

Introduced by Legislators Norma Gonsalves, Roger Corbin,  
 Peter Schmitt, Judy Jacobs, Kevan Abrahams, John Ciotti, Denise Ford,  
 Joseph Scannell, Francis Becker, Jeffrey Toback, Vincent Muscarella,  
 Richard Nicoletto, Lisanne Altmann, Craig Johnson, David Mejias,  
 Dennis Dunne, Edward Mangano, Diane Yatauro and David Denenberg.

AMENDMENT IN NATURE OF A SUBSTITUTION TO CLERK NO. 273

LOCAL LAW /4- 2006

A LOCAL LAW restricting the use of motorized scooters, all-terrain vehicles and other off-road vehicles and requiring truth-in-selling of such vehicles in Nassau County.

Passed by the NASSAU COUNTY LEGISLATURE on November 1, 2006  
 voting: ayes: 18 nays: 0 abstained: 0  
 became a law on November 8, 2006 with the approval of  
 the County Executive.

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Short title.

This law shall be known as the Mark Sattler Law, which shall appear in the miscellaneous laws as title sixty-one.

Section 2. Legislative Intent.

This Legislature finds that the operation in the County of all-terrain vehicles ("ATVs"), motorized scooters, and other off-highway vehicles poses an unacceptable risk of serious injury and death for County residents and causes economic and environmental damage to public parks, sports facilities, recreation areas, natural habitats and nature

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preserves. It is the intent of this law to protect the health, safety and welfare of County residents by imposing stricter limits on the use and operation of such vehicles.

This Legislature further finds that consumers frequently are unaware of the legal restrictions on the use and operation of such vehicles when they purchase them, and they may first learn of the rules governing the operation of these vehicles only after encountering efforts by law enforcement to enforce such laws. This law, therefore, requires that consumers be notified at the time of purchase of the laws and regulations restricting the use and operation of ATVs, motorized scooters, and other off-highway vehicles.

### Section 3. Definitions.

For purposes of this law, the following terms shall have the following meanings:

“All Terrain Vehicle” or “ATV” means an all terrain vehicle or ATV as defined by section twenty-two hundred eighty-one of the New York State Vehicle and Traffic Law.

“County” means the County of Nassau.

“Highway” means any public way, as set forth in New York State Vehicle and Traffic Law section one hundred thirty-four and as defined by New York State Vehicle and Traffic Law section one hundred eighteen.

“Motorized Scooter” shall mean any wheeled device that has handlebars that is designed to be stood or sat upon by the operator, is powered by an electric motor or by a gasoline motor that is capable of propelling the device without human power and is not capable of being registered with the New York State Department of Motor Vehicles . For the purposes of this section, the term motorized scooter shall not include wheelchairs or

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other mobility aids designed for use by disabled persons, electric powered devices not capable of exceeding fifteen miles per hour or “electric personal assistive mobility devices” defined as self-balancing, two non-tandem wheeled devices designed to transport one person by means of an electric propulsion system.

“Off-highway motorcycle” shall mean a motorcycle which is not equipped in conformity with the provisions of section three hundred eighty-one of the New York State Vehicle and Traffic Law, would not, if properly equipped, qualify as a limited use motorcycle and which is manufactured and sold for operation primarily on off-highway trails or in off-highway competitions and only incidentally operated on public highways.

“Operate” means to ride in or on, other than as a passenger, or use or control the operation of an Off-Highway Vehicle, Motorized Scooter or ATV in any manner regardless of whether or not the Off-Highway Vehicle, Motorized Scooter or ATV is in motion.

“Operator” means every person who operates or is in actual physical control of an Off-Highway Vehicle, Motorized Scooter or ATV.

“Parking area of a shopping center” shall include those areas defined by New York State Vehicle and Traffic Law section one hundred twenty-nine-a.

“Parking lot” shall include those areas defined by New York State Vehicle and Traffic Law section one hundred twenty-nine-b.

“Person” shall mean an individual, corporation, partnership, joint venture, limited liability partnership, limited liability company, or any other business entity.

“Pocket bike” shall mean a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground,

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having an engine no larger than forty-nine cubic centimeters and with a total vehicle weight of not more than one hundred pounds.

“Point of Sale” shall mean a location in a business dedicated to the sale of Off-Highway Vehicles, Motorized Scooters or ATVs.

“Property” shall mean any real property, land, parkland, preserve or sump owned by the County of Nassau.

“Sidewalk” shall include those areas defined by New York State Vehicle and Traffic Law section one hundred forty-four.

#### Section 4. Prohibitions

- a. All Terrain Vehicles.
  1. No person shall operate an ATV or an off-road motorcycle upon any property of the County of Nassau.
  2. No person shall operate an ATV or off-road motorcycle upon private land other than his or her own unless the owner of such land has given written consent to such operator, which written consent the operator must have in his possession while operating such ATV or off-road motorcycle and must produce to any duly sworn peace or police officer, or other law enforcement officer, upon request of such officer.
- b. Motorized Scooters.
  1. No person shall operate a motorized scooter or pocket bike upon any property of the County.

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2. No person shall operate a motorized scooter upon any highway, parking area of a shopping center, parking lot, sidewalk, street, or any other public area within the County.

Section 5. Sales Disclosure and Advertising.

Any business organization, including, but not limited to any individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity of any kind that sells or offers for sale an ATV, motorized scooter, pocket bike, or off-highway motorcycle to any person within the County of Nassau for compensation, shall provide to each buyer a copy of this local law, and in the case of the sale of an ATV, a copy of Article forty-eight-c of the New York State Vehicle and Traffic Law containing the rules for the operation of ATVs, and shall conspicuously post at the point of sale in letters not less than two inches in height on a contrasting background, a statement of the legal restrictions on the operation of such ATV, motorized scooter, pocket bike, or off-highway motorcycle in the County, including but not limited to the words "The operation of All Terrain Vehicles, motorized scooters, off-highway motorcycles, and pocket bikes is prohibited on Nassau County property." Any buyer of an ATV, motorized scooter, off-highway motorcycle or pocket bike shall sign an acknowledgement that he or she received such information at the time of purchase, which acknowledgement shall be maintained and kept on file by such business organization for a period of five years from the date of sale. Business organizations advertising in the printed media the sale of any ATV, motorized scooter, off-highway motorcycle or pocket bike or any other vehicle covered by this Law shall include in any such printed advertising the following statement: "The use of ATVs,

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Motorized Scooters, Pocket Bikes and other off-highway motorcycles is not permitted on Nassau County property.”

Section 6. Penalties.

- a. A violation of subdivision a of section four of this local law shall be punishable by a fine of not less than five hundred fifty dollars nor more than fifteen hundred dollars. A second violation of such subdivision occurring within five years of the date of a first violation shall be punishable by a fine of not less than fifteen hundred dollars nor more than three thousand dollars. A third and any subsequent violation of such subdivision occurring within such five -year period shall be punishable by a fine of not less than five thousand dollars.
- b. A violation of subdivision b of section four of this local law shall be punishable by a fine of not less than one hundred fifty dollars nor more than three hundred dollars. A second violation of such subdivision occurring within five years of the date of a first violation shall be punishable by a fine of not less than two hundred dollars nor more than five hundred dollars. A third and any subsequent violation of such subdivision occurring within such five -year period shall be punishable by a fine of not less than five hundred dollars nor more than seven hundred dollars.
- c. A violation of section five of this local law shall be punishable by a fine of up to fifteen hundred dollars, which may be recovered

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following notice and an opportunity to be heard in a proceeding before the Commissioner of Consumer Affairs.

Section 7. Impoundment and Seizure

- a) Upon reasonable cause to be believe that the operation of an ATV, off-road motorcycle, motorized scooter or pocket bike is in violation of section four of this law, such vehicle shall be subject to immediate seizure and impoundment by a duly sworn peace or police officer, acting pursuant to his or her official duties.
- b) Any ATV, off-road motorcycle, motorized scooter or pocket bike seized pursuant to this law shall be impounded and stored for safekeeping by the law enforcement agency affecting the seizure. That agency may assess an administrative processing fee of two-hundred and fifty dollars (\$250) and a storage fee of five dollars (\$5) per day thereafter.
- c) Any ATV, off-road motorcycle, motorized scooter or pocket bike seized and impounded pursuant to this law may be claimed by either the owner of such vehicle, who is at least 18 (eighteen) years of age or a parent or legal guardian of any such owner who is under eighteen (18) years of age.
- d) The law enforcement agency affecting a seizure under this law shall notify the owner or his or her parent or legal guardian of such seizure, by first class mail, within 72 hours of the seizure.

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- e) Law enforcement agencies effecting seizures and impoundments made pursuant to this law shall promulgate regulations regarding the storage and release of any such vehicles.

Section 8. Applicability.

- a) Nothing in this article or Law shall apply to any Moped, defined by the NY State Vehicle and Traffic Law as a limited use motorcycle containing two or three wheels and designed to travel at a low speed, provided such Moped complies with the requirements of the NY State Vehicle and Traffic Law for lawful use within New York State.
- b) This law shall apply to all actions occurring on or after the effective date of this law.

Section 9. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

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Section 10. Reverse Preemption

This law shall be null and void on the day that state or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law. The County Legislature may determine via resolution whether or not identical or substantially similar state or federal legislation has been enacted for the purposes of triggering the provisions of this section.

Section 11. Effective Date.

This law shall take effect ninety days after it shall become a law.

**APPROVED**  
  
County Executive

**DEPUTY COUNTY EXEC.  
CHRISTOPHER HAHN**

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MASSAU COUNTY  
LEGISLATURE  
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