

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1833

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

For An Act To Be Entitled

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

Subtitle

CONCERNING ALL-TERRAIN VEHICLE USE ON PRIVATE PROPERTY; AND TO ESTABLISH THE LIABILITY OF AN OWNER OF PRIVATE PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 27, Chapter 21, Subchapter 1, is amended to add an additional section to read as follows:

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

(a) As used in this section:

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

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

(A) Injury or death caused by:

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

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



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

(C) Attack or injury by an animal; and

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

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

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

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

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

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

(c) This section does not:

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

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

(A) Intentionally injures a participant;

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

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

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

or

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

APPROVED: 4/8/19