

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

**Legislative Document**

**No. 1501**

H. P. 1286

House of Representatives, March 27, 1981

Referred to the Committee on Fisheries and Wildlife. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Nadeau of Lewiston.

Cosponsors: Representative McKean of Limestone and Senator Usher of Cumberland.

STATE OF MAINE

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

**AN ACT to Provide for the Registration of Trail Bikes by the Department of Inland Fisheries and Wildlife.**

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

12 MRSA c. 715, sub-c. IV is enacted to read:

**SUBCHAPTER IV**

**TRAIL BIKES**

**§ 7851. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Dwelling.** "Dwelling" means any building used as a permanent residence or place of domicile.
2. **Operate.** To "operate," in all its moods and tenses, when it refers to a trail bike, means to use a trail bike in any manner within the jurisdiction of the State, whether or not the vehicle is under way.
3. **Owner.** "Owner," for the purposes of registration, means any person holding title to a trail bike or having exclusive right to the use of a trail bike for a period greater than 30 days.

4. **Trail bike.** "Trail bike" means a motorcycle or motor driven cycle designed or modified for use over unimproved terrain, off of a public way, if used for recreation or pleasure.

**§ 7852. Application**

This subchapter shall apply to the operation of trail bikes in all areas which come within the jurisdiction of the State.

**§ 7853. Registration**

1. **Application and issuance.** The commissioner, or an agent designated by him, may register and assign a registration number to all trail bikes upon application and payment of an annual fee by the owner. A registration is valid for one year commencing July 1st of each year.

2. **Fee.** The annual trail bike registration fee is \$11.25.

3. **Allocation of fees.** Fees shall be allocated as follows.

A. The registration fee for residents shall be credited as follows:

(1) \$4.75 of each fee shall be credited to the department;

(2) 50¢ of each fee shall be credited to the Bureau of Parks and Recreation; and

(3) \$6 of each fee shall be annually distributed to the municipality of the owner's residence as shown on his registration certificate, except that in unorganized townships, \$6 of each fee shall be annually distributed to the county of the owner's residence as shown on his registration certificate.

B. The registration fee for nonresidents shall be credited as follows:

(1) \$10.75 of each fee shall be credited to the department; and

(2) 50¢ of each fee shall be credited to the Parks and Recreation Trail Bike Trail Fund, which is established as a special, nonlapsing fund.

C. All other moneys received under this subchapter, including dealer license fees, shall be credited to the department.

4. **Use of fees.** Fee use shall comply with the following provisions.

A. All moneys credited to the department, including registration fees, shall be expended by the department solely for the cost of administration, establishment of a safety program for trail bike operators and enforcement of this subchapter.

B. The moneys credited to the Bureau of Parks and Recreation may be used to make grants-in-aid to political subdivisions, educational institutions, regional planning agencies, trail bike groups and others for the construction and maintenance of trail bike trails and for research, development and planning of trail bike trails on such terms as the bureau determines necessary.

(1) The bureau shall determine what trails will be eligible.

(2) The bureau may charge a reasonable fee for these services and materials when the moneys credited to it under this paragraph are insufficient to satisfy the demand for the services and materials. All fees so collected shall be deposited in the Parks and Recreation Trail Bike Trail Fund.

(3) If any of these moneys are not expended during the year in which they are collected, the unexpended balance shall not lapse, but shall be carried as a continuing account available for the purposes specified until expended.

C. The moneys credited to the Parks and Recreation Trail Bike Trail Fund may be expended for trail bike trail acquisition, including, but not limited to, the purchase or lease of real estate and the acquisition of easements, construction, development, planning and maintenance and for providing educational and informational materials for the use of operators of trail bikes and for research.

D. The moneys distributed to the municipalities by the department may be appropriated by the municipalities for any purpose for which they may lawfully appropriate moneys.

E. The moneys distributed to the counties by the department may be appropriated by the counties for use in the unorganized townships where the fee was payable.

5. Form of registration. The trail bike registration shall be in such form as the commissioner may determine.

6. Duplicate registration certificate. The holder of any registration certificate issued under this section may obtain a duplicate from the commissioner upon application and payment of a fee of \$1.

7. Numbers permanent. All numbers once awarded under this section to a trail bike shall remain with that trail bike until the trail bike is destroyed, abandoned or permanently removed from this State.

8. Transfer of ownership or discontinuance of use. The following provisions apply to transfer of ownership or discontinuance of use.

A. Whoever transfers the ownership or permanently discontinues the use of a registered trail bike and applies for registration of another trail bike in the same registration year is entitled to a certificate of registration upon payment of a transfer fee of \$2 and is not required to pay the regular registration fee of \$11.25.

B. Whenever ownership is transferred or the use of a trail bike for which a registration certificate has already been issued is discontinued, the old registration certificate shall be properly signed and executed by the owner showing that the ownership of the trail bike has been transferred or its use

discontinued and returned to the commissioner within 10 days of the transfer or discontinuance of use.

C. If there is a change of ownership of a trail bike for which a registration certificate number has previously been issued, the new owner shall apply for a new registration certificate, shall set forth the original number in the application and shall pay the regular fee for the particular trail bike involved.

9. Reciprocity. Reciprocity shall be allowed to nonresidents from all states, provinces, countries or districts which allow similar privileges to residents of this State, provided that they are covered by a valid registration from that state, province, country or district.

A. If the trail bike is owned by a nonresident, but is primarily operated by a Maine resident, it must be registered under this section.

B. Nothing in this subsection shall be construed to authorize the operation of any trail bike described in any manner contrary to this subchapter.

10. Restriction. The following restrictions apply to registration.

A. The registration certificate shall be subject to inspection by any law enforcement officer on demand.

B. The registration number assigned to a trail bike shall be displayed in such form and manner as the commissioner may determine.

C. The registrant shall notify the commissioner if a trail bike is destroyed, abandoned or permanently removed from this State.

#### § 7854. Dealer's registration and license

1. Application and issuance. Any person who is in the business of selling trail bikes in the State shall register as a dealer and secure a dealer's license from the commissioner. Dealers so registered and licensed need not register individual trail bikes.

2. Fees. The dealer's registration and license fee shall be \$25 annually from each July 1st.

3. Dealer's number plates. Each dealer shall receive 2 dealer's number plates for the \$25 fee. Additional plates may be obtained for \$10 for each additional plate. Replacement for lost or stolen plates may be obtained for a fee of \$2 per plate.

4. Temporary registrations and numbers. The commissioner may issue temporary numbers and registrations to bona fide dealers who may, upon the sale or exchange of a trail bike, issue them to new owners in order to allow them to operate trail bikes for a period of 20 consecutive days only after the date of sale in lieu of a permanent number as required by this subchapter.

5. Restrictions. Dealers shall display their dealer's number on each trail bike

being used until the sale of the trail bike, at which time it becomes the owner's responsibility to register the trail bike.

**§ 7855. Operating on land of another**

1. No permission given. This subchapter is in no way to be constructed as giving license or permission to cross or go on the property of another.

2. Stop and identify requirement. Any person operating a trail bike upon the land of another shall stop and identify himself upon the request of the landowner or his duly authorized representative. Any person in violation shall be held accountable to the owner under existing law.

**§ 7856. Prohibited acts**

1. Operating unregistered trail bike. A person is guilty, except as provided in subsection 21, paragraphs A and B, of operating an unregistered trail bike if he operates a trail bike which is not registered in accordance with section 7853.

2. Operating a trail bike upon a controlled access highway. A person is guilty, except as provided in subsection 21, paragraph C, of operating a trail bike upon a controlled access highway if he operates a trial bike upon a controlled access highway or within the right-of-way limits of a controlled access highway.

3. Operating a trail bike on a public way. A person is guilty, except as provided in subsection 21, paragraph D, of operating a trail bike on a public way if he operates a trail bike upon the main traveled portion or the sidewalks of a public way.

4. Failing to stop a trail bike before entering a public way. A person is guilty of failing to stop a trail bike before entering a public way if he fails to bring a trail bike to a complete stop before entering a public way.

5. Failing to yield right-of-way while operating a trail bike. A person is guilty of failing to yield the right-of-way while operating a trail bike if he fails to yield the right-of-way to all vehicular traffic while operating a trail bike on a public way.

6. Cross a closed bridge, culvert, overpass or underpass with a trail bike. A person is guilty of crossing a closed bridge, culvert, overpass or underpass closed to trail bikes by the Commissioner of Transportation. The Commissioner of Transportation may, following a public hearing, prohibit, the crossing of an individual bridge, culvert, overpass or underpass if he determines that that crossing or use of the public way is hazardous. Any bridge, culvert, overpass or underpass closed by the Commissioner of Transportation must be posted by appropriate notices.

7. Reckless operation of trail bike. A person is guilty of reckless operation of a trail bike if he operates any trail bike in such a way as to recklessly create a substantial risk of serious bodily injury to another person.

8. **Operating a trail bike under the influence.** A person is guilty of operating a trail bike under the influence if he operates any trail bike while under the influence of intoxicating liquor or drugs. Standards, tests and procedures applicable in determining whether a person is under the influence within the meaning of this section shall be those applicable pursuant to Title 29, section 1312.

9. **Operating a trail bike to endanger.** A person is guilty of operating a trail bike to endanger if he operates any trail bike so as to endanger any person or property.

10. **Operating a trail bike at greater than reasonable and prudent speed.** A person is guilty of operating a trail bike at greater than a reasonable and prudent speed if he operates any trail bike except at a reasonable and prudent speed for the existing conditions.

11. **Unlawfully operating a trail bike while under age.** A person is guilty of unlawfully operating a trail bike while under age if he is under the age of 14 years and operates a trail bike across any public way maintained for travel.

12. **Permitting an unaccompanied child to operate a trail bike.** A person is guilty, except as provided in subsection 1, paragraph E, of permitting an unaccompanied child to operate a trail bike if he permits a child under 10 years of age to operate any trail bike unless he is accompanied by an adult.

13. **Unlawfully modifying trail bike.** A person is guilty, except as provided in subsection 21, paragraph A, of unlawfully modifying a trail bike if he modifies any trail bike in a manner that amplifies or otherwise increases total noise emission above that emitted by the trail bike as originally constructed, regardless of the date of manufacture.

14. **Operating a trail bike with insufficient lights.** A person is guilty, except as provided in subsection 21, paragraph A, of operating a trail bike with insufficient lights if he operates a trail bike which is not equipped as follows.

A. Every trail bike shall have mounted on the front at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the trail bike.

B. Every trail bike shall have mounted on the rear at least one lamp capable of displaying a red light which shall be visible at a distance of at least 100 feet behind the trail bike.

15. **Failure to use trail bike lights.** A person is guilty, except as provided in subsection 21, paragraph A, of failure to use trail bike lights if he fails to use the lights required under subsection 14 as follows:

A. During the period from 1/2 hour after sunset to 1/2 hour before sunrise; and

B. At any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead.

16. **Operating a trail bike on railroad tracks.** A person is guilty of operating a trail bike on railroad tracks if he operates any trail bike along or adjacent and parallel to the tracks of any railroad within the limits of the railroad right-of-way without written permission from the railroad.

17. **Operating a trail bike in a cemetery.** A person is guilty of operating a trail bike in a cemetery if he operates any trail bike in any cemetery, burial place or burying ground.

18. **Operating too close to certain buildings.** A person is guilty, except as provided in subsection 21, paragraph F, of operating too close to a dwelling, hospital, nursing home, convalescent home or church if he operates a trail bike within 200 feet of any of those buildings.

19. **Unlawfully permitting operation.** A person is guilty of unlawfully permitting operation of a trail bike if he owns a trail bike and knowingly permits it to be operated in violation of any section of this subchapter.

20. **Failure to report accident.** A person is guilty of failure to report a trail bike accident if:

A. He is the operator of any trail bike involved in any accident resulting in injuries requiring the services of a physician, in death of any person or in property damage to the estimated amount of \$100 or more; some person acting for such operator; or the owner of the involved trail bike having knowledge of the accident, should the operator of the trail bike be unknown; and

B. He fails to give notice of the accident to a law enforcement officer available nearest to the place where the accident occurred.

21. **Exceptions.** The following exceptions apply.

A. Notwithstanding subsections 1, 13, 14 and 15, trail bikes operated at a prearranged racing meet whose sponsor has obtained a permit to hold such a meet from the commissioner are exempt from the provisions of this subchapter concerning registration, noise, horsepower and lights during the time of operation at such meets and at all pre-race practice at the location of the meet.

B. Notwithstanding subsection 1:

(1) No registration is required for a trail bike operated over the snow on land on which the owner lives or on lands on which he is domiciled, provided that the trail bike is not operated elsewhere within the jurisdiction of the State; and

(2) Trail bikes owned and operated in this State by the Federal Government, the State or political subdivision of the State are exempt from registration fees, but shall be registered and required to display numbers.

C. Notwithstanding subsection 2:

(1) Properly registered trail bikes may cross controlled access highways by



use of bridges over or roads under those highways, or by use of roads crossing controlled access highways at grade; and

(2) The Commissioner of Transportation may issue special permits for designated crossings of controlled access highways.

**D. Notwithstanding subsection 3:**

(1) Properly registered trail bikes may operate on a public way only the distance necessary, but in no case to exceed, 300 yards on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert; and

(2) Properly registered trail bikes may operate on a public way only the distance necessary, but in no case to exceed, 500 yards on the extreme right of the traveled way for the sole purpose of crossing, as directly as possible, a bridge, overpass or underpass, provided that that operation can be made in safety and that it does not interfere with vehicular traffic approaching from either direction on the public way.

**E. Notwithstanding subsection 12, that subsection does not apply on land which is owned by the parent or guardian or on land where permission for use has been granted to he parent or guardian.**

**F. Notwithstanding subsection 18, that subsection does not apply in the following situations:**

- (1) When operating on public ways in accordance with subsections 3, 4, 5 and 6 and paragraph C;
- (2) When operating on the frozen surface of any body of water; and
- (3) When operating on land which the operator owns or is permitted to use.

#### STATEMENT OF FACT

This bill provides a system for the registration and regulation of trail bikes. The bill generally uses the same scheme applied to snowmobiles. Trail bikes may cross a public way but cannot travel on the way in excess of 300 yards. They cannot operate on private property unless permitted. A property owner could operate a trail bike on his own property without registering. Trail bikes could not be operated in a reckless manner, at unreasonable rates of speed, at night without a headlamp in operation, within 200 feet of a residence or institution or by an intoxicated person. The registration would be handled by the Department of Inland Fisheries and Wildlife, and fees generated from registration would be distributed similarly to the distribution system for snowmobile fees.