

SB340 ENGROSSED



1 SB340
2 AXITQ7S-2
3 By Senator Jones (N & P)
4 RFD: Local Legislation
5 First Read: 25-Apr-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to Cherokee County; 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. This act shall only apply to Cherokee County.

Section 2. 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 ATV park operator 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:

a. A location that 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



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29 management policy.

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

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

35 a. Consists of over 100 acres.

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

38 c. Has collected more than two thousand dollars
39 (\$2,000) from ATV operation fees in any calendar month.

40 d. Has hosted an ATV race.

41 Section 3. (a) Commencing October 1, 2024, no person
42 may operate an ATV park unless the person has a valid permit
43 from the county commission.

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

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

50 (1) A copy of a written contract for emergency services
51 for the proposed park.

52 (2) A detailed map of the area which identifies all of
53 the following:

54 a. The location of any tract included in the park.

55 b. Each access point from a public road to each tract.

56 c. The physical boundaries of the park.



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57 d. Each riding trail in the park.

58 e. Each creek, stream, or other water channel in the
59 park.

60 f. Any areas in the park where ATV riding is
61 prohibited.

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

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

69 (5) The estimated acreage of each tract.

70 (6) The estimated date that access to the public roads
71 will commence.

72 (7) The name, address, and daytime telephone number of
73 the person that operates the park and the contact information
74 for an individual who shall act as agent for the operator.

75 (8) The name and address for the liability insurance
76 carrier of the person that operates the park, if applicable.

77 (9) Copies of any other certifications or approvals
78 necessary for the park to operate any other commercial
79 activity taking place on park property but not related to ATVs
80 including, but not limited to, certifications or approvals
81 from the Department of Public Health, the Department of
82 Environmental Management, or the Alabama State Law Enforcement
83 Agency.

84 (d) No permit application shall be approved or



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85 disapproved by the county commission without the ATV park
86 first being inspected by the county license inspector or his
87 or her designee. Following the inspection, the county license
88 inspector or his or her designee shall certify to the
89 commission whether the ATV park has satisfied the requirements
90 of this section. If the ATV park satisfies the requirements,
91 the application shall be approved by the commission. Should
92 the ATV park be determined by the county license inspector to
93 be deficient in any regard, the county license inspector shall
94 detail the deficiency to the commission along with a
95 recommendation that the application be denied. Notice of the
96 recommendation shall be sent to the applicant.

97 (e) The county commission may charge a reasonable
98 inspection fee, payable by the operator of the ATV park.

99 (f) The county commission may establish reasonable
100 operating hours for ATV parks.

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

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

105 (i) The county and the county commission shall be
106 immune from any claims of negligence made by a third party
107 regarding the operation of an ATV park.

108 Section 4. (a) (1) The county commission may provide
109 that a person who operates an ATV park without a valid permit
110 in violation of Section 3(a) is subject to a civil fine of not
111 more than five thousand dollars (\$5,000) for operating without
112 a valid permit and that a person operating outside of the



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113 operating hours established by the county commission pursuant
114 to Section 3(f) is subject to a civil fine of not more than
115 five hundred dollars (\$500).

116 (2) Any law enforcement officer may issue a citation
117 alleging a violation of any provision of this act.

118 (3) A person charged with a violation may pay the civil
119 fine or request, within 30 days of receipt of the citation, a
120 due process hearing before the county commission or its
121 hearing officer on the validity of the citation. An order of
122 the county commission finding a violation and an assessment of
123 a civil fine shall be final within 30 days of the finding
124 unless appealed to the Circuit Court in Cherokee County based
125 on the administrative record of the hearing.

126 (4) Any civil fine due and owing shall be considered a
127 debt owed to the Cherokee County Commission and shall be
128 enforceable by civil action in the same manner as any other
129 debt. The person owing the fine shall be liable for all costs,
130 including court costs and attorney fees, and all other
131 expenses of litigation if action is taken to collect the fine
132 owed. All fines collected shall be payable to the county and
133 deposited into the county's road and bridge fund.

134 (b) The county commission may enjoin the ATV park
135 operator from operating the ATV park by a civil action for the
136 injunction brought in a court of competent jurisdiction in the
137 county.

138 Section 5. (a) Any person operating an ATV park shall
139 follow the best management practices established by the
140 Alabama Forestry Commission as they pertain to forested



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141 watersheds, including, but not limited to, the use of creeks,
142 streams, and water channels, and shall be subject to
143 inspection.

144 (b) The county commission may contract with the State
145 Forester to provide inspectors to investigate compliance with
146 this section.

147 (c) The county commission may charge a reasonable
148 inspection fee, payable by the owner of the ATV park.

149 Section 6. This act shall become effective on June 1,
150 2024.

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155 Senate

156 Read for the first time and referred25-Apr-24
157 to the Senate committee on Local
158 Legislation
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160 Read for the second time and placed30-Apr-24
161 on the calendar:
162 0 amendments
163
164 Read for the third time and passed07-May-24
165 as amended
166 Yeas 17
167 Nays 3
168 Abstains 3
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170

Patrick Harris,
Secretary.

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