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HOUSE BILL NO. 460

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact § 46.2-915.1 of the Code of Virginia, relating to operation of all-terrain vehicles and off-road motorcycles.

Patrons—Merricks and Marshall, D.W.

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-915.1 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-915.1. All-terrain vehicles and off-road motorcycles; penalty.

A. No all-terrain vehicle *or off-road motorcycle* shall be operated:

1. On any public highway, or other public property, except (i) as authorized by proper authorities (ii) to the extent necessary to cross a public highway by the most direct route, or (iii) by law-enforcement officers, firefighters, or rescue squad personnel responding to emergencies;

2. By any person under the age of 16, except that (i) children between the ages of 12 and 16 may operate all-terrain vehicles powered by engines of no more than 90 cubic centimeters displacement and (ii) children less than 12 years old may operate all-terrain vehicles powered by engines of no more than 70 cubic centimeters displacement;

3. By any person unless he is wearing a protective helmet of a type approved by the Superintendent of State Police for use by motorcycle operators;

4. On another person's property without the written consent of the owner of the property or as explicitly authorized by law; or

5. With a passenger at any time, unless such all-terrain vehicle *or off-road motorcycle* is designed and equipped to be operated with more than one rider.

B. Notwithstanding subsection A, all-terrain vehicles may be operated on the highways in Buchanan County if the following conditions are met:

1. Such operation is approved by action of the Buchanan County Board of Supervisors for operation along the Pocahontas Trail on Bill Young Mountain and across Virginia Route 635 in Buchanan County;

2. Signs, whose design, number, and location are approved by the Virginia Department of Transportation, have been posted warning motorists that all-terrain vehicles may be operating on the highway;

3. Such all-terrain vehicles are operated during daylight hours on the highway for no more than one mile between one off-road trail and another;

4. Signs required by this subsection are purchased and installed by the person or club requesting the Board of Supervisors' approval for such over-the-road operation of all-terrain vehicles;

5. All-terrain vehicles operators shall, when operating on the highway, obey all rules of the road applicable to other motor vehicles;

6. Riders of such all-terrain vehicles shall wear approved helmets; and

7. Such all-terrain vehicles shall operate at speeds of no more than 25 miles per hour.

No provision of this subsection shall be construed to require all-terrain vehicles operated on a highway as provided in this subsection to comply with lighting requirements contained in this title.

C. Any retailer selling any all-terrain vehicle *or off-road motorcycle* shall affix thereto, or verify that there is affixed thereto, a decal or sticker, approved by the Superintendent of State Police, which clearly and completely states the prohibition contained in subsection A of this section.

D. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of an all-terrain vehicle or off-road motorcycle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action, nor shall this section bar any claim which otherwise exists.

E. Violation of any provision of this section shall be punishable by a civil penalty of not more than \$500.

F. The provisions of this section shall not apply:

1. To any all-terrain vehicle *or off-road motorcycle* being used in conjunction with farming activities;

or

2. To members of the household or employees of the owner or lessee of private property on which the all-terrain vehicle *or off-road motorcycle* is operated.

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HB460

59 G. For the purposes of this section, "all-terrain vehicle" *and* "*off-road motorcycle*" shall have the
60 ~~meaning~~ *meanings* ascribed in § 46.2-100.