

The following are the proposed changes set forth in **SB143** and **SB157** inserted within the context of the existing RSA 215-A statute. Other proposed legislation which has not yet been drafted into bill form is not included in the following.

Black is the exact text from existing statutes.

Red indicates proposed changes.

Blue indicates ATV Watch comments.

TITLE XVIII FISH AND GAME

CHAPTER 215-A OFF HIGHWAY RECREATIONAL VEHICLES AND TRAILS

Section 215-A:1

215-A:1 Definitions. – As used in this chapter unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

I. "Accompanied by," or "accompany" means when a person is within sight and when actual physical direction and control can be effected.

I-a. [Repealed.]

I-b. "All terrain vehicle (ATV)" means any motor-driven vehicle which is designed or adapted for travel over surfaces other than maintained roads with one or more tires designed to hold not more than 10 pounds per square inch of air pressure, having capacity for passengers or other payloads, not to exceed 1,000 pounds net vehicle weight, and not to exceed 50 inches in width. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

I-c. "Antique all terrain vehicle" means any all terrain vehicle manufactured prior to the year 1969 or 25 or more years old owned by a resident of the state. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

I-d. "Antique trail bike" means any trail bike manufactured prior to the year 1969 or 25 or more years old owned by a resident of the state. For the purposes of this chapter, all

vehicles within this definition shall be classified as off highway recreational vehicles.

II. "Bureau" means the bureau of trails in the department of resources and economic development.

III. [Repealed.]

III-a. "Dealer" means a person in the OHRV or snowmobile business who sells OHRVs to the general public, or demonstrates for sale vehicles on consignment to the general public. There shall be a rebuttable presumption that any person who sells or who acts as an agent of a seller for 5 or more vehicles at retail to the general public in a consecutive 12-month period is a retail vehicle dealer. For the purpose of this definition, this shall include retail OHRV dealers and wholesale OHRV dealers.

IV. "Executive director" means the executive director of the fish and game department.

V. "OHRV" means off highway recreational vehicle.

V-a. "OHRV club" means an organized, dues-paying group of OHRV users with bylaws, registered with the secretary of state as a nonprofit organization.

V-b. "Snowmobile or OHRV training program," "snowmobile or OHRV safety training course," or "snowmobile or OHRV safety education program" means a course of instruction approved or recognized by the department of fish and game as appropriate for a certain type or types of OHRVs, that sufficiently covers proper operation, safety, laws and regulations, penalties, equipment maintenance, and other related matters pertaining to such type or types of OHRVs. At the discretion of the executive director, education or training programs for snowmobiles and OHRVs may be combined.

V-c. "Other OHRV" means an OHRV that is not a trail bike.

VI. "Off highway recreational vehicle" means any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, tracks, or cushion of air and dependent on the ground or surface for travel, or other unimproved terrain whether covered by ice or snow or not, where the operator sits in or on the vehicle. All legally registered motorized vehicles when used for off highway recreational purposes shall fall within the meaning of this definition; provided that, when said motor vehicle is being used for transportation purposes only, it shall be deemed that said motor vehicle is not being used for recreational purposes. For purposes of this chapter "off highway recreational vehicle" shall be abbreviated as OHRV. OHRVs shall not include snowmobiles as defined in RSA 215-C.

VI-a. "OHRV trails maintenance vehicle" means any mechanically-propelled vehicle used to maintain OHRV trails or cross country ski trails, classified by the chief of the bureau of trails. When said vehicle is registered as an OHRV trails maintenance vehicle, it shall not be used for recreational purposes. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

VII. "Operate", in all its moods and tenses, when it refers to an OHRV, means to use that vehicle in any manner for transportation.

VIII. "Operator" means a person riding on or in, and who is in actual physical control of, an OHRV or snowmobile.

IX. "Owner" means any person, other than a lienholder, having title to an OHRV.

X. "Public way" means any public highway, street, sidewalk, avenue, alley, park or parkway, or any way that is funded by state, city, town, county, or the federal government, or laid out by statute, or any parking lots open for use by the public or

vehicular traffic, or any frozen surface of a public body of water; provided, however, the off highway portion of any trail established specifically for OHRVs shall not be a public way.

XI. "Public water" means any public body of water as defined by RSA 271:20 which has been frozen over and is sufficient to hold any person or vehicle, whatsoever. Such public waters shall be deemed a public way and any violation shall be treated as if it took place on land.

XI-a. "Rental agent" means a person licensed under RSA 215-A:26 or RSA 215-C:45 accepting money or other valuable consideration for the temporary use of OHRVs, provided to members of the general public.

XII. "Resident" means a resident of the state as defined in RSA 21:6, except that no person shall be deemed to be a resident who claims residence in any other state for any purpose.

XIII. "Snowmobile" means any vehicle propelled by mechanical power that is designed to travel over ice or snow supported in part by skis, tracks, or cleats. Only vehicles that are no more than 54 inches in width and no more than 1200 pounds in weight shall be considered snowmobiles under this chapter. Snowmobiles shall not include OHRVs.

XIV. "Trail bike" means any motor-driven wheeled vehicle on which there is a saddle or seat for the operator or passenger or both and which is designed or adapted for travel over surfaces other than maintained roads, whether covered by ice or snow or not. For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

XV. "Registered for Highway Use" means any OHRV as defined in RSA 215-A:1, VI or trail bike as defined in RSA 215-A:1, XIV which is registered for use on the highways of the state under the provisions of RSA 261. Said registered vehicles shall comply with the provisions of RSA 215-A:35-39.

XVI. "Traveled portion" means all areas of a public highway between the plowed snowbanks.

XVII. "Trail connector" means that specific portion of an OHRV trail or cross country ski trail on which an OHRV trail maintenance vehicle may operate authorized within a state highway right-of-way by the department of transportation.

XVIII. [Repealed.]

XIX. "Youth model all terrain vehicle" means an all terrain vehicle that is equipped with an internal combustion engine with a maximum piston displacement of 95 cubic centimeters.

XX. "Youth model trail bike" means a trail bike that is equipped with an internal combustion engine with a maximum piston displacement of 95 cubic centimeters.

Source. 1981, 538:3. 1983, 449:1. 1985, 137:1; 261:1, 2. 1986, 152:2-6. 1989, 179:1. 1993, 53:3, eff. June 15, 1993. 1997, 268:2, eff. July 1, 1997. 2000, 85:1, eff. July 1, 2000; 108:1, 2, eff. July 1, 2000. 2001, 226:1, 2, eff. July 1, 2001. 2002, 233:1, 25, eff. July 1, 2002. 2003, 112:7, eff. Aug. 5, 2003; 120:1, 2, eff. July 1, 2003; 295:1, 14, eff. July 1, 2003. 2004, 174:1, eff. July 24, 2004. 2005, 210:12, 64, I-III, eff. July 1, 2006. 2006, 14:2, eff. July 1, 2006.

Section 215-A:2

215-A:2 Bureau of Trails. – There shall be established in the division of parks and recreation of the department of resources and economic development a bureau of trails. The chief supervisor of the bureau shall report directly to the director of the division of parks and recreation.

Source. 1981, 538:3. 1983, 449:2. 1993, 53:4, eff. June 15, 1993.

Section 215-A:3

215-A:3 Bureau Responsibilities. –

I. The bureau shall have the responsibility to provide coordination between the department of resources and economic development, division of forests and lands, the fish and game department, and the department of transportation, with respect to matters pertaining to OHRVs and snowmobiles.

II. In addition, this bureau shall administer the funds provided the department of resources and economic development for the OHRV and snowmobile program; act as liaison between landowners and OHRV and snowmobile users; work with organized clubs in the support of the OHRV and snowmobile sport; supervise the production of publications produced by the department of resources and economic development relating to regulations and information on trails; maintain up-to-date information and data relative to new OHRV machinery, equipment, national standards and safety; and assist where required in any training programs that may be established.

III. The bureau shall be further responsible for coordinating efforts in obtaining easements and rights-of-way, in establishing trails and trail facilities, and any other similarly related tasks that may be required as a responsibility of the department of resources and economic development in relation to OHRVs and snowmobiles. The bureau may with governor and council approval acquire by purchase, gift or devise any land for OHRV and snowmobile trails or facilities.

IV. The bureau shall also have the responsibility to make or participate in a continuing study on the effects of OHRV and snowmobile operations on erosion and other damage to the environment. If other state agencies are involved in an overall study of this nature, the bureau shall cooperate with such agencies, and maintain a record of all findings that pertain to OHRVs and snowmobiles.

IV-a. The bureau shall also have the following duties:

- (a) Provide the planning, development, and maintenance of the state trail system.
- (b) Promote the proper use of trails throughout the state, and protect their integrity for future generations.
- (c) Encourage the use of trails for educational purposes through the use of signs, published material and trail adoption programs.
- (d) Coordinate the development of the New Hampshire Heritage Trail designated in RSA 216-A:11.
- (e) Administer the New Hampshire conservation corps established in RSA 216-A:7.
- (f) Obtain and administer any federal funds appropriated for the purposes of this chapter.

(g) Assist communities with their trail programs.

(h) Support research and information gathering activities on the economic benefits of trails and improved environmental design of trails.

(i) Coordinate the efforts of motorized and non-motorized trail interests in the state.

(j) Maintain a list of recognized OHRV clubs.

V. The chief supervisor of the bureau may make recommendations concerning RSA 215-A:3-a and such rules as the chief supervisor feels may be necessary for the use and control of OHRV trails, facilities, and lands under bureau control or lease to the commissioner of the department of resources and economic development. The commissioner may adopt such recommendations as rules as provided in RSA 215-A:3-a. A person who fails to observe rules adopted under RSA 215-A:3-a shall be subject to the same penalties provided for in other sections of this chapter.

VI. The supervisor of the bureau shall receive all written requests from persons applying for permission to establish a highway trail crossing or trail connector on any class I, class II or class III highway for any OHRV trail or cross country ski trail on which an OHRV trail maintenance vehicle may operate. The requests shall be submitted by the supervisor to the commissioner of the department of transportation or the commissioner's representative for the department's approval or disapproval. If approval is granted, the commissioner of the department of transportation may post the area with appropriate signs designating the location of the trail crossing or trail connector and providing signs for both sides of the highway at an appropriate distance from the crossing or trail connector to warn the motoring public of said crossing or trail connector.

VII. The state treasurer shall keep all money appropriated to the department of resources and economic development for the bureau from the registration of off highway recreational vehicles in a special fund to be known as the OHRV and snowmobile fund. At the close of each fiscal year any unexpended balance shall be carried forward and added to the appropriation for the subsequent year.

VIII. The bureau may make application to the commissioner of transportation for a permit in writing to allow OHRVs to operate on or across certain bridges of class I, II and III highways when such operation is necessary for gaining access to established trails or to events being developed or held in conjunction with established OHRV club activities. The commissioner of transportation may issue or deny such permits. A permit shall specify the type of OHRVs to be allowed, the permitted dates and hours of operation, and shall require the bureau to erect and maintain all signs required under the terms of the permit. Any person operating an OHRV on or across a bridge under this paragraph shall do so at his or her own risk. Said person shall keep to the extreme right side of the bridge and shall yield to all oncoming vehicular traffic.

IX. The commissioner of the department of resources and economic development and the executive director of the department of fish and game shall each submit an annual report to the chairpersons of the fish and game committee, the resource, recreation and development committee, the transportation committee, the ways and means committee, and any other appropriate committee of the house of representatives, the chairpersons of the wildlife and recreation committee, the ways and means committee, and any other appropriate committee of the senate, and the state library which details their agencies' activities relating to OHRV and snowmobile programs during the previous year. Such report shall include, but not be limited to, as applicable to each agency's responsibility,

registration revenues received by type of vehicle, an accounting of all existing OHRV-related funds, accounts, and subaccounts, disbursements made from each fund, account, or subaccount by type of vehicle, where applicable, and use of disbursed funds, condition of trails by type of vehicle use, results of the continuing study on environmental damage by type of vehicle under RSA 215-A:3, IV, and state and contracted or otherwise known local enforcement actions taken by type of vehicle. Each report shall be submitted on or before January 15 of each year and shall be made available to the public in a manner deemed appropriate by each reporting agency.

X. [Repealed.]

Source. 1981, 538:3. 1983, 422:12; 449:3. 1985, 402:6, I(b)(1). 1986, 152:7. 1987, 292:3, 5. 1989, 179:2. 1990, 186:1. 1993, 53:5. 1995, 9:29, 30, eff. June 11, 1995. 1997, 268:3, eff. July 1, 1997. 2002, 233:2-5, 28, eff. July 1, 2002. 2003, 120:3, eff. July 1, 2003. 2005, 210:13, eff. July 1, 2006.

Section 215-A:3-a

215-A:3-a Rulemaking. – The commissioner of the department of resources and economic development, as a member of the bureau of trails, shall adopt rules under RSA 541-A relative to:

I. [Repealed.]

II. The use and control of OHRV trails, facilities, and lands under bureau control or lease; and

III. Complete and specific procedures relative to the distribution of and requirements for obtaining funds from the grant-in-aid program established under RSA 215-A:23, VI.

Source. 1983, 422:11. 1987, 292:4. 1993, 53:6. 1995, 308:2, 127, IX, eff. July 1, 1995. 1997, 268:4, eff. July 1, 1997.

Section 215-A:4

215-A:4 Frozen Surface of a Public Body of Water. – The use of any frozen surface of any public body of water by the owner or operator of any OHRV, shall be done at their own risk; and any accident resulting shall not be a legal responsibility of any town, city, or the state. The executive director may, in the interest of public safety, close temporarily to any motorized vehicle all or any part of any frozen surface of a public body of water, for use by the public, except for fishing on foot.

Source. 1981, 538:3, eff. June 30, 1981.

Section 215-A:4-a

215-A:4-a Night Speed Limit for OHRVs on Frozen Surface of Back Lake. – No person shall operate any OHRV in excess of 35 miles per hour during night hours, on the frozen surface of Back Lake in the town of Pittsburg. As used in this section, "night

hours" means the hours between 1/2 hour after sunset and 1/2 hour before sunrise. Any person who violates this section shall be guilty of a violation.

Source. 1997, 71:1, eff. July 20, 1997.

Section 215-A:5

215-A:5 Limitation on Use of Lake or Pond Used by Ice Fishermen. – No person shall operate an OHRV upon any lake or pond being used by ice fishermen closer than 150 feet to any occupied so-called bob-house, fishing shanty or fishing hole, unless done at a speed in conformity with RSA 215-A:6, III. The provisions of this section shall not apply to any person engaged in emergency rescue operations or public service of any description.

Source. 1981, 538:3. 1983, 449:4. 1990, 186:2, eff. Oct. 1, 1990.

Section 215-A:5-a

215-A:5-a Vehicles on Sand Dunes Prohibited. – The provisions of RSA 482-A:3, VIII and IX shall apply, relative to the operation of mechanized or off highway recreational vehicles.

Source. 1989, 339:21. 1990, 83:4, eff. April 10, 1990.

Section 215-A:5-b

215-A:5-b Operation on Open Water Prohibited. – [Repealed 2005, 210:64, IV, eff. July 1, 2006.]

Section 215-A:5-c

215-A:5-c Inherent Dangers of OHRV Operation. – It is recognized that OHRV operation may be hazardous. Therefore, each person who drives or rides an OHRV accepts, as a matter of law, the dangers inherent in the sport, and shall not maintain an action against an owner, occupant, or lessee of land for any injuries which result from such inherent risks, dangers, or hazards. The categories of such risks, hazards, or dangers which the OHRV user assumes as a matter of law include, but are not limited to, the following: variations in terrain, trails, paths, or roads, surface or subsurface snow or ice conditions, bare spots, rocks, trees, stumps, and other forms of forest growth or debris, structures on the land, equipment not in use, pole lines, fences, and collisions with other operators or persons.

Source. 2005, 172:1, eff. Jan. 1, 2006.

Section 215-A:6

215-A:6 Operation of All OHRVs. –

I. It is unlawful to operate any OHRV during the period from 1/2 hour after sunset to 1/2 hour before sunrise without displaying at least one lighted headlight and one lighted taillight.

I-a. [Repealed.]

II. No person shall operate an OHRV upon any portion of the right of way of any public way including the traveled portion of a maintained public way except as provided in this chapter.

III. (a) No person shall operate an OHRV at a speed greater than is reasonable and prudent under the existing conditions and without regard for actual and potential hazards. In all cases speed shall be controlled so that the operator will be able to avoid colliding with any person, vehicle, or object.

(b) Where no hazards exist which would require a lower speed to comply with subparagraph (a), the speed of any OHRV in excess of the limit specified in this section shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

(1) 10 miles per hour within 150 feet of any so-called bob-house, fishing shanty or occupied fishing hole of another.

(2) 10 miles per hour on class I through VI highways when the OHRV is being operated within the rights-of-way adjacent to such highways; town or city sidewalks; class IV, V, and VI highways approved for OHRV operation; and bridges open for OHRV operation.

(3) 10 miles per hour at trail junctions or parking lots, or when passing trail grooming equipment.

(4) 15 miles per hour on plowed roads on department of resources and economic development property open to OHRV operation.

(5) 35 miles per hour on all trail connectors.

(6) 45 miles per hour when operating an OHRV or snowmobile on any approved OHRV trail.

(c) The prima facie speed limits set forth in subparagraph (b) may be altered for a specific hazard.

(d) The driver of every OHRV shall, consistent with the requirements of subparagraph (a), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding trail, and when a special hazard exists with respect to pedestrians or other traffic by reason of weather or trail conditions.

IV. It is unlawful to operate any OHRV so as to endanger any person or damage any property.

V. When meeting, the operators of OHRVs or snowmobiles shall reasonably turn to the right and reduce speed to avoid collision.

VI. No person shall operate an OHRV within the limits of any railroad right of way where the rails are still intact unless otherwise posted, except in any emergency pursuant to the provisions of RSA 215-A:9, VII; provided, however, an OHRV may be driven upon the right of way of any railroad for a crossing of the tracks at their intersection with an authorized trail, road or highway where an OHRV is not otherwise prohibited. Any

person violating the provisions of this paragraph shall be guilty of a violation for the first offense and shall be guilty of a misdemeanor for any subsequent offense.

VII. No person shall operate an OHRV upon any airport runway or landing field, or within cemeteries, except in an emergency pursuant to the provisions of RSA 215-A:9, VII. Any person violating the provisions of this paragraph shall be guilty of a violation for the first offense and shall be guilty of a misdemeanor for any subsequent offense.

VIII. No person shall operate an OHRV on the right of way of any public way classified as a class I highway and designated as an interstate highway, toll road or limited access highway.

IX. Pursuant to RSA 215-A:15, city or town councils and boards of selectmen may authorize the use of sidewalks and class IV, class V or class VI highways and bridges, or portions thereof, for use by OHRVs. The operation of OHRVs may also be allowed on sidewalks adjacent to class I, II, III, or III-a highways pursuant to RSA 236:56, II(e). Operators of OHRVs using said roads, or portions thereof, shall keep to the extreme right and shall yield to all conventional motor vehicle traffic. The bureau, or its designee, shall so post such highways where authorized. Following a duly noticed public hearing, except in the case of an emergency closure, such city or town authorities may change the allowable usage of a class IV, class V, or class VI highway by OHRVs by giving notification to the supervisor of the bureau and removing any signs that no longer apply.

X. A person may operate an OHRV across any public way where the operation of said OHRV is not otherwise prohibited by law, but said person shall comply with the following provisions:

(a) The crossing shall be made at an angle of approximately 90 degrees to the direction of the public way and at a place where no obstruction prevents a quick and safe crossing; and

(b) The operator shall bring the OHRV to a complete stop before crossing the shoulder or, if none, the public way, before proceeding; and

(c) The operator shall yield the right of way to all motor vehicle traffic on such public way which constitutes an immediate hazard to such crossing; and

(d) The operator shall possess a valid motor vehicle driver's license or shall have successfully completed the approved snowmobile or OHRV safety training course.

XI. [Repealed.]

Source. 1981, 538:3. 1983, 449:5. 1988, 264:1, 2. 1990, 186:3, 4, eff. Oct. 1, 1990; 256:2, eff. June 27, 1990. 1996, 63:2, eff. July 1, 1996; 78:1, eff. July 12, 1996. 2004, 47:1, eff. July 2, 2004. 2005, 210:14-16, eff. July 1, 2006.

Section 215-A:7

215-A:7 Operation of Snow Traveling Vehicles. – [Repealed 2005, 210:64, V, eff. July 1, 2006.]

Section 215-A:8

215-A:8 Operation Permitted; Right-of-Ways. – Notwithstanding any other provision of law, an OHRV may be operated within the right-of-way of a public way

across a bridge when operated in accordance with a permit issued by the commissioner of transportation pursuant to RSA 215-A:3, VIII.

Source. 1981, 538:3, eff. June 30, 1981. 2004, 257:33, eff. June 15, 2004.

Section 215-A:9

215-A:9 Limitations of OHRV Operation on Class I, II, and III Highways. – The provisions of RSA 236:56 shall apply to all OHRVs as herein defined with the following exceptions:

I. Highway crossings for established OHRV trails may be granted pursuant to RSA 215-A:3, VI.

II. No direct crossing of interstate highways or toll roads shall be permitted.

III. No direct crossings of limited access highways, except those highways designated as controlled access highways by the commissioner of the department of transportation shall be permitted.

IV. Pursuant to RSA 215-A:3, VI the commissioner of the department of transportation may issue written permission to the supervisor of the bureau to establish OHRV trail crossings either under or over interstate, toll or limited access highways.

V. The policy governing any OHRV trail connector or trail crossing within class I, II, and III highway rights-of-way shall be as determined by the commissioner of the department of transportation.

VI. [Repealed.]

VII. When travel by conventional motor vehicles is not possible during a period of emergency declared by the appropriate authority having jurisdiction, an OHRV may be operated on any portion of an interstate highway, toll road, limited access highway, public highway or any other restricted area, provided that the operator of said vehicle has received the specific authority of an officer authorized to enforce the provisions of this chapter to so operate.

VIII. [Repealed.]

Source. 1981, 538:3. 1986, 152:8. 1988, 264:3. 1989, 179:3, 4. 1990, 133:6, eff. June 18, 1990; 186:5, eff. Oct. 1, 1990. 2004, 250:9, eff. Jan. 1, 2005.

Section 215-A:10

215-A:10 Limitations of OHRV Operation on Class I, II, III and III-A Highways.

I. A person shall not operate an OHRV on the traveled portions or the plowed snowbanks adjacent to class I, class II, class III, or class III-a highways.

II. Notwithstanding any provisions of the law to the contrary, a person may operate an OHRV on a class I, class II, class III, or class III-a highway that is not maintained for winter use by conventional motor vehicles; provided, however, that if a class I, class II, class III, or class III-a highway is not maintained for winter use by conventional motor vehicles and said highway is opened for an OHRV trail, said highway shall be so posted and conventional motor vehicle traffic prohibited. The commissioner of the department of

transportation upon notification to the supervisor of the bureau may open at any time a class I, class II, or class III highway which has been closed for conventional motor vehicle use.

III. [Repealed.]

Source. 1981, 538:3. 1986, 152:9. 1989, 179:5, 9. 1990, 133:4. 1992, 265:13, eff. July 1, 1992. 1996, 78:2, eff. July 12, 1996. 2005, 210:64, VI, eff. July 1, 2006.

Section 215-A:11

[RSA 215-A:11 repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11 Operating an OHRV While Intoxicated or Under Influence of Drugs. –

I. No person shall drive, operate or attempt to operate an OHRV:

- (a) While he is under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drugs; or
- (b) While the person has an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more.
- (c) [Repealed.]

II. A person shall be guilty of aggravated driving while intoxicated if such person drives, operates, or attempts to operate an OHRV:

- (a) While under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor and controlled drug and, at the time alleged:
 - (1) Causes an OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;
 - (2) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning the OHRV while being pursued; or
 - (3) Carries as a passenger a person under the age of 16;
- (b) While having an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more and, at the time alleged:
 - (1) Causes an OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;
 - (2) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps while still in motion, or abandoning the OHRV while being pursued; or
 - (3) Carries as a passenger a person under the age of 16;
- (c) While having an alcohol concentration of 0.16 or more.

III. Upon complaint, information, indictment or trial of any person charged with a violation of this section, the court may admit evidence obtained under RSA 215-A:11-a of the amount of drugs in the defendant's blood or the defendant's alcohol concentration as defined in RSA 259:3-b at the time alleged, as shown by chemical, infrared molecular absorption or gas chromatograph test or tests of his breath, urine or blood.

IV. (a) Any person who is convicted of a violation of paragraph I shall be subject to the same penalties as a person convicted of a violation of RSA 265:82 as specified in RSA 265:82-b.

(b) Any person who is convicted of a violation of paragraph II shall be subject to the same penalties as a person convicted of a violation of RSA 265:82-a as specified in RSA 265:82-b.

Source. 1981, 538:3. 1986, 152:10. 1989, 353:4. 1990, 60:1. 1992, 257:11. 1993, 48:2, 3, eff. Jan. 1, 1994. 1996, 52:1, I, eff. July 1, 1996; 130:1, eff. Jan. 1, 1997. 1997, 121:1, eff. Jan. 1, 1998. 2004, 109:1, eff. Jan. 1, 2005.

Section 215-A:11-a

[RSA 215-A:11-a repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-a Implied Consent of Operator of OHRV to Submit to Testing to Determine Alcohol Concentration. –

Any person who drives, operates or attempts to operate an OHRV in this state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether the person is under the influence of intoxicating liquor or controlled drugs, and to a chemical, infrared molecular absorption or gas chromatograph test or tests of any or all of any combination of the following: blood, urine, or breath for the purpose of determining the controlled drug content of the person's blood or alcohol concentration if arrested for any offense arising out of acts alleged to have been committed while the person was driving, operating, attempting to operate or in actual physical control of an OHRV while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more. The test or tests shall be administered at the direction of a peace officer having reasonable grounds to believe the person to have been driving, operating, attempting to operate or in actual physical control of an OHRV in this state while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more. A copy of the report of any such test shall be furnished by the law enforcement agency to the person tested within 48 hours of receipt of the report by the agency by certified mail directed to the address shown on such person's license or other identification furnished by the person. Results of a test of the breath shall be furnished immediately in writing to the person tested by the law enforcement officer conducting the test.

Source. 1986, 152:11. 1989, 353:5. 1992, 257:12. 1993, 48:4, eff. Jan. 1, 1994. 1997, 121:2, eff. Jan. 1, 1998.

Section 215-A:11-b

[RSA 215-A:11-b repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-b Refusal of Consent. –

I. If a person under arrest for any violation or misdemeanor under RSA 215-A refuses, upon request of a law enforcement officer to submit to physical test or to a test of blood,

urine or breath designated by the officer as provided in RSA 215-A:11-a, none shall be given, but such person shall be subject to the same penalties described in RSA 265:92.

II. [Repealed.]

Source. 1986, 152:11. 1992, 257:13. 1993, 48:2, 3, 5; 273:1. 1995, 2:1, 3, eff. Jan. 1, 1996.

Section 215-A:11-c

[RSA 215-A:11-c repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-c Evidence. –

Upon complaint, information, indictment or trial of any person charged with a violation of the provisions of RSA 215-A relative to the operation of off highway recreational vehicles by a person under the influence of intoxicating liquor or a controlled drug, the court may admit evidence in the same manner as permitted by RSA 265:89.

Source. 1986, 152:11. 1989, 353:6. 1992, 257:14, eff. Jan. 1, 1993.

Section 215-A:11-d

[RSA 215-A:11-d repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-d Administration of Blood Alcohol Content Tests. –

Alcohol concentration tests performed as authorized in this section shall be conducted pursuant to the requirements of RSA 265:85.

Source. 1986, 152:11. 1989, 353:7. 1992, 257:15, eff. Jan. 1, 1993.

Section 215-A:11-e

[RSA 215-A:11-e repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-e Additional Tests. –

The provisions of RSA 265:86 shall apply to any person to whom RSA 215-A:11-a is applicable.

Source. 1986, 152:11. 1989, 392:4. 1992, 257:16, eff. Jan. 1, 1993.

Section 215-A:11-f

[RSA 215-A:11-f repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-f Effect of Evidence of Test for Alcohol Concentration. –

The provisions of RSA 215-A:11-RSA 215-A:11-p shall not limit the introduction of any other competent evidence bearing on the question of whether a person charged with

the violation of RSA 215-A:11 was under the influence of intoxicating liquor or controlled drugs.

Source. 1986, 152:11. 1989, 353:8. 1992, 257:17, eff. Jan. 1, 1993.

Section 215-A:11-g

[RSA 215-A:11-g repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-g Evidence of Refusal to Take Test for Alcohol Concentration. –

If a person refuses to submit to a test as provided in RSA 215-A:11-a, such refusal may be admissible into evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by that person while operating or attempting to operate an OHRV while under the influence of intoxicating liquor or any controlled drug or any combination of intoxicating liquor or controlled drug.

Source. 1986, 152:11. 1989, 353:8. 1992, 257:18, eff. Jan. 1, 1993.

Section 215-A:11-h

[RSA 215-A:11-h repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-h Official Record of Tests. –

The provisions of RSA 265:90 shall govern the official record of tests conducted pursuant to this chapter.

Source. 1986, 152:11. 1989, 353:9, 30. 1992, 257:19, eff. Jan. 1, 1993.

Section 215-A:11-i

[RSA 215-A:11-i repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-i Preliminary Breath Tests. –

I. Any law enforcement officer, who has been certified by the police standards and training council according to standards for such certification contained in rules adopted by said council pursuant to RSA 541-A, having reasonable grounds to believe that a person has been driving or operating an OHRV while under the influence of intoxicating liquor or controlled drug, or while the person's alcohol concentration was 0.08 or more, or in the case of a person under the age of 21, 0.02 or more may, without making an arrest, request that such person submit to a preliminary breath test for alcohol concentration to be administered by the officer. The results of any test administered under this section may be introduced into evidence in a court for any relevant purpose. Failure to submit to the test shall not constitute a violation of this chapter. Evidence of failure to submit to a preliminary breath test shall not be admissible in court in any prosecution under this chapter, except for the purpose of determining whether the officer had probable cause to arrest the person. The provisions of this section shall not limit the

introduction of any other competent evidence bearing on the question of whether a person charged with violating RSA 215-A:11 was under the influence of intoxicating liquor or any controlled drug. Nothing contained in this section shall be construed to prevent or require a subsequent test pursuant to RSA 215-A:11-a. The law enforcement officer requesting the test shall advise orally the person to be tested that his or her failure to take the test or his or her taking of the test shall not be construed to prevent or require a subsequent test pursuant to RSA 215-A:11-a. The results of the test shall be furnished immediately to the person tested by the law enforcement officer administering the test and in writing, if requested.

II. No device may be used to give a chemical test under the provisions of this section unless it has been approved as to type and make by the department of health and human services.

III. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to methods and procedures for evaluation and approval of preliminary breath test devices.

Source. 1986, 152:11. 1992, 257:20, eff. Jan. 1, 1993. 2003, 57:1, eff. Jan. 1, 2004; 226:6, eff. Jan. 1, 2004 at 12:01 a.m.

Section 215-A:11-j

215-A:11-j Penalty. – [Repealed 1992, 257:22, I, eff. Jan. 1, 1993.]

Section 215-A:11-k

[RSA 215-A:11-k repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-k Annulment; Plea Bargaining. –

The provisions of RSA 265:82-c relative to annulment and plea bargaining shall apply to any person arrested for a violation of RSA 215-A:11.

Source. 1992, 257:21, eff. Jan. 1, 1993.

Section 215-A:11-l

[RSA 215-A:11-l repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-l Payment of All Obligations Prior to Restoration or Renewal. –

The provisions of RSA 265:82-d, relative to payment of all obligations prior to restoration or renewal, shall apply to any person convicted of a violation of RSA 215-A:11.

Source. 1992, 257:21, eff. Jan. 1, 1993. 2002, 136:1, eff. Jan. 1, 2003.

Section 215-A:11-m

[RSA 215-A:11-m repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-m Arrest Without a Warrant. –

Notwithstanding any other provision of the law to the contrary, a law enforcement officer may, without a warrant, arrest any person involved in an OHRV accident when the officer has probable cause to believe that such person has violated the provisions of RSA 215-A:11, RSA 215-C:11, RSA 265:82 or RSA 265:82-a.

Source. 1992, 257:21, eff. Jan. 1, 1993. 2005, 210:17, eff. July 1, 2006.

Section 215-A:11-n

[RSA 215-A:11-n repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-n Blood Testing on Certain OHRV Fatalities. –

The provisions of RSA 265:93, relative to blood testing of certain motor vehicle fatalities, shall be complied with when an OHRV accident results in the death or serious bodily injury to any person.

Source. 1992, 257:21, eff. Jan. 1, 1993.

Section 215-A:11-o

[RSA 215-A:11-o repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-o Incapacity to Give Consent. –

Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusing shall be deemed not to have withdrawn the consent provided by RSA 215-A:11-a and the test or tests may be administered. The provisions of RSA 215-A:11-p shall not apply to persons incapable of giving consent as provided for in this section.

Source. 1992, 257:21, eff. Jan. 1, 1993.

Section 215-A:11-p

[RSA 215-A:11-p repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-p Prerequisites to Tests. –

I. Before any test specified in RSA 215-A:11-a is given, the law enforcement officer shall:

- (a) Inform the arrested person of his right to have a similar test or tests made by a person of his own choosing;
- (b) Afford him an opportunity to request such additional test; and
- (c) Inform him of the consequences of his refusal to permit a test at the direction of the law enforcement officer.

II. If the law enforcement officer fails to comply with the provisions of this section, the test shall be inadmissible as evidence in any proceeding before any administrative officer and court of this state.

Source. 1992, 257:21, eff. Jan. 1, 1993.

Section 215-A:11-q

[RSA 215-A:11-q repealed by 2006, 260:37, II, effective January 1, 2007.]

215-A:11-q Administrative License Suspension. –

I. If a person refuses a test as provided in RSA 215-A:11-b or submits to a test described in RSA 215-A:11-a which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more, such person shall be subject to an administrative license suspension as described in RSA 265:91-a. The law enforcement officer shall conform to the requirements of RSA 265:91-a provided, however, that the law enforcement officer shall have reasonable grounds to believe the arrested person had been driving, operating, attempting to operate or was in actual physical control of an OHRV while under the influence of intoxicating liquor or controlled drugs or while the arrested person has an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more.

II. Any person whose license has been suspended or revoked under this section may request an administrative review or a hearing pursuant to RSA 265:91-b, provided, however, that the law enforcement officer shall have reasonable grounds to believe the arrested person had been driving, operating, attempting to operate or was in actual physical control of an OHRV while under the influence of intoxicating liquor or controlled drugs or while the arrested person has an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more.

III. Upon receipt of the sworn report of a law enforcement officer submitted under paragraph I, the department shall suspend the person's driver's license or privilege to drive as follows:

(a) In the case of a refusal to take a test described in RSA 215-A:11-a, the suspension shall be for the period specified in RSA 265:92.

(b) In the case of a person who submits to a test described in RSA 215-A:11-a, which discloses an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21, 0.02 or more, the suspension shall be for:

(1) Six months if there is no prior refusal under RSA 265:92, RSA 215-A:11-b, or RSA 215-C:13, no prior driving while intoxicated or aggravated driving while intoxicated convictions, and no prior administrative license suspension pursuant to RSA 265:91-a, RSA 215-A:11-q, or RSA 215-C:27.

(2) Two years if there is a prior refusal under RSA 265:92, RSA 215-A:11-b, or RSA 215-C:13 or a prior driving while intoxicated or aggravated driving while intoxicated conviction, or a prior administrative suspension pursuant to RSA 265:91-a, RSA 215-A:11-q, or RSA 215-C:27. If a license or driving privilege has been suspended under RSA 265:91-a, RSA 215-A:11-q, or RSA 215-C:27 and the person is also convicted on criminal charges arising out of the same event, both the suspension and

court ordered revocation shall be imposed pursuant to RSA 265:91-c. If a license or driving privilege has been suspended under RSA 265:91-a or RSA 215-A:11-q and the person is also convicted on criminal charges arising out of the same event, both the suspension and court ordered revocation shall be imposed pursuant to RSA 265:91-c.

IV. Any person whose license has been suspended or revoked under this section, after the administrative review or hearing, may appeal the decision as provided in RSA 265:91-d.

Source. 1995, 2:2, eff. Jan. 1, 1996. 1997, 121:3, 4, eff. Jan. 1, 1998. 2005, 210:18, eff. July 1, 2006.

Section 215-A:12

215-A:12 Manufacturing Specification Requirements. – I, II. [Repealed.]

III. No person shall sell or offer for sale in this state any trail bike manufactured on or after January 1, 1973, or before January 1, 1983, which produces a sound level in excess of the following limits, when measured in accordance with the provisions of the Society of Automotive Engineers Recommended Practice J-331a, "Sound Levels for Motorcycles":

(a) If manufactured between January 1, 1973, and December 31, 1974, inclusive, of 88 decibels on the A scale.

(b) If manufactured between January 1, 1975, and December 31, 1982, inclusive, 86 decibels on the A scale.

(c) On or after January 1, 1983, newly manufactured trail bikes and exhaust systems and exhaust system components for trail bikes shall comply with the federal noise emission standards and testing procedures required by Title 40 of the United States Code of Federal Regulations, Part 225, as follows:

(1) Effective January 1, 1983: Displacement of 170 cc and below, not to exceed 83 decibels on the A scale. Displacement of more than 170 cc, not to exceed 86 decibels on the A scale.

(2) Effective January 1, 1986: Displacement of 170 cc and below, not to exceed 80 decibels on the A scale. Displacement of more than 170 cc, not to exceed 82 decibels on the A scale.

(d) Each federally regulated trail bike and exhaust system newly manufactured on or after January 1, 1983, sold or offered for sale within the state, shall display noise emission control information labels in accordance with the above referenced federal noise emission regulation, to indicate that the vehicle and exhaust system meets United States Environmental Protection Agency noise emission requirements by the federal test procedure for that particular model product.

(e) The labeling of newly manufactured trail bikes and exhaust systems or exhaust components, with the appropriate noise emission control information labels as prescribed in this chapter, constitutes a certification by the manufacturer of such vehicles and products sold within the state that they comply with federal regulations and the sound levels established in this section.

(f) Vehicles designed, constructed, and sold solely for use as racing vehicles at

facilities constructed for closed-course racing are exempt from the provisions of this section, but only when used at such racing facilities.

(1) Each trail bike and exhaust system or exhaust system component newly manufactured on or after January 1, 1983, that is designed, constructed and sold solely for competition shall be labeled, as required by the above referenced federal noise emission regulation, that the vehicle and exhaust system or exhaust system component is designed for closed-course competition only.

(2) The labeling of such products by the manufacturer in accordance with the federal regulation constitutes a certification by the manufacturer that they do not conform to federal noise standards or New Hampshire sound levels established in this section.

IV. No person shall operate in this state a trail bike or all terrain vehicle which produces a sound level in excess of 96 decibels on the A scale, when measured in accordance with the provisions of the Society of Automotive Engineers Recommended Practice ANSI/SAE, J-1287, Mar 82, "Measurement of Exhaust Sound Levels of Stationary Motorcycles".

V. No person shall operate in this state any trail bike or other OHRV which is designed, constructed, and sold solely for closed-course competition and is without a headlight and a taillight. The provisions of this paragraph shall not apply to trail bikes or OHRVs operated at approved OHRV competitions, or when the exhaust system is modified to comply with the provisions of RSA 215-A:12, IV and RSA 227-L:20.

VI. Sound pressure levels in decibels shall be measured on the "A" scale of a sound level meter having characteristics defined by American National Standards Institute S1.4-1971, "Specification for Sound Level Meters."

VII. No person shall modify the manufacturer's specified exhaust system of any OHRV in any manner which will increase or amplify the noise emitted above that emitted by the original muffler.

VIII. No person shall operate, sell, or offer for sale in this state any ATV manufactured after January 1, 1990, which does not have a working headlight, except that an ATV with an engine size of 90 cubic centimeters or less, having 3 or more tires designed to hold not more than 10 pounds per square inch of air pressure, shall not be required to be equipped with a headlight.

IX. [Repealed.]

X. No person shall operate, sell or offer for sale in this state any ATV manufactured after January 1, 1990, which is not equipped with a location on the front and rear of the ATV specifically for the placement of registration plates or decals, which measure 3 1/2 inches by 6 inches.

Source. 1981, 538:3. 1982, 12:6. 1983, 449:7. 1985, 261:3, 4. 1987, 56:1. 1988, 208:4. 1993, 320:2. 1994, 124:1. 1995, 55:1, 2, eff. July 8, 1995; 299:10, eff. Jan. 1, 1996. 2003, 295:2, eff. July 1, 2003. 2005, 210:64, VII, eff. July 1, 2006.

Section 215-A:13

215-A:13 OHRVs Must be Submitted to Sound Tests. –

I. The operator or owner of any trail bike, or other OHRV shall, when required by any law enforcement officer, submit his or her vehicle to a sound test conducted according to

the applicable provisions of RSA 215-A:12.

II. The executive director may adopt sound level limits and test procedures to regulate sound emissions of OHRVs not otherwise regulated in this chapter.

Source. 1981, 538:3. 1982, 12:7. 1983, 449:8. 1985, 261:5, eff. Oct. 1, 1985. 2005, 210:19, eff. July 1, 2006.

Section 215-A:14

215-A:14 OHRV Required Equipment. –

I. No person shall operate an OHRV unless it is equipped with:

(a) At least one, but not more than 2 headlights, all in working order, when operating at any time during the period from 1/2 hour after sunset to 1/2 hour before sunrise.

(b) One or more rear taillights, all in working order, when operating at any time during the period from 1/2 hour after sunset to 1/2 hour before sunrise.

(c) Adequate brakes in good working order sufficient to control the vehicle at all times. The brakes must be capable of stopping the vehicle within 40 feet at 20 miles per hour, or locking the wheels or track to a standstill.

(d) The current registration decal affixed to the OHRV as required by this chapter.

(e) Mufflers and an exhaust system which comply with the requirements of RSA 215-A:12.

II. Any sled or trailer towed behind an OHRV shall be equipped with reflectors and a rigid hitch such as a tow bar.

III. Any police officer or person authorized to make criminal arrests may stop and check any OHRV in regard to any safety equipment, mufflers, brakes, lights and appropriate inspections pursuant to RSA 215-A:13.

Source. 1981, 538:3. 1983, 449:9. 1985, 261:6. 1986, 152:12, eff. Oct. 1, 1986.

Section 215-A:14-a

215-A:14-a Three-Wheeled ATVs; Limitation on Government Sale. – No state agency, municipality, or other governmental entity shall sell or transfer ownership of, in whole or in parts, a 3-wheeled ATV designed or marketed for use as an off highway recreational vehicle.

Source. 2001, 155:1, eff. June 29, 2001.

Section 215-A:15

215-A:15 Regulations of Political Subdivisions. –

I. With bylaws or ordinances city or town councils and boards of selectmen may regulate the operation of OHRVs within city or town limits, providing they do not conflict with provisions of this chapter.

II, III. [Repealed.]

IV. Speed limits for OHRVs traveling on the frozen surface of Turtle Pond, also

known as Turtle Town Pond, in the city of Concord shall not exceed 55 miles per hour.

V. Enforcement of paragraph IV shall be the joint responsibility of the city of Concord and the state of New Hampshire.

VI. [Repealed.]

Source. 1981, 538:3, eff. June 30, 1981. 1996, 41:1, eff. June 23, 1996; 41:2, eff. June 30, 1998. 1999, 48:1, eff. July 20, 1999. 2004, 47:2, eff. July 2, 2004; 243:5, eff. June 15, 2004. 2005, 210:64, VIII, eff. July 1, 2006.

Section 215-A:16

215-A:16 Enforcement. –

I. The provisions of this chapter shall be enforced by all duly authorized representatives of the department of fish and game and by every police and law enforcement officer including, but not limited to, members of the state police, sheriffs, deputy sheriffs, policemen, and constables and all persons empowered to make arrests in criminal cases.

II. The commissioner of the department of resources and economic development shall appoint a chief supervisor of the bureau of trails, who shall have additional duties as state parks and forest security officer with authority under RSA 594. The commissioner of the department of resources and economic development shall, at his discretion, also appoint bureau of trail area supervisors and foremen, who shall be peace officers for the purposes of RSA 594.

Source. 1981, 538:3. 1993, 53:7, eff. June 15, 1993.

Section 215-A:17

215-A:17 Law Enforcement Authority of Bureau of Trails Officers. – The commissioner of the department of resources and economic development may designate employees of the bureau as forest and park patrol officers. The chief supervisor appointed under RSA 215-A:16, II and the forest and park patrol officers shall have the authority of peace officers as defined under RSA 594:1 to enforce the provisions of this chapter anywhere in the state and all rules of the department of resources and economic development on lands owned by, leased to or under control of the department of resources and economic development. Forest and park patrol officers shall also have authority as peace officers under RSA 594:1 to enforce laws dealing with trespass, litter, breaking and entering, larceny and vandalism on lands owned by, leased to or otherwise being used by the state in connection with official recreational or OHRV trails.

Source. 1981, 538:3, eff. June 30, 1981. 2005, 210:20, eff. July 1, 2006.

Section 215-A:18

215-A:18 OHRV Fines. –

I. The court or justice of any court in which a complaint for a violation of any law or

any rule adopted pursuant to RSA 541-A, brought by a conservation officer of the New Hampshire fish and game department, is prosecuted shall remit the amount of any fine or forfeiture paid pursuant to such complaint as provided in RSA 206:34.

II. The court or justice of any court in which a complaint for a violation of any law or rule adopted pursuant to RSA 541-A brought by a forest and park patrol officer of the department of resources and economic development is prosecuted shall, within 30 days after any fine or forfeiture is paid, remit the amount thereof to the commissioner of the department of resources and economic development; provided, however, that, from each fine collected by a municipal or district court, there shall be deducted \$10 and 20 percent of that part of the fine which exceeds \$10 and the same shall be continually appropriated to the department for the purposes of RSA 215-A:23, VI.

III. The court or justice of any court in which a complaint is prosecuted for a violation of this chapter, or any rule adopted pursuant to RSA 541-A under the authority of this chapter, brought by a local police officer, shall, within 30 days after any fine or forfeiture is paid, remit the amount of the fine or forfeiture to the local police department in whose service the police officer was acting; provided, however that, from each fine collected by a municipal or district court, there shall be deducted \$10 and 20 percent of that part of the fine which exceeds \$10.

Source. 1981, 538:3. 1987, 56:4. 1989, 83:1, eff. June 30, 1989. 1997, 268:5, eff. July 1, 1997.

Section 215-A:19

215-A:19 Penalties and Owner/Operator Responsibilities. –

I. (a) Unless otherwise provided, any person who violates this chapter or any rule relating thereto shall be guilty of a violation. In addition thereto, the operator or owner or both of any OHRV shall be responsible and held accountable:

(1) To the owner of any lands where trees, shrubs, or other property have been damaged as a result of travel over their premises by such vehicles.

(2) For any damage incurred or for violations of this chapter committed by a person under the age of 18.

(b) The executive director may revoke, after a hearing, the registration of any OHRV and snowmobile registered in the name of any person who violates this chapter or any rule relating thereto.

II. Any person who, while operating or in charge of an OHRV, shall refuse when requested by a police officer or person authorized to make criminal arrests to give his name and address or the name and address of the owner of such OHRV or who shall give a false name and address, or who shall refuse or neglect to stop when signaled to stop by any police officer or any person authorized to make criminal arrests who is in uniform or who displays his badge conspicuously on the outside of his outer coat or garment, or who refuses on demand of such officer or person to produce his license to operate such vehicle or his certificate of registration, or to permit such officer or person to take the license or certificate in hand for the purpose of examination, or who refuses on demand of such officer or person to sign his name in the presence of such officer, or who refuses to surrender to the executive director or his duly authorized representative any license,

registration certificate or number decal upon demand after suspension or revocation of the same, shall be guilty of a misdemeanor.

III. If any person shall mischievously take, drive, ride, or use any OHRV, without the consent of the owner or person having control thereof, but not with the intent to steal the same, he shall be guilty of a misdemeanor.

IV. (a) Notwithstanding any other provisions of law to the contrary, any OHRV, operated by a minor in violation of any provision of this chapter or of any motor vehicle law, may be seized by a law enforcement officer and retained by such officer for up to a 24-hour period or until released to the owner upon payment of the cost of such seizure and retention.

(b) Notwithstanding RSA 169-B and RSA 169-D, any minor who violates a provision of this chapter shall not be considered a delinquent or a child in need of services. Any minor who violates a provision of this chapter shall be guilty of a violation and may be punished by a fine for each offense, may have his or her snowmobile and OHRV safety training certification suspended for up to 6 months, and may be required to complete community service or to complete additional OHRV safety training.

V. A police officer may cause the removal and storage of an OHRV if he has reason to believe any of the following:

(a) The OHRV has been left unattended on any public property for a period of greater than 48 hours.

(b) The owner or legal occupant of private property has complained that an OHRV has been abandoned on said private property for a period of greater than 48 hours.

(c) The OHRV is reported stolen, is apparently abandoned, is without proper registration, or is apparently unsafe to be driven.

(d) The owner or custodian of the OHRV is under arrest or otherwise incapacitated.

(e) The OHRV has been used in connection with a criminal offense.

VI. No custodian or police officer shall be liable for damages to an OHRV while it is in his custody under paragraph V, provided he exercises due care.

VII. In addition to any other penalty imposed, any person who is convicted of violating any of the following statutes shall be assessed an administrative penalty of \$200 to be paid to the department of fish and game, which shall forward such sum to the state treasurer for deposit in the fish and game fund:

(a) Disobeying any person authorized to enforce the provisions of this chapter, as provided in RSA 215-A:16 and 215-A:17, by acting in a manner prohibited by RSA 215-A:19, II or any other provision of law.

[Paragraph VII(b) effective until January 1, 2007; see also paragraph VII(b) set out below.]

(b) RSA 215-A:11, relative to operating an OHRV while intoxicated or under the influence of drugs.

[Paragraph VII(b) effective January 1, 2007; see also paragraph VII(b) set out above.]

(b) RSA 265-A:2, I and RSA 265-A:3, relative to operating an OHRV while intoxicated or under the influence of drugs.

[Paragraph VII(c) effective until January 1, 2007; see also paragraph VII(c) set out below.]

(c) RSA 215-A:11-b, relative to refusal of consent.

[Paragraph VII(c) effective January 1, 2007; see also paragraph VII(c) set out above.]

(c) RSA 265-A:14, relative to refusal of consent.

(d) RSA 215-A:6, IV, relative to endangerment of any person or damage to any property.

(e) RSA 215-A:29, X, relative to failure to yield right of way.

(f) [Repealed.]

VIII. [Repealed.]

IX. In addition to any other penalty imposed, any person who is convicted of violating any of the following statutes, and who has not already successfully completed an OHRV or snowmobile training program, shall complete an OHRV training program, at that person's own expense, within 6 months of conviction. Any person who fails to successfully complete the OHRV training program within 6 months may not legally register or reregister any OHRV or snowmobile until such time as the OHRV training program is successfully completed:

(a) Laws relative to speed limit or safe operation.

(b) RSA 215-A:12 and RSA 215-A:13, relative to decibel limits on noise.

(c) Disobeying a person authorized to enforce the provisions of this chapter as provided in RSA 215-A:16 and RSA 215-A:17, or by acting in a manner prohibited by RSA 215-A:19, II.

(d) RSA 215-A:11, relative to operating an OHRV while intoxicated or under the influence of drugs.

(e) RSA 215-A:11-b, relative to refusal of consent.

(f) RSA 215-A:6, IV, relative to endangering any person or damaging any property.

(g) RSA 215-A:29, X, relative to failure to yield right-of-way.

(h) [Repealed.]

Source. 1981, 538:3. 1983, 449:10. 1986, 152:13, 14, eff. Oct. 1, 1986; 221:13, eff. Oct. 1, 1986, at 12:01 a.m. 2002, 233:6, eff. July 1, 2002. 2003, 104:1, 2, eff. Jan. 1, 2004; 295:17, eff. July 1, 2003. 2005, 64:1, 2, eff. Jan. 1, 2006; 210:21-23, eff. July 1, 2006. 2006, 90:1-3, 12, I, II, eff. July 1, 2006 at 12:01 a.m.; 260:11, eff. Jan. 1, 2007.

Section 215-A:20

215-A:20 Loaded Firearms Forbidden. – No person shall carry on an OHRV, or a trailer towed by same, any firearms unless said firearm is unloaded. This section shall not apply to law enforcement officers carrying firearms in the course of duty or to pistols carried under a permit issued pursuant to the authority of RSA 159.

Source. 1981, 538:3, eff. June 30, 1981.

Section 215-A:21

215-A:21 Registration. –

I. Registration of an OHRV or snowmobile does not constitute a license to operate said vehicle on private land. Any person operating an OHRV upon the land of another shall stop and identify himself upon the request of the landowner or his duly authorized representative and, if requested, shall promptly remove said OHRV from the premises.

II. Except as otherwise provided, no OHRV shall be operated in this state unless registered as provided in this chapter. No registration shall be required for an OHRV operated solely on land owned or leased by the owner of the OHRV. All OHRV registrations shall expire on July 1 in each year. The executive director shall collect a fee for each registration as provided in RSA 215-A:23.

II-a. The executive director or designee is authorized to establish an OHRV and snowmobile registry. The executive director shall adopt rules pursuant to RSA 541-A for the establishment and requirements of said registry.

II-b. Notwithstanding RSA 215-A:21, II, no registration shall be required for a youth model all terrain vehicle when the operator is under 12 years of age and accompanied by a person 18 years of age or older who holds a valid license to operate an OHRV.

II-c. Notwithstanding RSA 215-A:21, II, no registration shall be required for a youth model trail bike when the operator is under 12 years of age and accompanied by a person 18 years of age or older who holds a valid license to operate an OHRV.

III. No person under the age of 18 shall register an OHRV.

IV. [Repealed.]

IV-a. [Repealed.]

IV-b. Antique all terrain vehicles may be registered by a one-time purchase of a permanent plate to be affixed permanently to the antique all terrain vehicle. This registration shall be available at the fish and game headquarters only.

IV-c. Antique trail bikes may be registered by a one-time purchase of a permanent plate to be affixed permanently to the antique trail bike. This registration shall be available at the fish and game headquarters only.

IV-d. [Repealed.]

V. All OHRVs except conventional motor vehicles registered for highway use and those registered pursuant to paragraph IV shall be registered at the fee provided in RSA 215-A:23, and shall be furnished a registration plate or decals of a design and color as chosen by the executive director. Said registration plate or decals shall be attached securely on the front and rear of the vehicle, in an unobstructed manner, as high as possible or at a location designed by the manufacturer.

V-a. (a) All OHRV trails maintenance vehicles shall be registered with a number to be placed and attached in the manner prescribed in paragraph V.

(b) The registration number shall be contained on a decal of a design, color, and size designated by the executive director. The registration number for said vehicle shall be assigned by the executive director or one of his agents. In case of a transfer, the number shall expire and become invalid. If a new machine is obtained a new number shall be assigned, unless otherwise authorized by the executive director.

VI. No person shall operate any OHRV unless the assigned OHRV registration numbers, plates, or decals are placed on the OHRV as required by this chapter.

VII. The registration certificate shall be subject to inspection on demand by any officer authorized to enforce provisions of this chapter. The registration certificate shall be carried while the OHRV is in operation. The said operator, shall when requested, show proof of personal identification.

VIII. No person shall register an OHRV at the resident fee as defined in RSA 215-A:23 unless such person is a resident as defined in RSA 215-A:1, XII.

IX. No person shall operate a motorcycle, trail bike, or tractor for off highway recreational purposes unless the motorcycle, trail bike, or tractor is registered as an OHRV; however, if the motorcycle, trail bike, or tractor is operated solely on land owned or leased by the owner of the motorcycle, trail bike, or tractor, the provisions of this paragraph shall not apply.

Source. 1981, 538:3. 1983, 449:11. 1985, 137:2; 261:7, 8. 1986, 152:15-18. 1988, 208:1. 1990, 133:1, 2, eff. June 18, 1990. 1997, 117:1, eff. Jan. 1, 1998. 2000, 85:2, eff. July 1, 2000; 108:3, 4, eff. July 1, 2000. 2002, 233:26, 27, eff. July 1, 2002. 2003, 295:15, eff. July 1, 2003. 2005, 210:24, 25, 64, IX, X, eff. July 1, 2006.

Section 215-A:21-a

215-A:21-a Use of 3-Wheeled ATVs. – Any person registering for operation under this chapter any 3-wheeled ATV as an off highway recreational vehicle is encouraged to receive adequate training and education in the safe operation of 3-wheeled ATVs. The New Hampshire fish and game department may provide a suitable ATV education course.

Source. 2001, 155:2, eff. June 29, 2001.

Section 215-A:22

215-A:22 Transfer of Registration. –

I. A person who conveys to another the ownership of his registered OHRV may register in his name another OHRV for the remainder of that registration year, at a reduced rate of \$13, provided that the reverse side of the registration form is completely filled out and submitted to a registration agent upon request for transfer.

II. Only a registration agent may transfer a registration under paragraph I. The agent shall issue a new registration certificate and decals. The originally issued decals shall not be transferred, and shall become invalid for further use. The agent shall return the previous white registration certificate to the OHRV and snowmobile registry attached to the new registration certificate office copy.

III. A new owner of any OHRV shall purchase a new registration certificate and decals at full price if he does not have a current registration for an OHRV of which he has relinquished ownership.

IV. Notwithstanding any other provision of this section, a person or club who conveys to another ownership of a registered OHRV trails maintenance vehicle may register in his name or the club's name another OHRV trails maintenance vehicle for the remainder of the year at the rate designated in RSA 215-A:23, provided that the reverse side of the registration form is completely filled out and submitted to the department of fish and game upon request for transfer.

Source. 1981, 538:3. 1986, 152:19, eff. Oct. 1, 1986. 2000, 85:3, eff. July 1, 2000. 2004, 149:2, eff. July 23, 2004. 2005, 210:26, eff. July 1, 2006.

Section 215-A:22-a

215-A:22-a Missing or Damaged Decals or Plates. – The original white registration certificate shall be returned to an OHRV registration agent completed on the reverse side with the probable date lost; the reason the decals or plates are missing, specifying, for example, lost, destroyed, or stolen; and the signature of the owner. The OHRV registration agent shall issue new registration decals and certificate in accordance with RSA 215-A:22.

Source. 1986, 152:20, eff. Oct. 1, 1986.

Section 215-A:22-b

215-A:22-b Duplicate Registration. – A registration certificate which is lost, stolen, mutilated, or destroyed may be replaced by a duplicate registration, upon payment of a fee of \$5 and completion of an affidavit setting forth the circumstances of the loss or destruction of the registration. The duplicate registration shall entitle the registrant to engage in all activities permitted on the original registration. All fees collected under this section for duplicate registrations shall be nonlapsing and continually appropriated to the fish and game department for the purposes described in RSA 215-A:23, VIII.

Source. 2005, 69:1, eff. July 1, 2005.

Section 215-A:23

215-A:23 Registration Fees. – The fees to be collected under this chapter are as follows:

I. Individual resident registration- \$42 for each 2-wheeled trail bike registration or \$51 for each other OHRV registration upon presentation of a valid driver's license issued to a New Hampshire resident 18 years of age or older.

(a) The first \$7 of each 2-wheeled trail bike registration or \$16 of each other OHRV registration shall be appropriated to the department of resources and economic development for the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$15.30 from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$19.70 from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

II. [Repealed.]

II-a. Resident antique all terrain vehicle permanent registration- \$35 for each registration upon presentation of a valid New Hampshire driver's license issued to a person 18 years of age or older. From each fee collected pursuant to this paragraph:

(a) The first \$20 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$7.50 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$7.50 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

II-b. Resident antique trail bike permanent registration- \$35 for each registration upon presentation of a valid New Hampshire driver's license issued to a person 18 years of age or older. From each fee collected pursuant to this paragraph:

(a) The first \$20 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$7.50 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$7.50 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

III. Individual nonresident registration- \$61 for each 2-wheeled trail bike registration or \$70 for each other OHRV registration.

(a) The first \$13 of each 2-wheeled trail bike registration or \$22 of each other OHRV registration shall be appropriated to the department of resources and economic development for the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$17.10 from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$30.90 from each 2-wheeled trail bike or other OHRV registration shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

IV. Dealer registration- \$35 for each plate.

(a) The first \$16 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$9.30 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$9.70 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

IV-a. Rental agency registration- \$58 for each set of decals.

(a) The first \$35 shall be appropriated to the department of resources and economic

development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$11.10 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$11.90 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

V. Registration after transfer as provided in RSA 215-A:22- \$13.

(a) The first \$8 shall be appropriated to the department of resources and economic development for administration of the bureau's grant-in-aid program pursuant to paragraph VI.

(b) From the balance, \$2.80 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in paragraph VII, and \$2.20 shall be appropriated to the department of fish and game for the purposes listed in paragraph VIII.

VI. (a) Any funds appropriated to the department of resources and economic development for the bureau's grant-in-aid program shall be kept in a separate account and shall not be used for any other purpose. The corresponding registration fee moneys allocated to the bureau's grant-in-aid program under paragraphs I and III shall be deposited in the account. Moneys in the account may only be used for grant-in-aid projects that benefit the ridership of OHRVs. Any unexpended balance remaining in the account at the end of the fiscal year shall not lapse and shall be transferred to the account established in RSA 215-A:23, VII(c). From each registration fee collected under this section, \$5 shall be used for the purpose of purchasing trail maintenance equipment. All remaining funds shall be used for trail maintenance and construction.

(b) Grants-in-aid shall be granted to OHRV clubs and political subdivisions for the construction and maintenance of public use OHRV trails and facilities. The bureau shall make grants on such terms as it deems necessary and shall determine what trails and facilities shall be eligible. Notwithstanding the provisions of this subparagraph, a landowner who grants permission for a grant-in-aid trail to be located on his or her property shall retain the right to establish the inclusive dates during which OHRV operation shall be permitted. Use of trails on private land shall extend only to the specific type of OHRV and snowmobile permitted by the landowner.

(c) All revenue appropriated in this paragraph shall be in addition to any other funds appropriated to the grant-in-aid program of the bureau of trails. Such revenue is hereby continually appropriated to the department of resources and economic development for the purposes of this paragraph.

VII. Funds appropriated to the department of resources and economic development for administration of the bureau shall be used for the following purposes:

(a) Publications.

(b) Trail maintenance and acquisition.

(c) Land purchases, easements, rights-of-way, and new construction of trails. A separate account shall be established into which \$2 of each resident trail bike and other OHRV registration fee appropriated for administration of the bureau under RSA 215-A:23, I(b) and \$2 of each nonresident trail bike and other OHRV registration fee appropriated for administration of the bureau under RSA 215-A:23, III(b) shall be deposited to be used only for land purchases, easements, rights-of-way, and direct costs

attributed to the physical construction of ATV or trail bike trails or parking facilities.

(d) OHRV facilities.

(e) From the amount collected from each individual registration fee, \$3 shall be used by the bureau for the purposes of purchasing trail maintenance equipment or paying trail maintenance expenses. These funds shall be kept in a separate account and shall be used and appropriated solely for these purposes.

(f) Such other purposes as may be budgeted within the limits of the funds available. Any unexpended balance in said accounts shall not lapse, but shall be carried forward to the next fiscal year.

VIII. Any funds appropriated to the fish and game department shall be used for the following purposes:

(a) Enforcement of the provisions of RSA 215-A and RSA 215-C.

(b) Establishment of snowmobile and OHRV training programs. At the discretion of the director, OHRV training programs may be combined with snowmobile training programs.

(c) Law enforcement under this chapter, which shall be the responsibility of the executive director.

(d) OHRV registration.

(e) Such other purposes as may be budgeted within the limitation of the funds available. Any unexpended balance in said accounts shall not lapse, but shall be carried forward to the next fiscal year.

(f) Contracting with state, county, and local law enforcement agencies to enforce the provisions of this chapter relative to ATV use. Ten dollars of each resident trail bike and other OHRV registration fee appropriated to the department of fish and game under RSA 215-A:23, I(b), and \$19 of each nonresident trail bike and other OHRV registration fee appropriated to the department of fish and game under RSA 215-A:23, III(b) shall be used exclusively for such contracting and shall not be transferred or diverted to any other purpose.

IX. Any excess registration fees collected and not expended shall be nonlapsing and shall be retained by the OHRV and snowmobile program for future use. In each year of the biennium, the excess fees collected may be expended by the fish and game department and the department of resources and economic development in the same proportion as described in this section with prior approval of the fiscal committee and the governor and council.

X. Notwithstanding the provisions of paragraph IX, there shall be paid to the executive director, in addition to the fees required by this section, an additional fee of \$1 for each registration required by this section. The additional fee shall be paid into the fish and game search and rescue fund established under RSA 206:42.

XI. Notwithstanding any other provision of this section, \$5 for each set of plates for OHRV trails maintenance vehicles. No other fees shall be collected under this chapter for the registration of such vehicles. Any such funds collected shall be appropriated to the department of fish and game for the costs of administration of OHRV trails maintenance vehicles.

Source. 1981, 538:3. 1983, 449:12. 1985, 137:3; 261:9. 1987, 190:1; 292:7. 1989, 179:8; 282:1; 408:95. 1990, 186:6-8. 1992, 86:1. 1993, 52:1, eff. June 15, 1993; 53:8, eff. June

15, 1993. 1997, 268:6, eff. July 1, 1997. 2000, 85:4, eff. July 1, 2000; 108:5, 6, eff. July 1, 2000. 2001, 226:3, 4; 259:6, 7, eff. July 1, 2001. 2002, 233:9-11, eff. July 1, 2002; 253:4, 5, eff. July 1, 2002. 2003, 112:8-11, eff. Aug. 5, 2003; 295:3, 16, eff. July 1, 2003. 2005, 210:27, 28, 64, XI, eff. July 1, 2006. 2006, 90:4, eff. July 1, 2006 at 12:01 a.m.

Section 215-A:23-a

215-A:23-a Individual Vanity Plates or Decals. – The executive director is hereby authorized to design and to issue vanity plates or decals for residents only to be used on off highway recreational vehicles in lieu of other number plates or decals. Such plates or decals shall be of such design and shall bear such letters or letters and numbers as the executive director shall prescribe, but there shall be no duplication of identification. The executive director, or designee, may deny or revoke any plate or decal deemed inappropriate. Such vanity plates or decals shall be issued only upon application therefor and upon payment of a special fee of \$20. The special fee shall be in addition to the regular OHRV registration fee under RSA 215-A:23 and any fee otherwise required by law for the particular vehicle. All special fees collected under this section shall be nonlapsing and continually appropriated to the fish and game department for the purposes described in RSA 215-A:23, VIII(b), the administrative costs of this section, and the actual costs to produce the plates or decals. The executive director shall, if necessary, adopt rules pursuant to RSA 541-A relative to the application for, design of, issuance, denial, or revocation of vanity plates or decals.

Source. 1999, 259:1, eff. July 1, 2001.

Section 215-A:24

215-A:24 Issuing Agents; Fees. – If any registration is issued for the executive director by one of his or her duly authorized agents, such agent shall collect from the registrant a fee of \$2 in addition to the fee prescribed by RSA 215-A:23. Such agent shall retain the additional fee as compensation for his or her services in connection with the issuance of such registration, except that, if the agent is on the payroll of the executive director, the additional fee shall be retained by the department of fish and game.

Source. 1981, 538:3. 1982, 12:8; 42:134. 1983, 449:13, eff. July 1, 1983. 2002, 233:12, eff. July 1, 2002. 2005, 210:29, eff. July 1, 2006.

Section 215-A:24-a

215-A:24-a OHRV Agent's Accounting. –

I. The agent shall collect from the applicant a fee of \$2 for each OHRV registration issued and shall account to the executive director for the full face value of the registration decals. He shall pay to the executive director no later than the fourteenth of each month the full face value of all registrations sold up to the first of the same month and shall report the names and addresses of all persons to whom registration decals have been sold and such other information as may be requested on blanks to be furnished by the fish and

game department, or its designee.

II. When the fourteenth of any month falls on a Saturday, Sunday or legal holiday, the accounting and payment due date shall be advanced to the next succeeding day that is not a Saturday, Sunday or holiday.

III. If the accounting and payment required by paragraphs I and II of this section are mailed, they shall be considered to have been reported or paid on time if they are properly addressed and postmarked by a United States post office no later than the fourteenth of the month in which they are due.

IV. If the accounting and payment required by paragraphs I and II of this section are delinquent, the agent shall be assessed and pay a penalty equal to 10 percent of the amount due or \$10, whichever is greater. Penalties collected under this paragraph shall be credited to the fish and game fund. Fifty percent of these agent penalties are hereby continually appropriated to the fish and game department, or its designee.

V. If the accounting and payment remain delinquent 30 days after the due date required by paragraphs I and II of this section, the agency status shall be terminated.

VI. If the penalty required by paragraph IV of this section remains delinquent 30 days after notification of such delinquency, the agency shall be terminated and all penalties shall be deferred.

VII. The executive director shall have the authority to waive the requirements of paragraphs IV, V and VI when in his or her judgment there is just cause to do so.

VIII. The executive director shall adopt rules and establish fees pursuant to RSA 541-A for all agents who issue OHRV or snowmobile registrations.

Source. 1986, 152:21, eff. Oct. 1, 1986; 221:20, eff. Oct. 1, 1986 at 12:01 a.m. 2004, 149:3, eff. July 23, 2004. 2005, 210:29, eff. July 1, 2006.

Section 215-A:24-b

215-A:24-b Unused OHRV Decals. – Agents shall return to the executive director, within 10 days after the close of the current registration year, all unused OHRV or snowmobile decals. The OHRV registration agents shall be held responsible to the state for the resident value of all OHRV decals for which they are chargeable until settlement has been made as provided in RSA 215-A:24-a.

Source. 1986, 152:21; 221:20. 1990, 133:3, eff. June 18, 1990. 2005, 210:29, eff. July 1, 2006.

Section 215-A:25

215-A:25 Vehicles Exempted From Fee. – All OHRVs operated in this state by the federal government, the state, or any political subdivision of the state shall be exempt from registration fees; however, such vehicles shall be registered with a permanent plate or set of plates and a certificate, in such a manner as may be required by the executive director.

Source. 1981, 538:3, eff. June 30, 1981.

Section 215-A:26

215-A:26 OHRV Dealers and Rental Agents. –

I. Any person who is in the business of selling OHRVs shall be required to be licensed as a dealer with the executive director. The executive director shall assign a distinguishing number to the dealer and issue appropriate plates. The dealer may use the plates for pleasure purposes, but shall not rent or otherwise permit these plates to be used except for demonstration purposes in connection with the dealer's business. License numbers or plates shall be carried while the OHRV is operated.

II. Any person shall make application to the executive director to accept money or other valuable consideration for the temporary use of OHRVs provided to members of the general public. The executive director shall assign a distinguishing number to the applicant and issue appropriate decals which shall not be transferable between OHRVs owned by the rental agent and those used for rental. When renting OHRVs, any person shall be required to use rental decals, if said machine is to be used off the rentor's land.

III. The executive director or duly authorized agent may revoke a dealer or rental agent license for cause.

IV. Each dealer or rental agent shall be licensed by the fish and game department under this section and shall pay \$10 for each license. All license fees collected shall be nonlapsing and continually appropriated to the fish and game department to offset the administrative costs of this section.

V. The executive director shall adopt rules pursuant to RSA 541-A relative to the application for, further definitions, licensing requirements, design of, issuance, denial or revocation of, dealer or rental agent plates or decals.

Source. 1981, 538:3, eff. June 30, 1981. 2001, 226:5, eff. July 1, 2001.

Section 215-A:26-a

215-A:26-a New Owner Notification of Laws. – The fish and game department shall provide to OHRV and snowmobile dealers and rental agents a disclosure statement to inform buyers and renters of OHRVs of the laws and penalties relative to OHRV operation, including but not limited to, the need for permission to operate on the property of others. The disclosure statement shall be accompanied by a map showing known OHRV trails that are open to the public. OHRV dealers and rental agents shall require each buyer or renter to sign the disclosure document prior to each sale or rental of an OHRV. One copy shall be retained by the OHRV dealer or rental agent, one copy shall be retained by the buyer or renter, and one copy shall be remitted to the fish and game department by the dealer or rental agent as a requirement of licensure under RSA 215-A:26. At the discretion of the executive director, the disclosure statements for OHRVs and snowmobiles may be combined.

Source. 2002, 233:13, eff. July 1, 2002. 2005, 210:30, eff. July 1, 2006.

Section 215-A:27

215-A:27 Reciprocity. –

I. An OHRV not registered for highway use which is registered in Vermont, Maine, or Quebec shall be deemed to be properly registered for the purposes of this chapter if it is registered in accordance with the laws of the state or province in which it is registered, but only to the extent that a reciprocal exemption or privilege is granted under the laws of that state or province for OHRVs registered in this state. For the purpose of this section, the executive director shall determine the extent of the privilege of operation granted by Vermont, Maine, and Quebec and, when necessary, adopt rules and charge fees to achieve a true reciprocity. The executive director's determination shall be final.

II. Any motorcycle which is registered for highway use in any state other than New Hampshire owned by a nonresident shall be deemed to be properly registered for the purposes of this chapter if it is registered in accordance with the laws of the state or province in which its owner resides, but only to the extent that a reciprocal exemption or privilege is granted under the laws of that state for motorcycles registered in New Hampshire.

III. In order to operate any OHRV granted reciprocity under paragraph I, such vehicle shall meet all equipment requirements and sound level decibel limitations which are mandated by RSA 215-A for OHRVs registered in New Hampshire.

Source. 1981, 538:3. 1983, 449:14. 1985, 261:10. 1995, 200:3, eff. Aug. 11, 1995. 2005, 210:31, eff. July 1, 2006.

Section 215-A:28

215-A:28 Financial Responsibility and Conduct After an Accident. –

I. All provisions, including the penalties, suspensions, and prohibitions of the New Hampshire financial responsibility law, and the provisions of statutes relative to the operation of a motor vehicle, shall apply to an OHRV being operated upon a public highway.

I-a. The operator of an OHRV involved in an accident resulting in death or injury to a person or damage to property in excess of \$500, or the owner of the OHRV having knowledge of the accident, should the operator be incapacitated, shall report the accident immediately to the nearest police officer or nearest police station and shall file a report of the accident with the department of fish and game and the department of safety within 5 days on forms prescribed by the department of fish and game.

II. Any accident involving an OHRV, which took place at any location other than a public way, will in no way affect the right to operate a motor vehicle.

III. Any person who is the operator of an OHRV who is knowingly involved in any accident which results in death, personal injury, or damage to property, shall immediately stop such vehicle at the scene of such accident and give to the operator of any other vehicle involved in said accident, and to the person injured, or the owner of the property damaged, his or her name and address, the registration number of the vehicle, and if unable to do so, shall report the said accident to the nearest police officer or nearest police station. Voluntary intoxication shall not constitute a defense in the matter of knowledge under the provisions of this section. If this section is not complied with by the said operator, then it will be the duty of the owner of said vehicle to do so, if the vehicle

was being used with the owner's permission or consent.

IV. Any person who is knowingly involved in any accident involving personal injury with an OHRV shall report said accident to the nearest police officer or police station. A report of said accident shall be filed forthwith by said police officer or police station with the department of safety, the bureau of trails, and the fish and game department in such form as the executive director may prescribe.

V. (a) Following an accident involving death or personal injury, any operator or owner who fails to comply with paragraphs I-a, III, or IV shall be guilty of a class B felony.

(b) Any operator or owner who provides information required by paragraphs I-a, III, or IV, knowing or having reason to know that the information is false, shall be guilty of a class B felony.

(c) Any operator or owner who fails to comply with the requirements of paragraph I-a or paragraph III following an accident involving property damage, or who otherwise violates the provisions of this section, shall be guilty of a misdemeanor.

Source. 1981, 538:3, eff. June 30, 1981. 1997, 268:7, eff. July 1, 1997. 2003, 295:4, eff. July 1, 2003. 2004, 54:1-3, eff. Jan. 1, 2005.

Section 215-A:29

215-A:29 OHRV Operation and License. –

I. No person shall operate an OHRV on land not owned or leased by such person or such person's parent, grandparent, or guardian unless such person:

(a) If under 14 years of age, is accompanied at all times by a person at least 18 years of age who has met the conditions of subparagraph (b); and

(b) If 12 years of age or older, has either:

(1) Successfully completed the snowmobile or OHRV training program, the recognition of which has not been suspended or otherwise disallowed by law; or

(2) Is licensed to drive a vehicle in accordance with RSA 263, or in accordance with the law of another state or a province of Canada, provided the person would be eligible for a driver's license in this state.

II. (a) Except as further specified in subparagraph (b), it shall be prima facie evidence that any person at least 18 years of age who travels with a person under 14 years of age shall be legally responsible for the OHRV operation of such person and shall be liable according to law for personal injury or property damage to others which may result from such person's operation.

(b) When more than one person at least 18 years of age is traveling with a person under 14 years of age, and if any of the following persons over 18 years of age are present, then only such persons shall be legally responsible and liable under this paragraph:

(1) Parents or guardians, or

(2) Any person who has otherwise been given or assumed the responsibility for supervising the person under 14 years of age at the time of OHRV operation.

(c) Any person legally responsible and liable under this paragraph shall accompany the person under 14 years of age at all times of OHRV operation.

(d) Except as provided in RSA 215-A:30, IV, an organizer of an event or contest

shall be responsible for ensuring that each participant under 14 years of age is accompanied at all times.

III. A person 12 years of age or older operating an OHRV shall carry evidence of compliance with subparagraph I(b) or RSA 215-C:49, I(b) in the form of a valid driver's license or evidence of successfully completing an OHRV training program. The person shall present such evidence to any law enforcement officer who is empowered to enforce this chapter, upon demand of such law enforcement officer.

III-a. The provisions of paragraphs I and III shall not apply to any person participating in an OHRV training program. The provisions of paragraph II shall not apply to any person teaching an OHRV training program.

IV. The owner of an OHRV shall not permit the OHRV to be operated contrary to this section.

V. The executive director of the fish and game department may suspend a person's OHRV training program certificate or the department's recognition of a person's completion of a snowmobile or OHRV training program if not administered or sponsored by the department, in accordance with rules adopted under RSA 541-A, for violating any provision or rule of this chapter. The terms of such suspension shall be determined by the executive director.

VI. Snowmobile or OHRV training programs shall be established within the OHRV budget of the New Hampshire fish and game department as referred to in RSA 215-A:23, VIII. The department shall issue a certificate to any person successfully completing an OHRV training program administered or sponsored by the department. At the discretion of the executive director, training programs for snowmobiles and OHRVs may be combined.

VII. If a parent or guardian knowingly or negligently permits any person under the age of 18 to operate an OHRV, in accordance with RSA 626:8, II(b), said parent or guardian shall be held criminally liable and fully accountable for any damage incurred or for any violations of this chapter which may be committed by the person under the age of 18. If a person under the age of 18 has completed an approved snowmobile or OHRV safety training course, such evidence may be used in mitigation of damages.

VII-a. If an owner of an OHRV permits any person under the age of 18 to operate the owner's OHRV, in accordance with RSA 626:8, II(b), said owner may be held criminally liable and fully accountable for any damage incurred or for any violations of this chapter which may be committed by the person under the age of 18. If a person under the age of 18 has completed an approved snowmobile or OHRV safety training course, such evidence may be used in mitigation of damages.

VIII. A person registered as owner of an OHRV may be fined not less than \$50 or more than \$500 if an OHRV bearing his or her registration number is operated contrary to the provisions of this chapter. The registered owner may not be so fined if:

(a) The OHRV was reported as stolen to a law enforcement agency at the time of the alleged unlawful act; or

(b) The registered owner demonstrates that the OHRV either was stolen or was not in use at the time of the alleged unlawful act; or

(c) The registered owner furnishes to law enforcement officers upon request the identity of the person in actual physical control of the OHRV at the time of such violation.

IX. The provisions of paragraph VIII do not apply to any person who rents or leases an OHRV if such person keeps a record of the name and address of the person or persons renting or leasing such OHRV, the registration number thereof, the departure date and time, and expected time of return thereof and furnishes such information to law enforcement officers upon request. Such record shall be preserved for at least 6 months and shall be prima facie evidence that the person named therein was the operator of the OHRV at the time it was operated contrary to the provisions of this chapter.

X. Any person operating an OHRV shall yield the right of way to any person on horseback, foot, skis, snowshoes or other mode of travel on foot; provided, however, that such persons traveling do not unreasonably obstruct or delay OHRVs on the trail.

X-a. A person operating an OHRV approaching a trail intersection marked with a stop sign shall stop before entering the intersection or at a point nearest the intersecting trail where the operator has a view of approaching vehicles on the intersecting trail before entering the intersection.

XI. No person shall operate an OHRV on the property of another unless such operator has obtained written permission from the landowner except as follows:

(a) Verbal permission given to an OHRV club or to the chief of the bureau of trails shall be adequate for operating a wheeled OHRV on trails established by organized OHRV clubs or on trails designated by the chief of the bureau of trails as wheeled OHRV trails. A list and description of such wheeled OHRV trails shall be maintained by the chief of the bureau of trails and shall be available to the public upon request. Individuals operating wheeled OHRVs on such trails shall not be required to obtain specific landowner permission.

(b) Individuals operating OHRVs on trails designated under subparagraph (a) shall operate solely on trails as permitted by the landowner. Any individual who operates an OHRV off the trail shall obtain written landowner permission.

XI-a. Verbal or written permission given by a landowner to an OHRV club, the chief of the bureau of trails, or an individual to permit OHRV operation on trails on his or her property shall in no way be construed as granting a lien or an irrevocable right to operate OHRVs on said property.

XI-b. If a landowner has not given verbal or written permission to an OHRV club, the chief of the bureau of trails, or an individual, to permit OHRV operation on trails on the landowner's property, an OHRV user shall not acquire prescriptive rights to the landowner's property by such adverse use, nor shall such adverse use mature into a prescriptive right.

XII. No OHRV shall be operated above a height of 4,000 feet above sea level except upon existing roads and trails as designated by the bureau.

XIII. No person shall operate an OHRV in any manner so as to harass animals pursuant to the provisions of the definition of "take or taking" in RSA 207:1.

XIV. The provisions of this section do not prohibit or limit the prosecution of an OHRV operator for violating any of the paragraphs referred to in this section.

XV. No person under the age of 18 shall operate any OHRV within this state without wearing a protective helmet and eye protection.

XVI. No person shall operate any OHRV within this state carrying passengers under the age of 18 unless each passenger is wearing a protective helmet.

XVII. No person less than 18 years of age shall operate an ATV while transporting or

carrying any passengers.

XVIII. [Repealed.]

XIX. (a) No person shall operate an OHRV if such person's driver's license has been suspended or revoked by the director of motor vehicles or by the authority of another state or any province of Canada.

[Paragraph XIX(b) effective until January 1, 2007; see also paragraph XIX(b) set out below.]

(b) Any person who violates this section by operating an OHRV in this state during the period of suspension or revocation of such person's license or driving privilege for a violation of RSA 215-A:11, RSA 215-C:11, RSA 265:79, RSA 265:82, RSA 265:82-a, and RSA 630:3, II shall be guilty of a misdemeanor and shall be sentenced in accordance with RSA 263:64, IV.

[Paragraph XIX(b) effective January 1, 2007; see also paragraph XIX(b) set out above.]

(b) Any person who violates this section by operating an OHRV in this state during the period of suspension or revocation of such person's license or driving privilege for a violation of RSA 265: 79, RSA 265-A:2, I, RSA 265-A:3, and RSA 630:3, II shall be guilty of a misdemeanor and shall be sentenced in accordance with RSA 263:64, IV.

Source. 1981, 538:3, 12. 1982, 12:2. 1983, 449:15. 1986, 152:22, 23. 1987, 56:2, 3. 1988, 208:2, 3; 264:5, 6, 10. 1990, 133:5; 256:1, 2, I. 1993, 53:9, 10, eff. June 15, 1993. 1996, 31:1, eff. Jan. 1, 1997; 63:1, eff. July 1, 1996. 1997, 268:8, eff. July 1, 1997; 314:4, eff. Jan. 1, 1998. 2002, 233:14, 15, eff. July 1, 2002. 2003, 23:1, eff. Jan. 1, 2004; 104:3, eff. Jan. 1, 2004; 295:5, eff. July 1, 2003. 2004, 250:8, eff. Jan. 1, 2005. 2005, 210:32, eff. July 1, 2006. 2006, 90:5, eff. July 1, 2006 at 12:01 a.m.; 260:12, eff. Jan. 1, 2007.

Section 215-A:30

215-A:30 Events. –

I. Any person, organization or corporation who wishes to operate or to promote any snow traveling vehicle or OHRV or snowmobile event or contest involving the use of unregistered snowmobiles or unregistered OHRVs shall procure a permit from the executive director. The application for the permit shall be on an annual basis, shall include a listing of scheduled events and shall be accompanied by an annual fee of \$50. Participants in an event or contest shall not be required to register in New Hampshire, but shall operate under the provisions of the permit. Any such participant who is not registered in New Hampshire shall not operate away from the race course or contest area specified in the permit. Distribution of any fees collected under this section shall be as follows:

(a) The first \$35 shall be appropriated to the department of resources and economic development for the administration of the bureau, and shall be used by the bureau for its

grant-in-aid program pursuant to RSA 215-A:23, VI and RSA 215-C:39, VII.

(b) From the balance, \$7.50 shall be appropriated to the department of resources and economic development for administration of the bureau for the purposes listed in RSA 215-A:23, VII, RSA 215-C:39, VIII and \$7.50 shall be appropriated to the department of fish and game for the purposes specified in RSA 215-A:23, VIII and RSA 215-C:39, IX.

II. Unregistered OHRVs may be operated as part of an organized, commercial OHRV event or contest that takes place on property owned by the organizer of such event or contest, without a permit being obtained under paragraph I.

III. The OHRV training and driver's license requirements of RSA 215-A:29, I(b) and III or RSA 215-C:49, I(b) and III shall not apply to any person participating in an organized event or contest permitted under this section or in an event not requiring a permit as provided for in paragraph II.

IV. The provisions of RSA 215-A:29, I(a) and II shall not apply relative to any person under 14 years of age participating in an organized event or contest, where the organizer of the event or contest has obtained landowner permission and procured a permit from the executive director for such type of activity in the same manner and under the same terms as provided in paragraph I. The organizer of the permitted event or contest shall be responsible for maintaining conditions that have the effect of ensuring actual physical direction and control over participants under 14 years of age.

Source. 1981, 538:3. 1982, 12:5. 1988, 264:7, eff. June 29, 1988. 1997, 268:9, eff. July 1, 1997. 2003, 295:6, eff. July 1, 2003. 2005, 210:33, eff. July 1, 2006.

Section 215-A:31

215-A:31 State Parks and Forests. – All trails under the jurisdiction of the department of resources and economic development so far as possible and consistent with their primary functions, shall be made available for use by OHRVs subject to the fees, and rules as established by the directors of the division of parks and recreation and the division of forests and lands with the approval of the commissioner of resources and economic development.

Source. 1981, 538:3, eff. June 30, 1981.

Section 215-A:32

215-A:32 General Administration. –

I. Except as provided in RSA 215-A:9 and RSA 215-A:10, the executive director is authorized to adopt and amend pursuant to RSA 541-A such rules and administrative procedures which are consistent with the provisions of this chapter relative to OHRVs that he deems necessary or advisable to carry out the intent and purposes of said provisions with regard to:

- (a) Equipment requirements;
- (b) Registrations;
- (c) Classification;
- (d) The safety of operators, passengers and other persons; and

(e) The protection of property.

II. The provisions of this chapter relative to OHRVs, any rules adopted by the executive director, and any other information he deems feasible shall be printed by the executive director in booklet form and made available to the public.

Source. 1981, 538:3, eff. June 30, 1981.

Section 215-A:32-a

215-A:32-a OHRV Statistics; Safety. –

I. The executive director shall report annually to the registrar of vital records pursuant to RSA 5-C:2 on any deaths or injuries occurring in the state related to the operation of OHRVs and snowmobiles.

II. The executive director shall approve snowmobile or OHRV safety training courses after consultation with the commissioner of the department of health and human services.

Source. 1988, 264:8. 1995, 310:182, eff. Nov. 1, 1995. 2003, 319:64, eff. July 1, 2003. 2005, 210:34, eff. July 1, 2006.

Section 215-A:33

215-A:33 Removal or Defacing Signs or Markers. – If any person shall wilfully or maliciously deface, destroy, remove, obstruct, alter or otherwise tamper with any trail sign, marker, posting, or other fixed monument along any trail or on anyone's property, upon conviction he shall be guilty of a misdemeanor. Further, said person shall be liable for full restitution for any damage incurred for which he is charged. The provisions of this section do not apply to persons who are authorized to relocate, remove or alter signs, markers or postings.

Source. 1981, 538:3, eff. June 30, 1981.

Section 215-A:34

215-A:34 Posted Land. –

I. An owner may post all or any portion of his land against use by an OHRV. Such notices may read ""SNOW TRAVELING VEHICLES PROHIBITED" or ""OHRVs PROHIBITED" or may have in lieu of these words an appropriate sign with the designated symbol of sufficient size to be readable at a distance of 50 feet indicating that use of this land is prohibited for the purpose so specified. Whoever without right enters such land that has been so posted shall be guilty of a violation. Provided, however, that failure of an owner to post his land as provided in this section shall not be construed as granting any license to users of OHRVs to enter said premises, nor shall said failure be construed as implying any duty of care to the user of an OHRV by the owner.

II. [Repealed.]

Source. 1981, 538:3. 1983, 449:16. 1985, 193:1, eff. July 30, 1985. 2005, 172:3, eff. Jan. 1, 2006.

OHRVs or Trail Bikes Registered for Highway Use

Section 215-A:35

215-A:35 OHRV Safety Equipment Required. – Any OHRV or trail bike, as defined by RSA 215-A:1, V and XIV, respectively, which is also registered for use on the highways of the state shall comply with all OHRV requirements concerning safety equipment, sound emission levels, spark arrestors as well as all other requirements pertaining to the registration of motor vehicles.

Source. 1981, 538:3. 1983, 449:17, eff. July 1, 1983.

Section 215-A:36

215-A:36 Directional Flashers. – For OHRVs or trail bikes registered for use on the highway, directional flashers shall not be required unless said vehicle had this equipment installed as original equipment by the manufacturer.

Source. 1981, 538:3. 1983, 449:17, eff. July 1, 1983.

Section 215-A:37

215-A:37 Knobby Pattern Tires. – OHRVs or trail bikes with knobby pattern tires, which have been registered for highway use, shall be permitted on all highways within the state except interstate highways.

Source. 1981, 538:3. 1983, 449:17, eff. July 1, 1983.

Section 215-A:38

215-A:38 Headlights. – For any trail bike registered for use on the highways, a high and low beam headlight shall not be required unless said vehicle had this equipment installed as original equipment by the manufacturer. This section shall not affect the requirements of RSA 215-A:14, I(a).

Source. 1986, 152:24, eff. Oct. 1, 1986.

Section 215-A:39

215-A:39 Speedometer and Odometer. – For any trail bike registered for use on highways, a speedometer and odometer shall not be required unless said vehicle had this equipment installed as original equipment by the manufacturer.

Source. 1986, 152:24, eff. Oct. 1, 1986.

Budget

Section 215-A:40

215-A:40 Operating Budget. – The commissioner of the department of resources and economic development shall ensure that all sources of funding of the bureau of trails are reflected in the operating budget documents submitted by the department.

Source. 1987, 292:8. 1993, 53:11, eff. June 15, 1993.

ATV and Trail Bike Operation on State Lands

Section 215-A:41

215-A:41 Intent. –

I. The general court declares it to be in the public interest to balance the demand for ATV and trail bike trails on state lands:

- (a) With other, non-motorized recreational trail uses;
- (b) Potentially conflicting management goals for state lands; and
- (c) Protection of wildlife and ecologically important areas.

II. In furtherance of the public interest, the bureau, in cooperation with the department of fish and game and all other state agencies that are custodians of the property involved shall work to develop a system of trails for ATVs and trail bikes on both public and private lands that:

- (a) Uses, to the greatest extent possible, private lands, under voluntary agreement with landowners;
- (b) Uses public lands that can host ATV and trail bike trails that are compatible with existing uses and management goals and plans;
- (c) Is managed cooperatively with formally established ATV and trail bike clubs recognized by the bureau;
- (d) Is regularly monitored for overuse, compliance with laws and regulations, and environmental degradation, with curtailment of trail use if such conditions are found to exist;
- (e) Ensures safe and legal use through consistent enforcement of all laws as set forth in this chapter; and
- (f) Provides opportunities for public input in all decisions regarding development of new or significantly revised trail systems on state lands.

Source. 2002, 233:16, eff. July 1, 2002.

Section 215-A:42

215-A:42 ATV and Trail Bike Trails. –

I. No ATV or trail bike trail shall be established after the effective date of this paragraph or subsequently maintained on state-owned property unless all of the following conditions are met:

(a) The property has been evaluated by the bureau [~~in cooperation with the department of fish and game and the department of resources and economic development, division of forests and lands, and other state agencies that are custodians of the property using the coarse and fine filter criteria, established under RSA 215-A:43, and has passed such criteria as determined by the commissioner of the department of resources and economic development and the executive director of the department of fish and game~~] pursuant to rules adopted under RSA 541-A by the commissioner of resources and economic development, to be known as the coarse and fine filter, which establish an evaluation process and criteria for establishing ATV and trail bike trails. (SB143)

(b) A memorandum of understanding (memorandum) exists between the bureau, the fish and game department, the department of resources and economic development, division of forests and lands, and all other state agencies that are custodians of the property. The memorandum shall include, but not be limited to, the responsibilities that each agency has in monitoring, maintaining, and enforcing relevant laws relative to the trail and the type of OHRV permitted on approved trails. The bureau shall enter into the memorandum only if it is certain that proper monitoring and maintenance of the trail shall occur, either through its own resources or those of others. The fish and game department shall enter into the memorandum only if it can commit sufficient resources to reasonably monitor for proper ATV or trail bike use on the property and enforce the applicable laws.

(c) A written agreement is in effect between the bureau and a locally-organized ATV or trail bike club recognized by the bureau that details the club's ongoing responsibilities, including but not limited to, monitoring the use and condition of the trail, erecting signage, educating operators, performing maintenance, and monitoring compliance with laws and regulations. Should the club fail to fulfill some or all of its responsibilities, the bureau or its agent may assume such responsibilities provided sufficient resources are available and committed.

(d) A management plan exists for the property that specifically allows ATV or trail bike use on the property, and the ATV or trail bike trail does not otherwise conflict with the management plan. Any state agency proposing to establish or change a management plan that affects ATV or trail bike use on state property shall publicize such plan and provide the public with the opportunity to comment on the plan before enactment.

II. An ATV or trail bike trail on state-owned property may be closed to ATV or trail bike use by the bureau, if the bureau finds that:

- (a) ATV or trail bike use on the property is not in conformance with this chapter;
- (b) Responsibilities assumed by the locally-organized ATV or trail bike club pursuant to subparagraph I(c) are not being met; or
- (c) Provisions of the memorandum between the state agencies as entered into pursuant to subparagraph I(b) require such closure.

III. The bureau may not permanently close a trail under paragraph II to ATV or trail bike use except upon a request made to the commissioner of resources and economic development to act under RSA 216-F:2, III, and not without first holding a public hearing

in the local area in which the trail is located. Such hearing shall be noticed to the requesting party and the governing body of the affected municipalities and advertised at least 14 days prior to the hearing in a newspaper of statewide circulation and also in any local newspapers to the cities and towns in which the state property is located.

Source. 2002, 233:16, eff. July 1, 2002. 2003, 295:7, eff. July 1, 2003.

Section 215-A:43

~~215-A:43 Evaluation Process.—Any new ATV or trail bike trail proposal on state-owned property shall be evaluated by the department of resources and economic development using a 2-step process:~~

~~—I. The new ATV or trail bike trail proposal shall be considered to have passed the initial screening process if the following coarse filter criteria are met:~~

~~—(a) There are no deed restrictions, laws, or purchase funding source restrictions that prohibit the use of ATVs or trail bikes on the property.~~

~~—(b) Less than 90 percent of the property is composed of the following types of areas in combination:~~

~~—(i) Exemplary natural communities as identified by the natural heritage bureau as defined in RSA 217-A:3, XVI;~~

~~—(ii) Habitat necessary for the successful breeding or survival of federal or state listed endangered or threatened species; and~~

~~—(iii) Forested wetlands consisting of group IIB forest soils as defined and mapped by the Natural Resources Conservation Service or non-forested wetlands as defined by the department of environmental services.~~

~~—(c) If it is to be a self-contained trail network, at least 700 contiguous acres are available within which the trail network can be situated, in either single state ownership or as a combination of abutting state properties.~~

~~—(d) If it is to be a trail corridor link, the trails which are being connected exist or will exist when the trail corridor link is established, or shortly thereafter.~~

~~—(e) The use of ATVs or trail bikes on the property does not conflict with the purpose for which the property was acquired by the state as provided by law, or as attested to by letters from grantors, department memoranda, historic records, or other credible documents, or, if such conflict exists, it has been set aside by some legal means that includes a formal review process by the custodial state agency.~~

~~—(f) The use of ATVs or trail bikes on the property is not prohibited by an existing management plan for the property.~~

~~—II. A new ATV or trail bike trail proposal that has passed the initial screening process of the coarse filter criteria under paragraph I shall proceed into a planning and layout phase and shall be considered to have passed such phase if the following fine filter criteria are met:~~

~~—(a) The new trail is supported by an organized ATV or trail bike club recognized by the bureau.~~

~~—(b) ATVs or trail bikes operated on the trail will comply with maximum decibel limit established by law.~~

~~—(c) Adequate parking exists or will be developed for the type of trail being~~

~~proposed and the number of expected riders.~~

~~— (d) The bureau has given due consideration to local planning and zoning ordinances.~~

~~— (e) The proposed trail does not pass through a parcel with deed restrictions.~~

~~— (f) The bureau has given due consideration to local noise and obnoxious use ordinances.~~

~~— (g) The proposal is reasonably compatible with existing uses.~~

~~— (h) The proposal does not violate federal, state, or local laws.~~

~~— (i) The proposal includes a monitoring and response system designed to detect and correct adverse environmental impacts.~~

~~— (j) The proposed trail layout incorporates existing motorized travel corridors whenever possible.~~

~~— (k) The proposed trail layout minimizes further fragmentation of blocks of forestland by locating trails on areas with existing development whenever possible.~~

~~— (l) The proposed trail does not pass through a wellhead protection area as determined by the department of environmental services under RSA 485:48, II.~~

~~— (m) The proposed trail is not located on earthen dams, dikes, and spillways.~~

~~— (n) The proposed trail avoids areas having soil types classified as important forest soil group IIA or IIB as defined and mapped by the Natural Resources Conservation Service, unless there is an existing soil condition or surface roadway that can be used to reduce adverse environmental impacts.~~

~~— (o) The proposed trail is not within 100 feet of the ordinary high water mark of first and second order streams, 330 feet of third order streams, and 600 feet of fourth order and higher streams, except for purposes of stream crossing.~~

~~— (p) All stream crossing structures meet 5-year flood design criteria.~~

~~— (q) The proposed trail is not within 200 feet of any water body, forested or non-forested wetland, or vernal pool.~~

~~— (r) The proposed trail avoids elevations over 2700 feet.~~

~~— (s) The proposed trail avoids important wildlife habitat features for species of concern.~~

~~— (t) The proposed trail avoids known locations of federally and state listed endangered or threatened species, or their habitat, as specified on a site-specific basis by the fish and game department.~~

~~— (u) The proposed trail avoids known locations of rare plants and exemplary natural communities, as specified on a site-specific basis by the natural heritage inventory.~~

~~— (v) The proposed trail avoids alteration or disturbance of unique geologic features, formations, and designated state geologic waysides, as specified on a site-specific basis by the state geologist.~~

~~— (w) The proposed trail avoids alteration, disturbance, and adverse impacts to cultural and historic resources.~~

~~— (x) The proposed trail is not within 330 feet of known raptor nest trees, or within 650 feet of trees with eagle or osprey nests.~~

~~— (y) The proposed trail is more than 650 feet from eagle winter roosting areas and 330 feet from the edge of wetlands containing heron rookeries.~~

~~— (z) The proposed trail layout has a safe and appropriate trail design.~~

~~—(aa) Safety standards for highway crossings are met.~~
~~—(bb) Any planned use of the proposed trail with other uses is safely accommodated.~~
~~—(cc) Local enforcement officers have been contacted to review and provide input regarding enforcement issues.~~
~~—III. The bureau shall hold at least one meeting to inform the public and local cities and towns of the plan and layout for a proposed ATV or trail bike trail, consistent with the fine filter criteria in paragraph II, and to provide an opportunity for the public to comment. Information on the plan and layout shall be made available to the public at a place in the local area in which the proposed trail is to be located, at the bureau's office in Concord, and on a public accessible Internet site maintained by the bureau. The meeting and the places to obtain the information on the plan and layout shall be advertised at least 14 days prior to the meeting in a newspaper of statewide circulation and also in any local newspapers to the cities and towns in which the state property is located.~~
~~—IV. No person shall operate an OHRV wider than 50 inches or over 1000 pounds on any state-owned trails.~~
~~—V. This section shall not apply to the change in use designation of rail trails to include ATV and trail bike use. (SB 143)~~

215-A:43 Proposed Trails; Use.

I. The bureau shall hold at least one meeting to inform the public and local cities and towns of the plan and layout for a proposed ATV or trail bike trail, consistent with the fine filter criteria in rules adopted pursuant to RSA 215-A:42, I(a), and to provide an opportunity for the public to comment. Information on the plan and layout shall be made available to the public at a place in the local area in which the proposed trail is to be located, at the bureau's office in Concord, and on a public accessible Internet site maintained by the bureau. The meeting and the places to obtain the information on the plan and layout shall be advertised at least 14 days prior to the meeting in a newspaper of statewide circulation and also in any local newspapers to the cities and towns in which the state property is located.

II. No person shall operate an OHRV wider than 60 inches or over 1200 pounds on any state-owned trails.

III. This section shall not apply to the change in use designation of rail trails to include ATV and trail bike use, or to the use of public highways for trail crossings or trail connectors granted by the department of transportation.

IV. No ATV or trail bike trail system that is to be a self-contained riding area shall be established after July 1, 2007 on state-owned property.

Section 215-A:44

215-A:44 Rockingham Recreational Trail. –

I. No person shall operate an OHRV on any portion of the Rockingham recreational trail west of Route 28 when it is not snow-covered.

II. No person shall use the parking lot at the Windham depot along the Rockingham recreational trail during the period from 1/2 hour after sunset to 1/2 hour before sunrise.

III. The department of resources and economic development shall provide sanitary facilities at the parking area in Windham along the Rockingham recreational trail when the trail is snow-covered.

Source. 2003, 260:1, eff. Sept. 12, 2003.

=====

SB 157 – AS INTRODUCED

2007 SESSION

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seven

AN ACT establishing a commission to study the barriers to the establishment of all-terrain vehicle trails on public and private lands.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Commission Established. There is established a commission to study the barriers to the establishment of all-terrain vehicle (ATVs) trails and the means of addressing such barriers.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

(c) The commissioner of the department of environmental services, or designee.

(d) The commissioner of the department of resources and economic development, or designee.

(e) The commissioner of the fish and game department, or designee.

(f) One representative of the Appalachian Mountain Club-New Hampshire Chapter, appointed by the chairperson of the executive committee.

(g) One representative of the New Hampshire Municipal Association, appointed by such association.

(h) One representative of the New Hampshire Off Highway Vehicle Association, appointed by the president of the executive committee.

(i) The director of the office of energy and planning, or designee.

(j) One representative of the New Hampshire Snowmobile Association, appointed by the president of such association.

(k) One representative of New Hampshire landowners, appointed by mutual agreement of the New Hampshire Farm Bureau Federation and the New Hampshire Timberland Owners Association.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study the following issues associated with ATV use in the state:

I. Sources of revenue for establishing trails and the effect on trail development.

II. Organizational responsibilities for trail development.

III. Methods of establishing the best location for trails on public and private land, including environmental, social, municipal, recreational, and economic factors.

IV. Responsibility for, and economics of, trail construction and maintenance.

V. Adequacy and enforcement of ATV regulations and policies, and means of addressing environmental impact and the problems of users, abutters, and municipalities.

4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2007.

6 Effective Date. This act shall take effect upon its passage. (HB 157)