

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2229

8 H.P. 1583 House of Representatives, March 19, 1986
9 Submitted by the Bureau of Parks and Recreation pursuant to Public Law
10 1985, chapter 301, section 3.

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

EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Amend the ATV Laws.
19

20 Emergency preamble. Whereas, Acts of the Legis-
21 lature do not become effective until 90 days after
22 adjournment unless enacted as emergencies; and

23 Whereas, there are immediate needs to address the
24 safety, recreational and environmental issues regard-
25 ing the use of all-terrain vehicles; and

26 Whereas, committee hearings, the recently com-
27 pleted Department of Conservation study and the media
28 all indicate a high degree of public concern; and

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

32 Whereas, because of the July 1st registration
33 date, these immediate needs could not otherwise begin
34 to be addressed until July 1987; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 12 MRSA §602, sub-§18 is enacted to
10 read:

11 18. Management of ATV's. To administer the ATV
12 Recreational Management Fund, established under sec-
13 tion 7854, subsection 4, for the purposes given in
14 that subsection. The bureau may promulgate rules, in
15 accordance with Title 5, chapter 375, subchapter II,
16 for the issuance of grants-in-aid from the fund and
17 to further define alpine tundra areas pursuant to
18 section 7851, subsection 5.

19 Sec. 2. 12 MRSA §7851, sub-§§1-A, 2-A, 2-B and 5
20 are enacted to read:

21 1-A. Accompanied by an adult. "Accompanied by an
22 adult" means within visual and voice contact and under
23 the effective control of a child's parent or
24 guardian or another person 21 years of age or older.

25 2-A. Alpine tundra. "Alpine tundra" means high
26 elevation treeless areas beyond timberline which are
27 dominated by low herbaceous or shrubby vegetation
28 and, specifically, areas which are designated as
29 alpine tundra by the Department of Conservation by
30 rule pursuant to Title 5, chapter 375, subchapter II.

31 2-B. Freshwater marshes and bogs. "Freshwater
32 marshes and bogs" means naturally occurring open ar-
33 reas with saturated soils or peat, often associated
34 with standing water and dominated by low herbaceous
35 vegetation, grasses, weeds and shrubs and including
36 wetlands, as shown on the Freshwater Wetlands Map Se-
37 ries, Maine Geological Survey, or zoned as a Wetland
38 Protection Subdistrict, P-WL, by the Maine Land Use
39 Regulation Commission.

1 5. Protective headgear. "Protective headgear"
2 means helmets which conform with minimum standards of
3 construction and performance as prescribed by the
4 American National Standards Institute specification
5 Z90.1 or by the Federal Motor Vehicle Safety Standard
6 No. 218.

7 Sec. 3. 12 MRSA §7853, as enacted by PL 1983, c.
8 297, §§1 and 3, is repealed and the following enacted
9 in its place:

10 §7853. License and training

11 1. License. No operator's license is required
12 for the operation of an ATV, except as required by
13 Title 29.

14 2. Training. A person under 18 years of age is
15 required to successfully complete a training program
16 approved by the department prior to operating an ATV
17 on any land other than the land on which that person's
18 is domiciled or land owned or leased by that person's
19 parent or guardian. The training program shall in-
20 clude instruction on the safe operation of ATV's, the
21 laws pertaining to ATV's, the effect of ATV's on the
22 environment and ways to minimize that effect, cour-
23 tesy to landowners and other recreationists and other
24 materials as determined by the department.

25 Sec. 4. 12 MRSA §7854, sub-§1, as enacted by PL
26 1983, c. 297, §§1 and 3, is amended to read:

27 1. Application and issuance. The commissioner,
28 or an agent designated by him, may register and as-
29 sign a registration number ~~plate~~ plates to any ATV
30 upon application and payment of an annual fee by the
31 owner. The ~~plate~~ plates shall be attached securely
32 to the front and rear of the vehicle and shall be
33 clearly visible. After the first year of registra-
34 tion of the vehicle, the commissioner may issue a
35 validation ~~device~~ devices which shall be placed on
36 the number ~~plate~~ plates. A registration shall be
37 valid for one year commencing July 1st of each year.

38 Sec. 5. 12 MRSA §7854, sub-§3, as amended by PL
39 1985, c. 301, §1, is further amended to read:

1 3. Fee. The annual registration fee for an ATV
2 is ~~7~~ 12.

3 Sec. 6. 12 MRSA §7854, sub-§4, as amended by PL
4 1985, c. 301, §1, is repealed and the following en-
5 acted in its place:

6 4. Allocation of fees. Money received under this
7 subchapter shall be allocated and used as follows.

8 A. All money received under this subchapter
9 shall be credited to the department for the cost
10 of administration of this subchapter, except that
11 at least \$2.50 of each annual registration fee
12 shall be allocated by the department to provide
13 training and education relative to ATV's and at
14 least \$4 of each annual registration fee shall be
15 credited to the ATV Recreational Management Fund.

16 B. The ATV Recreational Management Fund is es-
17 tablished and shall be administered by the De-
18 partment of Conservation.

19 (1) The fund may be used to conduct re-
20 search on issues related to the management
21 of ATV's; assist in the formation of non-
22 profit ATV groups; make grants-in-aid to po-
23 litical subdivisions, educational institu-
24 tions, regional planning agencies, ATV
25 groups and others to construct and maintain
26 ATV trails or to otherwise carry out the
27 purposes of the fund; assist in the design
28 and development of ATV trails; provide pro-
29 tection to landowners against ATV related
30 suit or liability; or otherwise provided for
31 the wise and orderly management of ATV's.

32 (2) If any money in the fund is not ex-
33 pended during the year in which it is col-
34 lected, the unexpended balance shall not
35 lapse, but shall be carried as a continuing
36 account available for the purposes specified
37 until expended.

38 Sec. 7. 12 MRSA §7854, sub-§7, ¶¶B and C, as re-
39 pealed and replaced by PL 1985, c. 304, §24, are
40 amended to read:

1 B. An all-terrain vehicle owner who transfers
2 ownership or discontinues its use may, within 10
3 days from the date of transfer or discontinuance,
4 apply to the commissioner for registration of an-
5 other all-terrain vehicle, in which case he may
6 retain the registration number ~~plate~~ plates and,
7 upon receipt of the new certificate, attach the
8 ~~plate~~ plates to the new all-terrain vehicle. The
9 fee for such a transfer shall be \$2 and the reg-
10 istration certificate shall be valid for the re-
11 mainder of the registration year for which the
12 previous all-terrain vehicle had been registered.

13 C. Whenever there is a change of ownership of an
14 all-terrain vehicle for which a registration has
15 previously been issued, the new owner shall apply
16 for a new registration certificate and ~~plate~~
17 plates and shall pay the regular \$5 \$12 fee.

18 Sec. 8. 12 MRSA §7856, sub-§1, as enacted by PL
19 1983, c. 297, §§1 and 3, is repealed and the follow-
20 ing enacted in its place:

21 1. Permission required. No ATV may be operated
22 on any land without the permission of the landowner
23 or the lessee of the land.

24 Sec. 9. 12 MRSA §7857, sub-§4, as enacted by PL
25 1983, c. 297, §§1 and 3, is repealed.

26 Sec. 10. 12 MRSA §7857, sub-§4-A is enacted to
27 read:

28 4-A. Operating on land of another without per-
29 mission. A person is guilty of operating on land of
30 another without permission, if he operates an ATV on
31 any land other than the land on which he is domiciled
32 or which he or his parents or guardian own or lease,
33 without having first obtained permission from the
34 owner or lessee of the land to operate an ATV on that
35 land.

36 Sec. 11. 12 MRSA §7857, sub-§13, as enacted by
37 PL 1983, c. 297, §§1 and 3, is amended to read:

38 13. Unlawfully operating an ATV while under age.
39 A person is guilty of unlawfully operating an ATV

1 while under age, if he is under the age of 15 years
2 and operates an ATV across any public way maintained
3 for travel or if he operates an ATV while unaccompa-
4 nied by an adult, except as provided in subsection
5 24, paragraph E.

6 Sec. 12. 12 MRSA §7857, sub-§13-A is enacted to
7 read:

8 13-A. Operating an ATV without a certificate of
9 training. A person is guilty, except as provided in
10 subsection 24, paragraph E, of operating an ATV with-
11 out a certificate of training, if he is under 18
12 years of age and operates an ATV without having suc-
13 cessfully completed a training course approved by the
14 department pursuant to section 7853.

15 Sec. 13. 12 MRSA §7857, sub-§13-B is enacted to
16 read:

17 13-B. Operating an ATV without protective
18 headgear. Notwithstanding Title 29, section 1376, a
19 person is guilty of operating an ATV without protec-
20 tive headgear, if he is under 18 years of age and op-
21 erates an ATV without protective headgear.

22 Sec. 14. 12 MRSA §7857, sub-§14, as enacted by
23 PL 1983, c. 297, §§1 and 3, is amended to read:

24 14. Permitting an unaccompanied child to operate
25 an ATV. A person is guilty, except as provided in
26 subsection 24, paragraph E, of permitting an unaccom-
27 panied child to operate an ATV, if he permits a child
28 under 10 15 years of age to operate any ATV, unless
29 he is accompanied by an adult.

30 Sec. 15. 12 MRSA §7857, sub-§19, as enacted by
31 PL 1983, c. 297, §§1 and 3, is repealed.

32 Sec. 16. 12 MRSA §7857, sub-§21, as enacted by
33 PL 1983, c. 297, §§1 and 3, is amended to read:

34 21. Unlawfully permitting operation. A person
35 is guilty of unlawfully permitting operation of an
36 ATV, if he owns an ATV and knowingly permits it to be
37 operated and the operation is in violation of any
38 section of this subchapter. A person is guilty of un-

1 lawfully permitting operation of an ATV if he is the
2 parent or guardian responsible for the care of a mi-
3 nor under 18 years of age who operates an ATV in vio-
4 lation of this subchapter.

5 Sec. 17. 12 MRSA §7857, sub-§22-A as enacted by
6 PL 1985, c. 369, §24, is repealed and the following
7 enacted in its place:

8 22-A. Operating an ATV in a prohibited area. A
9 person is guilty of operating an ATV in a prohibited
10 area if he operates an ATV on a salt marsh,
11 intertidal zone, sand dune or any cemetery, burial
12 place or burying ground or if he operates an ATV on
13 alpine tundra or on a freshwater marsh or bog, other
14 than on a trail designated for ATV use by the Depart-
15 ment of Conservation, when the ground is not frozen
16 and sufficiently covered with snow to prevent direct
17 damage to the vegetation.

18 Sec. 18. 12 MRSA §7857, sub-§23, as enacted by
19 PL 1983, c. 297, §§1 and 3, is repealed.

20 Sec. 19. 12 MRSA §7857, sub-§24, ¶D, as amended
21 by PL 1985, c. 369, §25, is further amended to read:

22 D. Notwithstanding the provisions of subsection
23 5:

24 (1) Properly registered ATV's may operate
25 on a public way only the distance necessary,
26 but in no case to exceed ~~100~~ 300 yards, on
27 the extreme right of the traveled way for
28 the purpose of crossing, as directly as pos-
29 sible, a public way, sidewalk or culvert;

30 (2) Properly registered ATV's may operate
31 on a public way only the distance necessary,
32 but in no case to exceed ~~100~~ 500 yards, on
33 the extreme right of the traveled way for
34 the sole purpose of crossing, as directly as
35 possible, a bridge, overpass or underpass,
36 provided that that operation can be made in
37 safety and that it does not interfere with
38 traffic approaching from either direction on
39 the public way;

1 (3) ATV's may operate on any portion of
2 public ways when the public way has been
3 closed in accordance with Title 23, section
4 2953;

5 (4) ATV's may operate on a public way which
6 is not maintained or utilized for the opera-
7 tion of conventional motor vehicles, except
8 that operation on the left side of the way
9 shall be prohibited during the hours from
10 sunset to sunrise;

11 (5) ATV's may be operated on streets and
12 public ways during a period of emergency
13 when the emergency has been so declared by a
14 police agency having jurisdiction and when
15 travel by conventional motor vehicles is not
16 practicable; and

17 (6) ATV's may be operated on streets and
18 public ways in special events of limited du-
19 ration conducted according to a prearranged
20 schedule, under a permit from the governmen-
21 tal unit having jurisdiction.

22 Sec. 20. 12 MRSA §7857, sub-§24, ¶E, as enacted
23 by PL 1983, c. 297, §§1 and 3, is amended to read:

24 E. Notwithstanding ~~subsection~~ subsections 13,
25 13-A and 14, that subsection does those subsec-
26 tions do not apply on land which is owned by the
27 parent or guardian or on land where permission
28 for use has been granted to the parent or
29 guardian of the operator.

30 Sec. 21. 12 MRSA §§7858 and 7859 are enacted to
31 read:

32 §7858. Liability for damage by other persons

33 Any owner of an ATV causing or knowingly permit-
34 ting another person to operate this vehicle, any per-
35 son who gives or furnishes an ATV to any person and
36 any parent or guardian responsible for the care of a
37 minor under 18 years of age shall be jointly and sev-
38 erally liable with this person for any damages caused
39 by this person in operating the vehicle or by this
40 minor in operating any ATV.

1 §7859. Impoundment of ATV's

2 When a law enforcement officer issues a summons
3 for a violation under this subchapter, the officer
4 may impound the ATV operated by the person who re-
5 ceived the summons if, in the judgment of the offi-
6 cer, based on actual previous offenses by the opera-
7 tor or other considerations, the operator will con-
8 tinue to operate the vehicle in violation and such
9 operation may be a hazard to the safety of persons or
10 property.

11 The operator may reclaim his vehicle at any time
12 subsequent to 24 hours after the issuance of the sum-
13 mons upon payment of the costs of impoundment to the
14 enforcement agency impounding the vehicle. If the
15 operator is subsequently found to be not guilty of
16 the violation charged in the summons, the enforcement
17 agency shall reimburse the payment made for the costs
18 of impoundment, plus pay 5% of those costs, to the
19 person who made the payment.

20 Sec. 22. 12 MRS §7901, sub-§11 is enacted to
21 read:

22 11. Violation. A violation of section 7857, sub-
23 section 13, 13-A, 13-B, 14, 15, 16, 17, 20 or 21 or
24 of section 7858 is a civil violation for which a for-
25 feiture of not less than \$100 nor more than \$500 may
26 be adjudged, of which not more than \$50 may be sus-
27 pending.

28 Sec. 23. 14 MRS §159-A, sub-§6 is enacted to
29 read:

30 6. Costs and fees. The court shall award any di-
31 rect legal costs, including reasonable attorneys'
32 fees, to an owner, lessee or occupant who is found
33 not to be liable for injury to a person or property
34 pursuant to this section.

35 Sec. 24. Report. The Department of Conservation
36 and the Department of Inland Fisheries and Wildlife
37 shall jointly monitor the effects of this Act. The
38 Department of Conservation shall be the lead agency.
39 These departments shall make a report to the Legisla-
40 ture no later than January 31, 1989, in which they

1 document the results of their monitoring, present
 2 recommendations dealing with all important issues and
 3 submit any required legislation approved by the At-
 4 torney General covering all important issues. The de-
 5 partments shall obtain input from all parties in-
 6 cluded in section 3 of "AN ACT Relating to the Regu-
 7 lations and Distribution of Funds for All-terrain Ve-
 8 hicles," L.D. 1032 of the 112th Legislature. The
 9 study shall assure that the input of the various in-
 10 terest groups represents a consensus for each group.
 11 Subcommittees shall be utilized when necessary. Mi-
 12 nority recommendations shall be included when appro-
 13 priate.

14 By January 31, 1987, the departments shall submit
 15 to the joint standing committee of the Legislature
 16 having jurisdiction over inland fisheries and wild-
 17 life a plan for this report including deadlines for
 18 each phase, cost and objectives against which the
 19 success of this legislation will be measured. To the
 20 extent possible, these objectives shall be statisti-
 21 cally measureable.

22 Sec. 25. Allocation. The following funds are al-
 23 located from revenues derived from the Maine Revised
 24 Statutes, Title 12, chapter 715, subchapter IV, as
 25 follows:

26		<u>1986-87</u>
27	<u>CONSERVATION, DEPARTMENT OF</u>	-
28	Bureau of Parks and Recreation	
29	ATV Recreational Management Fund	
30	Positions	(1)
31	Personal Services	\$28,000
32	All Other	47,000
33	Capital Expenditures	<u>5,000</u>
34	Total	\$80,000

35	<u>INLAND FISHERIES AND WILDLIFE,</u>	
36	<u>DEPARTMENT OF</u>	
37	Bureau of Warden Service	
38	All-terrain Vehicle Safety and	
39	Educational Program	
40	Positions	(1)

1 tion of ATV clubs and will research and provide for
2 other needs such as ATV trails and landowner liability
3 protection. A portion of the increase will also
4 pay for the cost of the additional license plates re-
5 quired under section 4.

6 Sections 8, 10 and 20 require that permission be
7 obtained from a landowner before an ATV can be oper-
8 ated on that person's land.

9 Sections 9, 15 and 18 repeal sections of the ATV
10 laws which became redundant to amendments and addi-
11 tions made by this bill.

12 Sections 11, 14, 16 and 21 create equal responsi-
13 bility for ATV owners, operators and parents of mi-
14 nors for violations and liability for damage caused
15 by operation of ATVs and increase the age under which
16 a child must be accompanied by an adult from 10 to 15
17 years of age.

18 Section 13 increases the age under which a helmet
19 is required to be worn by ATV operators from 15 to 18
20 years of age.

21 Section 17 consolidates sections of the law which
22 prohibit ATV use in certain areas and adds alpine
23 tundra and freshwater marshes and bogs, other than in
24 winter or on designated trails, to the prohibited use
25 areas.

26 Section 19 returns the allowable use distance
27 along road rights-of-way to what they were prior to
28 last year and to what they are for snowmobiles so
29 that snowmobile trails designed for these legally de-
30 termined distances can be used by ATVs when permis-
31 sion is obtained from the landowners.

32 Section 21 allows a law enforcement officer who
33 issues a summons for an ATV violation to impound the
34 ATV if he has reason to believe that the ATV would
35 otherwise continue to be used to commit a violation
36 which would be a hazard to the safety of people or
37 property.

38 Section 22 decriminalizes the following ATV vio-
39 lations: Operation while under age, without a train-

1 ing certificate, without protective headgear, without
2 a muffler, with insufficient lights and too close to
3 certain buildings; and permitting an unaccompanied
4 child to operate, failure to use lights, unlawfully
5 permitting operation and liability for damage caused
6 by others.

7 Section 23 awards legal costs to landowners who
8 are found not liable for injuries suffered by an ATV
9 operator on the owner's property.

10 Section 24 requires ongoing monitoring of this
11 bill by the Department of Conservation and the De-
12 partment of Inland Fisheries and Wildlife and a re-
13 port to the Legislature by January 31, 1987.

14 The emergency clause sets an effective date for
15 the training provision of this bill of July 1, 1987.
16 The remainder of the bill is to take effect on July,
17 1986.

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