

**SB338 INTRODUCED**



1 SB338  
2 MBN811W-1  
3 By Senator Jones (N & P)  
4 RFD: Local Legislation  
5 First Read: 23-Apr-24



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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



## SB338 INTRODUCED

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 the  
53 location of any tract included in the park and each access  
54 point to any tract from a public road.

55 (3) With respect to any access point to the tract,  
56 whether the access point is a new or approved access point,



## SB338 INTRODUCED

57 including details outlining how this access will be  
58 accomplished while maintaining the normal drainage features on  
59 each public road.

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

62 (5) The estimated acreage of each tract.

63 (6) The estimated date that access to the public roads  
64 will commence.

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

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

70 (9) Copies of any other certifications or approvals  
71 necessary for the park to operate any other commercial  
72 activity taking place on park property but not related to ATVs  
73 including, but not limited to, certifications or approvals  
74 from the Department of Public Health, the Department of  
75 Environmental Management, or the Alabama State Law Enforcement  
76 Agency.

77 (d) No permit application shall be approved or  
78 disapproved by the county commission without the ATV park  
79 first being inspected by the county license inspector or his  
80 or her designee. Following the inspection, the county license  
81 inspector or his or her designee shall certify to the  
82 commission whether the ATV park has satisfied the requirements  
83 of this section. If the ATV park satisfies the requirements,  
84 the application shall be approved by the commission. Should



## SB338 INTRODUCED

85 the ATV park be determined by the county license inspector to  
86 be deficient in any regard, the county license inspector shall  
87 detail the deficiency to the commission along with a  
88 recommendation that the application be denied. Notice of the  
89 recommendation shall be sent to the applicant.

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

92 (f) The county commission may establish reasonable  
93 operating hours for ATV parks.

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

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

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

101 Section 4. (a) (1) The county commission may provide  
102 that a person who operates an ATV park without a valid permit  
103 in violation of Section 3(a) is subject to a civil fine of not  
104 more than five thousand dollars (\$5,000) per day for each day  
105 an ATV park operates without a valid permit and that an ATV  
106 park operator operating outside of the operating hours  
107 established by the county commission pursuant to Section 3(f)  
108 is subject to a civil fine of not more than five hundred  
109 dollars (\$500) for each violation.

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

112 (3) A person charged with a violation may pay the civil



## SB338 INTRODUCED

113 fine or request, within 30 days of receipt of the citation, a  
114 due process hearing before the county commission or its  
115 hearing officer on the validity of the citation. An order of  
116 the county commission finding a violation and an assessment of  
117 a civil fine shall be final within 30 days of the finding  
118 unless appealed to the Circuit Court in Cherokee County based  
119 on the administrative record of the hearing.

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

128 (b) The county commission may enjoin the ATV park  
129 operator from operating the ATV park by a civil action for the  
130 injunction brought in a court of competent jurisdiction in the  
131 county.

132 Section 5. (a) Any person operating an ATV park shall  
133 follow the best management practices established by the  
134 Alabama Forestry Commission as they pertain to forested  
135 watersheds and shall be subject to inspection.

136 (b) The county commission may contract with the State  
137 Forester to provide inspectors to investigate compliance with  
138 this section.

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



## SB338 INTRODUCED

141           Section 6. This act shall become effective on June 1,  
142   2024.

143

144