

Amendment to HB 683-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 Inherent Dangers of OHRV Operation. Amend RSA 215-A:5-c to read as follows:

4 215-A:5-c Inherent Dangers of OHRV Operation. It is recognized that OHRV operation may be  
5 hazardous. Therefore, each person who drives or rides an OHRV accepts, as a matter of law, the  
6 dangers inherent in the sport, and shall not maintain an action against an owner, occupant, or lessee  
7 of land for any injuries which result from such inherent risks, dangers, or hazards. The categories of  
8 such risks, hazards, or dangers which the OHRV user assumes as a matter of law include, but are  
9 not limited to, the following: variations in terrain, trails, paths, or roads, surface or subsurface snow  
10 or ice conditions, bare spots, rocks, trees, stumps, and other forms of forest growth or debris,  
11 structures on the land, equipment not in use, pole lines, fences, and collisions with other operators or  
12 persons. ***For purposes of this section, an owner, occupant, or lessee of land shall include***  
13 ***abutters to any highway or sidewalk upon which the state, city or town council, or board of***  
14 ***selectmen has authorized OHRV use pursuant to RSA 215-A:6, IX and RSA 215-A:10, IV.***

15 2 Operation of All OHRVs. RSA 215-A:6, IX is repealed and reenacted to read as follows:

16 IX.(a) Pursuant to RSA 215-A:15, and following a duly noticed public hearing held between  
17 May 1 and September 30 posted at least 14 days in advance in a public location in the city or town  
18 and notification to all abutters by verified mail pursuant to RSA 451-C:1, VII, the state, city or town  
19 council, or board of selectmen may authorize or reauthorize the use of sidewalks and class IV, class  
20 V or class VI highways and bridges, or portions thereof, for use by OHRVs, pursuant to  
21 subparagraph (b). The public hearing shall be held not more than 30 days after the hearing notice.  
22 The operation of OHRVs may also be allowed on sidewalks adjacent to class I, II, III, or III-a  
23 highways pursuant to RSA 236:56, II(e). Operators of OHRVs using said roads, or portions thereof,  
24 shall keep to the extreme right and shall yield to all conventional motor vehicle traffic. The bureau,  
25 or its designee, shall so post such highways where authorized. Following a duly noticed public  
26 hearing, except in the case of an emergency closure, a city or town council or board of selectmen may  
27 change the allowable usage of a class IV, class V, or class VI highway by OHRVs by giving  
28 notification to the supervisor of the bureau and removing any signs that no longer apply.

29 (b) Prior to rendering a decision on the use of any sidewalk, highway, or bridge under  
30 this section for OHRVs, or the petition of an abutter under subparagraph (d), the state, city or town  
31 council, or board of selectmen shall consider the criteria set forth in subparagraphs (1)-(17) of this  
32 subparagraph. The applicant or petitioner shall bear the cost for criteria consideration. The

**Amendment to HB 683-FN**  
**- Page 2 -**

information from considering such criteria shall be made available to the public at least 14 days before the public hearing required in subparagraph (a) and shall include the following:

- (1) Number of abutting property owners.
- (2) Whether there will be any effect on property values.
- (3) Character of the affected area.
- (4) Distance from nearest residents.
- (5) Anticipated users on weekdays and weekend.
- (6) Surface of roadway.
- (7) Anticipated noise nuisance.
- (8) Speed limit and physical controls and/or enforcement.
- (9) Reasonable alternatives to the trail.
- (10) Necessity of trail for accessing other trails or amenities.
- (11) Responsibility for road maintenance.
- (12) Impact on wildlife.
- (13) Impact on environment, water sources, and air quality.
- (14) Whether or not hazardous substances exist in area.
- (15) Input from the department of fish and game, department of safety, the bureau of trails in the department of natural and cultural resources, and the department of transportation if on state roads.
- (16) Whether or not there is a test or probationary period for the trail.
- (17) Other trail users such as cyclists, hikers, and equestrian users.

(c) After the public hearing and consideration of the criteria required in subparagraph (b), the state, city or town council or board of selectmen may authorize the use of a sidewalk, highway, bridge, or portion thereof, for a probationary period not to exceed one year. The state, city or town council, or board of selectmen shall retain final authority to approve or deny the use of a sidewalk, highway, bridge, or portion thereof, for OHRV use, subject to such conditions and limitations as the city or town council or board of selectmen may deem appropriate.

(d) An abutter may initiate a petition to discontinue a section of an OHRV trail or trail connector for OHRV use. The petitioner shall submit the petition in writing to the state, city or town council, or board of selectmen, accompanied by the signatures of the abutters who support the petition. The process for considering an abutter's petition shall be the same as in subparagraph (b). If consideration of the criteria required in subparagraph (b)(1)-(17) for the trail section or trail connector at issue was completed not more than 6 months ago, then the results of that consideration may be used. The petitioner shall bear the expense of the petition. If a petition to discontinue a section of an OHRV trail or trail connector is denied, no new petition to discontinue the use of that section shall be filed for one year.

**Amendment to HB 683-FN**  
**- Page 3 -**

1       3 New Paragraph; Operation of All OHRVs; Speeding on a Class V or VI Highway. Amend RSA  
2 215-A:6 by inserting after paragraph XI the following new paragraph:

3           XII. Any person charged with operating an OHRV on any highway in excess of the speed  
4 limits specified in this section shall be cited for the equivalent violation and penalties under RSA  
5 265:60 and not cited for unlawful speed under this section.

6       4 Limitations of OHRV Operation on Class I, II, III, and III-a Highways. Amend RSA 215-A:10,  
7 IV(a) to read as follows:

8           (a) Notwithstanding any provisions of the law to the contrary, a person may operate an  
9 OHRV on a class I, class II, class III, or class III-a highway that has been designated open for use, in  
10 Coos county or in Grafton county, by the bureau of trails, with the approval of the department of  
11 transportation and the department of safety ~~[and]~~, **after** a public ~~[meeting]~~ **hearing** in each  
12 ~~[community]~~ **city or town** which would be directly affected by such designation, **and after the**  
13 **criteria is considered pursuant to RSA 215-A:6, IX(b)**. The bureau, or its designee, shall sign  
14 any approved sections of highway for OHRV use.

15       5 Prohibition of Certain Vehicles Within Highway Rights-of-Way. Amend RSA 236:56, II(d)(1)  
16 to read as follows:

17           (1) All OHRVs and snowmobiles may be operated within specified trail connectors  
18 and pursuant to the provisions of RSA 215-A:9 or RSA 215-C:9. The commissioner of the department  
19 of transportation may limit the operation of specified types of OHRVs and snowmobiles when the  
20 commissioner feels this is necessary in matters of safety and maintenance of trail corridors or at the  
21 suggestion of the chief supervisor of the bureau of trails. ~~[Trail connectors, as defined in RSA 215-~~  
22 ~~A:1, in Coos county and in Grafton county shall be exempt from the provisions of RSA 215-A:42 and~~  
23 ~~RSA 215-A:43.]~~

24       6 Repeal. RSA 215-A:43, V, relative to the exemption for a change in use designation for rail  
25 trails to include ATVs and trail bike use, is repealed.

26       7 Effective Date. This act shall take effect 60 days after its passage.

**Amendment to HB 683-FN**  
**- Page 4 -**

2019-2828h

**AMENDED ANALYSIS**

This bill establishes additional notice and procedural requirements prior to authorizing certain roads or portions of roads for OHRV use.