

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
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SECOND REGULAR SESSION
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Non-Emergency Laws Is
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

tion 1, but may not include creditable service under section 17760, subsection 2 3.

Sec. 6. 5 MRSA §17851, sub-§6, ¶B, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. Retires after completing 20 years of creditable service in that capacity, which may include creditable service under section 17760, subsection 1, but may not include creditable service under section 17760, subsection 2 3.

See title page for effective date.

CHAPTER 694

H.P. 1472 - L.D. 1965

An Act Regarding Penalties Assessed by the Bureau of Forestry

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

Sec. 1. 12 MRSA §8870 is enacted to read:

§8870. Penalties

1. Civil violation. A person who violates a rule adopted pursuant to section 8869, subsection 14 or a condition or term of a permit, variance or decision issued by the director or the commissioner in accordance with rules adopted pursuant to section 8869, subsection 14 commits a civil violation.

2. Penalty. Except as provided in subsection 3, 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 and not more than \$1,000 may be adjudged for each day of that violation.

B. A person who violates this section after having previously been adjudicated of a violation of this section within the previous 5-year period commits a civil violation for which a fine of not less than \$1,000 but not more than \$2,000 may be adjudged for each day of that violation.

3. Economic benefit. If the economic benefit resulting from the violation exceeds the applicable penalties under subsection 2, the maximum fines may be increased. The maximum fine may not exceed an amount equal to twice the economic benefit resulting from the violation. The bureau shall consider as economic benefit, without limitation, the costs avoided or the enhanced value accrued at the time of the

violation by the violator as a result of not complying with the applicable legal requirements.

4. Effective date. This section takes effect January 2, 2005.

See title page for effective date.

CHAPTER 695

H.P. 1413 - L.D. 1912

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

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

Whereas, certain provisions of this legislation must take effect as soon as possible to avoid severe damage to certain ATV trails; 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:

PART A

Sec. A-1. 12 MRSA §7857, sub-§26 is enacted to read:

26. Unlawful operating ATV on temporarily closed trail. A person may not operate an ATV on any section of a trail posted with a notice of temporary closure in accordance with this subsection. 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.

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.

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.

PART B

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

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

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

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

Sec. B-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.

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

SUBCHAPTER 7

ATV ENFORCEMENT GRANT AND AID PROGRAM

§10321. Definitions

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

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

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

3. ATV grant coordinator. "ATV grant coordinator" means the person retained by the commissioner to be responsible for providing administration and

staff support for the ATV Enforcement Grant Program.

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

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

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 laws during the normal course of patrol duties.

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

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

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

§10322. Grant and aid program established

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

2. Fund. The ATV Enforcement Grant Program Fund, referred to in this section as "the fund," is established within the department to be used for the program in accordance with this subchapter. The fund consists of revenues deposited in the fund pursuant to Title 36, section 2903-D, subsection 3, any other funds

appropriated or allocated for inclusion in the fund, from whatever source, and any other money available for deposit in the fund, including any federal funds or other public funds or any donations made to the fund. The board may apply for federal or other funds that may be available for the purposes of the program. The fund is nonlapsing and any balance remaining in the 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 expenses associated with the work of the grant committee pursuant to this subchapter, including the costs of the ATV grant coordinator.

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

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

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

§10323. Grant expenditures; distribution

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

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

A. For general ATV enforcement, 40%;

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

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

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

§10324. ATV Enforcement Grant Review Committee

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

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

A. Three ex officio members or their designees:

(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.

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

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

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

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

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

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

§10325. Distribution criteria for grants

The review and awarding of grant proposals by the grant committee under this subchapter are governed by this section. The criteria for consideration established in this section are not listed in order of priority. A grant applicant shall 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;
- (2) Documentation of law enforcement staff needing equipment and training; and

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

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

§10326. Rules

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

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

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

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

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

E. Attempt to elude a law enforcement officer by:

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

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

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

2. Penalty. A person who violates ~~this section~~ subsection 1, paragraph A, B or C commits a Class E crime. A person who 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.

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

9. Suspension for certain ATV violations; training. The commissioner shall suspend all licenses and permits issued by the 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:

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

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

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

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

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

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

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.

The commissioner shall reinstate licenses, permits and registrations that have been suspended pursuant to this subsection only if the person satisfactorily completes, in accordance with procedures established by the commissioner by rule, a training program approved by the department relating to safety and ethics in the operation of ATVs. The costs of this training program are borne by the person undertaking the 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.

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

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

1. Registration of watercraft. ~~An~~ Except in the case of a renewal of registration by the same owner, an application for the registration may not be granted in respect to any of a watercraft or ATV whose may not

be granted when the sale or use of that 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:

A. The applicant has submitted a dealer's certificate in a form prescribed by the State Tax Assessor, showing either that the sales tax due in respect to the watercraft ~~or ATV~~ 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;

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

C. The applicant has properly executed and signed a use tax certificate in the form and manner prescribed by the State 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.

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

A. The person registering the snowmobile or ATV is not a 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;

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

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

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

Sec. B-10. 12 MRSA §13152, sub-§2, 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:

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

A. Land on which that person is domiciled;

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

C. A safety training site approved by the department.

A person under 16 years of age must attend the training program with that person's parent or guardian. The training program must 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. B-11. 12 MRSA §13154, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

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

§13154-A. Age restrictions

1. Minimum age. Except as provided in subsection 5, a person under 10 years of age may not 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.

B. 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.

2. Permitting child under 10 years of age to operate ATV. 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.

B. 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.

3. Unlawfully operating ATV by person 10 to under 16 years of age. Except as provided in subsection 6, a person 10 years of age or older but under 16 years of age may not operate an ATV unless that person has successfully completed a training course approved by the department pursuant to section 13152 and is accompanied by an adult.

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.

B. 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.

4. Person under 16 years of age crossing public way. A person under 16 years of age may not cross a public way maintained for travel unless the crossing is in accordance with section 13157-A, subsection 6, paragraph A and the person satisfies the requirements of subsection 3.

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.

B. 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.

5. Permitting an unaccompanied person under 16 years of age to operate an ATV. Except as provided in subsection 6, a person may not permit an unaccompanied person 10 years of age or older but under 16 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.

B. 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.

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

A. The land on which the operator is domiciled;

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

C. A safety training site approved by the department.

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

3. Application and issuance. The commissioner, or an agent designated by the commissioner, may register and assign a registration number to an ATV upon application and payment of an annual fee by the owner. The commissioner shall charge a fee of \$1 in addition to the annual fee for each registration issued by an employee of the department. The

registration number in the form of stickers issued by the commissioner must be clearly displayed on the front and rear of the vehicle. A registration is valid for one year commencing July 1st of each year, except that any registration issued prior to July 1st but after May 1st is valid from the date of issuance until June 31st of the following year.

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

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

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

§13156-A. Findings

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

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

Sec. B-16. 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 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 nor more than \$500 may be adjudged.

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

5-A. Unlawful operating ATV on temporarily closed trail. A person may not operate an ATV on

any section of a trail posted with a notice of temporary closure in accordance with this subsection. 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.

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.

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. B-18. 12 MRSA §13157, sub-§15, 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:

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

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

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

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

(a) Each ATV must meet noise emission standards of the United States Environmental Protection 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

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

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.

(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.

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

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

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

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.

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. B-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, non-forested 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.

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

D. Remove or destroy signs or posted notices.

Sec. B-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. B-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. B-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. B-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. B-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	\$9,539
General Fund Total	\$0	\$9,539

JUDICIAL DEPARTMENT DEPARTMENT TOTALS

General Fund	\$0	\$9,539
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$9,539

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

ATV Safety and 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	(\$95,567)
General Fund Total	\$0	(\$95,567)

INLAND FISHERIES AND WILDLIFE DEPARTMENT TOTALS

GENERAL FUND	\$0	(\$95,567)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$95,567)

SECTION TOTALS	2003-04	2004-05
GENERAL FUND	\$0	(\$86,028)
SECTION TOTAL -		
ALL FUNDS	\$0	(\$86,028)

PART C

Sec. C-1. Effective date. Part B of this Act takes effect August 31, 2004.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective May 7, 2004, unless otherwise indicated.

CHAPTER 696

S.P. 767 - L.D. 1930

An Act To Promote Intergovernmental Cooperation, Cost Savings and Efficiencies

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

Sec. 1. 5 MRSA §12004-I, sub-§75-C is enacted to read:

<u>75-C.</u>	<u>Intergovern-</u>	<u>Legislative</u>	<u>30-A</u>
<u>State</u>	<u>mental</u>	<u>Per Diem</u>	<u>MRSA</u>
<u>Government</u>	<u>Advisory</u>	<u>and</u>	<u>§2181</u>
	<u>Group</u>	<u>Expenses</u>	
		<u>for Legis-</u>	
		<u>lators and</u>	
		<u>expenses</u>	
		<u>only for</u>	
		<u>certain</u>	
		<u>members</u>	

Sec. 2. 30-A MRSA §2, sub-§1-A, as enacted by PL 1991, c. 541, §2, is repealed.

Sec. 3. 30-A MRSA §2, sub-§1-B, as amended by PL 2001, c. 161, §1 and affected by §2, is repealed.

Sec. 4. 30-A MRSA §71, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 5. 30-A MRSA §401, sub-§3, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 6. 30-A MRSA §701, sub-§3, as amended by PL 1989, c. 6; c. 9, §2; c. 23; and c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Public hearing. The county ~~commissioner~~ commissioners shall hold a public hearing in the county on these estimates before December 31st. They shall publish a notice of the hearing at least 10 days before the hearing in a newspaper of general circulation within the county. Written notice and a copy of the estimates ~~shall~~ must be sent by mail or delivered in person to the clerk of each municipality in the county ~~and to each member of the county legislative delegation~~ at least 10 days before the hearing. The municipal clerk shall notify the municipal officers of the receipt of the estimates.

Sec. 7. 30-A MRSA §701, sub-§4, as amended by PL 1989, c. 6; c. 9, §2; c. 23; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 8. 30-A MRSA §702, as repealed and replaced by PL 2003, c. 105, §2 and amended by c. 178, §1, is repealed and the following enacted in its place:

§702. Estimates recorded and sent to State Auditor

The county clerk shall record the estimates made under section 701. A copy of the estimates must be signed by the chair of the county commissioners and attested to by the county commissioners' clerk. On or before the first day of each January, the clerk shall transmit that copy to the State Auditor, who shall retain the copy for 3 years. These records are a public record at the office of the county commissioners in the county that submitted those records.

Sec. 9. 30-A MRSA §1321, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended by inserting a new first paragraph to read:

A charter commission may be initiated by the county commissioners or by petition by voters according to the methods established in subsections 1 and 2.

Sec. 10. 30-A MRSA §1321, sub-§5, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 11. 30-A MRSA §1352, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Application. ~~In those counties that adopt county charters~~ If a county adopts a charter, the