

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

Penmor Lithographers
Lewiston, Maine
2006

(i) Giving notice will place the person alleged to be in need of protection at substantial risk of abuse, neglect or exploitation;

(ii) Notice, if provided, would not be effective; or

(iii) Other good cause as determined by the court.

(5) If, prior to filing the petition, the petitioner did not provide notice as required under this subsection, the petitioner must state in the affidavit the reasons for not providing notice. If notice has not been provided, the court shall make a determination as to the sufficiency of the reason for not providing notice before issuing a temporary order.

Sec. 4. 18-A MRSA §5-408-A, sub-§(a-1), as amended by PL 1997, c. 35, §2, is further amended to read:

(a-1) If the court takes action to exercise the powers of a conservator or to appoint a temporary conservator under subsection (a), then the court, within 2 days, excluding Saturdays, Sundays and legal holidays, of taking the action, shall appoint a visitor or a guardian ad litem to visit the protected person and make a report to the court within 10 days of the appointment of the visitor or guardian ad litem. The visitor or guardian ad litem shall serve the protected person with a copy of the order appointing the temporary conservator and shall explain the meaning and consequences of the appointment. The visitor or guardian ad litem shall inquire of the protected person whether that person wishes to contest any aspect of the temporary conservatorship or seek any limitation of the temporary conservator's powers. The visitor or guardian ad litem shall advise the protected person of that person's right to contest the temporary conservatorship by requesting an expedited hearing under subsection (b) and shall advise the protected person of that person's right to be represented by counsel of that person's own choice or by counsel appointed by the court. The visitor or guardian ad litem shall also interview the temporary conservator, except in cases where the court itself has taken action to exercise the powers of a temporary conservator. In the report to the court, the visitor or guardian ad litem shall inform the court that the protected person has received a copy of the order appointing the temporary conservator and shall advise the court ~~as to whether~~ if circumstances indicate that the protected person wishes to contest any aspect of the temporary conservatorship or seek a limitation of the temporary conservator's powers and whether the protected person is already represented by counsel. The visitor or guardian ad litem shall also advise the court whether any issue exists with respect

to whether the appointment of the temporary conservator is in the protected person's best interest.

See title page for effective date.

CHAPTER 626

H.P. 1453 - L.D. 2057

An Act To Implement the Recommendations of the ATV Trail Advisory Council

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

Sec. 1. 12 MRSA §10902, sub-§9, as amended by PL 2005, c. 477, §3, is further amended to read:

9. Discretionary suspension for certain ATV violations; training. The commissioner ~~shall~~ may suspend all licenses ~~and~~ permits and registrations 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-A, subsection 24; ~~or~~

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

~~C. Operating an ATV under the influence as prohibited under section 10701, subsection 1-A, paragraph D;~~

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

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

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

If the commissioner suspends a license, permit or registration pursuant to this subsection, the suspension must be for at least 90 days. The commissioner shall reinstate licenses, permits and registrations that have been suspended pursuant to this subsection ~~only if~~ after the period of suspension has elapsed and after 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. 2. 12 MRSA §10902, sub-§10 is enacted to read:

10. Mandatory suspension for certain ATV violations. The commissioner shall suspend for at least one year all licenses, permits and registrations issued by the department pursuant to this Part to any person convicted or adjudicated of:

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

B. Operating an ATV under the influence as prohibited under section 10701, subsection 1-A, paragraph D;

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

D. Reckless operation of an ATV, as prohibited under section 13157-A, subsection 10; or

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

The commissioner shall reinstate licenses, permits and registrations that have been suspended pursuant to this subsection after the period of suspension has lapsed and after that person has successfully completed an ATV safety and ethics course as provided in subsection 9.

Sec. 3. 12 MRSA §13157-A, sub-§6, ¶A, as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is amended to read:

A. A properly registered ATV may be operated on a public way only the distance necessary, but in no case to exceed ~~300~~ 500 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, bridge, overpass, underpass, sidewalk or culvert as long as that operation can be made safely and does not interfere with traffic approaching from either direction on the public way.

Sec. 4. 12 MRSA §13157-A, sub-§6, ¶B, as enacted by PL 2003, c. 655, Pt. B, §414 and affected by §422, is repealed.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

CONSERVATION, DEPARTMENT OF

Off-road Recreational Vehicles Program 0224

Initiative: Allocates funds to establish 4 part-time Recreational Trail Coordinator positions and necessary operating expenses.

OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
POSITIONS -		
LEGISLATIVE COUNT	0.000	4.000
Personal Services	\$0	\$104,556
All Other	\$0	\$8,400
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$112,956

See title page for effective date.

CHAPTER 627

H.P. 1485 - L.D. 2093

An Act To Strengthen the Collection of the Tax on Tobacco Products

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

Sec. 1. 36 MRSA §4401, sub-§2, as enacted by PL 1985, c. 783, §16, is amended to read:

2. Distributor. "Distributor" means any person engaged in the business of producing or manufacturing tobacco products in this State for sale in this State, any person engaged in the business of selling tobacco products in this State who brings, or causes to be brought, into this State any tobacco products for sale to a retailer or any person engaged in the business of selling tobacco products who ships or transports tobacco products to retailers for sale in this State or any retailer who imports, receives or acquires, from a person other than a licensed distributor, tobacco products for sale within the State.

Sec. 2. 36 MRSA §4401, sub-§7, as enacted by PL 1985, c. 783, §16, is amended to read:

7. Sale. "Sale" means any transfer, exchange, barter or gift in any manner or by any means whatsoever, for a consideration. ~~It shall include~~ "Sale" includes a gift for advertising by a person engaged in the business of selling tobacco products.