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HB LRB 09-1520.doc

A BILL FOR AN ACT

RELATING TO ALL TERRAIN VEHICLES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the policies behind 2 the rebuttable presumptions created for equine activities apply 3 equally as well to the use of all terrain vehicles. 4 SECTION 2. The Hawaii Revised Statutes is amended by 5 adding a new chapter to be appropriately designated and to read 6 as follows: 7 "CHAPTER 8 ALL TERRAIN VEHICLES 9 -1 Definitions. As used in this chapter, unless the 10 context otherwise requires: "All terrain vehicle" means a motor vehicle that travels on 11 12 low pressure tires, with a seat that is straddled by the 13 operator, along with handlebars for steering control, and is 14 designed to handle a wider variety of terrain than common 15 passenger motor vehicles. 16 "All terrain vehicle activity sponsor" means an individual, 17 group, club, partnership, or corporation, whether or not the

sponsor is operating for profit or nonprofit, which sponsors,

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- 1 organizes, or provides the facilities for the operation of all
- 2 terrain vehicles.
- 3 "Inherent risk of all terrain vehicles" means those dangers
- 4 or conditions that are an integral part of all terrain vehicles,
- 5 including but not limited to the unpredicatability of the
- 6 vehicle on surface and subsurface conditions.
- 7 "Participant" means any person, whether amateur or
- 8 professional, who operates an all terrain vehicle, whether or
- 9 not a fee is paid to participate in the all terrain vehicle
- 10 activity.
- 11 § -2 All terrain vehicle activities; rebuttable
- 12 presumption. In any civil action for injury, loss, damage, or
- 13 death of a participant, there shall be a rebuttable presumption
- 14 that the injury, loss, damage, or death was not caused by the
- 15 negligence of an all terrain vehicle activity sponsor, or their
- 16 employees or agents, if the injury, loss, damage, or death was
- 17 caused solely by the inherent risk of the all terrain vehicle.
- 18 An injured person or their legal representative may rebut the
- 19 presumption of no negligence by a preponderance of the
- 20 evidence."

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1	SECTION	3	This	Act	does	not	affect	rights	and	duties	that
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- 2 matured, penalties that were incurred, and proceedings that were
- 3 begun, before its effective date.
- 4 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

JAN 2 6 2009

Report Title:

All Terrain Vehicles

Description:

Creates a rebuttable presumption that injuries resulting from the use of an all terrain vehicle were not caused by the negligence of an all terrain vehicle activity sponsor.