

SENATE BILL 2102

By Watson

AN ACT to amend Tennessee Code Annotated, Title 70,
Chapter 7, relative to certain off-road activities.

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

SECTION 1. Tennessee Code Annotated, Title 70, Chapter 7, is amended by adding the following language as a new, appropriately designated part:

§ 70-7-301. As used in this part, unless the context clearly requires otherwise:

(1) "All-terrain vehicle" means a motorized flotation-tire vehicle with not less than three (3) low-pressure tires, but not more than six (6) low-pressure tires, that is limited in engine displacement to eight hundred cubic centimeters (800 cc) or less and in total dry weight to less than eight hundred fifty pounds (850 lbs.) and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control; and

(2) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.).

§ 70-7-302. The general assembly recognizes that persons who use motorcycles, all-terrain vehicles, sport utility vehicles or dune buggies for off-road activities may incur injuries as a result of the risks inherently involved in such activities. The general assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activities. It is, therefore, the intent of the

general assembly to encourage these activities by limiting the civil liability of persons who own, lease, occupy or control land upon which these activities occur.

§ 70-7-303. Except as provided in § 70-7-304, a person who owns, leases, occupies or controls land shall not be liable for an injury to or the death of any individual resulting from the inherent risk of using motorcycles, all-terrain vehicles, sport utility vehicles or dune buggies for off-road activities on such land. Except as provided in § 70-7-304, no individual who uses any motorcycle, all-terrain vehicle, sport utility vehicle or dune buggy for off-road activities or such individual's representative shall make any claim against, maintain an action against, or recover from any person who owns, leases, occupies or controls land for any injury, loss, damage, or death of the user resulting from any of the inherent risks of using such motorcycle, all-terrain vehicle, sport utility vehicle or dune buggy for off-road activities.

§ 70-7-304. Nothing in § 70-7-303 shall prevent or limit the liability of a person who owns, leases, occupies or controls land if such person:

(1) Provided the motorcycle, all-terrain vehicle, sport utility vehicle or dune buggy for off-road activities and knew or should have known that the equipment was faulty, and such equipment was faulty to the extent that it did cause the injury;

(2) Provided the equipment and failed to make reasonable and prudent efforts to determine the ability of the user to engage safely in the off-road activity and determine the ability of the user to safely manage the equipment based on the user's representations of his or her ability;

(3) Committed an act or omission constituting gross negligence or willful or wanton disregard for the safety of the user, and that act or omission caused the injury; or

(4) Intentionally injured the user.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it.