

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 970 Session of 2015

INTRODUCED BY CAUSER, BAKER, CONKLIN, D. COSTA, GABLER, MILLARD,
MOUL, MURT, PEIFER, REGAN AND SABATINA, APRIL 14, 2015

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
APRIL 14, 2015

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in snowmobiles and all-terrain vehicles, further
3 providing for restricted account, for Snowmobile and ATV
4 Advisory Committee, for designation of snowmobile or ATV
5 roads, for operation on private or State property, for
6 operation by persons under age sixteen, for mufflers and
7 noise control and for enforcement personnel and procedures.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 7706(a)(1) and (2), (b) introductory
11 paragraph, (1) and (3) and (c) of Title 75 of the Pennsylvania
12 Consolidated Statutes are amended and the section is amended by
13 adding subsections to read:

14 § 7706. Restricted account.

15 (a) Deposit and use of moneys.--

16 (1) [The department] There is established a restricted
17 account with two separate funds, the ATV Management Fund and
18 the Snowmobile Management Fund. The department shall deposit
19 the following into [a] the appropriate fund of the restricted
20 account[, which is hereby established]:

1 (i) all moneys received from the registration of and
2 issuance of certificates of title for snowmobiles and
3 ATV's and from the issuance of vintage snowmobile
4 permits;

5 (ii) all revenue from the sale of any publications
6 or services relating to snowmobiles and ATV's; [and]

7 (iii) all fines, penalties, fees and costs assessed
8 and collected as a result of ATV enforcement activities
9 conducted by the department's law enforcement personnel
10 [under this chapter.] shall be deposited in the ATV
11 Management Fund;

12 (iv) all fines, penalties, fees and costs assessed
13 and collected as a result of snowmobile enforcement
14 activities conducted by the department's law enforcement
15 personnel under this chapter shall be deposited in the
16 Snowmobile Management Fund;

17 (v) all moneys existing in the restricted account at
18 the time this section becomes effective shall be divided
19 into the two funds based on the current number of active
20 snowmobile and active ATV registrations; and

21 (vi) all refunds of gas taxes generated under
22 section 9017(d.1) (relating to refunds) shall be
23 deposited in the respective funds on a proportional basis
24 of the activity that generated those taxes.

25 (2) The department shall draw moneys from the respective
26 funds in the restricted account for use in performing any
27 activities necessary to carry out the purposes of this
28 chapter, including registration and certificate of title
29 activities, training, education, enforcement activities,
30 construction and maintenance of snowmobile and ATV trails and

1 acquisition of equipment, supplies and interests in land. All
2 moneys deposited in this account shall remain in it to be
3 used as specified in this section. With the exception of
4 trails used by both snowmobiles and ATV's, under no
5 circumstances shall the department expend any moneys from any
6 fund except for the activity that generated those funds.

7 * * *

8 (b) Grant-in-aid.--The department shall, upon written
9 application and subsequent approval, grant money from the
10 appropriate fund of the restricted account:

11 (1) To municipalities [and], profit and nonprofit
12 organizations in connection with snowmobile and ATV use [on
13 lands not owned by the Commonwealth] for the following:

14 (i) Plans, specifications and engineering surveys.

15 (ii) Fees and costs related to the preparation or
16 performance of right-of-way lease agreements.

17 (iii) Land acquisition.

18 (iv) Construction, maintenance and rehabilitation of
19 trails and other facilities for snowmobiles and ATV's.

20 * * *

21 (3) To profit and nonprofit organizations for the
22 maintenance [and], rehabilitation[, but not the] and
23 construction, of snowmobile and ATV trails on land owned by
24 the Commonwealth.

25 (c) Audit of moneys.--The [restricted account shall be
26 audited every two years.] Auditor General or the Auditor
27 General's designee shall perform a fiscal and performance audit
28 of the restricted account biennially. Copies of the audit shall
29 be posted and maintained on the department's publicly accessible
30 Internet website and shall be provided to the Snowmobile and ATV

1 Advisory Committee[.], the Appropriations Committee of the
2 Senate and the Appropriations Committee of the House of
3 Representatives.

4 (d) Annual report.--An annual report on income and
5 expenditures from each fund of the restricted account shall be
6 posted and maintained on the department's publicly accessible
7 Internet website and provided to the Appropriations Committee of
8 the Senate and the Appropriations Committee of the House of
9 Representatives.

10 (e) Regulations.--No later than 60 days from effective date
11 of this subsection, the department shall promulgate regulations
12 necessary to implement the provisions of this section. The
13 department shall promulgate regulations in a manner that is
14 separate from regulations pertaining to any other grant program
15 administered by the department. The department's regulations
16 shall include a quarterly approval process.

17 Section 2. Sections 7717(a), (b), (e) and (f), 7722(c) and
18 7724(b) (2) of Title 75 are amended to read:

19 § 7717. Snowmobile and ATV Advisory Committee.

20 (a) Establishment.--There is hereby established [under the
21 jurisdiction of the department a board known as] the Snowmobile
22 and ATV Advisory Committee.

23 (b) Composition.--The committee shall consist of 17 members.
24 The members shall be as follows:

25 (1) The chairman and minority chairman of the
26 Environmental Resources and Energy Committee of the Senate.

27 (2) The chairman and minority chairman of the
28 Environmental Resources and Energy Committee of the House of
29 Representatives.

30 (3) One member [from] representing the Pennsylvania Game

1 Commission.

2 (4) One member [from] representing the Allegheny
3 National Forest.

4 (5) One member [from] representing the Pennsylvania
5 State Association of Township Supervisors.

6 (6) One member [from] representing the Pennsylvania
7 State Association of Boroughs.

8 (7) One member [from] representing the Pennsylvania
9 State Association of County Commissioners.

10 (7.1) One member representing the Department of
11 Community and Economic Development.

12 (8) [Eight] Seven members of the public representing the
13 following organizations to be appointed by the Secretary of
14 Conservation and Natural Resources:

15 (i) Two members from a list of at least six
16 representatives submitted by the Pennsylvania State
17 Snowmobile Association.

18 (ii) Two members from a list of at least six
19 representatives submitted by the Pennsylvania Off-Highway
20 Vehicle Association.

21 (iii) One member from a list of at least three
22 representatives submitted by the Pennsylvania Farm
23 Bureau.

24 [(iv) Two members from a list of at least six
25 representatives submitted by conservation or nonmotorized
26 recreation organizations.]

27 (v) One member from a list of at least three
28 representatives submitted by the Pennsylvania Association
29 of Travel [Council] and Tourism.

30 (vi) One member from a list of at least three

1 representatives submitted by the Pennsylvania Economic
2 Development Association.

3 Each member may designate an alternate to serve in his stead. A
4 member shall notify the chairman in writing of this designation.

5 * * *

6 (e) Meetings and expenses.--

7 (1) The committee shall meet at least [annually]
8 semiannually.

9 (2) A public member, including a designee, who misses
10 three consecutive meetings without good cause [acceptable to
11 the chairman] may be replaced by the Secretary of
12 Conservation and Natural Resources upon recommendation of the
13 chairman.

14 * * *

15 (f) Powers and duties.--The powers and duties of the
16 committee shall be to advise the Secretary of Conservation and
17 Natural Resources on matters concerning the implementation of
18 this chapter, including existing and proposed regulations,
19 standards, policies, guidelines and practices; use and operation
20 of snowmobiles and ATV's on public and private land;
21 acquisition, construction, development and maintenance of
22 trails; enforcement; and allocation of fees collected by the
23 department pursuant to this chapter.

24 § 7722. Designation of snowmobile and ATV roads.

25 * * *

26 (c) Liability.--There shall be no liability imposed on the
27 Department of Transportation or any other State agency or any
28 political subdivision of this Commonwealth as a result of
29 designating any highway, road or street as a snowmobile road or
30 an ATV road as provided in subsection (a). There shall be no

liability imposed upon a private or public real property owner
who makes any portion of the owner's land available for
snowmobiles or ATV's required to be registered under this
chapter. A court shall award attorney fees and direct legal
costs to a real property owner, lessee, manager or occupant, or
an easement holder, who is not liable for an injury to a person
or property due to the use of a snowmobile or ATV.

§ 7724. Operation on private or State property.

* * *

(b) State property.--

* * *

(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 or Class II ATV on a road, trail or area that is designated and marked by the department as open for ATV use or on

1 which the person has been given specific written
2 permission to operate the ATV.

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

7 Section 3. Section 7725(a) and (d) are amended and the
8 section is amended by adding subsections to read:

9 § 7725. Operation by persons under age sixteen.

10 (a) Crossing street or highway.--No person under 16 years of
11 age shall drive a snowmobile or an ATV across any highway or
12 connecting street thereto unless he is under the direct
13 supervision of a person 18 years of age or older and unless he
14 holds a valid and appropriate safety certificate from the
15 Commonwealth or a valid and approved certificate issued under
16 the authority of another state or Province of Canada. [The
17 department shall determine what certificates will be approved.]

18 * * *

19 [(d) Failure to exhibit certificate.--The failure of such a
20 youthful operator to exhibit the appropriate safety certificate,
21 upon demand, to any law enforcement officer having authority to
22 enforce the provisions of this section shall be presumptive
23 evidence that such person is not the holder of such
24 certificate.]

25 (d.1) Presentation of certificate.--Within 72 hours of
26 receiving notice of a violation of this section, a youthful
27 operator shall present the appropriate safety certificate to any
28 law enforcement officer having authority to enforce the
29 provisions of this section. It shall be an affirmative defense
30 to a prosecution for a violation of this section if the youth

1 operator complies with this subsection.

2 * * *

3 (h.1) Exemption from liability.--

4 (1) A public or private owner of real property who
5 authorizes the use of the owner's real property for the
6 purpose of an approved snowmobile or ATV information, safety
7 education and training program under subsection (c.1) or (h)
8 shall not be held civilly liable for any injury or death to a
9 person or damage to property that occurs during the course or
10 instruction or training.

11 (2) Paragraph (1) shall not apply in the case of an
12 owner's willful or malicious failure to warn against a
13 dangerous condition, use, structure or activity.

14 * * *

15 Section 4. Sections 7743 heading and (a) and 7751(d) of
16 Title 75 are amended to read:

17 § 7743. Mufflers and [noise] sound control.

18 (a) General rule.--It is unlawful to operate a snowmobile or
19 an ATV which is not equipped at all times with a muffler in good
20 working order which blends the exhaust [noise] sound into the
21 overall snowmobile or ATV [noise] sound and is in constant
22 operation to prevent excessive or unusual [noise] sound. The
23 exhaust system shall not emit or produce a sharp popping or
24 crackling sound. The sound intensity produced by a snowmobile
25 shall not exceed 82dbA when measured in accordance with SAE
26 Recommended Practice J 192 Exterior Sound Level for Snowmobiles,
27 as amended. The department may by regulation adopt more
28 stringent [noise] sound requirements for snowmobiles. The
29 department shall by regulation adopt [noise] sound requirements
30 for in-use operation of ATV's using measurement procedures in

1 accordance with ANSI/SAE Recommended Practice J 1287 [March
2 1982] July 1998, Measurement of Exhaust Level of Stationary
3 Motorcycles. The sound level intensity produced by an ATV
4 manufactured before January 1, 1998 shall not exceed 99dbA, or
5 decibels, when measured at 20 inches. The sound level intensity
6 produced by an ATV manufactured on or after January 1, 1998
7 shall not exceed 96dba, or decibels, when measured as 20 inches.

8 * * *

9 § 7751. Enforcement personnel and procedures.

10 * * *

11 (d) Rules and regulations.--The department may promulgate
12 such rules and regulations as [may] shall be deemed necessary to
13 accomplish the purposes and enforce the provisions of this
14 section including requirements for reporting by trial courts
15 having jurisdiction over snowmobile and ATV violations.

16 Section 6. This act shall take effect as follows:

17 (1) The following shall take effect immediately:

18 (i) The amendment of 75 Pa.C.S. §§ 7706, 7717 and
19 7722.

20 (ii) This section.

21 (2) The remainder of this act shall take effect in 60
22 days.