



# House of Representatives

General Assembly

**File No. 299**

February Session, 2008

Substitute House Bill No. 5602

*House of Representatives, March 31, 2008*

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE DESIGNATION OF ALL-TERRAIN VEHICLE TRAILS, A TRAIL USER FEE AND ALL-TERRAIN VEHICLE REGISTRATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2008*) Each purchaser of an all-  
2 terrain vehicle from an all-terrain vehicle dealer on or after July 1, 2008,  
3 shall pay a trail user fee, equivalent to one per cent of the total  
4 purchase price of such all-terrain vehicle, exclusive of sales tax. Each  
5 all-terrain vehicle dealer shall collect from the purchaser the full  
6 amount of the user fee imposed by this section or an amount equal as  
7 nearly as possible or practicable to the average equivalent thereof and  
8 transmit such amount to the Commissioner of Revenue Services. In  
9 case of the purchase of an all-terrain vehicle other than from an all-  
10 terrain vehicle dealer, the purchaser of the all-terrain vehicle shall pay  
11 the user fee to the Commissioner of Revenue Services at the time of  
12 registration of such all-terrain vehicle, in accordance with section 14-  
13 381 of the general statutes, on a form prescribed by the Commissioner  
14 of Motor Vehicles, in consultation with the Commissioner of Revenue  
15 Services. The Commissioner of Revenue Services shall remit the

16 revenue received from such fee to the Treasurer for deposit into the all-  
17 terrain vehicle account established under section 22a-27h of the general  
18 statutes, as amended by this act. Nothing in this section shall be  
19 construed to affect the amount of sales tax imposed on such all-terrain  
20 vehicle. For the purposes of this section, "all-terrain vehicle dealer"  
21 shall have the same meaning as in section 14-379 of the general  
22 statutes.

23 Sec. 2. Section 22a-27h of the general statutes is amended by adding  
24 subsection (d) as follows (*Effective July 1, 2008*):

25 (NEW) (d) There is established the all-terrain vehicle account, which  
26 shall be a separate nonlapsing account within the Conservation Fund.  
27 The account shall contain any moneys required by law to be deposited  
28 in the account. Such account shall contain all of the revenue received  
29 by the state from the trail user fee collected in accordance with section  
30 1 of this act. The funds in such account shall be distributed as follows:  
31 (1) Not more than seventy per cent to the Department of  
32 Environmental Protection for the purposes of all-terrain vehicle trail  
33 (A) selection, (B) maintenance, (C) alteration, (D) design, and (E)  
34 routine repairs; (2) not more than ten per cent for any administrative  
35 costs of the Department of Environmental Protection pertaining to the  
36 record maintenance required regarding all-terrain vehicles registered  
37 in accordance with section 14-380, and for enforcement of any statutes  
38 concerning the operation of all-terrain vehicles; and (3) not more than  
39 twenty per cent for the purposes of a grant program to be  
40 administered by the Department of Environmental Protection. The  
41 Department of Environmental Protection shall award funds pursuant  
42 to such grant program to a private all-terrain vehicle association for the  
43 purpose of providing trail maintenance and safety and education  
44 courses for operators of an all-terrain vehicle registered in accordance  
45 with section 14-380, and land acquisition for all-terrain vehicle  
46 facilities.

47 Sec. 3. Section 23-26c of the general statutes is repealed and the  
48 following is substituted in lieu thereof (*Effective July 1, 2008*):

49 The Commissioner of Environmental Protection shall evaluate the  
 50 properties under [his] the commissioner's jurisdiction and the  
 51 jurisdiction of other state agencies for [their] use by persons operating  
 52 all-terrain vehicles and, not later than January 1, 2010, shall [make  
 53 available some of such properties] designate not less than four trails on  
 54 such properties for such use, all of which shall be not less than five  
 55 miles in contiguous length. Prior to making any such designation, the  
 56 commissioner shall hold at least one public hearing, in accordance  
 57 with the provisions of chapter 54. In making such [properties  
 58 available] designation, the commissioner shall consider minimizing the  
 59 impact of all-terrain vehicles on the environment. Before [making]  
 60 designating any property [available] that is under the jurisdiction of  
 61 another state agency, the commissioner shall consult with such agency.

62 Sec. 4. (NEW) (*Effective October 1, 2008*) Not less than one hundred  
 63 eighty days before all-terrain vehicle trails are scheduled to open on  
 64 state land, the Commissioner of Motor Vehicles shall establish and  
 65 implement a registration system for every all-terrain vehicle driven in  
 66 the state. Prior to registrations becoming effective, the commissioner  
 67 shall adopt all necessary regulations, in accordance with the provisions  
 68 of chapter 54 of the general statutes, and fees for such program. Any  
 69 all-terrain vehicle used solely for farming purposes shall be exempt  
 70 from a registration fee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>July 1, 2008</i>	22a-27h
Sec. 3	<i>July 1, 2008</i>	23-26c
Sec. 4	<i>October 1, 2008</i>	New section

**ENV** Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Motor Vehicles	TF - Cost	50,000	None
Department of Revenue Services	Conservati - Revenue Gain	222,000	222,000
Department of Environmental Protection	GF - Cost	\$2.0 million - \$4.0 million	\$2.0 million - \$4.0 million

Note: TF=Transportation Fund; Conservati=Conservation Fund; GF=General Fund

**Municipal Impact:** None

**Explanation**

Section 1 of the bill establishes a trail user fee, equal to 1% of the pre-tax sales price on an all-terrain vehicle (ATV). Section 2 creates an All-Terrain Vehicle account (ATV) as a separate nonlapsing account within the Environmental Conservation (EC) account. Funds collected from the trail user fee are to be deposited into this account, and spent according to the bill’s provisions. It stipulates that 70% of the funds are to be used for trail design and construction.

The ATV account would experience a revenue gain, of \$222,000 starting in FY 09. This estimate is based on about 3,700 ATV sales, with an average price of \$6,000.

The actual EC Fund balance for FY 07 is \$6.2 million and the estimated fund balance for FY 08 is \$5.9 million. The EC Fund is used for the administration of conservation programs and is funded primarily through fees generated from parking, admission, boat launching, camping and other recreational uses of state parks, forests, boat launches, and other state facilities.

Section 3 requires the Department of Environmental Protection

(DEP) to identify at least four areas with at least five miles each of trails for ATV use. It is anticipated that these areas would result in a cost of about \$500,000 to \$1.0 million each for design and construction of the trails, in addition to parking areas. For the four areas, this would result in a cost of about \$2.0 million to \$4.0 million in FY 09 and FY 10 to DEP. These costs would be partially offset by \$155,400 (70% of the \$222,000 revenue figure), from the annual revenue generated by the fee established in Section 1.

Section 4 would result in a one-time cost of \$50,000 in FY 09 to the Department of Motor Vehicles (DMV) for establishing a new ATV registration plate program. This separates ATVs from the existing off-highway recreational vehicle registration program. This cost would be to purchase new stock, reprogram the motor vehicle registration system to accommodate new renewal applications and other form changes, and mailing notices.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and subject to the number of ATV's sold.

**OLR Bill Analysis****sHB 5602*****AN ACT CONCERNING THE DESIGNATION OF ALL-TERRAIN VEHICLE TRAILS, A TRAIL USER FEE AND ALL-TERRAIN VEHICLE REGISTRATION.*****SUMMARY:**

This bill expands the Department of Environmental Protection (DEP) commissioner's duty to evaluate state property for use by people operating all-terrain vehicles (ATVs). It requires her, by January 1, 2010, to designate at least four trails on state land for ATV use. It requires the Department of Motor Vehicles (DMV) commissioner to create and implement a system to register all ATVs driven in the state at least 180 days before these trails are set to open. But the law, unchanged by the bill, exempts from registration ATVs operated on premises owned or leased by the ATV owner (see COMMENT).

Starting July 1, 2008, the bill requires anyone buying an ATV to pay a "trail user" fee of 1% of the total purchase price, exclusive of the sales tax. This fee must be deposited into an account the bill creates to fund (1) trail selection, maintenance, alteration, design, and repair; (2) DEP administrative costs; and (3) a grant program.

EFFECTIVE DATE: July 1, 2008, except for the DMV registration provision which takes effect October 1, 2008.

**TRAIL DESIGNATION**

Under current law, the DEP commissioner must evaluate the property under her jurisdiction and that of other state agencies for use by ATV operators, and make some of these properties available for ATV use. She must consider minimizing the ATVs' environmental impact in making property available, and must consult with another

state agency before making its property available.

The bill requires her, by January 1, 2010, to designate at least four trails for ATV use on state property, each of which must be at least five miles long. Before designating a trail she must hold at least one public hearing. She apparently must hold one hearing for each trail she designates. She must (1) consider minimizing the ATVs' environmental impact when designating a trail, and (2) consult with other state agencies before designating a trail on their property.

The law, unchanged by the bill, prohibits anyone from operating an ATV on state land (1) without a DEP certificate and (2) unless the vehicle is registered (CGS § 23-26b (a)).

### **REGISTRATION PROGRAM**

At least 180 days before the ATV trails on state land are scheduled to open, DMV must establish and implement a registration system for every ATV driven in the state, not just those operated on state land. The DMV commissioner must develop and implement all necessary regulations and fees for the program before the registrations take effect. The bill exempts from the registration fee ATVs used solely for farming purposes.

### **TRAIL USER FEE**

The bill requires anyone buying an ATV from an ATV dealer on or after July 1, 2008 to pay a trail user fee of 1% of the total purchase price, excluding sales tax. The dealer must collect the fee or an amount as close as possible to its average equivalent, and submit it to the revenue services commissioner. A person buying an ATV from someone other than an ATV dealer must pay the fee to the revenue services commissioner when he registers the ATV with the DMV. The fee must be paid on a form prescribed by the DMV commissioner, after consulting with the revenue services commissioner. Under the bill, an ATV dealer is someone engaged in manufacturing and selling new ATVs, with an established place of business for the manufacture, sale, trade, and display of these vehicles.

The revenue services commissioner must remit the fee to the state treasurer for deposit in the ATV account the bill creates. The bill does not change the amount of sales tax owed.

### **ATV Account**

The bill creates an ATV account as a separate nonlapsing account in the Conservation Fund that must contain any money the law requires, including all the revenue received in trail user fees. The commissioner must spend funds from the account as follows:

1. up to 70% of the money to DEP for ATV trail (a) selection, (b) maintenance, (c) alteration, (d) design, and (e) routine repair;
2. up to 20% to provide grants to private ATV associations for (a) trail maintenance, and safety and education courses for registered ATV operators, and (b) acquiring land for ATV facilities; and
3. up to 10% for DEP for (a) administrative costs of maintaining ATV registration records, though they originate in DMV, and (b) enforcing ATV laws, although DEP, along with DMV inspectors, state and local police, and constables, enforce ATV laws.

The bill does not define "ATV facilities."

## **BACKGROUND**

### ***Certificate Needed to Operated ATVs on State Land***

The law prohibits anyone from operating an ATV on state land without a DEP certificate and vehicle registration. Operators younger than 18 years old must complete an ATV safety education course to obtain a certificate.

The DEP commissioner may require anyone operating an ATV on state land to (1) furnish proof of liability and property damage insurance on the vehicle and (2) agree to indemnify and hold the state harmless against any and all suits, claims, demands, or judgments that

may be allowed against the state for injury to anyone as a result of the ATV operation (CGS § 23-26b). Violation of the law is an infraction.

**COMMENT**

***Inconsistent Registration Requirements***

The bill requires DMV to register all ATVs driven in the state. But the law, unchanged by the bill, exempts ATV owners from registering their vehicles if they only operate them on premises they own or lease (CGS § 14-380).

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0 (03/12/2008)