

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

AS REPORTED FROM COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 16, 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.

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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

1 account[, which is hereby established]:

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

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

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

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

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

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

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

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

8 * * *

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

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

15 (i) Plans, specifications and engineering surveys.

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

18 (iii) Land acquisition.

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

21 * * *

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

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

1 Internet website and shall be provided to the Snowmobile and ATV
2 Advisory Committee[.], the Appropriations Committee of the
3 Senate and the Appropriations Committee of the House of
4 Representatives.

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

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

18 Section 2. Sections 7717(a), (b), (e) and (f), ~~7722(e)~~ and <--
19 7724(b) (2) of Title 75 are amended to read:

20 § 7717. Snowmobile and ATV Advisory Committee.

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

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

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

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

1 (3) One member [from] representing the Pennsylvania Game
2 Commission.

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

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

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

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

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

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

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

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

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

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

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

1 (vi) One member from a list of at least three
2 representatives submitted by the Pennsylvania Economic
3 Development Association.

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

6 * * *

7 (e) Meetings and expenses.--

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

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

15 * * *

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

25 ~~§ 7722. Designation of snowmobile and ATV roads.~~

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26 ~~* * *~~

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

~~1 an ATV road as provided in subsection (a). There shall be no
2 liability imposed upon a private or public real property owner
3 who makes any portion of the owner's land available for
4 snowmobiles or ATV's required to be registered under this
5 chapter. A court shall award attorney fees and direct legal
6 costs to a real property owner, lessee, manager or occupant, or
7 an easement holder, who is not liable for an injury to a person
8 or property due to the use of a snowmobile or ATV.~~

9 § 7724. Operation on private or State property.

10 * * *

11 (b) State property.--

12 * * *

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

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

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

29 (B) A person may operate a Class I or Class II
30 ATV on a road, trail or area that is designated and

1 marked by the department as open for ATV use or on
2 which the person has been given specific written
3 permission to operate the ATV.

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

8 Section 3. Section 7725(a) and (d) are amended and the
9 section is amended by adding ~~subsections~~ A SUBSECTION to read: <--
10 § 7725. Operation by persons under age sixteen.

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

19 * * *

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

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

1 to a prosecution for a violation of this section if the youth
2 operator complies with this subsection.

3 * * *

4 ~~(h.1) Exemption from liability.~~ <--

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

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

15 ~~* * *~~

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

18 § 7743. Mufflers and [noise] sound control.

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

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

9 * * *

10 § 7751. Enforcement personnel and procedures.

11 * * *

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

17 Section 5. This act shall take effect as follows:

18 (1) The following shall take effect immediately:

19 (i) The amendment of 75 Pa.C.S. §§ 7706, 7717 and
20 7722.

21 (ii) This section.

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