

# MAINE STATE LEGISLATURE

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10/10/05

L.D. 1622

DATE: 6-16-05

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STATE OF MAINE  
SENATE  
122ND LEGISLATURE  
FIRST SPECIAL SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1145, L.D. 1622, Bill, "An Act To Correct Errors and Inconsistencies in the Laws of Maine"

Amend the amendment by inserting after Part D the following:

PART E

Sec. E-1. 12 MRSA §10206, sub-§1, ¶B, as affected by PL 2003, c. 614, §9; amended by c. 655, Pt. B, §47 and affected by §422; and repealed by c. 695, Pt. B, §3 and affected by Pt. C, §1, is repealed.

Sec. E-2. 12 MRSA §10308, sub-§5, ¶C, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. The board shall submit an annual report to the Governor and the joint standing committees of the Legislature having jurisdiction over ~~energy-matters~~, natural resources matters and inland fisheries and wildlife matters. In the annual report, the board shall detail expenditures made from the fund and the board's progress in implementing the strategic plan.

Sec. E-3. 12 MRSA §10902, sub-§9, ¶¶A, B, D, E and F, as enacted by PL 2003, c. 695, Pt. B, §8 and affected by Pt. C, §1, are amended to read:

A. Operating an ATV on a temporarily closed trail as prohibited under section ~~13157~~ 13157-A, subsection 5-A 24;

SENATE AMENDMENT

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1145,  
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2 B. Abuse of another person's property as prohibited under  
section ~~13157~~ 13157-A, subsection 22;

4 D. Operating an ATV to endanger, as prohibited under section  
~~13157~~ 13157-A, subsection 11;

6 E. Reckless operation of an ATV, as prohibited under section  
8 ~~13157~~ 13157-A, subsection 10;

10 F. Operating an ATV on the land of another without  
12 permission, as prohibited under section ~~13157~~ 13157-A,  
subsection ~~1-A-1~~ 1; or

14 **Sec. E-4. 12 MRSA §11106, sub-§1, ¶A**, as enacted by PL 2003,  
16 c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

18 A. A resident or nonresident 16 years of age or older who  
has satisfied ~~section-11105~~ the requirements of subsection 2  
20 may obtain an archery hunting license to hunt with bow and  
arrow from the commissioner or the commissioner's authorized  
22 agent.

24 **Sec. E-5. 12 MRSA §11107, sub-§§1 and 2**, as enacted by PL 2003,  
c. 414, Pt. A, §2 and affected by c. 614, §9, are amended to read:

26 **1. Big game license.** A person 16 years of age or older at  
the beginning of the special season established under section  
28 11404, subsection 1 may obtain a muzzle-loading ~~license~~ permit  
from the commissioner or the commissioner's authorized agent if  
30 the person possesses a valid license to hunt big game with  
firearms.

32 **2. Junior license.** A person 10 years of age or older and  
34 under 16 years of age may obtain a muzzle-loading ~~license~~ permit  
from the commissioner or the commissioner's authorized agent if  
36 the person possesses a valid junior hunting license.

38 **Sec. E-6. 12 MRSA §11109, sub-§4**, as enacted by PL 2003, c.  
40 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

42 **4. Muzzle-loading permit; issuance and agent's fee.** The  
commissioner, through the commissioner's agent, shall issue  
44 muzzle-loading ~~licenses~~ permits to eligible persons. The issuing  
agent shall charge a fee of \$1 for each ~~license~~ permit issued.

46 **Sec. E-7. 12 MRSA §11109, sub-§5**, as amended by PL 2005, c.  
48 12, Pt. III, §5, is amended to read:

1145

2 **5. Muzzle-loading permits and fees.** Muzzle-loading hunting  
licenses permits and fees are as follows:

- 4 A. A resident muzzle-loading hunting license permit is \$13;
- 6 B. A nonresident muzzle-loading hunting license permit is  
\$62; and
- 8 C. An alien muzzle-loading hunting license permit is \$72.

10 **Sec. E-8. 12 MRSA §12506, sub-§5,** as affected by PL 2003, c.  
12 614, §9 and repealed and replaced by c. 655, Pt. B, §253 and  
14 affected by §422, is repealed and the following enacted in its  
place:

16 5. Exception to permit requirement. Notwithstanding  
18 subsection 1:

- 20 A. A person may fish for alewives by use of a dip net or  
22 single hook and line for consumption by that person or  
24 members of that person's family, provided that the person  
26 takes or possesses no more than one bushel in any day and  
28 provided also that the alewives are not taken from any  
30 waters in which a municipality or other person has been  
32 granted exclusive rights under section 6131;
- 34 C. A person may fish for or possess alewives from inland  
waters if that person has been granted fishing rights under  
section 6131; and
- 36 D. A person may take suckers for use as bait for fishing in  
inland waters as provided in section 12551-A without a  
permit under subsection 2.

38 **Sec. E-9. 12 MRSA §12659-A, sub-§1, ¶¶A and B,** as enacted by PL  
2003, c. 655, Pt. B, §282 and affected by §422, are repealed.

40 **Sec. E-10. 12 MRSA §12659-A, sub-§2,** as enacted by PL 2003, c.  
655, Pt. B, §282 and affected by §422, is repealed.

42 **Sec. E-11. 12 MRSA §12659-A, sub-§§3, 4 and 5** are enacted to  
read:

44 3. Unattended lines. Except as provided in subsection 4, a  
46 person licensed to fish shall have all lines under that person's  
immediate supervision.

48 4. Checking cusk lines. In waters that are opened under  
section 12454, subsection 1, paragraph B, a person fishing

through the ice for cusk in the nighttime shall visit at least  
once every hour all lines set by that person for cusk.

5. Penalty. The following penalties apply to violations of  
this section.

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

B. A person who violates this section 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. E-12. 12 MRSA §12662, sub-§1**, as affected by PL 2003, c.  
614, §9 and amended by c. 655, Pt. B, §285 and affected by §422,  
is further amended to read:

**1. Prohibition.** Except as provided in section 12659-A  
12454, subsection 1, paragraph B, a person may not ice fish from  
1/2 hour after sunset to 1/2 hour before sunrise of the following  
morning.

**Sec. E-13. 12 MRSA §13058, sub-§1**, as affected by PL 2003, c.  
614, §9; amended by c. 627, §1 and c. 655, Pt. B, §362 and  
affected by §422, is repealed and the following enacted in its  
place:

**1. Prohibition.** A person may not place or operate a  
motorboat or personal watercraft on the inland waters of the  
State unless a valid lake and river protection sticker issued  
annually under subsection 3 is affixed to each side of the bow  
above the water line and approximately 3 inches behind the  
validation sticker required under section 13056.

**Sec. E-14. 12 MRSA §13058, sub-§2**, as affected by PL 2003, c.  
614, §9; amended by c. 627, §1; and repealed and replaced by c.  
655, Pt. B, §363 and affected by §422, is repealed and the  
following enacted in its place:

**2. Violation.** A person who violates subsection 1 is  
subject to the provisions of this subsection.

A. A person who violates subsection 1 commits a civil  
violation for which a fine of not less than \$100 and not  
more than \$250 per violation may be adjudged. A fine  
imposed under this subsection may not be suspended by the  
court.

2 B. A person who violates subsection 1 after having been  
3 adjudicated as having committed 3 or more civil violations  
4 under this Part within the previous 5-year period commits a  
5 Class E crime.

6 **Sec. E-15. 12 MRSA §13068, sub-§15**, as affected by PL 2003, c.  
7 614, §9 and repealed and replaced by c. 627, §3 and repealed by  
8 c. 655, Pt. B, §379 and affected by Pt. B, §422, is repealed.

10 **Sec. E-16. 12 MRSA §13068-A, sub-§15**, as enacted by PL 2003,  
11 c. 655, Pt. B, §380 and affected by §422, is amended to read:

12 **15. Violation of surface use restriction order.** A person  
13 may not operate, launch or remove a watercraft at a  
14 restricted-access site or refuse inspection of a watercraft in  
15 violation of an order issued under Title 38, section 1864.

18 A. A person who violates this subsection commits a civil  
19 violation for which a fine of not less than \$500 and not  
20 more than \$5,000 per violation may be adjudged. A fine  
21 imposed under this subsection may not be suspended by the  
22 court.

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

28 **Sec. E-17. 12 MRSA §13152, sub-§2**, as affected by PL 2003, c.  
29 614, §9; repealed and replaced by PL 2003, c. 655, Pt. B, §401  
30 and affected by §422; and repealed and replaced by PL 2003, c.  
31 695, Pt. B, §10 and affected by Pt. C, §1, is repealed and the  
32 following enacted in its place:

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

38 A. Land on which that person is domiciled;

40 B. Land owned or leased by that person's parent or  
41 guardian; or

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

46 A person under 16 years of age must attend the training program  
47 with that person's parent or guardian. The training program must  
48 include instruction on the safe operation of ATVs, the laws  
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.

**Sec. E-18. 12 MRSA §13154-A, sub-§6, ¶C,** as enacted by PL 2003, c. 655, Pt. B, §404 and affected by §422 and enacted by PL 2003, c. 695, Pt. B, §12 and affected by Pt. C, §1, is repealed and the following enacted in its place:

C. A safety training site approved by the department.

**Sec. E-19. 12 MRSA §13157,** as repealed by PL 2003, c. 655, Pt. B, §413 and affected by §422 and amended by c. 695, Pt. B, §§15 to 23 and affected by Pt. C, §1, is repealed.

**Sec. E-20. 12 MRSA §13157-A, sub-§1,** as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is repealed.

**Sec. E-21. 12 MRSA §13157-A, 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 permission of the landowner or lessee. Permission is presumed on ATV trails that are conspicuously posted or in areas open to ATVs by landowner policy. Written permission of the landowner or lessee is required on cropland or pastureland or in an orchard. As used in this subsection, "cropland" means acreage in tillage rotation, land being cropped and land in bush fruits and "pastureland" means acreage devoted to the production of forage plants used for animal production.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more 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. E-22. 12 MRSA §13157-A, sub-§21,** as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is repealed.

**Sec. E-23. 12 MRSA §13157-A, sub-§22, ¶¶B and C,** as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, are amended to read:

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

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

2           **Sec. E-24. 12 MRSA §13157-A, sub-§22, ¶D** is enacted to read:

4           D. Remove or destroy signs or posted notices.

6           **Sec. E-25. 12 MRSA §13157-A, sub-§23**, as enacted by PL 2003,  
c. 655, Pt. B, §414 and affected by §422, is repealed.

8           **Sec. E-26. 12 MRSA §13157-A, sub-§§24 to 27** are enacted to read:

10           24. Operation of ATV on temporarily closed trail. A person  
12 may not operate an ATV on any section of a trail posted with a  
14 notice of temporary closure in accordance with this subsection.  
16 The notice must specify the section of trail that is closed and  
the period of the closure and must be conspicuously posted at  
each end of the closed section of the trail.

18           A. A person who violates this subsection commits a civil  
20 violation for which a fine of not less than \$100 or more  
than \$500 may be adjudged.

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

26           25. ATV noise and fire control devices. The following  
28 provisions pertain to ATV muffling and fire control devices and  
30 noise level limits.

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

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

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

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

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



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

4                   (1) A person who violates this subsection commits a  
5                   civil violation for which a fine of not less than \$100  
6                   or more than \$500 may be adjudged.

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

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

17           26. Prohibited equipment. A person may not operate an ATV  
18           that is equipped with a snorkel kit or other equipment designed  
19           to allow the ATV to be used in deep water except with the  
20           permission of the owner of the land on which the ATV is operated  
21           or as provided in section 13159.

22                   A. A person who violates this subsection commits a civil  
23                   violation for which a fine of not less than \$100 or more  
24                   than \$500 may be adjudged.

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

29           27. Operation of ATV in prohibited area. The following  
30           provisions establish areas where the operation of an ATV is  
31           prohibited.

32                   A. A person may not operate an ATV:

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

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

39                                   (a) On alpine tundra:

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

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

10                   The provisions of this subparagraph do not apply to a  
12                   trail designated for ATV use by the Department of  
14                   Conservation. The provisions of this subparagraph also  
16                   do not apply to a person accessing land for maintenance  
18                   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.

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

22                   (1) A person who violates this subsection commits a  
24                   civil violation for which a fine of not less than \$100  
                    or more than \$500 may be adjudged.

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

32                   Sec. E-27. 12 MRSA §13159, as amended by PL 2003, c. 655, Pt.  
34                   B, §417 and affected by §422 and amended by c. 695, Pt. B, §24  
                    and affected by Pt. C, §1, is repealed and the following enacted  
                    in its place:

36                   **§13159. Racing meets**

38                   Notwithstanding section 13155 and section 13157-A,  
40                   subsection 15, subsection 16, paragraph A, subsection 17 and  
42                   subsection 25, ATVs used exclusively for scheduled racing meets  
44                   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.'

46                   Further amend the amendment by relettering or renumbering  
48                   any nonconsecutive Part letter or section number to read  
                    consecutively.

50

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1145,  
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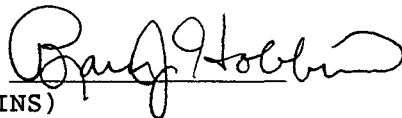
**SUMMARY**

2

This amendment corrects conflicts and cross-references in  
4 the Maine Revised Statutes, Title 12, Part 13 that were created  
as a result of the recodification process.

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8

SPONSORED BY:   
10 (Senator HOBBS)

10

12

COUNTY: York

14