

MAINE STATE LEGISLATURE

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L.D. 1912

DATE: 4-12-04

(Filing No. H-881)

INLAND FISHERIES AND WILDLIFE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1413, L.D. 1912, Bill, "An Act To Implement the Recommendations of the Governor's Task Force on ATV Issues"

Amend the bill by striking out the title and substituting the following:

'An Act To Implement Certain Recommendations of the Governor's Task Force on ATV Issues'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 5 MRSA §12004-G, sub-§20-B is enacted to read:

<u>20-B.</u>	<u>ATV</u>	<u>Not</u>	<u>12 MRSA</u>
<u>Inland</u>	<u>Enforcement</u>	<u>Authorized</u>	<u>§10324</u>
<u>Fisheries and</u>	<u>Grant Review</u>		
<u>Wildlife</u>	<u>Committee</u>		

Sec. 2. 12 MRSA §1893, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. C, §1 and affected by Pt. D, §7, is amended to read:

A. The fund may be used to conduct research on issues related to the management of ATVs; assist in the formation of nonprofit ATV groups; make grants-in-aid to political subdivisions, educational institutions, regional planning agencies, ATV groups and others to construct and maintain

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2 ATV trails, to purchase equipment or to otherwise carry out
the purposes of the fund; assist in the design and
4 development of ATV trails; purchase, lease or otherwise
acquire interests in land, including, but not limited to,
6 fee or easement interests for ATV trails or sport-riding
facilities; provide protection to landowners against
8 ATV-related suit or liability; or otherwise provide for the
wise and orderly management of ATVs.

10 Sec. 3. 12 MRSA §10206, sub-§1, ¶B, as enacted by PL 2003, c.
414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

12 Sec. 4. 12 MRSA c. 903, sub-c. 7 is enacted to read:

14 SUBCHAPTER 7

16 ATV ENFORCEMENT GRANT AND AID PROGRAM

18 §10321. Definitions

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

24 1. ATV Enforcement Grant and Aid Program. "ATV Enforcement
26 Grant and Aid Program" or "the program" means the ATV Enforcement
Grant and Aid Program established pursuant to this subchapter.

28 2. ATV Enforcement Grant Review Committee. "ATV Enforcement
30 Grant Review Committee" or "the grant committee" means the
committee established in section 10324.

32 3. ATV grant coordinator. "ATV grant coordinator" means the
34 person retained by the commissioner to be responsible for
providing administration and staff support for the ATV
36 Enforcement Grant Program.

38 4. General ATV enforcement. "General ATV enforcement" means
Level 1 or Level 2 enforcement.

40 5. Law enforcement agency. "Law enforcement agency" means a
42 state, county or municipal agency or bureau that employs
full-time and part-time law enforcement officers certified by the
44 Maine Criminal Justice Academy who are authorized pursuant to
section 10402, subsection 4 to enforce the provisions of this
46 Part regulating ATVs.

48 6. Level 1 enforcement. "Level 1 enforcement" means handling
ATV complaints from landowners or other persons about the
operation of ATVs, responding to ATV accidents and enforcing ATV
50 laws during the normal course of patrol duties.

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2 7. Level 2 enforcement. "Level 2 enforcement" means ATV
enforcement that is focused on recognized ATV problems in a
4 localized area, but not a multijurisdictional high-problem area.

6 8. Matching funds. "Matching funds" means any combination of
public and private funds used in conjunction with a grant from
8 the program. "Matching funds" includes, but is not limited to,
private contributions of cash or securities, money from municipal
10 or other public agencies, money from a federal matching program,
in-kind contributions or any combination thereof.

12 9. Multijurisdictional high-problem area.
14 "Multijurisdictional high-problem area" means an area of
extensive use by ATV operators, including, but not limited to,
16 unauthorized trails or damaged agricultural lands, wetlands or
other environmentally sensitive areas. A multijurisdictional
18 high-problem area is an area where there are documented
complaints from landowners or other about the operation of ATVs.

20 **§10322. Grant and aid program established**

22 1. Established. There is established the ATV Enforcement
24 Grant and Aid Program. Grants from the program are for the sole
purpose of maintaining, improving and expanding ATV enforcement
26 and training for state, county and municipal enforcement officers
in accordance with this subchapter. The grant committee may also,
28 as part of the program, receive and disburse aid in the form of
materials or equipment pursuant to section 10324, subsection 5.

30 2. Fund. The ATV Enforcement Grant Program Fund, referred
32 to in this section as "the fund," is established within the
department to be used for the program in accordance with this
34 subchapter. The fund consists of revenues deposited in the fund
pursuant to Title 36, section 2903-D, subsection 3, any other
36 funds appropriated or allocated for inclusion in the fund, from
whatever source, and any other money available for deposit in the
38 fund, including any federal funds or other public funds or any
donations made to the fund. The board may apply for federal or
40 other funds that may be available for the purposes of the
program. The fund is nonlapsing and any balance remaining in the
42 fund at the end of any fiscal year must be carried forward to the
next fiscal year. The fund may be used to pay for administrative
44 expenses associated with the work of the grant committee pursuant
to this subchapter, including the costs of the ATV grant
46 coordinator.

48 3. Relation to other funding. Grants from the program
supplement any other sources or levels of funding appropriated or
50 allocated by the Legislature.

2 4. Grant availability. Grants from the program are
4 available to law enforcement agencies in accordance with this
 subchapter.

6 5. Grant administration. The ATV Enforcement Grant Review
 Committee shall administer the fund and the program.

8
10 **§10323. Grant expenditures; distribution**

12 1. Generally. The grant committee shall make grants to law
 enforcement agencies for projects found consistent with the
14 criteria established pursuant to section 10325.

16 2. Grant categories. Except as otherwise provided in this
 subchapter, the grant committee shall distribute grant money in
18 accordance with this subsection. For purposes of this section,
 "category funds" means money in the fund other than money used
20 for administrative expenses and other than funds carried forward
 in accordance with subsection 3. The grant committee shall
22 annually make available for grants category funds in the
 following percentages for the following categorical purposes:

24 A. For general ATV enforcement, 40%;

26 B. For multijurisdictional high-problem area enforcement,
 50%; and

28 C. For law enforcement officer training and equipment, 10%.

30 3. Money to be carried forward. If the grant committee
32 determines that not providing the full amount of category funds
34 for a categorical purpose better serves the grant committee's
 strategic grant plan or if insufficient grant applications in a
36 particular year conform to the strategic plan for a particular
 categorical purpose, the grant committee shall carry forward the
38 unspent money for use in succeeding years for the same
 categorical purpose.

40 **§10324. ATV Enforcement Grant Review Committee**

42 The grant committee is organized within the department and
 must carry out its duties in accordance with this section.

44 1. Members. The grant committee consists of 9 members as
46 follows:

48 A. Three ex officio members or their designees:

50 (1) The Game Warden Colonel;

(2) The Chief of the Maine State Police; and

(3) The Director of the Forest Protection Division, Maine Forest Service within the Department of Conservation; and

B. Six members appointed by the commissioner as follows:

(1) One member who is a member of a statewide association of sheriffs;

(2) Four members who are members of a statewide association of police chiefs, one representing northern Maine, one representing southern Maine, one representing eastern Maine and one representing central Maine; and

(3) One member representing the Maine Criminal Justice Academy.

2. Terms. The ex officio members or their designees serve for their terms of office. The commissioner shall appoint other members to staggered 4-year terms. The initial appointments must be made by December 31, 2004. The initial appointments are as follows: 2 for 4-year terms; 2 for 3-year terms; and 2 for 2-year terms. Appointed members may not serve more than 2 consecutive 4-year terms.

3. Chair; election of officers. The members of the grant committee shall annually elect one of its members as chair and one of its members as vice-chair.

4. Grant committee meetings, rules and administration. The grant committee is governed by the following.

A. The grant committee shall meet at least 2 times a year at the call of the chair or when needed to address urgent ATV problems.

B. A quorum of the grant committee for the transaction of business is 5 members.

C. Grant committee members are governed by the conflict-of-interest provisions in Title 5, section 18.

5. Grant committee duties. The grant committee has the following duties.

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2 A. Consistent with the requirements of this subchapter, the
3 grant committee shall adopt rules governing the review of
4 grant proposals and awarding of grants.

5 B. The grant committee shall annually review funding
6 requests and award funds for specific projects from law
7 enforcement agencies in accordance with this subchapter. The
8 grant committee may award grants only to proposals that
9 conform to the rules adopted pursuant to paragraph A. Grant
10 proposals must include a stated purpose, timeline, potential
11 outcomes, a budget and an explanation of need.

12 C. The grant committee may accept donations of equipment or
13 materials if the grant committee determines that the
14 donations will further the purposes of this subchapter. If
15 the grant committee accepts equipment or materials, the
16 grant committee shall establish by rule a process for
17 receiving proposals and making awards to appropriate
18 entities of such equipment or materials.

19 D. The grant committee shall submit an annual report by
20 January 15th to the commissioner and the joint standing
21 committee of the Legislature having jurisdiction over inland
22 fisheries and wildlife matters. In the annual report, the
23 grant committee shall detail expenditures made from grant
24 revenues and provide a detailed summary of ATV enforcement
25 activities supported by the grant as well as any equipment
26 or materials that it has accepted or awarded pursuant to
27 this subchapter. The first report must be submitted by
28 January 15, 2005.

29 E. The grant committee shall endeavor to keep the level of
30 its administrative expenses as low as practicable and shall
31 include in its annual report a description of efforts to
32 minimize administrative expenses.

33 6. Staff; administration. The department is responsible
34 for the administration and staff support of the grant committee
35 and the commissioner shall contract with an appropriately
36 qualified person to serve as ATV grant coordinator to implement
37 and account for the operations of the grant committee. The
38 contract may provide for part-time services.

39 **§10325. Distribution criteria for grants**

40 The review and awarding of grant proposals by the grant
41 committee under this subchapter are governed by this section.
42 The criteria for consideration established in this section are
43 not listed in order of priority. A grant applicant shall
44 not be considered for a grant until the criteria for consideration

indicate in the application the category under which the grant committee should evaluate the proposal.

1. General ATV enforcement. For grants for general ATV enforcement, the grant committee:

A. Shall consider the following information relevant to the grant proposal:

(1) Documentation of ATV complaints;

(2) ATV accident data; and

(3) Documented general ATV enforcement problems; and

B. May not award a grant unless matching funds are available in an amount that is no less than 25% of the grant amount.

2. Multijurisdictional high-problem area. For grants for multijurisdictional high-problem areas, the grant committee:

A. Shall consider the following information relevant to the grant proposal:

(1) Documentation of extensive use of an area by ATV operators, as indicated by a large number of registered ATVs or a large number of transient ATV operators in an area;

(2) Documentation of unauthorized trails or extensive damage to private and public property;

(3) Documentation of ATV use in prohibited areas as defined in state law; and

(4) Documentation of multiple law enforcement agency involvement; and

B. May award a grant whether or not matching funds are available.

3. Equipment and training. For grants for equipment and training for law enforcement officers, the grant committee:

A. Shall consider the following information relevant to the grant proposal:

(1) Documentation of ATV use on trails and private property;

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2 (2) Documentation of law enforcement staff needing
 equipment and training; and

4 (3) Documentation of inability to obtain equipment from
 other sources, specific scheduled training events and
6 any training sponsorship; and

8 B. May not award a grant unless matching funds are available
 in an amount that is no less than 50% of the grant amount.

10 **§10326. Rules**

12 The grant committee may adopt rules necessary for the
14 conduct of its business under this subchapter. The grant
16 committee shall adopt by rule a schedule for submission of and
18 action on grant proposals. Rules adopted pursuant to this
 subchapter are routine technical rules as defined in the Title 5,
 chapter 375, subchapter 2-A.

20 **Sec. 5. 12 MRSA §10651, sub-§1, ¶¶C and D,** as enacted by PL
22 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, are amended to
 read:

24 C. Fail or refuse to stop any snowmobile on request or
26 signal of any law enforcement officer in uniform whose duty
 it is to enforce chapter 937; ~~or~~

28 D. Fail or refuse to stop any all-terrain vehicle on
30 request or signal of any law enforcement officer in uniform
 whose duty it is to enforce chapter 939.; or

32 **Sec. 6. 12 MRSA §10651, sub-§1, ¶E** is enacted to read:

34 E. Attempt to elude a law enforcement officer by:

36 (1) Operating or attempting to operate an all-terrain
38 vehicle past a clearly identifiable police roadblock; or

40 (2) After being requested or signaled to stop by a law
42 enforcement officer in uniform, operating or attempting
 to operate an all-terrain vehicle at a reckless rate of
 speed.

44 **Sec. 7. 12 MRSA §10651, sub-§2,** as enacted by PL 2003, c. 414,
46 Pt. A, §2 and affected by Pt. D, §7, is amended to read:

48 2. Penalty. A person who violates this-section subsection
 1, paragraph A, B or C commits a Class E crime. A person who
50 violates subsection 1, paragraph D or E commits a Class D crime,
 for which a minimum fine of not less than \$1,000 must be adjudged.

2 **Sec. 8. 12 MRSA §10902, sub-§9** is enacted to read:

4 9. Suspension for certain ATV violations; training. The
6 commissioner shall suspend all licenses and permits issued by the
8 department pursuant to this Part and may suspend any registration
 issued pursuant to subpart 6 of this Part to any person convicted
 or adjudicated of:

10 A. Operating an ATV on a temporarily closed trail as
 prohibited under section 13157, subsection 5-A;

12 B. Abuse of another person's property as prohibited under
14 section 13157, subsection 22;

16 C. Operating an ATV under the influence under 21 years of
18 age, as prohibited under section 10701, subsection 1,
 paragraph C;

20 D. Operating an ATV to endanger, as prohibited under section
22 13157, subsection 11;

24 E. Reckless operation of an ATV, as prohibited under 13157,
 subsection 10;

26 F. Operating an ATV on the land of another without
28 permission, as prohibited under 13157, subsection 1-A; or

30 G. Failure or refusal to stop an ATV or attempting to elude
 an officer, as prohibited under section 10651, subsection 1,
 paragraphs D and E.

32 The commissioner shall reinstate licenses, permits and
34 registrations that have been suspended pursuant to this
36 subsection only if the person satisfactorily completes, in
38 accordance with procedures established by the commissioner by
40 rule, a training program approved by the department relating to
42 safety and ethics in the operation of ATVs. The costs of this
44 training program are borne by the person undertaking the
46 training. The commissioner shall establish by rule the
 procedures for completion of mandatory training pursuant to this
 subsection. A person who satisfactorily completes a training
 program approved by the department pursuant to this subsection is
 deemed to have satisfied the outdoor ethics training course
 requirements established under section 10903. Rules adopted
 pursuant to this subsection are routine technical rules as
 defined in Title 5, chapter 375, subchapter 2-A.

48 **Sec. 9. 12 MRSA §13003**, as enacted by PL 2003, c. 414, Pt. A,
50 §2 and affected by Pt. D, §7, is amended to read:

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2 **§13003. Payment of sales or use tax prerequisite to registration**

4 **1. Registration of watercraft.** An Except in the case of a
6 renewal of registration by the same owner, an application for the
8 registration may not be granted in respect to any of a watercraft
10 or ATV whose may not be granted when the sale or use of that
12 watercraft may be subject to tax under Title 36, chapters 211 to
225, ~~except in the case of a renewal of registration by the same~~
owner, unless and until one of the following conditions has been
satisfied:

12 A. The applicant has submitted a dealer's certificate in a
14 form prescribed by the State Tax Assessor, showing either
16 that the sales tax due in respect to the watercraft or ATV
18 in question has been collected by the dealer or that the
sale of the watercraft or ATV is exempt from or otherwise
not subject to tax under Title 36, chapters 211 to 225;

20 B. The applicant has properly executed and signed a use tax
22 certificate in the form and manner prescribed by the State
24 Tax Assessor and paid the amount of tax shown therein to be
due; or

26 C. The applicant has properly executed and signed a use tax
28 certificate in the form and manner prescribed by the State
30 Tax Assessor showing that the sale or use of the watercraft
or ATV in question is exempt from or otherwise not subject
to tax under Title 36, chapters 211 to 225.

32 **2. Registration of snowmobile or ATV.** Prior to registering
34 a snowmobile or ATV, an agent of the commissioner shall collect
sales or use tax due. Sales or use tax is due unless:

36 A. The person registering the snowmobile or ATV is not a
38 resident of this State. Nonresidents are exempt from sales
or use tax on snowmobiles under Title 36, section 1760,
subsection 25-B and on ATVs under Title 36, section 1760,
subsection 25-A;

40 B. The registration is a renewal registration by the same
42 owner;

44 C. The applicant possesses a dealer's certificate showing
46 that the sales tax was collected by the dealer. The State
Tax Assessor shall prescribe the form of a dealer's
certificate; or

48 D. The snowmobile or ATV is otherwise exempt from sales or
50 use tax under Title 36, section 1760.

2 **Sec. 10. 12 MRSA §13152, sub-§2**, as enacted by PL 2003, c.
4 414, Pt. A, §2 and affected by Pt. D, §7, is repealed and the
following enacted in its place:

6 **2. Training.** A person over 9 years of age and under 16
8 years of age must successfully complete a training program
approved by the department prior to operating an ATV except on:

10 A. Land on which that person is domiciled;

12 B. Land owned or leased by that person's parent or
14 guardian; or

16 C. A safety training site approved by the department.

18 A person under 16 years of age must attend the training program
20 with that person's parent or guardian. The training program must
22 include instruction on the safe operation of ATVs, the laws
24 pertaining to ATVs, the effect of ATVs on the environment and
ways to minimize that effect, courtesy to landowners and other
recreationists and landowners and other materials as determined
by the department.

26 **Sec. 11. 12 MRSA §13154**, as enacted by PL 2003, c. 414, Pt.
28 A, §2 and affected by Pt. D, §7, is repealed.

30 **Sec. 12. 12 MRSA §13154-A** is enacted to read:

32 §13154-A. Age restrictions

34 1. Minimum age. Except as provided in subsection 5, a
36 person under 10 years of age may not operate an ATV.

38 A. A person who violates this subsection commits a civil
40 violation for which a fine of not less than \$100 nor more
42 than \$500 may be adjudged.

44 B. A person who violates this subsection after having been
46 adjudicated as having committed 3 or more civil violations
under this Part within the previous 5-year period commits a
Class E crime.

48 2. Permitting child under 10 years of age to operate ATV.
50 Except as provided in subsection 6, a person may not permit a
child under 10 years of age to operate an ATV.

A. A person who violates this subsection commits a civil
violation for which a fine of not less than \$100 nor more
than \$500 may be adjudged.

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- 2 B. A person who violates this subsection after having been
4 adjudicated as having committed 3 or more civil violations
 under this Part within the previous 5-year period commits a
6 Class E crime.
- 8 3. Unlawfully operating ATV by person 10 to under 16 years
 of age. Except as provided in subsection 6, a person 10 years of
10 age or older but under 16 years of age may not operate an ATV
 unless that person has successfully completed a training course
12 approved by the department pursuant to section 13152 and is
 accompanied by an adult.
- 14 A. A person who violates this subsection commits a civil
 violation for which a fine of not less than \$100 nor more
16 than \$500 may be adjudged.
- 18 B. A person who violates this subsection after having been
 adjudicated as having committed 3 or more civil violations
20 under this Part within the previous 5-year period commits a
 Class E crime.
- 22 4. Person under 16 years of age crossing public way. A
24 person under 16 years of age may not cross a public way
 maintained for travel unless the crossing is in accordance with
26 section 13157-A, subsection 6, paragraph A and the person
 satisfies the requirements of subsection 3.
- 28 A. A person who violates this subsection commits a civil
30 violation for which a fine of not less than \$100 nor more
 than \$500 may be adjudged.
- 32 B. A person who violates this subsection after having been
34 adjudicated as having committed 3 or more civil violations
 under this Part within the previous 5-year period commits a
36 Class E crime.
- 38 5. Permitting an unaccompanied person under 16 years of age
 to operate an ATV. Except as provided in subsection 6, a person
40 may not permit an unaccompanied person 10 years of age or older
 but under 16 years of age to operate an ATV.
- 42 A. A person who violates this subsection commits a civil
44 violation for which a fine of not less than \$100 nor more
 than \$500 may be adjudged.
- 46 B. A person who violates this subsection after having been
48 adjudicated as having committed 3 or more civil violations
 under this Part within the previous 5-year period commits a
50 Class E crime.

2 6. Exceptions for certain property. This section does not
3 apply to the operation of an ATV on:

4 A. The land on which the operator is domiciled;

6 B. Land owned or leased by the operator's parent or
7 guardian; or

10 C. A safety training site approved by the department.

12 **Sec. 13. 12 MRSA §13155, sub-§§3 and 5**, as enacted by PL 2003,
13 c. 414, Pt. A, §2 and affected by Pt. D, §7, are amended to read:

14 **3. Application and issuance.** The commissioner, or an agent
15 designated by the commissioner, may register and assign a
16 registration number to an ATV upon application and payment of an
17 annual fee by the owner. The commissioner shall charge a fee of
18 \$1 in addition to the annual fee for each registration issued by
19 an employee of the department. The registration number in the
20 form of stickers issued by the commissioner must be clearly
21 displayed on the front and rear of the vehicle. A registration
22 is valid for one year commencing July 1st of each year, except
23 that any registration issued prior to July 1st but after May 1st
24 is valid from the date of issuance until June 31st of the
25 following year.

28 **5. Fees.** The annual registration fee for an ATV is \$17 for
29 a resident and \$35 for a nonresident.

30 ~~After March 31st, a person may pay a registration fee of \$21.25~~
31 ~~for residents and \$43.75 for nonresidents and receive a~~
32 ~~registration covering the remainder of the registration period~~
33 ~~plus one additional year.~~

36 **Sec. 14. 12 MRSA §13156-A** is enacted to read:

38 §13156-A. Findings

40 The Legislature finds that activities associated with ATVs
41 constitute a more intrusive use of private property open to
42 recreational use by the public than do other recreational
43 activities, and that abusive uses of ATVs puts access to private
44 property for recreational use at risk.

46 **Sec. 15. 12 MRSA §13157, sub-§1**, as enacted by PL 2003, c.
47 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

48 **Sec. 16. 12 MRSA §13157, sub-§1-A** is enacted to read:

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2 1-A. Permission required. A person may not operate an ATV
4 on the land of another without the permission of the landowner or
6 lessee. Permission is presumed on ATV trails that are
8 conspicuously posted or in areas open to ATVs by landowner
10 policy. Written permission of the landowner or lessee is
12 required on cropland or pastureland or in an orchard. As used in
14 this subsection, "cropland" means acreage in tillage rotation,
16 land being cropped and land in bush fruits, and "pastureland"
18 means acreage devoted to the production of forage plants used for
20 animal production.

22 A. A person who violates this subsection commits a civil
24 violation for which a fine of not less than \$100 nor more
26 than \$500 may be adjudged.

28 B. A person who violates this subsection after having been
30 adjudicated of having committed 3 or more civil violations
32 under this Part within the previous 5-year period commits a
34 Class E crime.

36 **Sec. 17. 12 MRSA §13157, sub-§5-A is enacted to read:**

38 5-A. Unlawful operating ATV on temporarily closed trail. A
40 person may not operate an ATV on any section of a trail posted
42 with a notice of temporary closure in accordance with this
44 subsection. The notice must specify the section of trail that is
46 closed and the period of the closure and must be conspicuously
48 posted at each end of the closed section of the trail.

1 A. A person who violates this subsection commits a civil
3 violation for which a fine of not less than \$100 nor more
5 than \$500 may be adjudged.

7 B. A person who violates this subsection after having been
9 adjudicated of having committed 3 or more civil violations
11 under this Part within the previous 5-year period commits a
13 Class E crime.

15 **Sec. 18. 12 MRSA §13157, sub-§15, as enacted by PL 2003, c.**
17 **414, Pt. A, §2 and affected by Pt. D, §7, is repealed and the**
19 **following enacted in its place:**

21 15. ATV noise and fire control devices. The following
23 provisions pertain to ATV muffling and fire control devices and
25 noise level limits.

27 A. Except as provided in section 13159, a person may not:

2 (1) Operate an ATV that is not equipped at all times
3 with an effective and suitable muffling device on its
4 engine to effectively deaden or muffle the noise of the
5 exhaust;

6 (2) Modify the exhaust system of an ATV in any manner
7 that will increase the noise emitted above the
8 following emission standard:

10 (a) Each ATV must meet noise emission standards
11 of the United States Environmental Protection
12 Agency and in no case exceed 96 decibels of sound
13 pressure when measured from a distance of 20
14 inches using test procedures established by the
15 commissioner; or

16 (3) Operate an ATV without a working spark arrester.

17 B. The following penalties apply to violations of this
18 subsection.

19 (1) A person who violates this subsection commits a
20 civil violation for which a fine of not less than \$100
21 nor more than \$500 may be adjudged.

22 (2) A person who violates this subsection after having
23 been adjudicated as having committed 3 or more civil
24 violations under this Part within the previous 5-year
25 period commits a Class E crime.

26 (3) In addition to any penalties imposed under this
27 subsection, the court may, subject to section 9321 and
28 Title 17-A, chapter 54, order restitution for fire
29 suppression costs incurred by state or municipal
30 government entities in suppressing a fire caused by an
31 ATV operating without a working spark arrester.

32 **Sec. 19. 12 MRSA §13157, sub-§15-A is enacted to read:**

33 **15-A. Prohibited equipment.** A person may not operate an
34 ATV that is equipped with a snorkel kit or other equipment
35 designed to allow the ATV to be used in deep water except with
36 the permission of the owner of the land on which the ATV is
37 operated or as provided in section 13159.

38 A. A person who violates this subsection commits a civil
39 violation for which a fine of not less than \$100 nor more
40 than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated of having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 20. 12 MRSA §13157, sub-§21, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed and the following enacted in its place:

21. Operating ATV in prohibited area. The following provisions establish areas where the operation of an ATV is prohibited.

A. A person may not operate an ATV:

(1) On a salt marsh, intertidal zone, marine sand beach, sand dune or any cemetery, burial place or burying ground; or

(2) When the ground is not frozen and sufficiently covered with snow to prevent direct damage to the vegetation:

(a) On alpine tundra;

(b) On a freshwater marsh or bog, river, brook, stream, great pond, nonforested wetland or vernal pool; or

(c) In a source water protection area as defined in Title 30-A, section 2001, subsection 20-A.

The provisions of this subparagraph do not apply to a trail designated for ATV use by the Department of Conservation. The provisions of this subparagraph also do not apply to a person accessing land for maintenance or inspection purposes with the landowner's permission or to local, state or federal government personnel in the performance of official duties, provided there is no significant ground disturbance or sedimentation of water bodies.

B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

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(2) A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 21. 12 MRSA §13157, sub-§22, ¶¶B and C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, are amended to read:

B. Leave open a gate or bars on another person's land; or

C. Trample or destroy crops on another person's land; or

Sec. 22. 12 MRSA §13157, sub-§22, ¶D is enacted to read:

D. Remove or destroy signs or posted notices.

Sec. 23. 12 MRSA §13157, sub-§23, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

Sec. 24. 12 MRSA §13159, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

§13159. Racing meets

Notwithstanding section 13155 and section ~~13159~~ 13157, subsection 15, subsection 15-A, subsection 16, paragraph A and subsection 17, ATVs used exclusively for scheduled racing meets and operated solely on predefined race courses are exempt from the provisions of this chapter concerning registration, mufflers, snorkel kits and lights during the time of operation at these meets and at all prerace practices at the location of the meets.

Sec. 25. 36 MRSA §1760, sub-§25-A, as amended by PL 2003, c. 414, Pt. B, §62 and affected by Pt. D, §7, is further amended to read:

25-A. All-terrain vehicles. All-terrain vehicles, as defined in Title 12, section 13001, purchased by a nonresident and ~~intended to be driven or transported outside the State immediately upon delivery by the seller. The purchaser is exempt from use tax, unless the all-terrain vehicle is present in the State for more than 30 days during the 12-month period following the date of purchase or is registered in the State without being registered in another state within 12 months of the date of purchase~~ person who is not a resident of this State;

Sec. 26. 36 MRSA §2903-D, sub-§3, ¶A, as enacted by PL 2001, c. 693, §7 and affected by §11, is amended to read:

A. ~~The Commissioner of Inland Fisheries and Wildlife~~ ATV Enforcement Grant and Aid Program established in Title 12, section 10322 receives 50% of that amount; and

Sec. 27. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative 0063

Initiative: Provides funds for the additional costs associated with assistant clerks processing new ATV-related cases.

General Fund	2003-04	2004-05
Personal Services	\$0	\$10,504
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General Fund Total	\$0	\$10,504

JUDICIAL DEPARTMENT

DEPARTMENT TOTALS

GENERAL FUND	2003-04	2004-05
	\$0	\$10,504
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DEPARTMENT TOTAL - ALL FUNDS	\$0	\$10,504

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

ATV Safety & Educational Program 0559

Initiative: Deappropriates funds to correspond to a loss of General Fund revenues collected by the Department of Inland Fisheries and Wildlife.

General Fund	2003-04	2004-05
All Other	\$0	(\$105,123)
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General Fund Total	\$0	(\$105,123)

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

DEPARTMENT TOTALS

General Fund	2003-04	2004-05
	\$0	(\$105,123)
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DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$105,123)

SECTION TOTALS	2003-04	2004-05
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11 of 15

COMMITTEE AMENDMENT "A" to H.P. 1413, L.D. 1912

2	GENERAL FUND	\$0	(\$94,619)
4	SECTION TOTAL - ALL FUNDS	\$0	(\$94,619)

SUMMARY

8 This amendment replaces the bill. This amendment
10 accomplishes much of the substance of the bill.

12 1. It broadens the purpose of the ATV Recreational
14 Management Fund to allow for purchase or lease of real estate and
16 acquisition of easements for ATV trails or sport-riding facility
18 acquisition and permits its use for grants-in-aid to
20 organizations for the purchase of ATV-related equipment.

22 2. It creates an ATV law enforcement grant program to make
24 enforcement grants to the warden service as well as to other
26 enforcement agencies and dedicates the Department of Inland
28 Fisheries and Wildlife's ATV gas tax revenues under the Maine
30 Revised Statutes, Title 36, section 2903-D to the ATV law
32 enforcement grant program. It authorizes the program to accept
34 and disburse donated materials and equipment.

36 3. It increases the penalty for failure of an ATV operator
38 to stop for a law enforcement officer to a Class D crime with a
40 mandatory \$1,000 fine. It provides that attempting to elude a
42 law enforcement officer is subject to the same penalties.

44 4. It requires the suspension of all licenses and permits
46 issued by the Department of Inland Fisheries and Wildlife and
48 allows suspension of registrations issued by the department for
50 certain violations of ATV laws and it requires the violator to
complete mandatory training in order to have the suspension
lifted.

52 5. It changes the law regarding payment of sales and use
54 tax prior to ATV registration to parallel provisions relating to
56 snowmobiles.

58 6. It prohibits a child under 10 years of age or a child
60 under 16 years of age who has not completed required training and
is not accompanied by an adult from operating an ATV on any land
other than on land on which the child is domiciled, land owned or
leased by the child's parent or guardian or in a safety-training
site approved by the department.

62 7. It prohibits snorkel kits and similar kits designed to
64 allow ATV use in deep water, except at racing events. Violation

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 1413, L.D. 1912

of this provision is a civil violation subject to a \$100 to \$500 fine.

8. It requires a parent or guardian to attend ATV training with children under 16 years of age.

9. It requires visible identification on both the front and rear of all ATVs in the form of a sticker. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.

10. It establishes a legislative finding that abusive use of ATVs places access to private property for recreation at risk.

11. It requires the landowner's or lessee's permission to operate an ATV on land of another, creates a presumption of permission under certain circumstances and requires written permission on cropland, pastureland and orchard.

12. It repeals the law providing for a special 15-month registration fee.

13. It prohibits operation of an ATV on a portion of trail posted as temporarily closed. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.

14. It changes the maximum allowable ATV sound level to 96 decibels in a 20-inch test, to reflect national standards.

15. It adds rivers, brooks, streams, great ponds, nonforested wetlands, vernal pools and source water protection areas of public drinking water supplies to the list of areas where ATV operation is prohibited when the ground is not frozen. It provides for an exception for designated trails and for certain maintenance and inspection activities and for governmental officials performing their duties provided certain conditions are met.

16. It adds destruction of signs and posted notices to the current provision regarding abuse of another person's property by an ATV operator.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT

**121st Maine Legislature
Office of Fiscal and Program Review**

**LD 1912**

**An Act To Implement the Recommendations of the Governor's Task
Force on ATV Issues**

LR 2788(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Net Cost (Savings)				
General Fund	\$0	(\$27,009)	(\$38,628)	(\$35,102)
Appropriation/Allocations				
General Fund	\$0	(\$94,619)	(\$129,620)	(\$133,544)
Revenue				
General Fund	\$0	(\$67,610)	(\$90,992)	(\$98,442)
Other Special Revenue Funds	\$0	\$102,141	\$137,779	\$141,819

Correctional and Judicial Impact Statements:

Establishes new civil violations.

Fiscal Detail and Notes

This fiscal estimate assumes an effective date of August 1, 2004. The bill includes a General Fund appropriation to the Judicial Department of \$10,504 in fiscal year 2004-05, \$11,706 in fiscal year 2005-06 and \$11,998 in fiscal year 2006-07 to provide funds for the additional costs associated with Assistant Clerks processing new ATV related cases. The bill also increases General Fund revenue for increased ATV fines by \$93,000 in fiscal year 2004-05 and \$115,000 annually thereafter.

Changing the fund classification of certain revenues will result in a loss of \$105,123 in General Fund revenues and an increase of the same amount in Other Special Revenue Funds revenues collected by the Department of Inland Fisheries and Wildlife in fiscal year 2004-05. The bill includes a General Fund deappropriation of \$105,123 for the ATV Safety & Educational Program to compensate for the loss of General Fund revenue from the shift in revenue classification.

Change in General Fund Revenues

	2003-04	2004-05	2005-06	2006-07
Increased ATV Fines	\$0	\$93,000	\$115,000	\$115,000
Change in Fund Classification	\$0	(\$105,123)	(\$141,326)	(\$145,543)
Net Impact to IF&W General Fund Revenues	\$0	(\$12,123)	(\$26,326)	(\$30,543)
Net Loss from Decreased Sales and Use Tax*	\$0	(\$55,487)	(\$64,666)	(\$67,899)
Total General Fund Revenue Gain (Loss)	\$0	(\$67,610)	(\$90,992)	(\$98,442)

*The changes to the tax exemption for all-terrain vehicles purchased by nonresidents will decrease sales and use tax revenues collected. The General Fund loss is reduced by the amount of Municipal Revenue Sharing transfers that will not be required.