

1 State of Arkansas  
2 91st General Assembly  
3 Second Extraordinary Session, 2018  
4

# A Bill

Call Item 7  
SENATE BILL 1

5 By: Senators Teague, G. Stubblefield  
6 By: Representatives Maddox, Bentley, Capp, Pilkington, Vaught  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE DEFENSES TO  
10 PROSECUTION FOR A VIOLATION OF OPERATING AN ALL-  
11 TERRAIN VEHICLE UPON A PUBLIC STREET OR HIGHWAY; TO  
12 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
13  
14

## Subtitle

15 TO AMEND THE LAW CONCERNING THE DEFENSES  
16 TO PROSECUTION FOR A VIOLATION OF  
17 OPERATING AN ALL-TERRAIN VEHICLE UPON A  
18 PUBLIC STREET OR HIGHWAY; AND TO DECLARE  
19 AN EMERGENCY.  
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code § 27-21-109 is amended to read as follows:

26 27-21-109. Defenses to prosecution — ~~Definition.~~

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

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

34 (1) The public street or highway was outside the city limits of  
35 any municipality or incorporated town in Arkansas;

36 (2) The public street or highway was not an interstate highway;



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

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

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

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

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

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

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

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

20 (1) Owns;

21 (2) Leases;

22 (3) Resides at with the owner or lessee of the real property; or

23 (4) Is staying at for a specific period of time as an invitee,  
24 including without limitation a:

25 (A) Vacation resort;

26 (B) Rental cabin;

27 (C) Deeded timeshare; or

28 (D) Right-to-use timeshare.

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

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

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

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

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

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

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

7  
8 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
9 General Assembly of the State of Arkansas that Arkansas offers an abundance  
10 of all-terrain vehicle parks and trails which attract nationwide all-terrain  
11 vehicle tourism to the state; that riding all-terrain vehicles is one of the  
12 fastest growing recreational uses of the state’s national forests; that there  
13 are small businesses that rely heavily on the all-terrain vehicle tourism  
14 generated by the state’s all-terrain vehicle parks and trails; and that the  
15 current restriction imposed by Acts 2017, No. 272, limiting the operation of  
16 an all-terrain vehicle upon a public street or highway is detrimental to the  
17 economic well-being of small businesses catering to all-terrain vehicle  
18 tourism and to the overall all-terrain vehicle tourism of the state.  
19 Therefore, an emergency is declared to exist, and this act being immediately  
20 necessary for the preservation of the public peace, health, and safety shall  
21 become effective on:

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

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

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

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30 **APPROVED: 3/19/18**