

My ATV Rules!

'Tis the season once more for the all terrain vehicles, (ATVs) aka: two, three, and four-wheelers, to come spinning and spitting around the corners of fields and out from among the forest trees, into full sight and sound for nearby lookers on. They are fast and fun for the riders, inherently dangerous and of considerable consternation to much of the general public. They can be especially bothersome to certain farmers and other "large-patch" landowners. Every year about this time, calls start coming in from farmers complaining about ATVs approaching and encroaching, followed then with customary reproaching. Ironically, many farmers have "adopted the technology" and effectively use ATVs in their business, making it even more difficult to sort out the white helmets from the black. The machines are becoming ever more popular and the rise in numbers that are now "on the trail" spells out an ever-increasing potential for issue and confrontation.



Most of the owner/riders are responsible in their fun-seeking and try to go by the rules of fair-play and accountability. Sadly though, others are not and through their actions give the ATV folks at large a bad name, and/or the figurative (as well as sometimes a literal) black eye. Some go by the rules - some know them and don't. Some don't know the rules. Some don't want to know them... Well, if you're reading this piece and you have enough patience to complete it, you will then know (like all the "rough-riding revelers" do, and often say) "My ATV Rules!" I'm not guaranteeing that you can take a case to court with *My ATV Rules*, but you will have at least a little background information and can maybe visit with "ATV-ists" with just a little more aplomb. For official comprehensive information on ATV regulations call 1 -800-225-5368. Now hang on tight for "ATV Rules," they're gonna be fast and furious...

Little, tiny kids that haven't fully mastered pedal tricycle operation shouldn't really be on them solo, but then a lot of "supposed" adults shouldn't be either. In most settings and circumstances, both (little kids and nutty adults) on the same ATV - at the same time, just shouldn't happen. One of the many "over-rides" in the rules says that it's all right for two to be on the vehicle, if there is built-in passenger seating provided. Pretty much everyone is fair in the game, though.

1. An ATV must be registered (and sales tax paid) if it is to be operated in New York, including on the owner's property. Exemptions from registration can occur if the ATV is used exclusively outside New York State, at special events, for agricultural purposes, or for snow-plowing (other than for hire).
2. Registration and registration renewal is \$10 per year, and \$7.50 for a rear license plate when you first register. The registration document should be carried when operating the ATV.
3. Liability insurance is required in the minimum amounts of \$50,000/\$100,000 for death, \$25,000/\$50,000 for injury, and \$10,000 for property damage for any one accident. The exception here is, if the ATV is operated exclusively on your own property.
4. No driver's license is required to operate an ATV in New York, but certain "restrictions" apply to operators under the age of 16.
 - Age 10 through 15 may operate an ATV only under adult supervision; or without adult supervision on parents' owned or leased land; or on any lands where ATVs are permitted, without

adult supervision, if the operator is a certified “completer” of an ATV safety training course approved by the DMV.

- Under the age of 10 may operate only under adult supervision; or without adult supervision on lands owned or leased by the parents. (Adult supervision is defined as being accompanied by an 18 year old, (or older) or a 16 -17 year old that has been certified in the DMV-approved ATV safety course).
5. Operators (and passengers) must wear USDOT-approved helmets.
 6. You may not operate an ATV on public land unless it is specifically designated for ATV use, and is allowed by posted signs.
 7. On private land, you must have permission of the land owner or Lessee, and know and operate within the boundaries of the land.

In the case of accident, name, plate number and address must be exchanged. An accident must be reported to police if there is death, personal injury, or damage estimated at \$600 or more. And, if over \$1,000, you must also file a Report of Motor Vehicle Damage (MV-104) with DMV. (Failure to report an accident is a misdemeanor, and conviction may revoke safety certification and/or ATV registration).

In addition to requiring certain safety features, the head and tail lights are required to be on ½ hour before sunrise and after sunset. The DMV recommends they be on all the time.

Selected ways in which you may not operate an ATV:

- At a speed too fast for existing conditions or hazards.
- In a careless, reckless, or negligent manner.
- While intoxicated or impaired by drugs or alcohol.
- On the tracks or right-of-way of a railroad.
- On the highway, unless it is designated and posted, and avoid crossing highways (unless absolutely necessary).
- In a tree nursery or plantings in a damaging manner.
- Within 100 feet of a dwelling between midnight and 6:00 AM, (at a speed greater than necessary to just keep moving).
- While pulling a person on a sled, skis, or trailer – (unless attached with a rigid tow-bar).
- On ice within 100 feet of persons, fishing shanties, or shelters (at a speed greater than necessary to keep the ATV moving).
- Over an area of ice cleared of snow for skating (unless necessary for access to public waters).

The DMV states that it is “wise” to obey rules and laws, and having fun on an ATV does not include annoying others or taking foolish risks. ATV riders who ignore the rules and rights of others may cause ATV operation to be restricted or prohibited on private and public lands. This is for sure, especially on private lands, as more people are barring ATVs from their places. Sometimes this actually works, but in many cases the “closed trail” has been blazed for years, and “Well, we’re just following it.” Well let’s see now, that might just be trespassing?

A person is guilty of Criminal Trespass when he “knowingly” enters or remains unlawfully (not licensed or privileged to be there) in or upon premises – on someone else’s property without permission. As the many “over-rides” in ATV rules, trespass law has some too. The exception to criminal trespass is when a

person “accidentally” enters or remains upon “unimproved and apparently unused” land (places without fences, exclusionary enclosures, verbal and/or written warnings, or postings). Criminal trespass is a violation, meaning it is an offense for which a sentence of imprisonment of up to 15 days may be imposed.

Now then, a person who enters (or hires or asks someone else to) another’s property may be liable to the property owner for Civil Trespass, for which the owner can sue in a civil case. Liability for civil trespass requires the fact-finder to consider whether the person, without justification or permission, either intentionally entered the property, or refused to leave after previous permission had been revoked. The word “knowingly” is not included in civil trespass cases, it’s merely entering without permission or justification. Once liability is established in civil cases, the owner may be entitled to damages – sums of money awarded to the “injured” person by the intentional act of another. In the case of trespass, a plaintiff may be awarded nominal, compensatory, or punitive damages. Nominal damages are usually trivial sums of money, awarded for establishing a cause of action, but not establishing that he is entitled to compensatory damages. Compensatory damages are awarded as compensation, indemnity, or restitution for actual harm sustained by the plaintiff as a result of the trespass. Punitive damages are designed to discourage interference with property rights and will only be awarded if the plaintiff proves 1) actual malice which involves an intentional wrongdoing, or 2) such conduct that may be indicative of willful or reckless disregard of the plaintiff’s rights – i.e.; failing to quit trespassing, or not paying the compensatory damages... (Probably “knowingly”?)

For any of these trespass cases, it’s really important that you seek legal counsel as a first step. I know, it’s probably about as clear as mud for you all, but for clarification or referral - please call us at 622-9820.

We don’t have many, but they’re really, really good – the CCE Rules!

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