

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1912

H.P. 1413

House of Representatives, March 9, 2004

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

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LANDRY of Sanford. (GOVERNOR'S BILL)
Cosponsored by Senator BRYANT of Oxford and
Representatives: CLARK of Millinocket, DUNLAP of Old Town, TOBIN of Dexter,
WATSON of Bath, WHEELER of Kittery, WOTTON of Littleton, Senators: CARPENTER of
York, KNEELAND of Aroostook.

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

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 D, §7, is repealed.

Sec. 2. 12 MRSA §13157, sub-§1-A is enacted to read:

1-A. Permission required. A person may not operate an ATV on the land of another without the landowner's permission. Permission is presumed where ATV trails exist or in areas open to ATVs by landowner policy if the trails or policy is conspicuously posted; except that written permission of the landowner is required on cropland or pastureland or in an orchard.

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.

Sec. 3. Legislation authorized. The Joint Standing Committee on Inland Fisheries and Wildlife may submit legislation to the Second Special Session of the 121st Legislature to accomplish one or more of the following:

1. Create an ATV law enforcement grant program to make enforcement grants to the warden service as well as to other enforcement agencies; and dedicate the Department of Inland Fisheries and Wildlife's ATV gas tax revenues under the Maine Revised Statutes, Title 36, section 2903-D to the ATV law enforcement grant program;

2. Broaden the purpose of the ATV Recreational Management Fund to allow for ATV trail or sport riding facility acquisition, purchase or lease of real estate and acquisition of easements for ATV operation;

3. Authorize a mud season closure for ATV trails by the State under established guidelines. Violation of this provision would be a civil violation subject to a \$100 to \$500 fine;

4. Require brake lights on all ATVs. Violation of this provision would be a civil violation subject to a \$100 to \$500 fine;

5. Prohibit snorkel kits and similar kits designed to allow ATV use in deep water, except at sanctioned events or with a landowner's permission. Violation of this provision would be a civil violation subject to a \$100 to \$500 fine;

6. Change the maximum allowable ATV sound level to 96 decibels in a 20-inch test, to reflect national standards;

- 2 7. Require visible identification on both the front and
4 rear of all ATVs. Violation of this provision would be a civil
violation subject to a \$100 to \$500 fine;
- 6 8. Add rivers, brooks, streams, great ponds, nonforested
8 wetlands, vernal pools and source water protection areas of
public drinking water supplies to the list of areas where ATV
10 operation is prohibited. This prohibition must have an exception
allowing for needed maintenance and management authorized by the
12 landowner;
- 14 9. Increase the penalty for failure of an ATV operator to
16 stop for a law enforcement officer to a Class D crime with a
mandatory \$1,000 fine. Attempting to elude a law enforcement
officer would raise the violation to a Class C crime;
- 18 10. Establish accident forms that individuals may fill out
20 themselves for ATV accidents involving minor personal injury;
- 22 11. Add destruction of signs and posted notices to the
24 current provision regarding abuse of another person's property by
an ATV operator;
- 26 12. Prohibit a child under 10 years of age from operating
28 an ATV, unless it is on land owned by the child's parents,
grandparents or guardian, or the child is at an approved ATV
safety-training site;
- 30 13. Require a parent or guardian to attend ATV training
32 with children 15 years of age or under;
- 34 14. Require mandatory safety and ethics training, or repeat
36 training, for all ATV operators who are convicted of the most
serious ATV offenses, such as OUI, driving to endanger and
38 criminal trespass, and ethics training for those who commit less
serious ATV offenses; and give the Commissioner of Inland
40 Fisheries and Wildlife the authority to revoke any department
license, registration or safety certificate of a person who does
not comply;
- 42 15. Create a legislative study group to review and, if
44 necessary, modify statutes so that allowing public recreational
access for ATV operators does not compromise landowners' rights;
- 46 16. Authorize an ATV task force or create an ATV advisory
48 committee that includes representatives of state agencies,
Legislators and outdoor organizations to continue efforts to
50 resolve ATV problems;

2 17. Change the law regarding payment of sales and use tax
4 prior to ATV registration to parallel provisions relating to
snowmobiles; and repeal the law that allows for a 15-month
registration;

6 18. Encourage membership in ATV clubs by offering a
8 discounted registration for ATV club members;

10 19. Require ATV safety training for persons 18 years of age
and under;

12 20. Distribute state ATV revenues from registration fees in
14 the same way as snowmobile registration fee revenues, with
percentages dedicated to the Department of Inland Fisheries and
16 Wildlife for law enforcement and safety, to the Department of
Conservation for trail grants and equipment and to towns in lieu
18 of personal property tax;

20 21. Establish a damage mitigation fund with clear
22 eligibility guidelines to repair environmental damage or to
reimburse landowners for damage to crops, trees or orchards
caused by ATV operators, when those operators can not be
24 identified or prosecuted;

26 22. Dedicate 10% of the total ATV registration fees to
Department of Inland Fisheries and Wildlife safety efforts,
including ATV training courses, ATV education, ATV public
28 awareness and a grant program to encourage innovative community
ATV safety programs;

30 23. Dedicate all fines from violations of ATV laws to ATV
32 education, enforcement and trail programs;

34 24. Make ATV violations count as points against a driver's
license based on the seriousness of the violation;

36 25. Make an ATV OUI part of an ATV operator's motor vehicle
38 record so that that information is available for law enforcement
officers during a motor vehicle license check;

40 26. Make the minimum-age requirements for operating boats,
42 snowmobiles and ATVs consistent;

44 27. Authorize 5 regional part-time employees to work up to
46 a total of 1,000 hours annually assisting the Department of
Conservation, Bureau of Parks and Lands, Off-Road Vehicle
Division to develop clubs and trails and work on landowner
48 concerns or problems; and

28. Pending state insurance review, provide at least
2 \$2,000,000 of liability protection for landowners.

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SUMMARY

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This bill clarifies that a person operating an ATV on the
8 land of another must have the permission of the landowner.

10 The bill also authorizes the Joint Standing Committee on
12 Inland Fisheries and Wildlife to submit legislation to the Second
Special Session of the 121st Legislature to accomplish one or
14 more of the recommendations that emerged from the Governor's task
force on ATV issues.