

State of Arkansas  
91st General Assembly  
Second Extraordinary Session, 2018

# A Bill

Call Item 7  
SENATE BILL 1

By: Senators Teague, G. Stubblefield  
By: Representatives Maddox, Bentley, Capp, Pilkington, Vaught

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE DEFENSES TO PROSECUTION FOR A VIOLATION OF OPERATING AN ALL-TERRAIN VEHICLE UPON A PUBLIC STREET OR HIGHWAY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING THE DEFENSES TO PROSECUTION FOR A VIOLATION OF OPERATING AN ALL-TERRAIN VEHICLE UPON A PUBLIC STREET OR HIGHWAY; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 27-21-109 is amended to read as follows:  
27-21-109. Defenses to prosecution — ~~Definition.~~

(a) It is ~~no~~ not a defense to a prosecution under this chapter that the driver or operator possesses a valid driver's license or motorcycle operator's license.

(b) It ~~shall be~~ is a defense to prosecution under § 27-21-106 for a violation of operating an all-terrain vehicle upon ~~the public streets or highways~~ a public street or highway if the all-terrain vehicle operator can show by a preponderance of the evidence that:

- (1) The public street or highway was outside the city limits of any municipality or incorporated town in Arkansas;
- (2) The public street or highway was not an interstate highway;



(3) Traveling on the public street or highway was the most reasonable route of access available to him or her from:

(A) The One off-road trail where he or she parked the motor vehicle used to transport the all-terrain vehicle to another off-road trail; or

(B) His or her private property to an off-road trail or to a tract of land that is private property; and

(4)(A) His or her purpose for riding on the public street or highway was to get from:

~~(i) The (A) One off-road trail where he or she parked the motor vehicle used to transport the all-terrain vehicle to another off-road trail; or~~

~~(ii) (B) His or her private property to an off-road trail or to a tract of land that is private property.~~

~~(B) However, an all-terrain vehicle shall not travel more than three (3) miles on a public street or highway to get to one (1) of the destinations authorized under subdivision (b)(4)(A) of this section.~~

(c) As used in this section, "his or her private property" means real property that an operator of an all-terrain vehicle:

- (1) Owns;
- (2) Leases;
- (3) Resides at with the owner or lessee of the real property; or
- (4) Is staying at for a specific period of time as an invitee,

including without limitation a:

- (A) Vacation resort;
- (B) Rental cabin;
- (C) Deeded timeshare; or
- (D) Right-to-use timeshare.

~~(d)(1) An operator of an all-terrain vehicle shall:~~

~~(A) Carry proof when operating an all-terrain vehicle on a public street or highway of:~~

~~(i) His or her property interest in the private property; and~~

~~(ii) The location of his or her private property;~~

and

~~(B) Display upon demand of a peace officer the proof~~

~~required by subdivision (d)(1) of this section.~~

~~(2) A person operating an all-terrain vehicle with a private property owner who presents the proof required by subdivision (d)(1)(A) of this section shall have the same authority as the private property owner to operate his or her all-terrain vehicle on a public street or highway for the purposes of this section.~~

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that Arkansas offers an abundance of all-terrain vehicle parks and trails which attract nationwide all-terrain vehicle tourism to the state; that riding all-terrain vehicles is one of the fastest growing recreational uses of the state's national forests; that there are small businesses that rely heavily on the all-terrain vehicle tourism generated by the state's all-terrain vehicle parks and trails; and that the current restriction imposed by Acts 2017, No. 272, limiting the operation of an all-terrain vehicle upon a public street or highway is detrimental to the economic well-being of small businesses catering to all-terrain vehicle tourism and to the overall all-terrain vehicle tourism of the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.