

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND TWELFTH LEGISLATURE

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

AND AT THE

**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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## CHAPTER 762

H.P. 1583 - L.D. 2229

AN ACT to Amend the ATV Laws.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there are immediate needs to address the safety, recreational and environmental issues regarding the use of all-terrain vehicles; and

Whereas, committee hearings, the recently completed Department of Conservation study and the media all indicate a high degree of public concern; and

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

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

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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

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

Sec. 2. 12 MRSA §7056, sub-§4, as enacted by PL 1985, c. 108, §1, is amended to read:

4. All-terrain vehicle laws. All Bureau of Forestry law enforcement personnel of the State, including those of the Bureau of Forestry, shall have the same powers and duties as game wardens to enforce chapter 715, subchapter IV.

Sec. 3. 12 MRSA §7851, sub-§§1-A, 2-A, 2-B and 5 are enacted to read:

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

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

2-B. Freshwater marshes and bogs. "Freshwater marshes and bogs" means naturally occurring open areas with saturated soils or peat, often associated with standing water and dominated by low herbaceous vegetation, grasses, weeds and shrubs and including wetlands, as shown on the Freshwater Wetlands Map Series, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Regulation Commission.

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

Sec. 4. 12 MRSA §7853, as enacted by PL 1983, c. 297, §§1 and 3, is repealed and the following enacted in its place:

§7853. License and training

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

2. Training. A person under 18 years of age is required to successfully complete a training program approved by the department prior to operating an ATV on any land other than the land on which that person is domiciled or land owned or leased by that person's

parent or guardian. The training program shall include instruction on the safe operation of ATV's, the laws pertaining to ATV's, the effect of ATV's on the environment and ways to minimize that effect, courtesy to landowners and other recreationists and other materials as determined by the department.

Sec. 5. 12 MRSA §7854, sub-§1, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

1. Application and issuance. The commissioner, or an agent designated by him, may register and assign a registration number ~~plate~~ plates to any ATV upon application and payment of an annual fee by the owner. The ~~plate~~ plates shall be attached securely to the front and rear of the vehicle and shall be clearly visible. After the first year of registration of the vehicle, the commissioner may issue a validation ~~device~~ devices which shall be placed on the number ~~plate~~ plates. A registration shall be valid for one year commencing July 1st of each year.

Sec. 6. 12 MRSA §7854, sub-§1-A is enacted to read:

1-A. Appointment. The commissioner may appoint municipal clerks or such other persons that a municipality may designate as agents to issue ATV registrations.

Agents may charge a service fee of not more than \$1 for each ATV registration issued and this service fee shall be retained by the municipality. Each municipal agent shall report to the commissioner on or before the 15th day of each calendar month. The report shall include an accounting of all ATV registrations issued during the previous calendar month and shall be accompanied by:

A. The department's copy of each registration issued; and

B. All ATV registration funds collected by the agent during the reporting period.

Sec. 7. 12 MRSA §7854, sub-§2, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

2. No registration required. No ATV registration for the farm use specified in Title 29, section 242, subsection 1, paragraph E-1 is required for a vehicle registered with the Secretary of State under the provisions of Title 29, section 242, subsection 1, paragraph E.

Sec. 8. 12 MRSA §7854, sub-§3, as amended by PL 1985, c. 301, §1, is further amended to read:

3. Fee. The annual registration fee for an ATV is ~~\$7~~ \$12.

Sec. 9. 12 MRSA §7854, sub-§4, as amended by PL 1985, c. 301, §1, is repealed and the following enacted in its place:

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

A. All money received under this subchapter shall be credited to the department for the cost of administration of this subchapter, except that at least \$2.50 of each annual registration fee shall be allocated by the department to provide training and education relative to ATV's and at least \$3.85 of each annual registration fee shall be credited to the ATV Recreational Management Fund.

B. The ATV Recreational Management Fund is established and shall be administered by the Department of Conservation.

(1) The fund may be used to conduct research on issues related to the management of ATV's; assist in the formation of non-profit ATV groups; make grants-in-aid to political subdivisions, educational institutions, regional planning agencies, ATV groups and others to construct and maintain ATV trails or to otherwise carry out the purposes of the fund; assist in the design and development of ATV trails; provide protection to landowners against ATV related suit or liability; or otherwise provided for the wise and orderly management of ATV's.

(2) If any money in the fund is not expended during the year in which it is collected, the unexpended balance shall not lapse, but shall be carried as a continuing account available for the purposes specified until expended.

Sec. 10. 12 MRSA §7854, sub-§7, ¶¶B and C, as repealed and replaced by PL 1985, c. 304, §24, are amended to read:

B. An all-terrain vehicle owner who transfers ownership or discontinues its use may, within 10 days from the date of transfer or discontinuance, apply to the commissioner for registration of another all-terrain vehicle, in which case he may retain the registration number ~~plate~~ plates and, upon receipt of the new certificate, attach the ~~plate~~ plates to the new all-terrain vehicle. The fee for such a transfer shall be \$2 and the registration certificate shall be valid for the remainder of the registration year for which the previous all-terrain vehicle had been registered.

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

Sec. 11. 12 MRSA §7857, sub-§3, as enacted by PL 1983, c. 297, §§1 and 3, is repealed and the following enacted in its place:

3. Unlawfully operating an ATV on a snowmobile trail. A person is guilty of unlawfully operating a vehicle on a snowmobile trail, if he operates any 4-wheel drive vehicle, dune buggy, ATV, motorcycle or any other motor vehicle, other than a snowmobile and appurtenant equipment, on snowmobile trails which are financed in whole or in part with funds from the Snowmobile Trail Fund, unless that use has been authorized by the landowner or his agent, or unless the use is necessitated by an emergency involving safety of persons or property.

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

13. Unlawfully operating an ATV while under age. A person is guilty of unlawfully operating an ATV while under age, if he is under the age of 15 years and operates an ATV across any public way maintained for travel or if he operates an ATV while unaccompanied by an adult, except as provided in subsection 24, paragraph E.

Notwithstanding this subsection, persons over the age of 12 years, who have successfully completed a training course approved by the department pursuant to section 7853, may cross public ways as permitted under subsection 24, paragraph D, subparagraph (1).

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



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

Sec. 14. 12 MRSA §7857, sub-§13-B is enacted to read:

13-B. Operating an ATV without protective headgear. Notwithstanding Title 29, section 1376, a person is guilty of operating an ATV without protective headgear, if he is under 18 years of age and operates an ATV without protective headgear.

Sec. 15. 12 MRSA §7857, sub-§14, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

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

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

16. Operating an ATV with insufficient lights. A person is guilty, except as provided in subsection 24, ~~paragraph~~ paragraphs B and E-1, of operating an ATV with insufficient lights, if he operates an ATV which is not equipped as follows.

A. Every ATV 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 ATV.

B. Every ATV 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 ATV.

Sec. 17. 12 MRSA §7857, sub-§19, as enacted by PL 1983, c. 297, §§1 and 3, is repealed.

Sec. 18. 12 MRSA §7857, sub-§21, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

21. Unlawfully permitting operation. A person is guilty of unlawfully permitting operation of an ATV, if he owns an ATV and knowingly permits it to be which is operated by another person in violation of any section of this subchapter. A person is guilty of unlawfully permitting operation of an ATV if he is the parent or guardian responsible for the care of a minor under 18 years of age who operates an ATV in violation of this subchapter.

Sec. 19. 12 MRSA §7857, sub-§22-A as enacted by PL 1985, c. 369, §24, is repealed and the following enacted in its place:

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

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

D. Notwithstanding the provisions of subsection 5:

(1) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed ~~100~~ 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;

(2) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed ~~100~~ 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 traffic approaching from either direction on the public way;

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

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

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

(6) ATV's may be operated on streets and public ways in special events of limited duration conducted according to a prearranged schedule, under a permit from the governmental unit having jurisdiction.

Sec. 21. 12 MRSA §7857, sub-§24, ¶E, as enacted by PL 1983, c. 297, §§1 and 3, is amended to read:

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

Sec. 22. 12 MRSA §7857, sub-§24, ¶E-1 is enacted to read:

E-1. Notwithstanding subsection 16, ATV's manufactured without a headlight or taillight are exempt from the provisions of that subsection while being operated between the hours of sunrise and sunset.

Sec. 23. 12 MRSA §§7858 and 7859 are enacted to read:

§7858. Liability for damage by other persons

Any owner of an ATV, any person who gives or furnishes an ATV to any person and any parent or guardian responsible for the care of a minor under 18 years of age shall be jointly and severally liable with the operator for any damages caused in the operation of the vehicle or by this minor in operating any ATV.

§7859. Impoundment of ATV's

When a law enforcement officer issues a summons for a violation under this subchapter, the officer may impound the ATV operated by the person who received the summons if, in the judgment of the officer, based on actual previous offenses by the operator or other considerations, the operator will continue to operate the vehicle in violation and such operation may be a hazard to the safety of persons or property.

The operator or owner may reclaim his vehicle at any time subsequent to 24 hours after the issuance of the summons upon payment of the costs of impoundment to the enforcement agency impounding the vehicle.

Sec. 24. 12 MRSA §7901, sub-§11 is enacted to read:

11. Violation. A violation of section 7857, subsection 13, 13-A, 13-B, 14, 15, 16, 17, 20 or 21 or of section 7858 is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged, of which not more than \$50 may be suspended.

Sec. 25. 14 MRSA §159-A, sub-§6 is enacted to read:

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

Sec. 26. 29 MRSA §242, sub-§1, ¶E, as amended by PL 1973, c. 140, is further amended to read:

E. The Secretary of State may issue, upon application and the payment of a fee of \$2, a special registration permit authorizing the limited operation on the highway of self-propelled golf carts, lawn mowers, ATV's and other such vehicles of a similar nature with such restrictions and limitations as to use as will, in the opinion of the Secretary of State, minimize the danger to the operator thereof. Such special registration permits shall be valid for use until March 1st of the next calendar year. No operator's license shall be required for such limited operation of said vehicles, and such vehicles shall be exempt from the laws regulating the inspection of motor

vehicles. No person under the age of 15 years shall operate such vehicles on a public way.

Sec. 27. 29 MRSA §242, sub-§1, ¶E-1 is enacted to read:

E-1. Operation of an ATV under paragraph E shall be limited to its use for agricultural purposes in connection with the operation of a farm and shall be restricted to operation from or to the premises where kept, from or to a farm lot and between farm lots, used for farm purposes by the ATV owner.

Sec. 28. Report. The Department of Conservation and the Department of Inland Fisheries and Wildlife shall jointly monitor the effects of this Act. The Department of Conservation shall be the lead agency. These departments shall make a report to the Legislature no later than January 31, 1989, in which they document the results of their monitoring, present recommendations dealing with all important issues and submit any required legislation approved by the Attorney General covering all important issues. The departments shall obtain input from all parties included in section 3 of "AN ACT Relating to the Regulations and Distribution of Funds for All-terrain Vehicles," Public Law 1985, chapter 301. The study shall assure that the input of the various interest groups represents a consensus for each group. Subcommittees shall be utilized when necessary. Minority recommendations shall be included when appropriate.

By January 31, 1987, the departments shall submit to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife a plan for this report including deadlines for each phase, cost and objectives against which the success of this legislation will be measured. To the extent possible, these objectives shall be statistically measureable.

Sec. 29. Allocation. The following funds are allocated from revenues derived from the Maine Revised Statutes, Title 12, chapter 715, subchapter IV, as follows:

1986-87

CONSERVATION, DEPARTMENT OF

Bureau of Parks and Recreation  
ATV Recreational Management Fund  
Positions

(1)

	<u>1986-87</u>
Personal Services	\$25,000
All Other	47,000
Capital Expenditures	<u>5,000</u>
Total	\$77,000

INLAND FISHERIES AND WILDLIFE,  
DEPARTMENT OF

Bureau of Warden Service	
All-terrain Vehicle Safety and Educational Program	
Positions	(1)
Personal Services	\$25,000
All Other	25,000
Capital Expenditures	<u>8,000</u>
Total	\$58,000

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect on July 1, 1986, except that sections 4, 6 and 13 shall take effect on July 1, 1987.

Effective July 1, 1986, unless otherwise indicated.

**CHAPTER 763**

H.P. 1670 - L.D. 2355

**AN ACT Relating to Periodic Justification of  
Departments and Agencies of State  
Government under the Maine Sunset  
Laws.**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1986; and

Whereas, certain independent agencies will terminate unless continued by the Legislature prior to June 30, 1986; and