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STATE OF MAINE
AUGUSTA, MAINE

**MANAGEMENT
OF ALL-TERRAIN
VEHICLES**

Recommendations

Prepared for the

Maine Department of Conservation

Presented by

**Maine Tomorrow
Annee Tara
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January 1986

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PREFACE

The first regular session of the 112th Maine Legislature directed the Department of Conservation, Bureau of Parks and Recreation, to lead an effort to develop recommendations for the management of all-terrain vehicles (ATVs). The Department commissioned a Study of the issues surrounding the use of ATVs including the recreational needs of ATV users, conflicts with other recreational activities and with landowners, including damage and trespass issues, noise, safety, and law enforcement issues and special problems posed by the fact that many ATV users are minors. The full text of the law directing the Study follows this preface.

The Study was undertaken to develop balanced and credible recommendations to address these issues. During the course of the study, extreme views were expressed ranging from leaving the situation alone or even removing some of the restrictions currently placed on the operation of ATVs to a total ban on the vehicles from the State of Maine. These extremes appear unwise on their face and were rejected in favor of the more balanced approach presented here.

The initial question was whether the "ATV problem" was widely perceived. In a series of approximately fifty interviews with landowners, law enforcement officials, environmental and recreational interests and ATV interests, there was near unanimity in the acknowledgement of conflicts and moreover of the frustration experienced in trying to resolve these difficulties.

During the course of the Study, over fifty members of the general public responded, at their own initiative and expense, to invitations to comment. Two public meetings on the subject drew over one hundred participants. These self-selected respondents were likewise overwhelming in their statements that problems exist and are not being dealt with adequately by the existing system.

Perhaps most convincing is that in a survey of 300 randomly selected ATV users, only 27 percent said that there were no "major problems or conflicts....between ATV users and other interests..."

It became apparent early on that ATVs offer an opportunity for wholesome recreational enjoyment of the outdoors and are also useful in farming, forestry and other work applications. It is also evident that these are unique vehicles which warrant special consideration because of their numbers, their versatility and the fact that they can be used in all seasons and their impact on their surroundings.

A review of other programs and activities in other jurisdictions suggests very clearly that a balanced approach to the management of ATVs has the best chance of maximizing their benefits and minimizing their negative effects. It is upon this premise that the recommendations presented here are based.

APPROVED

CHAPTER

JUN 11 1985

301

STATE OF MAINE

BY GOVERNOR

PUBLIC LAW

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FIVE

H.P. 723 - L.D. 1032

AN ACT Relating to the Regulations and
Distribution of Funds for All-terrain
Vehicles.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there are immediate needs to address the safety and recreational conflict regarding the use of all-terrain vehicles; and

Whereas, all-terrain vehicle registration is for the 12-month period commencing on July 1st of each year; and

Whereas, because of the July 1st registration date and the length of time required for the proposed study, these immediate needs could not otherwise begin to be addressed until July 1987; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §7854, sub-§§3 and 4, as enacted by PL 1983, c. 297, §§1 and 3, are amended to read:

3. Fee. The annual registration fee for an ATV is ~~\$5~~ \$7.

4. Allocation of fees. All ~~moneys~~ money received under this subchapter shall be credited to the department for the cost of administration and enforcement of this subchapter, for the provision of education on the safe operation of all-terrain vehicles and a study on the safety and recreational management of all-terrain vehicles.

Sec. 2. 12 MRSA §7854, sub-§7, ¶A, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

A. Whoever transfers the ownership or permanently discontinues the use of a registered ATV and applies for registration of another ATV in the same registration year shall be entitled to a certificate of registration upon payment of a transfer of \$2 and shall not be required to pay the regular registration fee of ~~\$5~~ \$7.

Sec. 3. Study. The Bureau of Parks and Recreation shall serve as lead agency to implement and coordinate a study the purpose of which shall be to make recommendations for management of all-terrain vehicles. This study shall include the recreational needs of all-terrain vehicle use, conflicts with other recreational activities and with landowners, safety matters, noise, damage and trespass issues, special apprehension problems posed by the maneuverability of all-terrain vehicles and special problems caused by the fact that many drivers are minors. The latter problems include problems of prosecution, parental financial responsibility and attitudes by parents, the community and law enforcement and judicial authorities.

The following shall participate in this study:

1. The Department of Inland Fisheries and Wildlife;
2. The Attorney General and district attorneys;
3. Representatives of the judicial system; and

4. Representatives of state, county and municipal law enforcement agencies.

Recommendations and proposed legislation from this study shall be reported by the Bureau of Parks and Recreation to the Legislature by February 1, 1986.

Sec. 4. Allocation. The following funds are allocated from revenues dedicated to the Department of Inland Fisheries and Wildlife as follows.

	<u>1985-86</u>
<u>CONSERVATION, DEPARTMENT OF</u>	
Bureau of Parks and Recreation	
Personal Services	\$12,000
All Other	<u>8,000</u>
TOTAL	\$20,000

This allocation provides funds to set up a special dedicated revenue account within the Bureau of Parks and Recreation to conduct a study on the safety and recreational management of all-terrain vehicles.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

ACKNOWLEDGMENTS

Maine Tomorrow would like to gratefully acknowledge all those persons who have assisted in the development of this report: the ATV project work team - Herb Hartman, Ken Spalding, Frank Farren and Gary Anderson; the ATV Study Advisory Committee - Gary Anderson, John McElwee, Edward McSweeney III, Robert Miller, Ray McCutcheon, John Schott, Adrian Wadsworth, Parker Johnson, Dan Corcoran, Eugene Swan, Rep. Maynard Conners, Rep. Vinton Ridley, Neil Fox, Sue Van Hook, Dave Allen, Rep. James Mitchell, Lt. Col. John Clark and Kathy Mazzuchelli; and everyone else who assisted us in our data gathering efforts.

EXECUTIVE SUMMARY

The recommendations made in this report are summarized in this Executive Summary. More thorough discussion including consideration of other alternatives is presented in the main body of the report.

1. To address the issue of landowner concern for unwanted ATV use it is recommended that the law be amended to require permission from the landowner or his agent prior to operating an ATV on the land of another. Permission may be given verbally, in writing, by designation on the land (a sign designating a trail or area for which the landowner gives permission to ride an ATV), or any other method at the option of the landowner.
2. In order to protect sensitive environments from damage caused by ATVs, it is recommended that as trails are developed particular attention be paid to avoiding proximity to sensitive terrain and ground cover. If the position of ATV Coordinator is created, that person should be especially aware of these sensitive areas and advise that trails be located away from them. In addition, any education program or public awareness campaign should include a section on especially vulnerable areas.
3. To lessen the concern of landowners that they may be sued for injuries which occur on their land, two recommendations are made:
 - a. Amend existing law (14 MRSA § 159-A) to provide that the cost of a successful defense of a law-suit be awarded to the landowner.
 - b. To protect against the instance where defense costs are awarded against a person who cannot pay them, an insurance policy or pool should be provided if it is feasible. The State may be able to purchase insurance for this purpose through the Division of Risk Management, although the Division cannot determine either availability or cost without knowing what the entire law with regard to ATVs will be. If the State agency with responsibility for ATVs determines that this coverage is unavailable or prohibitively expensive, it should consider establishing a fund to cover these costs. An actuarial determination should be made as to the amount necessary to capitalize such a fund and to purchase excess coverage. The cost of either approach can be assessed to users through an addition to or surcharge on registration, or it could be imposed as a fee on distribution or sale of ATVs within the State.
4. To address the issue of the behavior ascribed particularly to young ATV users and to increase the safety of these young people, three recommendations are made:

- a. The law should be amended to raise the age at which an ATV may be operated unaccompanied to 15, and to require that a person who is at least 15 but less than 18 hold a certificate of satisfactory completion from a State approved training and education program in order to ride unaccompanied. These provisions should apply to riding on any land regardless of ownership.

To alleviate confusion or uncertainty as to the meaning of the word "accompanied" in existing law and as suggested here it is recommended that the term be defined to include visual or voice communication with the young driver by a responsible adult.

- b. In addition, it is recommended that all riders under the age of 18 be required to have such a certificate if operating an ATV other than on property owned or leased by the operator's parent or guardian.
 - c. It is further recommended that the law be amended to require that any person under the age of 18 wear protective headgear while operating or riding an ATV.
5. An issue related to the conduct of young people is the responsibility of parents and other adults for the acts of minor children. The following recommendations are designed to impose liability on ATV owners and parents, as well as operators, for violations and damage caused by the conduct of an ATV operator over which the operator or parent has or should have some control:
 - a. Amend 12 MRSA §7857(21) to extend guilt for permitting an ATV to be operated in violation of the law to parents of minors providing that the owner or parent has or should have control over the offensive conduct.
 - b. Add a provision to the law which imposes financial liability on the ATV owner or operator's parent who permits the operation of the ATV for damage caused by the operator.
 6. It is generally acknowledged that effective law enforcement is essential to the success of any of these recommendations. Three recommendations are made to enhance law enforcement efforts:
 - a. Impoundment of an ATV operated in violation of the law should be allowed provided that a complaint or summons is issued for the violation.
 - b. All state and local law enforcement officials are now empowered to enforce all laws relating to ATVs. However, there appears to be some confusion about this. It is therefore suggested that the law articulating their authority to enforce ATV laws be restated and communicated to law enforcement personnel.

- c. To further enhance law enforcement efforts it is recommended that the law be amended to require that registration plates be displayed on both the front and back of the vehicle. Currently they are only required on the rear of the vehicle.
7. The smooth administration of laws is an issue related to law enforcement. Two recommendations are made to recognize the importance of ATV laws within the judicial system.
 - a. In order to relieve a potential burden on the Superior Court caused by anticipated increased attention to and penalties for ATV violations, it is recommended that provisions of Title 12 MRSA Chapter 715, subchapter IV, dealing with all-terrain vehicles be made civil violations, rather than criminal offenses, with the exception of provisions relating to reckless operation (12 MRSA §7857 (9)) and operating under the influence (12 MRSA §7857(10)) and allowing a child to operate an ATV unaccompanied (12 MRSA §7857 (14)).
 - b. Judges should be encouraged to impose stiffer fines available under the law. The Court system should be requested to record and make available data concerning offenses involving ATVs and the penalties imposed.
8. To provide continuity and followup on these recommendations and to maintain an official presence with regard to the issues identified by this study, it is recommended that the State adopt an ATV program with the following characteristics and mandates:
 - a. The program should be funded entirely by proceeds of the registration fee for ATVs. A fee in the range of \$10-\$12 is projected to provide \$100,000-\$140,000, in addition to the amount currently charged to reflect the cost of registration and enforcement.
 - b. The Department of Conservation, Bureau of Parks and Recreation, should remain the lead agency and should employ a coordinator funded by the ATV registration fee. The coordinator should 1) assist in the formation of ATV clubs and their programs such as trail design and development, and developing a self-monitoring ethic among ATV users; 2) investigate the need for and feasibility of an ATV trail program, including sources of funding such as a portion of the gasoline tax; 3) evaluate and make recommendations concerning the availability of insurance to provide defense of landowners and the need for alternative funding for that protection; and 4) assist in the implementation of and evaluate the effectiveness of these recommendations.

The coordinator should report to the Commissioner of Conservation through the Director of the Bureau of Parks and Recreation on the status of the issues identified by this study and recommendations adopted no later than December 15, 1987.

- c. The Department of Inland Fisheries and Wildlife should have responsibility for providing safety education and training and should review safety-related data and make recommendations suggested by it. The Department should receive funding from the ATV registration fee to cover its costs, including additional personnel if needed.
9. There appears to be a lack of knowledge or understanding of existing laws and practices concerning ATVs among law enforcement officials, landowners, ATV users and the general public. Two recommendations are made to address this situation.
- a. The State, through the Department of Conservation as lead agency, should coordinate a special public awareness and enforcement campaign, perhaps following the adoption of any recommendations by the Legislature or administrators.
 - b. A booklet explaining the law pertaining to ATVs should be prepared in lay person's language and widely distributed to interested parties. This would supplement or replace the compilation of statutory language now prepared and distributed by the Department of Inland Fisheries and Wildlife.

FINDINGS

Major Issues

A number of often interrelated issues and concerns surrounding the use of ATVs have been identified. Landowners in particular are concerned about trespass or the intrusion of unauthorized use and about liability and the threat of suit. Additionally, damage to land, trails, crops and sensitive environments such as alpine areas, sand dunes and wetlands is of great concern to both non-users and users. The nature of ATVs is such that they can cause damage to some kinds of terrain. In order to mitigate that fact, recommendations are made to give landowners more control over the use of their land, to increase the liability for damage caused and to give special attention to especially vulnerable areas in developing ATV use areas.

The age of ATV riders is a universally identified source of problems. Young ATV riders are often characterized as being less responsible, less controllable and less accountable than adults. A lack of parental supervision and accountability for their children's actions is a related issue. The personal safety of these young and inexperienced riders is also a major concern that was raised by both users and non-users.

Enforcement of existing laws to address these problems is made more difficult by the maneuverability of ATVs, the difficulty in identifying the operator and the fact that trespass and damage often occur long before they are discovered. Again the nature of ATVs is such that these problems must continue; however, some recommendations will enhance law enforcement efforts. This, along with increased awareness of proper use of ATVs should diminish the effect of these problems.

Recommended Strategies: Discussion

To address these issues, the following recommendations are made. A comment section containing a discussion of each follows. Not all of the suggestions which were received are incorporated as recommendations. However, each of these suggestions is included in the discussion and the reason for its exclusion identified.

1. To address the issue of landowner concern for unwanted ATV use it is recommended that the law be amended to require permission from the landowner or his agent prior to operating an ATV on the land of another. Permission may be given verbally, in writing, by designation on the land (a sign designating a trail or area for which the landowner gives permission to ride an ATV), or any other method at the option of the landowner.

The law currently requires an ATV user to obtain permission to ride on a snowmobile trail financed in whole or part

by the State Snowmobile Trail Fund, crop land or pastureland or beaches located on the property of another and to obtain written permission to use land within a railroad right-of-way. In other cases the landowner must put ATV users on notice that they are not permitted either by telling them directly or by posting the land. The recommended change switches the burden of action from the landowner to the user.

Comment: A corollary suggestion is to require this permission annually. While this may be good advice to ATV users it will not necessarily serve the purpose of assuring that new owners are identified or that landowners have adequate opportunity to rescind previously given permission. In addition, keeping track of anniversary dates or who asked whom for what would appear to impose an unwarranted burden on both landowners and users.

Other suggestions considered and rejected include:

- a. Leave the law as it is. Current law reflects tradition in Maine, and sportsmen and others may object to the proposed requirement to obtain permission, fearing an unwanted precedent. However, the serious and long-term nature of potential damage caused by ATVs sets them apart from activities such as hunting and cross-country skiing, which are less threatening because these activities do not generally involve equipment which will cause damage like that done by ATVs, or snowmobiling which occurs on frozen ground which is less vulnerable to damage.
- b. Require written permission. This would have the advantage of allowing the development of a complementary law creating a violation for failure to produce written permission while on the land of another. However, because of ownership patterns in many parts of the state, this provision might involve securing written permission from dozens of landowners, many of whom do not live on or near the land. These landowners could give verbal permission over the telephone. The burden on users and landowners of committing the permission to writing does not appear to be justified. In addition, experience with other programs indicates that many landowners who are willing to allow use of their land are unwilling to put the permission in writing. Furthermore, the problem of a law enforcement officer not knowing who owns a specific piece of ground would remain.

The fact is that there are burdens involved in protecting property rights which are a function of ownership and which will always require landowners to exert some energy to this end.

2. In order to protect sensitive environments from damage caused by ATVs, it is recommended that as trails are developed

particular attention be paid to avoiding proximity to sensitive terrain and ground cover. If the position of ATV Coordinator is created, that person should be especially aware of these sensitive areas and advise that trails be located away from them. In addition, any education program or public awareness campaign should include a section on especially vulnerable areas.

Comment: The law currently prohibits the operation of ATVs in cemeteries and the intertidal zone and on sand dunes and in salt marshes. While no definitions are furnished for these areas, their placement in the law indicates sufficient recognition and recognizability of them to warrant the retention of their special treatment.

Suggestions have been made to expand this list of prohibitions. No recommendation has been made concerning statutory prohibition of ATVs from other areas of special sensitivity such as alpine areas and freshwater marshes and bogs because, in order for a prohibition to be effective, these areas must be defined 1) restrictively enough to address only those areas which are in fact vulnerable and 2) to be recognizable to a lay person when travelling on the land. Such definitions have thus far been elusive and therefore further prohibitions are not recommended at this time.

The Bureau of Parks and Recreation has the authority to designate trails and their management. This program has not been very active due to its cost. However, should the Bureau become more involved in trail designation, it can and should determine whether the area of each trail is suitable for ATV use.

3. To lessen the concern of landowners that they may be sued for injuries which occur on their land, two recommendations are made:
 - a. Amend existing law (14 MRSA §159-A) to provide that the cost of a successful defense of a law-suit be awarded to the landowner.
 - b. To protect against the instance where defense costs are awarded against a person who cannot pay them, an insurance policy or pool should be provided if it is feasible. The State may be able to purchase insurance for this purpose through the Division of Risk Management, although the Division cannot determine either availability or cost without knowing what the entire law with regard to ATVs will be. If the State agency with responsibility for ATVs determines that this coverage is unavailable or prohibitively expensive, it should consider establishing a fund to cover these costs. An actuarial determination should be made as to the amount necessary to capitalize such a fund and to purchase excess coverage. The cost of either

approach can be assessed to users through an addition to or surcharge on registration, or it could be imposed as a fee on distribution or sale of ATVs within the State.

Comment: Current law relieves landowners of their usual duty of care with respect to recreational users of their property. However, landowners state that they remain concerned about bearing the cost of defense in a lawsuit even if no judgment is awarded. The two recommendations together would eliminate that burden.

While these recommendations apply only to the use of ATVs, section 159-A deals with all recreational uses. Therefore, this provision can easily be extended to all uses if that is desired; if not, care should be taken to restrict its application to the use of ATVs.

Another suggestion considered but not recommended is a change in the law to provide immunity from suit to landowners on whose land injuries occur to ATV users where the injury is not caused by the malice of the landowner.

This type of provision, which is uncommon in Maine law, would likely result in a test case, the defense of which would be extremely expensive. In addition, subsequent cases would likely be brought on the issue of malice. In short, "you can always sue" is axiomatic in the law. Protection of innocent landowners would be more effectively provided by the implementation of the recommended strategies.

4. To address the issue of the behavior ascribed particularly to young ATV users and to increase the safety of these young people, three recommendations are made:

- a. The law should be amended to raise the age at which an ATV may be operated unaccompanied to 15, and to require that a person who is at least 15 but less than 18 hold a certificate of satisfactory completion from a State approved training and education program in order to ride unaccompanied. These provisions should apply to riding on any land regardless of ownership.

To alleviate confusion or uncertainty as to the meaning of the word "accompanied" in existing law and as suggested here it is recommended that the term be defined to include visual or voice communication with the young driver by a responsible adult.

- b. In addition, it is recommended that all riders under the age of 18 be required to have such a certificate if operating an ATV other than on property owned or leased by the operator's parent or guardian.

- c. It is further recommended that the law be amended to require that any person under the age of 18 wear protective headgear while operating or riding an ATV.

Comment: Recognizing that lead time will be required for State approval of training programs and for the delivery of these programs to young people, it is suggested that this provision as it pertains to riders be effective July 1, 1987. This 2-year-plus lead time assumes a maximum 10,000 young people will want to take a course and is based on the experience of the Department of Inland Fisheries and Wildlife which had a three year lead time to implement the mandatory hunter safety program. There are approximately 10 times more hunters than ATV operators. The Department of Inland Fisheries and Wildlife projects that it will be offering hunter safety training to approximately 6500 people next year.

The 15-year age limit is suggested to be consistent with other vehicle operation laws.

Another suggestion considered but not recommended was to institute an operator's license or to treat the recommended certification or a motor vehicle operator's license as an ATV operator's license, subject to suspension or revocation. No mechanism exists to implement such a system and its projected cost did not appear to be justified by the small benefits to be gained.

Other issues involving safety included suggestions for speed limits and curfews. The speed limit suggestion was rejected because ATVs do not typically have speedometers. The recommendation for curfew was drawn from Massachusetts. There the curfew is from 11:00 p.m. to 6:00 a.m. and is apparently imposed for the benefit of sleeping neighbors rather than safety considerations. In Maine, fewer than 13 percent of accidents occur during those hours.

5. An issue related to the conduct of young people is the responsibility of parents and other adults for the acts of minor children. The following recommendations are designed to impose liability on ATV owners and parents, as well as operators, for violations and damage caused by the conduct of an ATV operator over which the operator or parent has or should have some control:
 - a. Amend 12 MRSA §7857(21) to extend guilt for permitting an ATV to be operated in violation of the law to parents of minors providing that the owner or parent has or should have control over the offensive conduct.
 - b. Add a provision to the law which imposes financial liability on the ATV owner or operator's parent who permits the operation of the ATV for damage caused by the operator.

Comment: Current law provides that a person is guilty of unlawfully permitting operation of an ATV if he owns an ATV and knowingly permits it to be operated in violation of the ATV laws. The suggested change imposes similar liability on parents who are in a position to control of the acts of their children. Violation of this section should be made a civil violation which would limit the liability to payment of a fine.

The financial responsibility section is similar to provisions which apply to negligent operation of a motor vehicle on the highways by a minor and should probably be located within Title 12, Chapter 715, sub-chapter IV. Reference may be made to 29 MRSA § 1861 for language which sets out some situations in which liability will be imposed.

Another suggestion was made to deal with the problem of parental responsibility: establish a minimum age at which a person may register an ATV. Other motor vehicles can be registered by people 18 years of age or older. Under 18, the registrant must generally have parental consent. This suggestion is not recommended only because the changes which are recommended should be sufficient to involve parents in the activities of their children.

6. It is generally acknowledged that effective law enforcement is essential to the success of any of these recommendations. Three recommendations are made to enhance law enforcement efforts:
 - a. Impoundment of an ATV operated in violation of the law should be allowed provided that a complaint or summons is issued for the violation.
 - b. All state and local law enforcement officials are now empowered to enforce all laws relating to ATVs. However, there appears to be some confusion about this. It is therefore suggested that the law articulating their authority to enforce ATV laws be restated and communicated to law enforcement personnel.
 - c. To further enhance law enforcement efforts it is recommended that the law be amended to require that registration plates be displayed on both the front and back of the vehicle. Currently they are only required on the rear of the vehicle.

Under current law ATVs operated in violation of Title 12 are subject to seizure. The seizure provision requires a libeling procedure in addition to the complaint for the offense and results in forfeiture of the seized property unless there is no conviction. It is recommended that an impoundment procedure be developed which would be incidental to filing a complaint and which would allow return of the ATV

upon a finding of not guilty or upon payment of impoundment fees and a fine upon a guilty finding.

The law is quite clear as to the jurisdiction of all law enforcement officers in ATV cases. However, there appears to be confusion or reluctance on the part of some to exercise their authority. This situation should be remedied, preferably by communication rather than additional statutory language. As a starting point, the ATV booklet published by the Department of Inland Fisheries and Wildlife should recite those sections of Title 12 (§7055 and §7056) which spell out enforcement authority.

Finally, an additional registration plate on the front of the vehicle should be required. The current plate is made of reflective material and costs 40 cents. The cost of the second plate should be included in any registration fee increase.

Two other suggestions concerning registration plates should receive further consideration. ATV users suggest that the new color scheme for plates (red on white) may be difficult to read because so many ATVs are red. If this is the case in practice, another color scheme should be selected. ATV users also suggested that the registration expire on the anniversary date of initial registration instead of June 30. This would avoid the congestion of 20,000 registrants all being processed at once. However, the Department of Inland Fisheries and Wildlife reports that it does not have the capability to do this. As they develop new computer capability, this suggestion can be considered. It will require statutory change.

Suggestions considered but not recommended are:

- a. Increase the number of law enforcement personnel, specifically game wardens. It was suggested that by raising the registration fee to \$15-20, money could be raised to support additional law enforcement efforts. This increase would raise approximately \$200,000 ($\$17 - \7 [current fee] \times 20,000) to fund the entire recommended program. This would yield approximately \$100,000 for game wardens, a total of 2 or 3 positions. The Department of Inland Fisheries and Wildlife currently receives fines imposed for violation of Title 12. The need for additional wardens, the source of their funding, and the allocation of their time are the subject of a great deal of discussion in the Legislature and within the Executive Branch. Until these issues are resolved with regard to the Warden Service in general and an accounting of current revenues and expenditures provided, no additional allocation to Warden Service can be justified.

In addition, increased support to the Warden Service will not accomplish the goal of increasing participation of other agencies in the enforcement of ATV laws.

- b. Reinstate the word "duty" in the section of the law concerning the authority of all law enforcement personnel to enforce ATV laws. The obligation to enforce ATV laws should not be given statutory priority over other law enforcement activities. Unless law enforcement officials take the position that the authority to enforce does not create a duty within the resources available, no change need be made.
 - c. The suggestion that ATV operators be required to wear a registration number on a vest is not recommended because law enforcement officials report impracticality of enforcement based on experience with the existing requirement that hunters wear blaze orange garments in the woods.
 - d. A suggestion that 3 inch reflective registration numbers be displayed on the sides of an ATV is not recommended because the construction of ATVs does not provide a large enough exposed vertical space.
7. The smooth administration of laws is an issue related to law enforcement. Two recommendations are made to recognize the importance of ATV laws within the judicial system.
- a. In order to relieve a potential burden on the Superior Court caused by anticipated increased attention to and penalties for ATV violations, it is recommended that provisions of Title 12 MRSA Chapter 715, subchapter IV, dealing with all-terrain vehicles be made civil violations, rather than criminal offenses, with the exception of provisions relating to reckless operation (12 MRSA §7857 (9)) and operating under the influence (12 MRSA §7857(10)) and allowing a child to operate an ATV unaccompanied (12 MRSA §7857 (14)).
 - b. Judges should be encouraged to impose stiffer fines available under the law. The Court system should be requested to record and make available data concerning offenses involving ATVs and the penalties imposed.

Comment: The decriminalization of most of the Title 12 ATV violations would treat these violations in the same manner as most motor vehicle violations. Exceptions are made for reckless conduct, operating under the influence and permitting a child to ride unaccompanied because of the potential injury to others inherent in the violations. In addition criminal trespass and criminal mischief remain criminal offenses under Title 17-A. The effect of decriminalization would be to keep most of the ATV cases in the District Court where fines and fees would be the only available sanctions. Under criminal

law, people accused would be entitled to a jury trial and fear of stiffer penalties would encourage dilatory tactics. Fines are reported to be typically twenty-five or fifty dollars. While most people feel this is adequate for an occasional offender, it is thought that repeat offenders should be subject to progressively stiffer fines.

The judicial system should be made aware of the extent of the problems caused by ATVs through their representative on the Advisory Committee. The Court system is updating its information management system and it should likewise be requested to provide for the retrieval of data concerning ATV violations.

8. To provide continuity and followup on these recommendations and to maintain an official presence with regard to the issues identified by this study, it is recommended that the State adopt an ATV program with the following characteristics and mandates:

- a. The program should be funded entirely by proceeds of the registration fee for ATVs. A fee in the range of \$10-\$12 is projected to provide \$100,000-\$140,000, in addition to the amount currently charged to reflect the cost of registration and enforcement.
- b. The Department of Conservation, Bureau of Parks and Recreation, should remain the lead agency and should employ a coordinator funded by the ATV registration fee. The coordinator should 1) assist in the formation of ATV clubs and their programs such as trail design and development, and developing a self-monitoring ethic among ATV users; 2) investigate the need for and feasibility of an ATV trail program, including sources of funding such as a portion of the gasoline tax; 3) evaluate and make recommendations concerning the availability of insurance to provide defense of landowners and the need for alternative funding for that protection; and 4) assist in the implementation of and evaluate the effectiveness of these recommendations.

The coordinator should report to the Commissioner of Conservation through the Director of the Bureau of Parks and Recreation on the status of the issues identified by this study and recommendations adopted no later than December 15, 1987.

- c. The Department of Inland Fisheries and Wildlife should have responsibility for providing safety education and training and should review safety-related data and make recommendations suggested by it. The Department should receive funding from the ATV registration fee to cover its costs, including additional personnel if needed.

Comment: The increased fee of \$10-12 would provide two additional people, one in the Bureau of Parks and Recreation and one in the safety division of the Department of Inland Fisheries and Wildlife and provide an operational budget for each. The report due at the end of 1987 will evaluate these programs and other suggestions and the adequacy of available funds. This is designed as a start-up program and it is anticipated that changes will be recommended after this initial period.

Initially, the primary function of the Coordinator in the Department of Conservation should be to assist in the development of ATV clubs. The sentiment of nearly every interest surveyed or interviewed was that ATV clubs will improve ATV user relationships with landowners, will encourage more responsible use of ATVs and will provide a vehicle for the development of a self-monitoring ethic among users.

Suggestions considered but not recommended include:

- a. A grant-in-aid program to local clubs or towns for trail development. This is deferred until the ATV coordinators investigation as to the feasibility of an ATV trail program is complete.
 - b. Revenue sharing with municipalities provided that no local excise tax is imposed on ATVs. This is the situation with regard to snowmobiles. It seems to cause more problems than it solves. It was apparently designed to create a uniform "tax" for snowmobiles regardless of the city or town in which it is kept. The money that is returned to the municipality is to replace the lost excise tax and is applied to its general fund. It is not earmarked for snowmobile related programs. This creates frustration among some snowmobilers. There appears to be no real benefit to anyone and therefore it is not recommended.
9. There appears to be a lack of knowledge or understanding of existing laws and practices concerning ATVs among law enforcement officials, landowners, ATV users and the general public. Two recommendations are made to address this situation.
- a. The State, through the Department of Conservation as lead agency, should coordinate a special public awareness and enforcement campaign, perhaps following the adoption of any recommendations by the Legislature or administrators.
 - b. A booklet explaining the law pertaining to ATVs should be prepared in lay person's language and widely distributed to interested parties. This would supplement or replace the compilation of statutory language now prepared and distributed by the Department of Inland Fisheries and Wildlife.

Comment: Given the importance and need to educate all ATV users, it was suggested that ATV dealers be required to inform ATV purchasers about safe and responsible operation of their vehicles through the distribution of State approved materials. However, the Department of Inland Fisheries and Wildlife has provided all registrants with a copy of the law. It is the intention of the Department to revise the materials to be more easily understood by users and to continue to distribute that material to all registrants. Therefore, the suggestion of an additional distribution required by law appears unwarranted. Many dealers do distribute educational materials prepared by manufacturers voluntarily. It is expected that this will continue as well.

METHODOLOGY

The purpose of this study is to present a balanced and credible resolution to the issues and conflicts arising from the use of all-terrain vehicles in the State of Maine. A three step approach was taken to develop recommendations for the management of ATVs.

Collection and Analysis of Data

Data was collected from primary and secondary sources. Primary sources included interviews with Maine law enforcement, judicial and recreation agencies, landowners and organized ATV and environmental interests. In addition a survey of ATV users was conducted. Summaries of these data are provided in Appendices C & D. In addition representatives of agencies which deal with ATVs in other States were consulted. Secondary sources included statutes and program materials from other jurisdictions. These programs are summarized and presented in Appendix B. Maine law concerning the use of ATVs was also reviewed.

Policy Formulation

From the information collected the major issues and some suggested strategies for responding to them were prepared and presented to a Study Advisory Committee impaneled by the Department.

After meeting with the Committee, strategies were selected to present to the general public at two public meetings held December 9 and 10 in Bangor and Portland, respectively. The Bangor meeting was attended by approximately 75 people of whom most owned ATVs, many owned snowmobiles and most owned land. The Portland meeting drew approximately 50 people with roughly the same interests.

There was agreement that ATV users should be encouraged to have greater respect for landowners. At Bangor a consensus emerged that ATV users should be required to obtain permission from landowners on whose land they wish to travel. The organization of ATV clubs was nearly unanimously endorsed.

Despite what appeared to be consensus, considerable tension was evident between users, who feel that they are being maligned because of a few bad actors, and landowners, who feel threatened by abusive disregard of their property.

As a result of the public meetings recommendations were prepared and discussed by the Study Advisory Committee at its second meeting. Although consensus eluded the group on some issues, many recommendations enjoy wide support. Suggestions were evaluated for their practicality, their projected effectiveness in

addressing the issue to which they speak and the extent of the imposition or burden imposed compared with the benefit which can reasonably be anticipated. Those which appear to present a balance and which promise to be effective are included as recommendations. Other suggestions are discussed and the reasons for their non-recommendation are presented in the comments at the end of each section of the findings.

Final Report

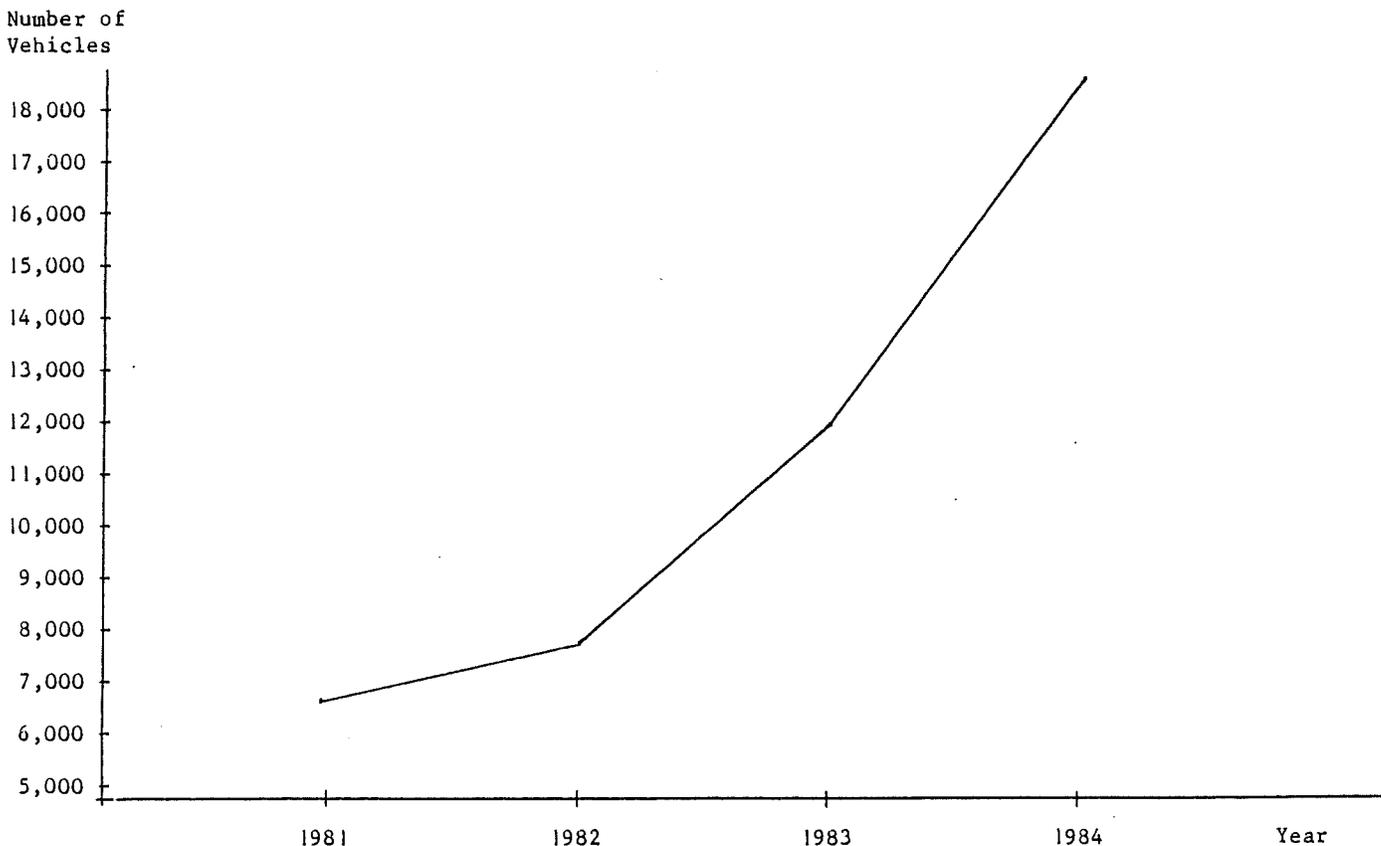
This report is presented to the Department of Conservation which will consider it in making its recommendations to the Legislature by February 1, 1986. Any legislative changes will be subject to the full legislative hearing process.

APPENDIX A - ALL-TERRAIN VEHICLE USE IN MAINE

Trends in ATV Use

The use of all-terrain vehicles in the United States as well as in Maine has skyrocketed over the past five years. According to industry statistics the number of ATVs in Maine has increased over 2 1/2 times between 1981 (6500 vehicles) and 1984 (18,000 vehicles) as displayed in the following graph. While the figure for 1984 of 18,000 vehicles is nearly 2,000 less than the number of vehicles actually registered in Maine, the industry statistics can be used to show the overall trend. Even though industry representatives indicate they expect ATV sales to continue to increase at the same rate, some dealers in Maine have seen sales drop off slightly over the past year.

TABLE
NUMBER OF ATVS IN USE IN MAINE



Source: Special Vehicle Institute of America, October, 1985.

Notes: These estimates are based on wholesale shipments to dealers and include off-road motorcycles and two and three wheeled vehicles with low pressure tires.

Distribution of ATV Use in Maine

State ATV registrations indicate there are between 19,000 and 20,000 vehicles in the State. Over 3,000 ATVs, or 16 percent of all registered vehicles, are registered in Penobscot County as shown in the following Table. Cumberland County registrations are over 2,100, accounting for 11 percent of all registered ATVs. Aroostook and York Counties both have nearly 2,000 registered ATVs, or 10 percent each of the total. Other counties each have fewer than 2,000 registered ATVs.

**TABLE - POPULATION AND NUMBER OF REGISTERED ATVs BY COUNTY
1985**

County	Population ¹	% of pop.	Registered ATVs ²	% of ATVs
Androscoggin	100,600	9	1,353	7
Aroostook	88,450	8	1,932	10
Cumberland	225,100	18	2,125	11
Franklin	28,800	2	773	4
Hancock	43,950	4	966	5
Kennebec	112,600	10	1,739	9
Knox	34,750	3	386	2
Lincoln	28,350	2	386	2
Oxford	49,900	4	966	5
Penobscot	139,200	12	3,092	16
Piscataquis	18,250	2	580	3
Sagadahoc	30,200	3	386	2
Somerset	47,050	4	1,159	6
Waldo	29,650	3	580	3
Washington	33,950	3	966	5
York	152,850	13	1,932	10
TOTALS	1,163,650	100	19,321	100

Sources:

¹Population Projections, 1984-1993, Maine Department of Human Services, Bureau of Health Planning, June 1985.

²ATV Registrations, Maine Department of Inland Fisheries and Wildlife, Recreational Safety and Registration. (NOTE: The County figures are estimates)

ATV Accidents in Maine

ATV accident statistics are also available to describe ATV use in Maine. The Maine Inland Fisheries and Wildlife Department began collecting ATV accident statistics in June of 1984. The statistics for the period from January 1 through November 1985 will be used here since the Department advises that they are more accurate than the earlier figures. During this time period there were a total of 206 reported accidents with 224 personal injuries. There were 3 fatalities.

Nearly 44 percent of the accidents were a result of operating the vehicle too fast for conditions and over 21 percent were caused by inattention or operating without caution. Almost 7 percent were related to the operation of the vehicle on a public way. In over half of the accidents the operator either fell or was thrown off the vehicle and the most common injuries were fractures. 57 percent of the ATV operators involved in the reported accidents were under the age of 21 and 29 percent of the operators had less than one season's experience.

The Maine Inland Fisheries and Wildlife Department ATV Accident Summary for January 1 through November 1985 follows.

Maine
ATV ACCIDENT SUMMARY
1/1/85-11/85

NUMBER OF ACCIDENTS REPORTED TO FISH AND WILDLIFE DEPARTMENT - 206
NUMBER OF ATV VEHICLES INVOLVED THAT CAUSED PERSONAL INJURY RE-
QUIRING SERVICE OF PHYSICIAN OR PROPERTY DAMAGE OF \$100 OR MORE - 233
NUMBER OF PERSONAL INJURIES - 224

ACCIDENT BY COUNTY

14 - Androscoggin	5 - Oxford
30 - Aroostook	11- Penobscot
26 - Cumberland	5 - Piscataquis
9 - Franklin	0 - Sagadahoc
8 - Hancock	18 - Somerset
12 - Kennebec	14- Waldo
4 - Knox	15- Washington
0 - Lincoln	34- York
	0 - N/A
	1 - Unknown

TOTAL - 206

86 - Daylight	5 - Unknown
120-Nighttime	4 - 0001 - 0600
	24 - 0601 - 1200
	66 - 1201 - 1600
	85 - 1601 - 2000
	22 - 2001 - 2400

TOTAL - 206

FATALITIES - 3

TOTAL ACCIDENTS - 206

PROPERTY DAMAGE ONLY	- 17
PERSONAL INJURY ONLY	- 130
BOTH PD & PI	- 59
	<u>206</u>

ALCOHOL WAS A FACTOR
(Opinion of Investigation Officer)

22 - Yes
159- No
24 - Unknown
<u>205</u>

CAUSE OF ACCIDENT

9 - Unknown	44 - Inattention or operating without caution
88 - Too fast for conditions	3 - Steep hill or high snowbank
4 - Clothing or extremities entangled in ATV	<u>4 - Other</u>
5 - Mechanical failure	
14 - Operating on a public way	
6 - Struck throttle	206

TYPE OF ACCIDENT

14 - Unknown
12 - Collision with another ATV
4 - Collision with motor vehicle
8 - Struck tree or branch
11 - Over bank or sudden drop in terrain
111 - Fell or thrown off
15 - Struck rock or object
7 - Struck pedestrain
22 - Other
2 - Struck wire or chain

206

WEATHER

161 - Clear
2 - Snowing
1 - Fog
4 - Rain or sleet
5 - High Winds
33- Unknown
0 - Cloudy
Total - 206

GROUND CONDITIONS

4-ICE
3 - Soft or wet snow
10-Hard packed snow
154 - Bare ground
35 - Unknown

206

SEX OF ATV OPERATORS

199 - Male
32 - Female
2 - Unk

233

SEX OF PERSONS INVOLVED IN ACCIDENTS

240 - Male
49 - Female
2 - Unk

291

HELMETS WORN/PASSENGERS AND OPERATORS

1 - Unk
98- Yes
187 -No
5 - N/A

291

PERSONS INVOLVED IN ACCIDENTS - 291

ATV OPERATORS -
PASSENGERS - 49
PEDESTRAIN - 6
UNK - 1
N/A - 2

291

TOTAL PERSONAL INJURIES - 224

TYPE OF INJURY

3 - Fatal by injury
0 - Fatal drowning
78 Fracture
9 - Laceration
14- Contusion
1 - Internal
9 - Concussion
3 - Dislocation
36 - Abrasions
16 - Brusies
9 - Sprain
10- Puncture
30 - Other
6 - Unk
224

LOCATION OF INJURY

70 - Lower Extremity
17 - Back
20 - Chest - trunk
36 - Upper Extremity
60 - Head and neck
2 - Eye
19 - Other

224

AGE OF ATV OPERATORS

3 - Under 10
63- 10 thru 15
71- 16 thru 20
35- 21 thru 25
12 - 26 thru 30
18- 31 thru 35
11 - 36 thru 40
9 - 41 thru 45
11 - 51 and over
11 - Unk

234

EXPERIENCE OF ATV OPERATORS

24 - Novice
45 - Less than 1 season
34 - 1 season
36 - 2 seasons
19 - 3 seasons
13 - 4 seasons
7 - 5 seasons
14 - 6 seasons and over
40 - Unk

234

MAKE OF ATV (234) IN PERSONAL INJURY ACCIDENTS
OR PROPERTY DAMAGE ACCIDENTS RECEIVING \$100 OR MORE DAMAGE

1 - N/A
25 - Kawaski
25 - Suzuki
23 - Yamaha
143 Honda
1 - Polaris
16 - Unk

234

YEAR OF ATV INVOLVED

1 - N/A
1 - 71'
1 - 74'
4 - 78'
2 - 79'
5 - 80'
6 - 81'
13- 82'
14 - 83'
74 - 84'
116-85'
3 - 86'
25 - Unk

234

HORSEPOWER

2 - 10 and over
120 16 thru 20
49 - 25 thru 30
4 - 31 thru 35
1 - 36 thru 40
1 - 50 and over
56 - Unk
1 - N/A

234

APPENDIX B - ATV MANAGEMENT IN SELECTED STATES

The increasing popularity of all-terrain vehicles nationwide has led to the development of laws and management programs in many other states. While a few states have registered and managed ATVs for a number of years, the majority of states have either just implemented programs or are currently developing management strategies. Those states with established snowmobile programs appear to have had the easiest time developing ATV programs.

The states examined here include four other northeastern states and the State of Michigan. The four northeastern states were selected because of their relative similarity to Maine in having a low proportion of public lands. Many western states have been able to develop ATV recreation areas on their vast supply of public lands. The northeastern states must generally rely on private lands for trail development.

Of the states examined here, Massachusetts and Michigan have been registering ATVs for nearly a decade. Michigan has focused on the development of extensive trail systems, primarily on public lands, and administration of a safety training and education program. The Massachusetts ATV program is much more limited with some trails on public lands and no safety training and education program.

New Hampshire actually promotes ATV recreation and has developed one of the most extensive ATV programs in the northeast. Vermont's program is fairly new and is less extensive and more restrictive of ATV use. New York State has just enacted ATV legislation and is currently engaged in drafting regulations.

Table II, A Summary of ATV Management in Selected States, permits a comparison of these states' programs. Registration fees range from \$5 per year to \$17 per year. Service provided by the states range from enforcement of ATV laws only to extensive club development, trail programs and safety training and education programs. Nearly all of these states have authorized ATV trails located on public lands. The minimum age to ride unsupervised ranges from 10 years old (in Maine) to 14 years of age. All of these States require additional safety equipment. Michigan and Maine are the only states that do not require affirmative permission for operation of an ATV on private property.

The following are more detailed descriptions of each of the state's ATV programs.

New Hampshire

New Hampshire has been one of the first States to actually recognize and promote the off-highway recreational sport. The State's rather extensive program is administered by the Bureau of Off-Highway Vehicles which was established in 1983. The program, which includes ATVs as well as snowmobiles as off-highway recreational vehicles (OHRVs) consists of a well developed

educational and safety training program and OHRV trail and facilities management program.

Since 85 percent of the State is private land, there is a major emphasis on working with landowners. The State OHRV association and OHRV clubs are considered crucial to the program and particularly in working with landowners and coordinating efforts to obtain easements and rights of way for trails. The program also includes a grant-in-aid program to assist clubs in developing places to ride. Additionally, the law requires verbal landowner permission prior to operating an OHRV on private land not covered by snow.

The education program emphasizes the importance of laws and regulations, ethics, personal safety and proper use of the vehicle. The State is developing the course through Outdoor Empire Publishers and will be responsible for certifying instructors. Youngsters age 12 through 15 must satisfactorily complete an approved safety training course if they wish to operate the OHRV off their own property without being accompanied by an adult.

New Hampshire law requires that no person under the age of 18 shall register an OHRV without written permission from the parent or guardian and prohibits any person under the age of 16 from registering any OHRV in his own name. To address property damage caused by minors, the law states that the operator or owner or both shall be responsible and held accountable for property damage. Additionally, an OHRV operated by a minor in violation of the law may be impounded for up to 24 hours and a person under 16 years of age operating illegally can have his safety training certificate revoked without a hearing.

Vermont

Vermont and the other northeastern states do not appear to be promoting the ATV sport as actively as New Hampshire. Vermont has not instituted any safety education programs and does not appear to be very actively promoting trail development.

The State's ATV legislation, enacted in 1984, requires registration of most vehicles through the Department of Motor Vehicles. The legislation also authorized the Agency of Environmental Conservation to designate public land open to ATV use. As a result of 1985 legislation the Agency designated nearly all frozen bodies of water open to ATV travel.

ATV users of private property are required by law to carry written landowner permission specifying the area and time of day or days in which they may ride. Proof of membership in a club that has written permission can also suffice.

Vermont's "All-Terrain Vehicles Operator's Manual" which includes the state's laws as well as a general information section is well organized and easy to understand. This is a format that Maine may want to consider using.

New York

New York has just passed ATV legislation that will take effect in 1987. The State's Bureau of Marine and Recreational Vehicles within the Office of Parks, Recreation and Historic Preservation is responsible for administration. The legislation requires registration of vehicles, mandatory use of helmets and machine safety equipment. Users between the ages of 10 and 16 must have a safety training certificate to operate on someone else's property. The law also establishes an accident reporting program and a State aid program to reimburse counties, cities and towns for enforcing ATV laws.

Massachusetts

Massachusetts began regulating ATVs in the mid-seventies. The Division of Marine and Recreational Vehicles is responsible for administering Massachusetts' Snowmobile and Recreational Vehicle Law. The law requires that all vehicles be registered and equipped with lights, brakes and spark arresters. Operators must have permission to operate a vehicle on someone else's property and specifically to within 300 feet of an occupied residence. There are also curfew hours that restrict the operation of an ATV between the hours of 11 p.m. and 6 a.m.

A representative of the State's enforcement division indicated that occasional special enforcement programs "clamp downs" including impoundments have helped reduce violations. Additionally, there are hearing officers within the Division of Marine and Recreational Vehicles who work with children under 16 years of age and their parents to address violations, thereby reducing court actions. These officers are capable of impounding vehicles and revoking registrations. Several state officials indicated that the hearing officers have been quite successful in working with youthful violators and their parents.

The State is in the early planning stage for the development of trails. To date, trails have been developed primarily on public lands and, in some cases, on existing snowmobile trails. Mutual use of snowmobile trails has been controversial.

Michigan

Michigan's off-road vehicle (ORV) program is being examined here because it has been in effect since the mid-seventies. The State's Department of Natural Resources is responsible for carrying out a safety education and training program and developing a comprehensive plan for management of ORV use on lands under their jurisdiction.

Over the past 10 years more than 1500 miles of trails have been established. Trails have been developed on a three tier system with "use areas" for cross country play riding in the southern part of the State, "trails" for 2 and 3 wheelers and "routes" (primitive country roads) for motorcycles and 4 wheel drive vehicles. With the completion of this extensive trail and road system Michigan is working to restrict ORV use to the designated areas.

Michigan's extensive experience in trail planning and development that has included consideration for protecting natural resources, separating conflicting uses, promoting user safety, and developing enjoyable trails, may be helpful, if and when Maine decides to become involved in trail development.

CONTACTS IN OTHER STATES

New Hampshire

Lt. David Hewett
OHRV Coordinator
N. H. Fish and Game Department
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Concord, NH 03301 603/271-3421

Douglas Eoute, Chief
N. H. Department of Resources and Economic Development
Bureau of Off Highway Vehicles
P. O. Box 856
Concord, NH 03301 603/271-3254

Vermont

George Paquette
Vt. Agency of Transportation
Department of Motor Vehicles
Division of Field Services
Montpelier, VT 05603 802/828-2000

Massachusetts

Walter Curtis
Environmental Law Enforcement
Marine and Recreational Vehicle
Registration of Motor Vehicles Bldg.
100 Nashua Street
Boston, MA 02114 617/727-3905

New York

Neil Gillson, Chief
Education & Enforcement Officer
N. Y. Office of Parks, Recreation &
Historic Preservation
Gov. Nelson A. Rockefeller Empire State Plaza
Agency Building
Albany, NY 12238 518/474-0445

Michigan

Robert Tyler, Trails Coordinator
Forest Management Division
Department of Natural Resources
Box 30028
Lansing, MI 46909 517/373-1275

TABLE 2

SUMMARY OF ATV MANAGEMENT IN SELECTED STATES

Services Provided by State:

State	Regis. Fee/term	Services Provided by State:					Trails on on Publ. Land	Age to Ride Unsupv.	Age to Cross Roads	Safety Equip. Requir.	Affirmative Permission	
		Enf.	Trails	Safety	Staff/ Coord.	Club Dev.						Other Prog.
ME	\$7/year	x		x				10	15	Lights Spark ar- rester Helmets (younger than 15)		
			(funded through dedicated account)									
NH	\$13/year (resident) \$17/year (non-res.)	x	x	x	x	x	x	yes	12 yrs.	Driver's lic. or 12 yrs. w/ training	Lights Brakes	yes, unless snow covered
			(funded through dedicated account)									
VT (7/1/85)	\$20/2 yrs.	x						author- ized	12	16	Lights Brakes	yes, individual or club
			(funded through general fund)									
MA (1976)	\$20/2 yrs.	x	x	x	x				14	16½	Lights Brakes	yes, individual or club
			(funded through dedicated account)									
NY (eff. 1987)	\$5	x		x	x	x	x	author- ized	16 w/o cert. 10 w/cert. (for both)		Lights Brakes Tire tread Helmet	yes
			(funded through general fund)									
MICH (1976)	\$9/3 yrs.	x	x	x	x	x	x	yes	12 (w/sfty training-- less than 16) for both		Lights Brakes, Spark ar- rester	
			(funded through general fund)									

APPENDIX C - ATV USER SURVEY

In order to determine the attitudes of ATV users about their needs as well as conflicts and strategies for dealing with them, a survey of users was conducted. Three hundred randomly selected ATV registrants were contacted by telephone and administered a questionnaire, a copy of which is attached.

Twenty-eight percent of the users were in the age group between 10 and 15. This is the group which would be affected by the recommendation that the age at which a person can ride an ATV unaccompanied or unsupervised be raised to 15.

The age of riders was not broken down within the 16-20 year old group, but if even distribution is assumed, the total percentage of riders under 18 years of age (those which will be subject to the requirement of training before riding on the land of another) is approximately 38 percent. Based on an estimated 25,656 operators, this means a potential demand for the training by 9,750 people.

On the issue of obtaining permission from landowners, half thought that a major source of conflict was the failure of users to get permission. At the same time 64 percent thought that obtaining permission was "no problem" and another 17 percent said it was "not much of a problem." Eighty-three percent said they ride on other people's land. One interpretation of this is that permission is usually given when requested. Another is that it is not requested and therefore not denied. However, in either case the expectation appears to be that getting permission would not be an unreasonable or unduly burdensome requirement.

Most ATV users (79 percent) said that dealers should be "required to distribute information on safe and responsible use of ATVs when they sell a vehicle."

Ninety-three percent believe that parents should be responsible for damage caused by their children.

While only 53 percent said that the State should administer an ATV program, 78 percent said that they wouldn't object to an increase in the registration fee if the money were to go to a State ATV program.

A great majority (89 percent) thought "ATV clubs can be effective in promoting safe and responsible use of ATVs" and more people suggested organizing ATV clubs than any other solution for effectively dealing with some of the identified areas of concern.

Two thirds of the users said they think safety training should be required of people under 18. As a matter of fact, 43 percent said that ATV safety training should be required of all ATV users.

Complete data is reported on the attached questionnaire form.

ATV USER SURVEY
FINAL RESULTS
DECEMBER 17, 1985

Hello. My name is _____ and I am doing a survey for the State on all-terrain vehicles. We are calling you because _____ has registered an all-terrain vehicle. Are you over 18 years old? [If not, "May I speak with one of your parents?"].

Do you operate the ATV? YES $\frac{263}{88\%}$ NO $\frac{35}{12\%}$ NO RESPONSE $\frac{2}{1\%}$

[Background]

First, I would like to ask you for some information on your use of ATV's.

1. How many Trail Bikes (2-wheelers) are there in your household?

						65/			
						15%			

						270/			
"	"	3-Wheelers				63%			

						93/			
"	"	4-Wheelers				22%			

						2/			
"	"	Other ATV's				1%			

2. How old are the primary user(s) of your ATV(s)? [note number in each category]

						31/			
						5%			

						30/			
						5%			

						126/			
						22%			

						86/			
						15%			

						39/			
						7%			

						144/			
						25%			

						64/			
						11%			

						51/			
						9%			

571 Total

[Needs]

Now I would like to ask some questions about what you think are the needs of ATV users.

3. Is/Are your ATV(s) used primarily for work or for recreation?

23 Work 233 Recreation Both 44

[If someone in the household uses the ATV for work, ask] What type of work activity is it used for?

27 farming 34 woods work/forestry

_____ other (specify) 4=Trapping, etc. 2=Plow Snow 6=Yard Work 12=Other

4. Where do the ATV riders in your household operate their ATV?

[Record type of terrain-e.g. woods, fields, trails, gravel pits]: 166=woods 102=fields 118=trails 58=gravel pits 11=yards

33=logging/wood roads 37=powerlines 17=back roads/side streets

17=other

5. Do members of your household operate the ATV(s) on:

Your own property ^{80%/} 220 yes ^{20%/} 54 no

Other people's property ^{83%/} 212 yes ^{7%/} 42 no

Designated ATV trails on other people's property

^{40%/} 88 yes ^{60%/} 135 no

Snowmobile trails on other people's property ^{55%/} 130 yes ^{45%/} 105 no

6. Is obtaining permission to ride the ATV on someone else's property:

a serious problem ^{25/} 8 ^{8%} 32/

somewhat of a problem ^{11%} 50/

not much of a problem ^{17%} 188/

no problem ^{63%}

no response ^{5/} 2 ^{2%}

[Attitudes]

Now I would like to ask your views on some issues concerning ATV's.

7. What do you view as the major problems or conflicts, if any, between ATV users and other interests such as landowners, neighbors, hikers or other recreationists?

[Record]: 9=conflicts with other recreational activities
13=landowners will not allow ATV use 2=safety 8=noise 50=property
damage 37=trespass 36=problems with kids 21=irresponsible conduct
1=fire danger 4=inadequate place to ride 10=ride roads 81=none
15=don't know/no opinion

8. The following have been suggested to us as problems associated with ATV use. Which of the following do you think really are problems?

66/
22% conflicts with other recreational activities
such as hiking and snowmobiling?
99/
33% landowner unwillingness to allow ATV use?
133/
44% safety?
32/
11% noise?
115
38% property damage?
151/
50% riders' using land for which they do not
have permission?
64/
21% law enforcement problems because of the
108/ maneuverability of ATV's?
36% the lack of parental financial responsibility for
33/ damage caused by children?
11% none of these

9. What do you think could be done to address these problems?
[Record, be sure all identified problems have been addressed]:

29=safety education/education 23=increase law enforcement
18=change laws 8=require safety equipment 3=use registration fees for
ATV programs 16=more ATV trails 46=organize clubs 36=stricter age limit
47=other 1=seasonal restrictions 8=snowmobilers & ATVers work together
8=nothing 53=don't know/no opinion

10. How many of the ATV users in your household have taken an ATV safety course? 21
11. Would the ATV users in your household take an ATV safety course if one were offered near you?
 189/ 73/ 35/
63% Yes 24% No 12% Don't know
12. Would you support mandatory ATV safety training
 for all ATV users. ^{125/}42% Yes 93 No
 for persons under 18 years of age. ^{76/}25% Yes 36 No
 for persons under 15 years of age. ^{57/}19% Yes 18 No
 for persons under 10 years of age. ^{19/}6% Yes ^{14/}5% No
13. Do you think ATV dealers should be required to distribute information on safe and responsible use of ATVs when they sell a vehicle?
 235/ 46/ 7/ 10/
78% Yes 15% No 2% No opinion 3%=Already Do
14. Do you think parents should be responsible to pay for damage caused by their dependent children operating an ATV?
 279/ 16/ 4/
93% Yes 5% No 1% No opinion
15. Does anyone in your household own a snowmobile?
 150/ 150/
50% Yes 50% No
16. If so, does anyone in your household belong to a snowmobile club?
 43/ 107/
29% Yes 72% No
17. Do you think that ATVs and snowmobiles can ride on the same trails at the same time without interfering with each other's needs or safety?
 184/ 70/ 44/
61% Yes 23% No 15% Don't know
18. Do you think that ATV's and snowmobiles should have separate trails all year round?
 62/ 211 26/
21% Yes 70% No 9% Don't know

[Suggestions]

19. Would you participate in an ATV program that would include:
- | | | | | | | |
|---|------------|------------|------------|-----|------------|------------|
| | 184/ | | 74/ | | 38/ | |
| safety training | <u>61%</u> | Yes | <u>25%</u> | No | <u>13%</u> | Don't know |
| education on the rights of landowners and other | | | | | | |
| recreationalists | 209/ | <u>70%</u> | Yes | 60/ | <u>20%</u> | No |
| | | | | 28/ | <u>9%</u> | Don't know |
| ATV trail development | 209/ | <u>70%</u> | Yes | 63/ | <u>21%</u> | No |
| | | | | 26/ | <u>9%</u> | Don't know |

20. What other activities should an ATV program include? _____
- 3=machine maintenance 3=racing/competition 12=club development
69=don't know/no opinion 97=other

21. Should the State administer an ATV program?

175/	96/	42/	
<u>52%</u>	Yes	<u>32%</u>	No
		<u>14%</u>	No Opinion

If so, should it include

	151/	4/	2/	
safety training	<u>97%</u>	Yes	<u>3%</u>	No
			<u>1%</u>	No Opinion

education on the rights of landowners and other

	153/	3/	1/	
recreationalists	<u>97%</u>	Yes	<u>2%</u>	No
			<u>1%</u>	Don't know
ATV trail development	145/	<u>92%</u>	Yes	7/
			<u>4%</u>	No
			<u>3%</u>	Don't know

Other activities (Specify: _____)

<u>19</u>	Yes	<u>26</u>	No	<u>44</u>	Don't know
-----------	-----	-----------	----	-----------	------------

22. If there were a limited ATV trail program, which of the following would you prefer?

_____ a few ATV use areas throughout the State, each with many miles of trails, or 1st Choice=5 2nd Choice=69

_____ more, local ATV trail systems with fewer miles of trails each, or 1st Choice=95 2nd Choice=132

_____ a State-wide system of interconnecting ATV trails
 1st Choice=170 2nd Choice=54

3 other

Which would be your second choice?

12 no opinion

23. The annual registration fee for an ATV is \$7.00. The fee for other recreational vehicles ranges from \$6.00 - \$11.25. Would you object to an increase in the ATV registration fee if the additional money were to be used for a State ATV program?

64/ 227/
21% Yes 76% No

24. Do you think ATV Clubs can be effective in promoting safe and responsible use of ATV's? 268/ 16/ 15/

90% Yes 5% No 5% No Opinion

25. Would you or someone in your household join an ATV club if one were organized in your area?

13/ 203/ 54/ 30/
4% Already belong 68% Yes 18% No 1% Not sure

26. Which of the following do you think are legal in the State of Maine? [May answer more than one]

194/
65% Operation of an ATV on a snowmobile trail with permission from the landowner

24/
7% Operation of an ATV on a private road without the permission of the landowner

170/
57% Operating an ATV on sand dune with landowner permission

10/
4% Operating an ATV on farmland without owner permission

116/
39% Operating on a peat bog with landowner permission

27. Would you recommend changes in the laws regulating ATV's?

113/ 137/ 50/
38% Yes 46% No 16% No Response

If so, what? 25=minimum age 16=mandatory helmet
 8=lengthen ride on roads between trails
 13=allow ATV use on snowmobile trails
 1=register to ride roads 6=don't know/no opinion
 34=other

28. Which of the following age groups are you in?

under 20 21/7%
20 - 29 50/17%
30 - 39 98/33%
40 - 49 69/23%
50 - 59 30/10%
60 - 69 29/9%
Over 69 2/1%
No response 0

29. What is the highest grade you completed in school?

51/
17% Less than high school graduate
154/
51% High School graduate
43/
14% Some college
23/
8% College Graduate (2-year)
14/
5% College Graduate (4-year)
8/
3% Graduate study/degree(s)
6/
2% No response

30. Was your total family income last year [the most recent 12 month period]:

under \$5,000 4 \$5,000 to \$10,000 16
\$11,000 to \$20,000 73 \$21,000 to \$30,000 70
over \$30,000 77 No Answer 55

Thank you for your cooperation.

Spoke with ATV registrant

YES = 266 NO=34

Date _____

Time of completion _____

Respondent ____ M ____ F

APPENDIX D - SUMMARY OF INTERVIEWS AND PUBLIC COMMENTS

A number of meetings and individual interviews were conducted with persons interested and knowledgeable in all-terrain vehicle issues. Representatives of the major ATV dealers and manufacturers; ATV clubs; landowner groups including large and small woodland owners and managers, Maine Farm Bureau and various types of farm operations, the Maine Rail Association (Operation Life-saver); snowmobile, hiking, sportsmen and other recreational and environmental interests; safety groups including the Specialty Vehicle Institute of America and Consumer Products Safety Commission; law enforcement officials from the Maine Fire Chiefs Association, Maine Warden Service, Maine Sheriffs Association and Chiefs of Police Association; the Attorney General and district attorneys; the Department of Inland Fisheries and Wildlife; the Department of Conservation; Department of Agriculture, Food and Rural Resources; Department of Public Safety and the judiciary were all interviewed to gain insight into the relevant issues of greatest concern and the most practical and acceptable solutions to resolve these issues.

ATV Interests - Interviewed: Jim Howard, President, Central Maine All-Terrainers, Waterville; Ray McCutcheon, President, Sidney Bog Hoppers, Sidney; Herman Gerard, Member, ATVenture Club, Scarborough; State ATV Association meeting 10/3/85; Bob Plourde, Dealer, Plourde & Plourde, Inc., Caribou; John Schott, Dealer, Schott Motorcycle Supply, Lewiston; Les Moulton, Dealer, Portland Yamaha Kawasaki, Portland; Don Holyolk, Dealer, Darling's Recreational Divison, Brewer; Ray Johnson, American ATV Association; Mark Anderson, Land Use and Governmental Relations - Specialty Vehicle Institute of America (representing 4 major manufacturers).

All-terrain vehicle club leaders and dealers are most concerned about being able to enjoy their sport without infringing upon the rights of landowners, other recreationists and others. They are very concerned about irresponsible use of ATVs because of its impact on all other ATV users. Property damage and trespass resulting from irresponsible use of ATVs were universally identified problems.

All those interviewed believed that the organization of ATV clubs, which could educate users, develop trails, work with landowners, and self-police their sport, was the best way to reduce conflicts and make the ATV sport more acceptable to the public. Generally, all favored a State ATV program funded through increased registration fees that would assist clubs in these activities.

Most ATV interests were also concerned about safety and felt that safety training was an important activity that clubs could sponsor. Many felt helmets should be mandatory for persons under 18 years of age.

Two other ATV interests were also interviewed - a representative of the Special Vehicle Institute of America and a representative of the American ATV Association. The American ATV Association, a subsidiary of the American Motorcyclist Association, focuses primarily on assisting clubs in sponsoring ATV competitive events.

The Special Vehicle Institute of America (SVIA) is a national non-profit trade association whose primary purpose is to foster and promote the safe and responsible use of specialty vehicles manufactured and/or distributed in the United States. SVIA is working to implement a nationwide safety awareness and rider training program in an effort to reduce accidents and injuries. SVIA's activities include an ATV rider's course and certification program with certified instructors and printed materials; a number of safety and rider publications; and the development of model state regulations.

Generally, SVIA recommends that states establish ATV programs funded through increased registration fees. This State activity should include a safety training program (mandatory for youthful riders) and ATV trail and recreational development. SVIA also strongly recommends mandatory use of helmets.

ATV Clubs and Contacts

ATVenture Club

Joe Tufts
21 Snow Road
Scarborough, ME 04074
883-6796

ATV Bog Stompers
Ray McCutcheon
Rte. 3, Box 568
Augusta, ME 04330
547-3364

Down East ATV Club

Jim Howard, Tri Sport Honda
Route 201
Topsham, ME 04086
729-3328

Andy Valley Trail Voyagers
10 St. Patrick Avenue
Lewiston, ME 04240
784-7478

Central Maine ATV Assn.

Jim Howard
Crestwood Apt., Apt. 12A
Crestwood Drive
Waterville, ME 04901
873-2800

Western Maine ATV Assn.
Bill Allen
20 Church St.
Jay, ME 04239
897-6777

Dixmont Hill ATV Club

Jay Smith
RFD 1, Box 1941
Dixmont, ME 04932
234-2465

Low Pressure Riders
Daryl Door
RFD 1, Box 439
Harrington, ME 04643
483-6630

Central Penobscot ATV Club
Barry Gallant
Glen Burn
884-8579

Recreation Riders Trail Club
William A. Grusik
Box 1038
Union, ME 04862
785-5325

Richard Sutter
RFD 6, Box 531
So. China, ME 04358
445-2720

Aroostook Trail Riders
(no contact person
available)

Courts - Interviewed: Judge Margaret Kravchuk, Bangor District Court; Judge A. Pease, Rockland District Court; P. Valerie Page, Clerk of Kennebec County Superior Court.

Although these Court officials are aware of citizen concern over improper use of ATVs, none reported any burden on the Court under the current system. ATV related offenses are not specifically identified in Court records although Judge Pease indicated that a new information management system is being designed and that possibly retrieval of ATV related information could be included.

Law Enforcement - Interviewed: Philip Ahrens, Office of Attorney General; John McElwee, John Atwood and Gene Libby, District Attorneys; Lt. Col. John Clark, Maine State Police; Wesley Phinney, York County Sheriff/Maine Sheriffs' Association; George Bourassa, Maine Forest Service, Fire Control Division; Chief Ernest Day, Rockland Fire Department; and Paul Reichtel, Acting Chief, Augusta Police Department. Comment received from Cape Elizabeth, Gardiner, Orono, Richmond, Madawaska and Wilton Police Departments.

Law enforcement people find constituent complaints, difficulties in apprehension and ATVs used on the public highways the most serious of problems related to ATVs. Many of these cases are attributed to young riders.

Suggestions include raising the age of drivers and instituting impoundment provisions. Most important, however, were education of operators and the formation of ATV clubs to provide education, trails and self-monitoring.

Landowners - Farmers Interviewed: John Olsen, Maine Farm Bureau; Curtis Lombard, Maine State Grange; Adrian Wadsworth, Dairy and Crop Farmer, Turner; Allen Libby, Dairy and Crop Farmer, Auburn; Charles Davis, Blueberry Farmer (Jasper Wyman), Milbridge; Gordon Scott, Blueberry Farmer, Waldoboro; Hershel Smith, Potato, Grain and Hay Farmer, Mars Hill; Dorothy Kelly, Maine Potato Commission, Presque Isle; Gardiner Young, Maine Small Farm Association, Kingfield.

Paper Companies Interviewed: International Paper, Great Northern Paper, Scott Paper, Champion International; Paper Company Woodland Managers (meeting 10/30/85).

Commercial Landowners Interviewed: Robert Chadbourne, P. H. Chadbourne/ Forest Products Council; Chip Bessey, Bessey Lumber Company; Sarah Medina, Seven Islands Land Management Company; Larry Philbrick, Prentiss and Carlisle Land Management Company; Albro Copperthwaite, North Maine Woods.

Landowners Associations Interviewed: Fred Beck, Maine Tree Farmers; Small Woodland Owners Association of Maine (meetings 11/7 & 11/14/85); Eugene Swan, Allied Private Landowners of Maine; Robert Frederickson, Maine Christmas Tree Growers Association, Maine Association of Conservation Districts (meeting 11/6/85).

Individual Landowners Interviewed: Fred Huntress, Oxford County; Fred Rooney, Aroostook County; Eleanor Vassey, Hancock County. Considerable response by mail provided to the Department.

While some landowners reported no problems which had not or could not be resolved between the parties, most complained of trespass, property damage, fire danger, threat of suit or disrespectful behavior on the part of users.

Property damage that was experienced included destruction of field, hay and tree crops, spread of disease in seed potato fields, cutting of fences, and soil erosion. Trespass was of particular concern when ATV users repeatedly disregarded the posting of land.

Landowners who experienced problems often noted that most of the offenders were youthful ATV users, and primarily teenagers. Many landowners reported difficulty in catching violators either because the damage or trespass occurred long before it was discovered or the ATV operator refused to stop and identify himself.

Most felt that the solutions were increased education and organization of ATV operators, development of a trail system and a requirement that permission be obtained to operate on the land of another. Many were also concerned about liability but had no proposal to deal with that concern.

The most prevalent expression was that too many ATV users have too little respect for other people's property. Recognizing that this is not a matter for legislation, the suggestion was most often made that ATV clubs be formed. This would give landowners an entity with which to deal. Similar experience with snowmobilers has been generally positive.

Railroads - Interviewed: Paul Roberts (Maine Central Railroad), representative of Operation Lifesaver [Railroad safety organization]

It is against the law to operate an ATV along or on railroad tracks within the railroad right-of-way without written permission. The railroads do not give permission to operate ATVs on either active or abandoned rail lines. Despite the law and railroad policy, a number of ATV operators have been issued written warnings and summonses for violations. The railroads' major concerns are liability, safety and damage to equipment and rail line shoulders (ballast banking).

The following recommendations were made on behalf of Operation Lifesaver:

1. Clarify that all enforcement officers should be enforcing the ATV laws.
2. Change the color of the license plate and make them more visible by requiring that they be mounted behind the seat and kept clean.
3. Require operators to carry registration when operating the vehicle.
4. Require uniform display of registration
5. Set a minimum age for operation of an ATV without training and implement a mandatory safety training and education program.
6. Enable impoundment and establish a schedule of increasing fines.
7. Require parental responsibility for property damage by minor children.

Environmental Groups - Interviewed: Jerry Bley, Natural Resources Council of Maine; Nancy Stone, Maine Chapter - Sierra Club; Chuck Hewett and Janet McMahon, Maine Audubon Society; Barbara Vickery, Nature Conservancy; Sue Van Hook, Maine Coast Heritage Trust.

Issues of greatest concern to environmental groups were damage to sensitive environments, increased soil erosion and sedimentation, and conflicts with other recreational activities. Sensitive environments were identified as sand dunes, alpine areas, beaches, and freshwater and saltwater wetlands. Soil erosion and sedimentation was of particular concern with regard to ATV use on steep slopes and in crossing or operating near waterbodies.

The intrusion of motorized vehicles and the noise they create was viewed as a hindrance to wildlife as well as being in conflict with the outdoor/wilderness experience and more passive forms of recreation. Additionally, nearly all those individuals interviewed cited trespass, the youthful age of many ATV users and safety as major concerns.

Environmental groups almost universally recommended increased education and enforcement of ATV laws, licensing operators, raising the minimum age to operate an ATV, banning ATVs from sensitive environments and encouraging ATV clubs as a way to minimize damage and conflicts. Most recommended requiring affirmative permission to use an ATV on the land of another.

Sportsmen - Interviewed: David Allen, Sportsman's Alliance of Maine

The Sportsman's Alliance of Maine (SAM) has two major concerns regarding the use of ATVs in Maine. First, increased conflicts between ATV users and landowners could result in increased posting and less land available to sportsmen. Secondly, since many hunters, trappers and fishermen are using ATVs in their sporting activities, any restraints on the use of ATVs will directly affect them also.

Mr. Allen recommended increasing the minimum age to operate an ATV unsupervised, implementing a mandatory safety training program, encouraging clubs and developing trails, and increasing law enforcement. He would oppose a requirement for affirmative permission and any change to the trespass laws. He also expressed concern over the ability of the Warden Service to enforce ATV laws given their primary role in enforcing fish and wildlife laws. He recommended increasing the Warden Service's resources and increasing involvement by local and other State enforcement agencies.

Snowmobilers - Interviewed: Brian Wiley and Jud Roberts, Maine Snowmobile Association; President's Night Snowmobile Survey

The Maine Snowmobile Association indicated that it would not take any formal stand on the ATV issue and that such action was up to the individual clubs. Representatives of the Association have indicated that their greatest concern is the threat posed by irresponsible ATV use to the continued use of private property for snowmobile trails particularly if ATVs are using snowmobile trails. The Association is aware of a number of cases where private landowners have eliminated existing snowmobile trails on their property due to ATV use.

The informal survey of snowmobile club leaders at the "President's Night" MSA meeting indicated that most snowmobilers feel that current use of ATVs on snowmobile trails causes bad relations with landowners, trail damage and unsafe operating

conditions. Despite these complaints, 42 percent of the respondents felt that ATVs and snowmobiles could responsibly share trails.

White Mountain National Forest - Interviewed: Ned Therrien

Nearly all of the White Mountain National Forest in Maine is closed to ATVs. Even though the U. S. Forest Service is currently developing a management plan for the forest it is unlikely that the area will be opened to ATVs, primarily because there is very little public demand for ATV use in these areas.

Appalachian Trail Club - Interviewed: David Field

Federal law prohibits motorized vehicles on the Appalachian Trail except at designated crossings. Generally, ATVs have not used the Trail except in areas where the Trail follows woods roads. In these areas the Trail has been moved off the roads to discourage ATV use. Occasionally, ATVs have gained access to Appalachian Trail campsites via old logging roads.

Maine Municipal Association - Interviewed: Kay Rand

Generally, municipalities are relying on the State to take the lead in managing all-terrain vehicles. Municipal officers have become involved when landowner complaints have called for more immediate and local action. The City of Portland recently enacted legislation to ban the operation of ATVs within the City except upon private property with landowner permission. The legislation also permits impoundments and fees for towing and storage of the vehicles. Other municipalities that have contacted MMA for assistance in resolving their concerns about ATVs are Rockland, Hollis, Westbrook and Medway.

Municipal Recreation Department - Interviewed: Cathy Mazzuchelli, Caribou Recreation Department

The Caribou Recreation Department has experienced a number of problems with ATV users ranging from trespass on posted property to vandalism and property damage. Since the Department was also aware of other complaints from the general public, they sponsored a county-wide forum last year.

As a result of these experiences, Ms. Mazzuchelli made the following recommendations:

1. Establish a State ATV program funded through increased registration fees to develop a management plan to assist ATV clubs.

2. Implement a seasonal ATV registration from April 1 to October 31 so that ATVs are not operated on snowmobile trails because ATVs and snowmobiles are not safe on some trails together.
3. Clarify that all enforcement officers should be able to enforce ATV laws.
4. Suggest that dealers inform new ATV purchasers of the ATV laws and where they can ride.
5. Require landowner permission.
6. Require mandatory ATV safety training and education for all ATV users.

Cooperative Extension Service - Interviewed: Bill Lilley, University of Maine at Orono

The Cooperative Extension Service has indicated an interest in assisting in ATV educational programs, club activities and even working with youthful ATV users through their 4-H programs. The Cooperative Extension, which is responsive to the individual needs of counties, has already cosponsored ATV recreational and safety training workshops in Ellsworth and Addison.

Consumer Products Safety Commission - Interviewed: Jerome Donovan, CPSC, and Eugene Moreau, Maine Department of Human Services (State liaison with the CPSC)

The CPSC has been looking into the design, performance, handling and use of 3 and 4 wheeled ATVs. The Commission is aware of 233 deaths and over 155,000 in injuries associated with the use of ATVs since 1982 through June 30, 1985. At least 15 deaths reportedly have occurred here in New England. The most frequent accident reports involve loss of control, the rider being thrown from the vehicle, or the ATV flipping backward, forward or sideways. According to the CPSC 24 percent of the injuries and deaths involving ATVs have occurred to children ages 5-12; and 45 percent to those under 16.

This past April the Commission voted to commence a rulemaking proceeding on ATVs by issuing an Advance Notice of Proposed Rulemaking (ANPR), the first such action in several years. In addition to a public hearing and publishing an ANPR, the CPSC has also authorized a special task force to proceed on a six-step plan of action. The plan includes: conducting a hazard analysis; beginning an engineering and human factors analysis of ATVs and their use; monitoring the development of voluntary standards for ATVs and other industry safety efforts; sharing information with user groups and state, local and federal officials; and monitoring the industry's education and training efforts.

The CPSC should be making its recommendations in the near future. A copy of those recommendations will be available from CPSC, Office of the Secretary, Washington, D.C.

APPENDIX E - SUMMARY OF PUBLIC MEETINGS

Introduction

Members of the public were invited to attend and speak at two public meetings. The first meeting was held on December 9 in Bangor on the Campus of Bangor Community College and the second meeting was held on December 10 at the Portland Public Library.

The purpose of the meetings was to present the preliminary findings of the study of ATV issues and to hear public comment concerning their use. The following are summaries of the comments made at each of these meetings. It should be noted that while there were approximately 75 persons at the Bangor meeting and around 50 persons at the Portland meeting, many people attended both meetings. Therefore, it is estimated that in total, there were 100 different individuals attending the meetings.

Bangor Community College - December 9, 1985

The Bangor public meeting was attended by approximately 75 persons, the majority of which appeared to be ATV enthusiasts, with a number of landowners also represented. Fifteen persons testified.

Landowners cited problems with ATVs including trespass, environmental damage, vandalism, disregard for other trail users, safety, lack of parental supervision, and lack of enforcement. Several landowner's indicated that as a result of problems with ATVs, they would no longer permit the vehicles on their property under any circumstance.

Representatives of the Bangor and Aroostook Railroad and the Maine Central Railroad indicated that they had had problems with ATVs operating on railroad rights-of-way. The BAR representative stated that 95 percent of those arrested were between 5 and 18 years of age and were unaware of the laws requiring them to ask permission to operate on railroad rights-of-way. The railroads are most concerned with safety, liability and breakdown of railroad shoulders.

A number of ATV enthusiasts, including club leaders, dealers, and SVIA instructors spoke about their efforts to address safety and landowner concerns. By organizing ATV Clubs, enthusiasts hope to educate users on safe and responsible use of vehicles, especially through the sponsorship of SVIA training programs, work with landowners to develop trails, and self-police their ranks. An SVIA instructor explained that SVIA's safety training course was between 4½ and 6 hours, 80 percent of which was "hands on" instruction and 20 percent of which was education on ATV laws and responsibility to landowner.

During the last ½ hour of the meeting, the audience was asked to respond to a number of questions. Estimate of their responses were recorded as follows:

- Can ATVs and snowmobiles be managed together? 50% Yes
- Should the State be involved in managing ATVs? 90% Yes
- Should the minimum age to ride unaccompanied be raised? 98% Yes
- Should parental responsibility be required? 98% Yes
- Should helmets be required for young riders? 95% Yes
- Should a safety course be required for young riders? 95% Yes
- Should written permission be required? 5% Yes
- Would club written permission on trails be adequate? 25% Yes
- Should verbal permission be required? 95% Yes
- Would club verbal permission on trails be adequate? 85% Yes.

(Note: Since there appeared to be some confusion over the questions on affirmative permission, these responses are questionable.)

- Would you support a public awareness campaign? 100% Yes
- Would you support increased law enforcement? 100% Yes
- Should there be some protection for landowners against the threat of lawsuit? 98% Yes

Portland Public Library - December 10, 1985

The Portland public meeting was attended by approximately 50 persons with 18 persons testifying.

About 50 percent of those present were ATV users, many were snowmobilers, and most were landowners. Generally, the same problems, concerns and solutions that were voiced at the public meeting in Bangor were again raised at the Portland meeting. Additionally, a representative of the Portland City Council talked

about the City's banning of ATVs from public property and affirmative permission requirement. He indicated that the City had many of the same concerns as those identified in this study. He also noted that some State laws, such as those limiting noise levels, are not restrictive enough for built-up areas such as Portland.

A representative of the Cooperative Extension mentioned that Extension is conducting an ATV educational program in Cumberland County for 8-15 year olds and that any 8-15 year old is welcome to participate.

The president of the newly formed ATV Association talked about the Association's efforts to foster and support club development and to establish a unified voice for legislation. Another ATV club leader described some of the good things ATV users have been doing such as fundraising for the Ronald McDonald House and the Special Olympics, participation in search and rescue operations, sponsorship of a winter camp-monitoring program and maintenance of snowmobile trails.

A 17 year old ATV user who lives in Portland testified that he didn't think there is anything that could be done to reduce conflicts because there isn't any place to ride but on other's property. He said that kids don't read the ATV law booklet and if they did, they really wouldn't understand the laws anyway.

Again, the audience was polled for their opinions regarding management of ATVs.

- ATV users were asked which of the following types of designated riding areas would they prefer:

	1st Choice	2nd Choice
ATV Use Areas	0	0
local trails	0	8 Yes
statewide interconnecting trails	majority	
backcountry trails	3 Yes	11 Yes

- Should the State be involved in managing ATVs? 98% Yes
- Should the minimum age to ride unaccompanied be raised
 - to 14 years of age? 60% Yes
 - to 16 years of age? 50% Yes
- Should ATVs be banned from sensitive environments such as
 - fresh water wetlands? 50% Yes
 - Alpine areas? 50% Yes

APPENDIX F - MECHANICS OF IMPLEMENTATION

I. To facilitate the implementation of the recommendations contained in this report, the following chart is offered as a guide to the Department of Conservation to suggest where the Department may want to turn for assistance:

Agency	Assistance
Attorney General's Office	<ol style="list-style-type: none">1. Review of recommendations for constitutionality.2. Opinion concerning propriety of statutory immunity from suit for landowners.
Division of Risk Management, Department of Finance & Administration	<ol style="list-style-type: none">1. Investigate the availability of insurance to defend and indemnify landowners who are sued for injuries to ATV users.2. Advise as to cost and availability of excess coverage for landowner defense fund.
Bureau of Insurance	<ol style="list-style-type: none">1. Advise as to the amount necessary to capitalize a landowner defense and indemnification fund.
Department of Inland Fisheries & Wildlife	<ol style="list-style-type: none">1. Provide statements of revenues and costs to implement safety and enforcement provisions.2. Provide additional information on ATV registration forms.

- II. Drafting notes: As the Department personnel prepare proposed legislation for the Legislature, they should take care to:
1. Create an exemption from the application of sections where operation of an ATV in violation would be excused because of an emergency situation.
 2. Repeal or amend existing sections of the law which conflict with proposed language.
 3. Examine ancillary sections of the law for consistency.

Specific sections, in addition to Title 12, Chapter 715, sub-chapter IV, which should be considered include:

- 12 MRSA §7907 et seq. - seizure of equipment
- 14 MRSA §159A - limited liability for recreational activities
- 17-A MRSA §402 - criminal trespass
- 19 MRSA §217 - liability of parents for willful acts
- 29 MRSA §1374 - helmets
- 29 MRSA §1861 - liability of parents for negligent motor vehicle operation

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NOTE: There were a number of other publications gathered that were not useful in the preparation of this report, but which may be helpful for the development of a State ATV program. Those publications will be provided to the Department of Conservation.