

HB403 INTRODUCED



1 HB403
2 7KDQEEE-1
3 By Representative Bolton
4 RFD: County and Municipal Government
5 First Read: 02-Apr-24



SYNOPSIS:

This bill would require the operator of an ATV park to obtain a permit from the county.

This bill would provide for the permitting and inspection of ATV parks.

This bill would also provide fines for violations.

A BILL
TO BE ENTITLED
AN ACT

Relating to ATV parks; to provide for the permitting, inspection, and operation of ATV parks; and to provide fines for violations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms have the following meanings:

(1) ACCESS POINT. Any point along the entire perimeter of an ATV park or proposed ATV park where the owner intends for customers to enter or exit the property by automobile, regardless of whether the point is constructed or natural.

(2) APPROVED ACCESS POINT. Either of the following:



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a. A location which has previously been approved, permitted, or grandfathered through the county's driveway or access management policy and has been previously used to access the tract.

b. A location that has previously been used to access the tract, if the county does not have a driveway or access management policy.

(3) ATV. As defined in Section 32-12A-1, Code of Alabama 1975.

(4) ATV PARK. Any privately-owned location that charges a fee to operate an ATV at the location and meets two or more of the following criteria:

a. Consists of over 100 acres.

b. Has collected over 100 ATV operation fees in any calendar month.

c. Has collected more than two thousand dollars (\$2,000) from ATV operation fees in any calendar month.

d. Has hosted an ATV race.

Section 2. (a) Commencing January 1, 2025, no person may operate an ATV park unless the person has a valid permit from the county.

(b) As a condition for the issuance of an ATV park permit, a county commission may require a permit fee not to exceed fifty dollars (\$50).

(c) A county may not issue or renew an ATV park permit until the person seeking a permit has submitted each of the following:

(1) Proof of at least five million dollars (\$5,000,000)



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of liability insurance coverage that indemnifies the county commission, neighboring property owners for damage to their property, and downstream property owners for damage to their water access.

(2) A copy of a written contract for emergency services for the proposed park.

(3) A detailed map of the area which identifies the location of any tract included in the park and each access point to any tract from a public road.

(4) With respect to any access point to the tract, whether the access point is a new or approved access point, including details outlining how this access will be accomplished while maintaining the normal drainage features on each public road.

(5) The expected routes upon public roads for travel to and from the park related to the operations of the park.

(6) The estimated acreage of each tract.

(7) The estimated date that access to the public roads will commence.

(8) The name, address, and daytime telephone number of the person that operates the park.

(9) The name and address for the liability insurance carrier of the person that operates the park.

(10) Copies of any other certifications or approvals necessary for the park to operate any other commercial activity taking place on park property but not related to ATVs.

(d) No permit application shall be approved or



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disapproved by the county commission without the ATV park first being inspected by the county engineer or his or her designee. Following the inspection, the county engineer or his or her designee shall certify to the commission whether the ATV park has satisfied the requirements of this section. If the ATV park satisfies the requirements, the application shall be approved by the commission. Should the ATV park be determined by the engineer to be deficient in any regard, the engineer shall detail the deficiency to the commission along with a recommendation that the application be denied. Notice of the recommendation shall be sent to the applicant.

(e) A permit is not required under this section for a location using ATVs solely for agricultural purposes.

(f) A permit issued pursuant to this section does not authorize any ATV to cross or drive on any county road.

Section 3. (a) Any entity operating an ATV park without a valid permit may be fined five thousand dollars (\$5,000) for each day a violation continues to take place. All fines collected shall be payable to the county and deposited into the county's road and bridge fund. Additionally, the county may enjoin the ATV park operator from operating the ATV park by a civil action for the injunction brought in a court of competent jurisdiction in the county. In addition to injunction, the county commission may recover any penalties assessed pursuant to this act.

(b) This act may be enforced by the county license inspector under Section 40-12-10, Code of Alabama 1975, including issuing citations for failure to properly obtain a



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113 permit. The fines shall be doubled and separately assessed
114 against the owner for each subsequent citation issued by the
115 license inspector.

116 Section 4. (a) Any person operating an ATV park shall
117 follow the best management practices established by the
118 Alabama Forestry Commission as they pertain to forested
119 watersheds.

120 (b) A county may contract with the State Forester to
121 provide inspectors to investigate compliance with this
122 section.

123 Section 5. This act shall become effective on October
124 1, 2024.