E	12, 16D, 12S		-G			*S	-LS	X	APV	
Oklahoma	*AY		*F			*SG			*KIE	-LE	X	ATV	≤800lbs/≤48"
Oregon	*BS			16n & aE	*dE	-G	-I	*S	*KIE		Z	ATV	≤800lbs/≤50"
Pennsylvania	*B			8E, 10RE, 16a	*o	-G	-I	*S	*K		Z	ATV	≤800lbs/≤50"+
Rhode Island	*B		*T	12S, 16SD & F, w		*F & G	-IC		*K		Z	RV/ATV	
South Carolina													
South Dakota													
Tennessee													
Texas	*BS			14D	*nE	-EG	-E	-EC	*E	-LE	Z	ATV	≤800lbs/≤50"
Utah	*BE		*eE	8E, 16a	*mE				*KI		Z	ATV/OHV	
Vermont	*AE			12D, 16FD, 18a	*i	-C	-IC	-C			Z	ATV	
Virginia				12R, 16u					*K		Z	ATV	
Washington	*Ar		*YU	13F & zD		-G			*Kz		Z	NH/ORV	
West Virginia				18a	*i	-G			*K		Q	ATV	≤800lbs/≤52"
Wisconsin	*BC			12r & D(W)	*y	*F & G	-I		*Kir		Z	ATV	≤900lbs/≤48"
Wyoming	*BS										Z	ORV	≤900lbs/≤50"

- \* Required by law or regulation
- A. By motor vehicle registration agency
- B. By recreation management agency
- C. Except in authorized events
- D. Unless supervised
- E. Applies only on public lands
- F. To cross highway
- G. For night operation only
- H. More than 1 passenger prohibited & passenger under age 18 unless operator has specified driver's license or is at least age 18 prohibited
- I. Decibel limit specified
- J. Prohibited
- K. Approved helmet
- L. Except if designed to carry passenger
- M. Unless supervised by parent or his designee and either has safety certificate or is supervised by adult with certificate
- N. Prohibited except to cross highway & by registered ATVs with 4 or more wheels & 200 cc or more
- O. ATV definition specifies single rider
- P. Must have license or learner's permit, or be accompanied by licensee or by parent
- Q. Allowed as specified in law
- R. For ATV over 70cc
- S. Applies only on specified public lands
- T. For ages 16-18 to cross highway
- U. For ATV over 50cc

- V. Two-rider ATV separately defined
- W. Additional provisions apply; law too complex to summarize completely
- X. Prohibited with specified exceptions
- Y. For ATVs purchased after date specified in law
- Z. Prohibited except to cross highway
  - a. Unless safety certificate is possessed
  - b. Unless on age-appropriate sized ATV
  - c. For ages 10-15
  - d. Under age 16
  - e. During daylight hours only
  - f. If issued to persons age 12-15, not valid for ATVs > 50cc unless training course completed on ATV > 90cc & able to reach handlebars & footpegs
  - g. Prohibited on specified highways
  - h. cc restrictions not applicable to persons born by 8/15/87 with parent or guardian who owned ATV prior to 8/15/05
  - i. For persons under age 18
  - j. For persons age 16 & over
  - k. Not required in certain cases for ATVs ≤ 90cc
  - m. Unless motor vehicle operator's license possessed
  - n. Unless supervised by adult with safety certificate
  - o. For ages 8-15

- p. Sale for use by person under age 8 prohibited; sales restrictions based on age/cc size
- q. Under age 14
- r. Except if engaged in agricultural activities
- s. For persons born on/after 1/1/80; effective 10/1/05
- t. For 3-wheel ATVs
- u. For ATVs over 90cc
- v. For all ages; under age 18 must complete safety course
- w. Sale to under age 16 prohibited
- x. Sale of ATV over 90cc for use under age 16 prohibited
- y. For persons born after date specified in law
- z. On specified lands
- #. Separate limits for Class II ATVs
- Provisions exclude ATVs engaged in farming, hunting or trapping

- CLASSIFICATION ABBREVIATIONS**
- APV - All-purpose vehicle
  - ATV - All-terrain vehicle
  - NHV - Non-highway vehicle
  - OHV - Off-highway vehicle
  - OHMV - Off-highway motor vehicle
  - ORHV - Off-highway recreation vehicle
  - ORV - Off-road vehicle
  - ORRV - Off-road recreational vehicle
  - RV - Recreation vehicle

This chart is compiled by SVIA's Government Relations Office. Please contact SVIA for additional information concerning ATVs. Although this chart represents information from the most authoritative sources available, SVIA is not responsible for accuracy or completeness. Many of the provisions summarized herein have exceptions and may require further explanation. It is necessary to refer to the actual laws and regulations for specific details.

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