**A** **BILL**

TO AMEND CHAPTER 26, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE “ALL‑TERRAIN VEHICLE SAFETY ACT”, SO AS TO RENAME THE ACT THE “ALL‑TERRAIN VEHICLE AND RECREATIONAL OFF‑HIGHWAY VEHICLE ACT”, TO PROVIDE ADDITIONAL TERMS AND THEIR DEFINITIONS, TO PROVIDE THAT THIS CHAPTER ALSO APPLIES TO RECREATIONAL OFF‑HIGHWAY VEHICLES, TO PROVIDE THAT IT IS UNLAWFUL TO REMOVE FROM A RECREATIONAL OFF‑HIGHWAY VEHICLE CERTAIN MANUFACTURER WARNING LABELS, TO PROVIDE THAT IT IS UNLAWFUL FOR A PARENT OR LEGAL GUARDIAN OF CERTAIN MINORS TO ALLOW A MINOR TO OPERATE A RECREATIONAL OFF‑HIGHWAY VEHICLE IN VIOLATION OF THE MANUFACTURER WARNING LABEL, TO PROVIDE THAT CERTAIN MINORS WHO ARE PASSENGERS IN A RECREATIONAL OFF‑HIGHWAY VEHICLE MUST WEAR EYE PROTECTION, A SAFETY HELMET, AND A SEAT BELT, TO PROVIDE THAT IT IS UNLAWFUL TO OPERATE A RECREATIONAL OFF‑HIGHWAY VEHICLE WHILE CARRYING A PASSENGER IN ITS BED OR WHILE CARRYING MORE PASSENGERS THAN RECOMMENDED BY THE VEHICLE’S OWNER’S MANUAL, AND TO EXEMPT RECREATIONAL OFF‑ROAD VEHICLES FROM AD VALOREM TAXES; TO AMEND ARTICLE 9, CHAPTER 19, TITLE 56, RELATING TO THE TITLING OF ALL‑TERRAIN VEHICLES, SO AS TO PROVIDE THAT THIS ARTICLE ALSO APPLIES TO THE OPERATION OF RECREATIONAL OFF‑HIGHWAY VEHICLES; BY ADDING ARTICLE 3 TO CHAPTER 2, TO TITLE 56 SO AS TO PROVIDE DEFINITIONS FOR THE TERMS “RECREATIONAL OFF‑HIGHWAY VEHICLE” AND “ALL‑TERRAIN VEHICLE”; AND TO AMEND SECTION 56‑1‑10, AS AMENDED, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS THAT RELATE TO MOTOR VEHICLES, SO AS TO DELETE THE TERM “ALL TERRAIN VEHICLE” OR “ATV” AND ITS DEFINITION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 26, Title 50 of the 1976 Code is amended to read:

“CHAPTER 26

All‑Terrain Vehicle and Recreational Off‑Highway Vehicle Safety Act

Section 50‑26‑10. This chapter may be cited as ‘Chandler’s Law’.

Section 50‑26‑20. All‑terrain vehicle (ATV) defined.

For the purposes of this chapter, ‘all‑terrain vehicle’ or ‘ATV’ means a motorized vehicle designed primarily for off‑road travel on low‑pressure tires which has three or more wheels and handle bars for steering, but does not include lawn tractors, battery‑powered children’s toys, or a vehicle that is required to be licensed or titled for highway use. The term ‘ATV’ includes Type I‑single passenger all‑terrain vehicles and Type II‑tandem passenger all‑terrain vehicles.

Section 50‑26‑25. For the purposes of this chapter, a ‘Recreational Off‑Highway Vehicle’ or ‘ROV’ means a motorized off‑highway vehicle designed to travel on four or more tires, intended by the manufacturer for use by one or more persons and originally manufactured with the following components and characteristics: a steering wheel for steering ; non‑straddle seating; seat belts; a rollover protective structure; maximum speed capability greater than thirty miles per hour; less than eighty inches in overall width, exclusive of accessories, engine displacement of less than one thousand cc; identification by means of a seventeen character personal identification number or vehicle identification number.

Section 50‑26‑30. (A) It is unlawful for a parent or legal guardian of a person less than six years of age to knowingly permit that person to operate an ATV or a recreational off‑highway vehicle.

(B) It is unlawful for a parent or legal guardian of a person without a motor vehicle driver’s license and less than sixteen years of age to knowingly allow that person to carry a passenger while operating an ATV.

(C) As used in this section ‘ANSI/SVIA’ means American National Standards Institute/Specialty Vehicle Institute of America, ‘ANSI/ROHVA’ means American National Standards Institute/Recreational Off‑Highway Vehicle Association, and ‘FMVSS’ means Federal Motor Vehicle Safety Standard.

(D) It is unlawful to remove from an ATV the manufacturer Age Restriction Warning Label required by ANSI/SVIA or to remove from a recreational off‑highway vehicle any manufacturer warning label required by ANSI/ROHVA.

(E) It is unlawful for a parent or legal guardian of a person less than sixteen years of age to knowingly allow that person to operate an ATV in violation of the Age Restriction Warning Label affixed by the manufacturer as required by standard ANSI/SVIA 1‑2007. It is unlawful for a parent or legal guardian of a person less than sixteen years of age to knowingly permit that person to operate a recreational off‑highway vehicle in violation of the manufacturer warning label.

(F) Effective July 1, 2011, every person fifteen years old and younger who operates an all‑terrain vehicle must possess a safety certificate indicating successful completion of ‘hands‑on’ all‑terrain vehicle safety course approved by the All‑Terrain Vehicle Safety Institute.

(G) A person fifteen years of age or younger also may not operate, ride, or otherwise be propelled on an all‑terrain vehicle within this State unless the person wears a safety helmet meeting standard FMVSS #218 and eye protection. No person fifteen years of age or younger shall be a passenger in a recreational off‑highway vehicle unless the person is wearing eye protection, wearing an approved safety helmet, and properly secured by a seat belt.

(H) A law enforcement officer enforcing the provisions of this section in regard to private lands must have probable cause, based on a plain view observation or incident to an investigation resulting from an all‑terrain or recreational off‑highway vehicle accident, to believe a violation of this section occurred before he may enter upon private land to charge a violation of this section.

Section 50‑26‑40. (A) The restrictions in this section apply to operation of all‑terrain vehicles and recreational off‑highway vehicles on those lands open to the public and are in addition to the requirements of Section 50‑26‑30.

(B) It is unlawful to operate an all‑terrain vehicle or a recreational off‑highway vehicle except in compliance with the local regulations and restrictions for all‑terrain vehicle or a recreational off‑highway vehicle operation.

(C) A person sixteen years of age or younger who operates an all‑terrain vehicle must be accompanied by an adult.

(D) It is unlawful to operate an all‑terrain vehicle or a recreational off‑highway vehicle between one‑half hour after sunset to one‑half hour before sunrise unless it is operated with headlights turned on.

(E) It is unlawful to cross any watercourse on an all‑terrain vehicle or a recreational off‑highway vehicle except at a designated ford, crossing, bridge, or if the watercourse is bisected by a trail.

(F) An all‑terrain vehicle or a recreational off‑highway vehicle must have an effective muffler system in good working condition, a USDA Forest Service approved spark arrester in good working condition, and a brake system in good operating condition.

(G) It is unlawful to operate an all‑terrain vehicle or a recreational off‑highway vehicle while under the influence of alcohol or any controlled substance.

(H) It is unlawful to operate an all‑terrain vehicle or a recreational off‑highway vehicle in a reckless manner.

(I) Nothing contained in this chapter prevents the operation of an all‑terrain vehicle or a recreational off‑highway vehicle on a beach, or between the breakers and the shoreline of the beach, if the all‑terrain vehicle is operated in a manner approved by the entity that owns or controls the area.

(J) It is unlawful to operate a recreational off‑highway vehicle while carrying a passenger in the bed of the recreational off‑highway vehicle.

(K) It is unlawful to operate a recreational off‑highway vehicle while carrying more passengers than recommended by the manufacturer in the recreational off‑highway vehicle’s owner’s manual.

Section 50‑26‑50. All‑terrain vehicles are exempt from ad valorem personal property taxes beginning with calendar year 2011. Recreational off‑highway vehicles are exempt from ad valorem property taxes beginning calendar year 2015.

Section 50‑26‑60. A person violating this chapter, unless otherwise specified, is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than two hundred dollars.

Section 50‑26‑70. This chapter does not apply to:

(1) an owner, operator, lessor, or renter of a farm or ranch, or that person’s employees, immediate family, or household members, when operating an all‑terrain vehicle or a recreational off‑highway vehicle while engaged in farming, wildlife habitat management, or ranching operations;

(2) a person using an all‑terrain vehicle or a recreational off‑highway vehicle for hunting or trapping purposes if the person otherwise is lawfully engaged in those activities; or

(3) a minor younger than sixteen years of age, but not younger than six years of age who is operating an all‑terrain vehicle under the direct visual supervision of his parent or an individual with legal custody of the minor on private property.”

SECTION 2. Article 9, Chapter 19, Title 56 of the 1976 Code is amended to read:

“Article 9

Titling of All‑Terrain and Recreational Off‑Highway Vehicles

Section 56‑19‑1010. An owner of an ATV or a recreational off‑highway vehicle may make application to the Department of Motor Vehicles for a title for the vehicle accompanied by the required fee and upon the appropriate form prescribed and furnished by the department. The application must be accompanied by a manufacturer’s certificate of origin or previous title properly assigned to the applicant.

Section 56‑19‑1020. When a person who is not a licensed ATV or a recreational off‑highway vehicle dealer receives by purchase, gift, trade, or by another means a vehicle that was titled in this State, the person who receives the vehicle may make application to the department for a title. The application must be accompanied by the required documents and fee for title. The department shall issue a certificate of title once it has received a properly completed application. An owner of an ATV or a recreational off‑highway vehicle, before the effective date of this article, who cannot provide proof of ownership, may request an affidavit from the sheriff in the county in which he resides. The affidavit shall state that the sheriff finds the person making application for the title is the legal owner of the ATV. Before issuing the affidavit, the sheriff must verify through the National Crime Information Center that the ATV or a recreational off‑highway vehicle is not stolen. The department shall issue a title application to the owner upon presentation of the affidavit, application, and fee.

Section 56‑19‑1030. The title fee for an ATV or a recreational off‑highway vehicle is contained in Section 56‑19‑420(A). For purposes of this article, an all‑terrain vehicle (ATV) is defined as provided in Section 50‑26‑20.”

SECTION 3. Chapter 2, Title 56 of the 1976 Code is amended by adding:

“Article 3

Recreational Off‑Highway Vehicles

Section 56‑2‑3100. As contained in this title:

(1) ‘Recreational Off‑Highway Vehicle’ or ‘ROV’ means a motorized off‑highway vehicle defined in Section 50‑26‑25; and

(2) ‘All‑terrain vehicle’ commonly referred to as an ‘ATV’ means a motorized vehicle defined in Section 50‑26‑20.”

SECTION 4. Section 56‑1‑10(20) of the 1976 Code, as added by Act 170 of 2005, is amended to read:

“(20) ~~‘All terrain vehicle’ or ‘ATV’ means a motor vehicle measuring fifty inches or less in width, designed to travel on three or more wheels and designed primarily for off‑road recreational use, but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.~~ Reserved”

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 7. This act takes effect upon approval by the Governor.

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