

House Bill 438

By: Representatives Gardner of the 57th, Powell of the 32nd, Jones of the 53rd, Beskin of the 54th, Waites of the 60th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 40 of the Official Code of Georgia Annotated, relating to
2 off-road vehicles, so as to restrict the operation of off-road vehicles on roadways; to provide
3 for definitions; to prohibit the operation of off-road vehicles on highways and public spaces
4 in a manner which poses a direct threat of harm to persons and property; to provide for
5 penalties; to provide for civil forfeiture of off-road vehicles deemed to be contraband; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Chapter 7 of Title 40 of the Official Code of Georgia Annotated, relating to off-road
10 vehicles, is amended by revising Code Section 40-7-3, relating to the definition of "off-road
11 vehicle," as follows:

12 "40-7-3.

13 As used in this chapter, the term:

14 (1) ~~'off-road~~ Off-road vehicle' means any motorized vehicle designed for or capable of
15 cross-country travel on or immediately over land, water, snow, ice, marsh, swampland,
16 or other natural terrain and not intended for use predominantly on public roads. The term
17 includes, but is not limited to, all-terrain vehicles, four-wheel drive vehicles, low-pressure
18 tire vehicles, two-wheel vehicles, nonhighway tire vehicles, amphibious machines,
19 ground effect or air cushion vehicles, and any other means of transportation deriving
20 power from any source other than muscle or wind. The term shall exclude any
21 motorboat; any military, fire, law enforcement, or other government vehicle being used
22 for official purposes; any vehicles used exclusively on airports; all farm machinery, farm
23 tractors, and other vehicles used exclusively for agricultural purposes; any self-propelled
24 equipment for harvesting and transportation of forest products, for clearing land for
25 planting, for utility services and maintenance, for earth moving, construction, or mining;

26 and self-propelled lawnmowers, snowblowers, garden or lawn tractors, or golf carts,
27 while such vehicles are being used exclusively for their designed purposes.

28 (2) 'Public space' means an area open to the public, whether privately or publicly owned.
29 Such term includes private parking areas which are customarily open to the public."

30 SECTION 2.

31 Said chapter is further amended by revising Code Section 40-7-4, relating to operating
32 restrictions and definition of "perennial stream," as follows:

33 "40-7-4.

34 Any person operating an off-road vehicle under any of the following conditions shall be
35 deemed to be in violation of this chapter and subject to the penalties provided in Code
36 Section 40-7-6:

37 (1) Without operative brakes or without mufflers or other silencing equipment;

38 (2) On any private property without the express written permission of the owner of the
39 property or his or her agent; or

40 (3) Within any perennial stream, except when directly crossing such stream. As used in
41 this paragraph, the term 'perennial stream' means a stream:

42 (A) That under normal circumstances has water flowing year round;

43 (B) That has the channel located below the ground-water table most of the year;

44 (C) For which ground water is the primary source of water; and

45 (D) For which runoff from rainfall is a supplemental source of water flow; or

46 (4) On a roadway, except when such operation is permitted pursuant to Part 1A of
47 Article 13 of Chapter 6 of this title or through a local ordinance adopted pursuant to Code
48 Section 40-7-5."

49 SECTION 3.

50 Said chapter is further amended by adding a new Code section to read as follows:

51 "40-7-5.1.

52 No person shall drive an off-road vehicle on a highway or in a public space in a manner
53 which poses a direct threat of harm to persons or property. This Code section shall not
54 apply to any area where such vehicles are expressly permitted by the property owner and
55 in compliance with any applicable local ordinance."

56 SECTION 4.

57 Said chapter is further amended by revising Code Section 40-7-6, relating to enforcement and
58 penalties, as follows:

59 "40-7-6.

60 ~~All peace officers shall enforce the provisions of this chapter. Any person who violates~~
61 ~~any provision of this chapter shall not thereby be guilty of a criminal act but shall be~~
62 ~~subject to a civil penalty of not less than \$25.00.~~

63 (a) Any person who operates an off-road vehicle in violation of Code Section 40-7-4 shall
64 not be guilty of a criminal offense or a moving violation for purposes of Code Section
65 40-5-57 but shall be subject to a civil penalty not to exceed \$100.00.

66 (b) Any person who operates an off-road vehicle in violation of Code Section 40-7-5.1
67 shall be guilty of a misdemeanor. Any off-road vehicle utilized during the commission of
68 such violation shall be declared to be contraband and shall be subject to forfeiture
69 according to the terms, provisions, conditions, and procedures set out in Chapter 16 of Title
70 9."

71 **SECTION 5.**

72 All laws and parts of laws in conflict with this Act are repealed.