

NYS Off-Highway Recreational Vehicle Association, Inc.

ATV Trail Program Legislation — Position Statement and Talking Points

Introduction

Versions of ATV bills promoted by NYSORVA since 1993 have attempted to re-establish a *Trail Funding* source and a *Program* to distribute funds and assist in managing trails supported by the fund. With the passage of the State Budget in April 2005, a dedicated registration-based Trail Fund was finally re-established, and a first-year appropriation to DEC of \$850k was made to start up an ATV Program.

However, there is not yet any *Program authority* for DEC to spend the money on trails, landowner liability insurance, enforcement, education, etc. The Budget failed to include these details. Another bill needs to be passed to make things work, otherwise the \$850k will sit unspent in 2005 and we won't get anywhere in finally opening the trails. Proposals, yet to be made into bills, are floating around the Legislature. It is therefore our job to make sure we tell the Legislature what we want in any proposal to make sure an ATV Program does what we need.

What to tell your NY State Senator and Assembly Member to do, to Get the Job Done Right

Falling short on any of these details in a comprehensive ATV Program Bill could significantly reduce the success of any resulting ATV Program.

1. **Work directly with NYSORVA's Legislative Affairs Officer.** NYSORVA is the recognized lead-organization with the greatest knowledge in representing the best interests of riders statewide, in promoting ATV legislation in Albany. They work with other state and national groups to coalesce all voices into one on NY ATV issues. (Write to Ride@nysorva.org to establish contact.)
2. **Program Jurisdiction must be DEC** versus Parks agencies, and applicable law should be EnCon versus Parks/Rec. All previous bills have called for Parks to be agency of jurisdiction over an ATV Program. But DEC is poised to be the Program agency, is willing to work with the ATV Community, whereas Parks has expressed no interest in such relationship or activity.
3. **Easement Trail Funding is required** by DEC, since their Policy hangs its hat on such funding. Anti-motorized groups are selfishly lobbying against easement access funding intent on keeping us out of these semi-public lands.
4. **Do not allow unconstitutional prohibition language** to be inserted into any ATV Program

bill that would be in duplication of the existing virtual "ATV Ban" in the Adirondacks. Allow existing EnCon and V&T Laws, and DEC Policy to continue to control or deny access.

5. **Allow more funding of safety education** instead of the counterproductive over-funding of enforcement that the anti-ATV groups are calling for. While we recognize that some increased funding is necessary for the ATV community to partner with Law Enforcement to keep ATV riding manageable, prevention in the form of first educating the rider of rules and responsibilities is better than the cure of increased ticket writing.
6. **Do not allow ticket revenues to be used as a funding source**, as has been proposed by the anti-ATV groups. There is *no precedent* in New York Law of funding enforcement programs from ticket revenues. Changing this for only ATV infractions is discriminatory on its face, and goes against the precedent that there shall be no financial incentive that would drive enforcement personnel to issue frivolous citations that would clutter the justice system.
7. **Any Fee Increase must be repealed if the Trail Fund or Program are repealed.** If we get no trails, the registration fee should go *back* to \$10.
8. **Landowners need more liability protection.** Landowners who host trails need the "consideration section" of GOL 9-103 (2-b), removed so being paid for land access does not remove the protections otherwise given them by the Law. Even if clubs can purchase Liability Insurance for host landowners, the loophole for leased lands will prevent many desirable properties from being available for trail development. This change will benefit ALL forms of risk-inherent recreation activities pursued on private lands, not just ATVing. As an example, the Hatfield-McCoy Trail System could not have come about without this protection of landowners being in place in West Virginia Law.
9. **Change the agency with the authority to approve ATV Safety Courses** from DMV to DEC as part of establishing DEC as the Program Agency for the ATV Program.
10. **Point-of-Sale registration exemptions** existing elsewhere in V&T Law but missing from new Law passed with the State Budget, must be corrected in subsequent legislation.