

CHAPTER 136
FORMERLY
SENATE BILL NO. 69
AS AMENDED BY
SENATE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE REGISTRATION AND CONTROL OF OFF-HIGHWAY VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 101, Title 21 of the Delaware Code as follows and numbering accordingly:

§ 101 Words and phrases.

For the purposes of this title, unless the context otherwise clearly indicates:

“All Terrain Vehicle” or “ATV” means an “Off Highway Vehicle” or “OHV” that is motorized and designed to travel on four low-pressure tires and having a seat to be straddled by the operator and handlebars for steering control. "ATV" does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law-enforcement purposes, a construction or logging vehicle used in performance of its common function, electric personal assistive mobility device or a registered aircraft.

Section 2. Amend § 6823, Title 21 of the Delaware Code as follows:

§ 6823 Operation of OHVs — Helmets.

(a) A person shall not operate a 2-wheel or 3-wheel OHV unless the operator and all passengers are wearing a protective helmet meeting U.S. Department of Transportation standards on their heads, with the chin straps properly fastened.

(b) A person under 18 years of age shall not operate any ATV unless the operator is wearing a protective helmet meeting U.S. Department of Transportation standards on his or her head, with the chin straps properly fastened. A person under 18 years shall not be a passenger on an ATV unless the passenger is wearing a protective helmet meeting U.S. Department of Transportation standards on his or her head, with the chin straps properly fastened.

Section 3. Amend § 6824, Title 21 of the Delaware Code as follows:

§ 6824 Operation of OHVs — By minors, incompetent persons or persons under mental or physical disabilities.

(e) No person under 18 years of age shall operate an ATV while carrying passengers, regardless of whether or not the vehicle was specifically designed by the manufacturer to carry passengers.

(f) No person under 18 years of age shall be a passenger on an ATV unless the ATV was specifically designed by the manufacturer to carry passengers and is being operated by an individual who is 18 years of age or older.

Section 4. Amend Chapter 68, Title 21 of the Delaware Code by adding the following:

§ 6835. Civil Liability

Any other statute notwithstanding, a violation of § 6823 or § 6824 shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim arising out of any ATV or OHV accident.

Approved July 30, 2015