

September 17, 2025

CONSULTATION DRAFT

AN ACT TO AMEND THE OFF-HIGHWAY VEHICLE ACT

BILL NO.

2025

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **Section 12 of the *Off-Highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3, is repealed and the following substituted:**

12. Definitions

- (1) In this section,

- (a) “municipality” means a municipality as defined in the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1; and
 - (b) “prescribed” means prescribed by the regulations.

Operation on highway - prohibition

- (2) No person shall operate an off-highway vehicle on a highway or portion of a highway, except in accordance with this section.

Off-highway vehicle crossing highway

- (3) The operator of an off-highway vehicle may cross a highway, including the roadway or sidewalk portion of the highway, as the case may be, only where

- (a) the operator of the off-highway vehicle stops the vehicle before entering onto the highway or portion of highway to be crossed;
 - (b) all passengers on the off-highway vehicle disembark from the vehicle before the operator commences to cross the highway;
 - (c) the operator of the off-highway vehicle yields the right of way to all other vehicles, persons or pedestrians on the highway; and
 - (d) the operator of the off-highway vehicle crosses over the highway or portion of highway to be crossed at right angles to the centre of the highway.

Application for approval of Minister

- (4) Where the council of a municipality proposes to make a bylaw respecting the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of the municipality, the council shall apply to the Minister, on a form approved by the Minister, for approval to make the bylaw.

Approval with conditions

- (5) Where the Minister approves an application made by the council of a municipality to make a bylaw pursuant to subsection (4), the Minister may attach any restrictions or conditions to the approval that the Minister considers necessary.

Municipal bylaws respecting all terrain vehicles

(6) The council of a municipality may make bylaws not inconsistent with this Act or the regulations

- (a) permitting or prohibiting the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of the municipality;
- (b) designating a highway or portion of a highway within the boundaries of the municipality as a highway along or across which all terrain vehicles or classes of all terrain vehicles may be operated or used;
- (c) setting out minimum and maximum rates of speed for the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of the municipality, subject to the maximum rates of speed prescribed for highways under the *Highway Traffic Act*; and
- (d) providing for the enforcement and carrying out of any of the provisions of any bylaw made pursuant to this section.

Approval of Minister

(7) A bylaw made by the council of a municipality pursuant to this section shall be subject to the approval of the Minister and shall come into force on the date of approval by the Minister.

Bylaw contravening Act or regulations - no force or effect

(8) For greater certainty, a bylaw made by the council of a municipality respecting the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of the municipality that contravenes or violates any provision of this Act or the regulations, is of no force or effect.

Responsibilities of municipal council

(9) Where the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of a municipality is authorized by bylaw under this section, the council of the municipality

- (a) shall specify in the bylaw the highway or portion of highway that is designated as a highway along or across which all terrain vehicles may be operated or used;
- (b) shall post signs indicating that the operation or use of all terrain vehicles is permitted along or across the highway or portion of highway within the boundaries of the municipality;
- (c) shall post signs indicating speed limits in kilometers per hour along the highway or portion of highway within the boundaries of the municipality; and
- (d) shall be responsible for the enforcement and carrying out of any of the provisions of any bylaw made by the municipality pursuant to this section.

Assumption of risk

(10) Despite any other enactment, a person who is the operator of, or who is a passenger on an off-highway vehicle that is operated or used on any highway within the province is deemed to have willingly assumed all risks associated with the operation or use of the off-highway vehicle on the highway.

No liability

(11) For greater certainty, neither the Minister, the Crown in right of the Province, nor any department, official or employee of the Government nor any municipality is liable for any damage, death or injury resulting from the operation or use of an off-highway vehicle on any highway within the province.

Offences and penalty

(12) Every person who contravenes this section or a regulation or bylaw made under the authority of this section is guilty of an offence and liable on summary conviction,

- (a) for a first offence, to a fine of not less than \$500 and not more than \$1,000; and
- (b) for a second or subsequent offence, to a fine of not less than \$1,000 and not more than \$2,000.

Regulations

(13) The Lieutenant Governor in Council may make regulations

- (a) authorizing persons to operate off-highway vehicles or classes of off-highway vehicles on a highway, portion of a highway or class of highway, as the case may be, under the Lieutenant Governor in Council's direction, control and management, subject to any restrictions or conditions as may be prescribed;
- (b) governing, restricting or prohibiting the operation or use of off-highway vehicles or classes of off-highway vehicles on a highway or portion of a highway within the boundaries of a municipality;
- (c) governing, restricting or prohibiting the operation or use of off-highway vehicles or classes of off-highway vehicles on designated highways or portions of designated highways within the boundaries of a municipality;
- (d) designating a class of off-highway vehicles as a class of off-highway vehicle that may be operated or used on a highway or portion of a highway within the boundaries of a municipality;
- (e) respecting the required contents of an application to make a bylaw that may be made by the council of a municipality and submitted to the Minister for approval pursuant to subsection (4);
- (f) respecting the factors to be considered by the Minister in determining whether to approve an application to make a bylaw made by the council of a municipality pursuant to subsection (4);
- (g) prescribing the required contents of a bylaw that may be made by the council of a municipality respecting the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of a municipality; and
- (h) expanding or restricting the powers of the council of a municipality to make bylaws under this section.

Maximum rates of speed

(14) A regulation made under this section in respect of off highway vehicles may prescribe minimum and maximum rates of speed, subject to the maximum rates of speed prescribed for highways under the *Highway Traffic Act*.

2. Section 22 of the Act is amended by the addition of the following after clause (l):

- (l.1) authorizing persons to operate snow vehicles on any closed seasonal highway or closed scenic heritage highway, subject to any restrictions or conditions as may be prescribed;

3. **This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.**

EXPLANATORY NOTES

SECTION 1 repeals and replaces section 12 of the *Off-Highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3 that sets out a number of subsections respecting:

- (1) defined terms used in the section;
- (2) a general prohibition against operating an off-highway vehicle on a highway or portion of a highway except in accordance with the section;
- (3) the rules for crossing a highway when operating an off-highway vehicle;
- (4) the requirement for the council of a municipality to apply to the Minister for approval to make a bylaw respecting the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of the municipality;
- (5) the authority of the Minister to attach any conditions the Minister considers necessary to an approval given by the Minister respecting an application to make a bylaw made by the council of a municipality;
- (6) the authority of the council of a municipality to make bylaws respecting the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of the municipality;
- (7) the requirement that a bylaw made by the council of a municipality is subject to the approval of the Minister and comes into force on the date of approval by the Minister.
- (8) clarification that a bylaw made by the council of a municipality respecting the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of the municipality that contravenes or violates a provision of the Act or the regulations is of no force or effect;
- (9) the responsibilities placed on the council of a municipality where the operation or use of all terrain vehicles or classes of all terrain vehicles on a highway or portion of a highway within the boundaries of a municipality is authorized by bylaw;
- (10) an assumption of risk provision;
- (11) an offence and penalty provision; and
- (12) a regulation-making provision.

SECTION 2 adds a regulation-making provision to section 22 of the Act.

SECTION 3 provides for the commencement of this Act by proclamation to provide for the enactment of corresponding regulations.