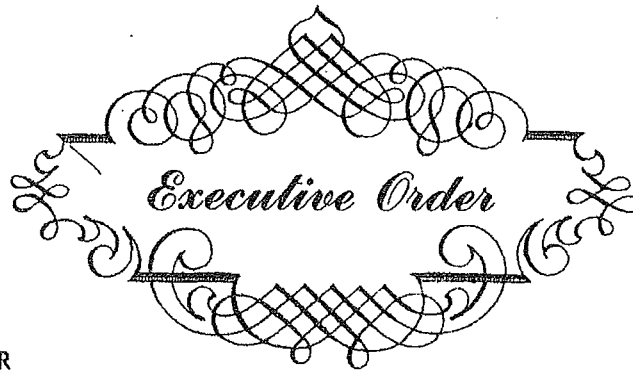


# MAINE STATE LEGISLATURE

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OFFICE OF  
THE GOVERNOR

NO. 15 FY 10/11  
DATE June 15, 2010

**AN EXECUTIVE ORDER ESTABLISHING THE WORK GROUP TO REVIEW  
STANDARDS BY WHICH STATE LAW ENFORCEMENT OFFICERS MAY STOP  
ALL-TERRAIN VEHICLES**

**WHEREAS**, the operation of all-terrain vehicles (“ATV”) in the State of Maine is a highly regulated activity; and

**WHEREAS**, in response to recommendations from the Governor’s ATV Task Force created in May 2003, the Legislature implemented mandatory penalties for certain violations and mandatory suspensions of all licenses, permits and regulations; and

**WHEREAS**, Maine law requires that a person may not operate an all-terrain vehicle on the land of another without the permission of the landowner or lessee with the exception that permission is presumed on ATV trails that are conspicuously posted or in areas open to ATV use by landowner policy; and

**WHEREAS**, the Maine Warden Service under Title 12 MRSA Section 10353 and all other law enforcement officers under Title 12 MRSA Section 10401 are authorized to enforce ATV laws; and

**WHEREAS**, for many years, Maine law authorized game wardens to stop and examine any all-terrain vehicle to ascertain whether it was being operated in compliance with certain laws and requirements without reasonable articulable suspicion that a violation has occurred or is occurring (“old ATV stop standard”) (Title 12 M.R.S.A. section 10353(2)(G)); and

**WHEREAS**, the Maine Supreme Court upheld the constitutionality of the old ATV stop standard in *State v. McKeen*, 2009 ME 87, 977 A.2d 382; and

**WHEREAS**, the 124<sup>th</sup> Maine Legislature established a new standard (“new ATV stop standard”) governing the circumstances under which a law enforcement officer may stop an ATV that requires an officer to possess a reasonable and articulable suspicion that a violation has occurred or is occurring before conducting a stop (Title 12 MRSA Section 10353(2)(G) (2008)); and

**WHEREAS**, law enforcement officers are concerned that the new ATV stop standard does not provide authority to a law enforcement officer to stop an ATV on private land for a safety or land use impact concern or to prevent a violation from occurring; and

**WHEREAS**, some landowners and ATV riders are concerned that law enforcement officers are no longer authorized to proactively address safety and landowner relations issues and worry that without adequate prevention measures, inadequately regulated uses of ATVs puts access to private property for recreational use at risk; and

**WHEREAS**, some landowners and ATV riders approve of the new ATV stop standard that requires a reasonable and articulable suspicion to believe that a violation of law has taken place or is taking place prior to stopping an ATV on private land based on privacy and constitutional concerns; and

**WHEREAS**, strong views on this matter continue to generate conflict, uncertainty and threaten ATV access to certain private lands;

**NOW, THEREFORE**, I, John E. Baldacci, Governor of the State of Maine, do hereby establish the ATV Stop Work Group (hereinafter "Work Group").

#### **Purpose and Duties**

1. Clarify the concerns of landowners regarding the new ATV stop standard and law enforcement response to that standard;
2. Identify the constraints placed on law enforcement officers regarding safety and prevention of violations under the new ATV stop standard;
3. Articulate the strengths of the new ATV stop standard for landowners riding ATVs on their own property;
4. Develop recommendations and draft enforcement policy that addresses numbers 1 through 3 above; and
5. Draft any necessary legislation to address recommendations developed by the Work Group.

#### **Membership**

The Governor shall appoint eleven members to serve on the Work Group, who shall serve at the pleasure of the Governor. Membership is as follows:

- Commissioner of the Department of Inland Fisheries and Wildlife or the Commissioner's designee
- Colonel of the Maine Game Warden Service
- Director of Landowner Relations under the Departments of Conservation and Inland Fisheries and Wildlife
- Commissioner of the Department of Public Safety or the Commissioner's designee
- Three members shall include representatives of landowners including farms, forests and woodlots bringing interests of smaller and larger ownerships with geographic representation

- Two members shall include representatives of ATV recreational associations or businesses
- One member shall be an attorney with knowledge of constitutional law
- One member shall be a citizen who has familiarity with the issues concerning ATV use in Maine

The President of the Senate may appoint two members of the Senate and the Speaker of the House may appoint three members of the House of Representatives. Members appointed by the President of the Senate and the Speaker of the House shall serve at the pleasure of their appointing authority.

The Governor shall appoint a chair of the Work Group from among the members. The chair will schedule and set the agenda for, and preside at the Work Group meetings. The members of the Work Group shall serve without compensation.

#### Staff

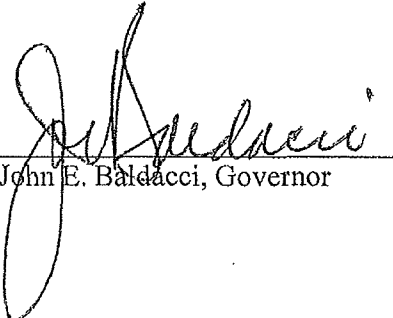
The Department of Inland Fisheries and Wildlife and the Department of Conservation through the Bureau of Parks and Lands shall provide staff to the Work Group. At the request of the Work Group, other state agencies shall provide information and analysis to assist the Work Group in its deliberations.

#### Report

The Work Group shall prepare a written report to the Governor outlining its findings and recommendations no later than December 15, 2010.

#### Effective Date

The effective date of this Executive Order is June 15, 2010.



John E. Baldacci, Governor