

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1833

5 By: Representatives Maddox, Vaught, Capp, Pilkington, Bentley
6

For An Act To Be Entitled

8 AN ACT CONCERNING ALL-TERRAIN VEHICLE USE ON PRIVATE
9 PROPERTY; TO ESTABLISH THE LIABILITY OF AN OWNER OF
10 PRIVATE PROPERTY; AND FOR OTHER PURPOSES.
11

Subtitle

12 CONCERNING ALL-TERRAIN VEHICLE USE ON
13 PRIVATE PROPERTY; AND TO ESTABLISH THE
14 LIABILITY OF AN OWNER OF PRIVATE
15 PROPERTY.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 27, Chapter 21, Subchapter 1, is
23 amended to add an additional section to read as follows:

24 27-21-110. Liability for all-terrain vehicle use on private property –
25 Definitions.

26 (a) As used in this section:

27 (1) "All-terrain vehicle use" means riding an all-terrain
28 vehicle on a road, trail, path, or other surface on private property;

29 (2) "Inherent risk of all-terrain vehicle use" means the dangers
30 or conditions that are an integral part of all-terrain vehicle use on roads,
31 trails, paths, or other surfaces, including without limitation:

32 (A) Injury or death caused by:

33 (i) A change or variation in the surface that may
34 cause a participant to lose control, lose his or her balance, or crash the
35 all-terrain vehicle; or

36 (ii) A collision with a natural or man-made object;



1 (B) Operator error, including equipment failure due to
2 operator error;

3 (C) Attack or injury by an animal; and

4 (D) The aggravation of an injury, illness, or condition
5 because the injury, illness, or condition occurred in a remote place where
6 medical facilities are not available;

7 (3) "Owner of private property" means an individual, group,
8 club, partnership, corporation, or business entity, whether or not operating
9 for profit, or an employee or organized agent, that sponsors, organizes,
10 rents, or provides to a participant the use of private property for all-
11 terrain vehicle use; and

12 (4) "Participant" means an individual who rents, leases, or uses
13 an all-terrain vehicle on private property whether or not a fee is paid.

14 (b)(1)(A) A participant assumes the inherent risk of all-terrain
15 vehicle use by engaging in all-terrain vehicle use on private property.

16 (B) A participant or his or her representative shall not
17 have a claim against, maintain an action against, or recover from an owner of
18 private property for loss, damage, or injury to, or the death of, the
19 participant resulting from the inherent risk of all-terrain vehicle use.

20 (2) An owner of private property is not liable for an injury to
21 or the death of a participant resulting from the inherent risk of all-terrain
22 vehicle use.

23 (c) This section does not:

24 (1) Apply to a relationship between an employer and employee
25 under the Workers' Compensation Law, § 11-9-101 et seq.; or

26 (2) Prevent or limit the liability of an owner of private
27 property that:

28 (A) Intentionally injures a participant;

29 (B) Commits an act or omission of gross negligence
30 concerning the safety of a participant that proximately causes injury to or
31 the death of the participant;

32 (C) Provides an unsafe all-terrain vehicle to a
33 participant and knew or should have known that the all-terrain vehicle was
34 unsafe to the extent that it could cause an injury;

35 (D) Fails to use the degree of care that an ordinarily
36 careful and prudent person would use under the same or similar circumstances;

1 or

2 (E) Commits other acts, errors, or omissions that
3 constitute willful or wanton misconduct, gross negligence, or criminal
4 conduct that proximately causes injury, damage, or death.

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