



Memorandum in Opposition

Bill: S2533 by Senator Ritchie
A803 by Assembly member Gunther

Title: An Act to amend the environmental conservation law, in relation to authorizing special access to hunting and fishing grounds on state land for handicapped individuals

The Adirondack Mountain Club (ADK) Strongly Opposes this Legislation.

This legislation is unnecessary and redundant. There currently exist rules and regulations under the Department of Environmental Conservation (DEC) Motorized Access Program for People with Disabilities (MAPPWD) Commissioner's Policy #3. This policy and program (also known as CP3) permits hunting and fishing access to disabled individuals on state lands. "The MAPPWD permit is a temporary revocable permit (TRP) that provides motor vehicle access to certain state lands administered by DEC. MAPPWD permit holders are permitted uncommon access to activities such as hunting, fishing, camping and wildlife observation." The MAPPWD/CP3 program ensures access for disabled individuals while also providing for the protection of the Forest Preserve and state public lands which may be damaged by motorized use. DEC carefully evaluates roads in the Forest Preserve and other protected state lands and regulates use to protect the resource.

The proposed legislation is clearly attempting to weaken the existing regulations that protect state lands from motorized abuse by taking the permitting and protection authority away from DEC and giving the responsibility to local governments—not necessarily the local government which has in its boundaries the state land that the disabled individual wishes to access. Although disabled parking permit application forms are provided by the State DMV, it is the municipality where the disabled individual resides that receives the application and determines if an individual will be issued a disabled parking permit. However, permanent or lifetime disabled parking license plates are issued by the DMV.

Currently, the CP3 Program issues about 1200 permits annually. The State DMV issues and tracks permanent/lifetime disabled parking license plates, but the DMV does not know the number of currently existing disabled parking permits in NYS. One would

need to send FOIL requests to every municipality in NYS to determine the number of disabled parking permits currently issued. The proposed legislation would allow this unknown number of individuals to access NYS public land by ATV.

This is simply a bad proposal that attempts to ruin a good program which provides both access for disabled individuals, and protection for our state resources.

The intent of the proposed legislation is to expand ATV use on our state public lands, and unfortunately it is attempting to use those with disabilities to accomplish that end.



The environmental damages and user conflicts associated with current ATV use are well documented. Many public and private lands throughout the state have been heavily damaged by ATV use (see Taconic Crest Trail damage, left). The use of ATVs has led to severely eroded trails with large mud-ruts and trampled vegetation.

The growing market for larger off road vehicles known as Utility Task Vehicles (UTVs) threatens New York's environment. More riders want to purchase and use large off-road vehicles in the State. Industry news describes the new, large UTVs as "cash cows." The increase of UTV use would inevitably result in user conflicts and environmental damage, as more riders want to purchase and use large off-road vehicles in the State. Larger, heavier UTVs have greater potential to damage the environment. See promotional image below.

Increased use would also likely increase trespass. Current fines are insufficient to discourage illegal riding and trespass. ADK does not support allowing more riders on legal riding trails without first addressing the current trespass problems of ATV riders.



Without stiffer penalties for ATV trespass on public or private land, this bill would dramatically increase the number of ATVs potentially causing damage on our public lands. Penalties including vehicle impoundment for ATV trespass would do much to curtail the huge rural land and public land problem of ATV trespass.

Further, due to agency cutbacks there are currently too few Environmental Conservation Officers (ECO) and Forest Rangers to police the current impact of ATVs on public lands. Both ECOs and Forest Rangers must have the authority to impound ATVs for violations. This issue must be addressed to halt the current impact. Sufficient funding for enforcement must be connected to the registration process of all ATVs.

This bill does not provide a corresponding increase in funds to enhance enforcement and mitigation efforts. It is difficult to patrol the millions of acres of private and publicly owned lands in the Adirondacks, Catskills, and NY's State Forests. Often times the damage reported to the Department of Environmental Conservation (DEC) is the mechanism for enforcing penalties. Once that damage has been done, mitigation will be much more expensive.

Further, ATV riders are permitted by Title 11, Article 48C, Section 2405 of the New York State Vehicle and Traffic Law to drive their off-road vehicles on highways between legal riding trails, and trails adjacent to highways with no restriction to the distance travelled (Appendix 1). Whereas, laws regulating snowmobiles allow only 500 yards of road travel between trails (see Appendix 1). Clearly if it is unwise to have snowmobiles and cars on the road together for unlimited riding distances it is at least equally as dangerous to have ATVs on the road with vehicles, especially for the safety of the ATV rider. The proposed legislation will enable thousands of individuals to drive between public land parcels on public roadways with no distance restrictions.

The Adirondack Mountain Club represents over 30,000 hikers, paddlers, backpackers and cross-country skiers. ADK is dedicated to the conservation, preservation, and responsible recreational use of the New York State Forest Preserve and other parks, wild lands, and waters vital to our members and chapters.

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Appendix 1

NYS Law Regulating ATV and Snowmobile Use on Highways

Vehicle and Traffic Law: Title 11, Article 48C, Section 2405

Designation of highways and public lands for travel by ATVs

1. Highways. Except with respect to interstate highways or controlled access highways, the department of transportation with respect to state highways, maintained by the state and any other governmental agency with respect to highways, including bridge and culvert crossings, under its jurisdiction may designate and post any such public highway or portion thereof as open for travel by ATVs when in the determination of the governmental agency concerned, it is otherwise impossible for ATVs to gain access to areas or trails adjacent to the highway. Such designations by a state agency shall be by rule or regulation, and such designations by any municipality other than a state agency shall be by local law or ordinance.¹

OPRHP Law § 25.05, Operation on highways.

7. Highways designated by governmental agencies. Snowmobiles may be operated on the following portions of highways, other than the thruway, interstate highways or controlled access state highways, which have been designated and posted as provided in section 25.09.

- (a) Shoulders and inside banks. On the shoulders and inside banks of such highways or portions thereof so designated;
- (b) Roadways. On roadways of such highways or portions thereof in case the outside banks or shoulders are determined by the governmental agency to be impassable or non-existent by reason of prevailing snow conditions or conditions of terrain;
- (c) **Access areas. On such highways, for a distance of not to exceed five hundred yards when in the determination of the governmental agency concerned it is otherwise impossible for snowmobiles to gain access to areas or trails adjacent to the highway, for the purpose only of gaining access to and from the areas of operation.**²

¹<http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=%%VAT2405%%@TXVAT02405+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=36933477+&TARGET=VIEW>

²<http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=%%PAR25.05%%@TXPAR025.05+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=38973419+&TARGET=VIEW>