SPONSOR: Rep. Harris & Sen. Buckson
Reps. Cooke, Ortega, Osienski

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 471
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2
AND
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 21 RELATING TO REGULATION AND CONTROL OF OFF-HIGHWAY VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 68, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 68. REGISTRATION AND CONTROL OF OFF-HIGHWAY VEHICLES

§ 6821. Operation of OHVs — On property.

(a) A person shall not operate an OHV upon any property in either public or private ownership without the express permission of the person in control of the property or knowingly in violation of any restrictions imposed on such use by the person in control of the property. <u>For the purposes of this chapter, operating an OHV on shared private roadways is presumed to be unauthorized. For purposes of this Chapter, a golf cart shall not be considered an OHV.</u>

(b) *Penalties.* — (1) A person who violates subsection (a) of this section shall be subject to the following penalties:

a. For the first offense, a fine of $100 and an impoundment of the OHV at time of conviction for up to 30 days, which may be suspended by the court.

b. For each subsequent offense, the OHV owner shall be fined $1,000 and the OHV will be impounded for a minimum of 60 days from date of conviction. A subsequent offense, before being punishable as such, shall have been committed within 24 months after commission of the first offense.

c. Under this section, the OHV will be returned to the owner once the fine and impoundment costs have been paid by the OHV owner or, if the fine is appealed, once the owner has complied with the court's decision or the court decides the owner and/or operator is not guilty of the offense under subsection (a) of this section. The owner will not be responsible for impoundment costs if found not guilty by the court.

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(2) In addition, restitution shall be made for value of damage to real or personal property which results from a violation of this section.

§ 6831. Penalties.

A person convicted of a violation of any provision of this chapter is subject to the following penalties, unless otherwise provided for in this chapter.

(1) For a first offense, a fine of $100 and impoundment for up to 100 days, at the expense of the owner, of the OHV at the time of conviction.

(2) For a ~~subsequent~~ second offense that occurs within 24 months of a prior conviction of this chapter or of a similar off-highway vehicle state or local law, statute, or ordinance, a fine of ~~$400 and impoundment for a mandatory minimum time period of 6 months,~~ $500 and impoundment for a period of 60 days, at the expense of the owner, of the OHV at the time of conviction.

(3) For a third offense that occurs within 24 months of a prior conviction of this chapter or of a similar off-highway vehicle state or local law, statute, or ordinance, a fine of $500 and permanent impoundment.

~~(3)~~ (4) In addition to impoundment of an OHV for up to 100 days upon conviction, a uniformed police, peace, or environmental protection officer acting in the lawful performance of duty may have an OHV towed and impounded pending the resolution of charges if that law-enforcement officer has probable cause to believe that the OHV was used in violation of this chapter.