

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

*State Of Maine  
121st Legislature*

*Second Regular Session and  
Second Special Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Inland Fisheries and Wildlife*

*May 2004*

**Staff:**

*Curtis C. Bentley, Legislative Analyst  
Jon Clark, Senior Analyst*

*Office of Policy and Legal Analysis  
13 State House Station  
Augusta, ME 04333  
(207) 287-1670*

**Members:**

*Sen. Bruce S. Bryant, Chair  
Sen. David L. Carpenter  
Sen. Richard Kneeland*

*Rep. Matthew Dunlap, Chair  
Rep. Monica McGlocklin  
Rep. Thomas R. Watson*

*Rep. Walter A. Wheeler, Sr.  
Rep. Raymond Wotton  
Rep. Stanley A. Moody  
Rep. A. David Trahan  
Rep. Ken Honey  
Rep. James H. Tobin, Jr.  
Rep. Earl E. Richardson*

*Maine State Legislature*



*Office Of Policy And Legal Analysis  
Office Of Fiscal And Program Review*

*121st Maine Legislature  
Second Regular Session and  
Second Special Session*

*Summary Of Legislation Before The Joint Standing Committees*

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
- CONF CMTE UNABLE TO AGREE ..... Committee of Conference unable to agree; bill died
- DIED BETWEEN BODIES..... House & Senate disagree; bill died
- DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
- DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
- EMERGENCY ..... Enacted law takes effect sooner than 90 days
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
- FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
- FAILED MANDATE ENACTMENT ..... Bill imposing local mandate failed to get 2/3 vote
- NOT PROPERLY BEFORE THE BODY ..... Ruled out of order by the presiding officers; bill died
- INDEF PP ..... Bill Indefinitely Postponed
- ONTP..... Ought Not To Pass report accepted
- OTP-ND ..... Committee report Ought To Pass In New Draft
- P&S XXX..... Chapter # of enacted Private & Special Law
- PASSED..... Joint Order passed in both bodies
- PUBLIC XXX..... Chapter # of enacted Public Law
- RESOLVE XXX..... Chapter # of finally passed Resolve
- UNSIGNED..... Bill held by Governor
- VETO SUSTAINED ..... Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

*David C. Elliott, Director*  
**Offices located in Room 215 of the Cross Office Building**

*Joint Standing Committee on Inland Fisheries and Wildlife*

**LD 1842**

**An Act To Remove the Designation of the Lake Christopher Wildlife Management Area as a Wildlife Management Area**

**PUBLIC 587**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT GAGNE-FRIEL	OTP	

LD 1842 proposed to remove the Lake Christopher wildlife management area from the list of areas that are classified as wildlife management areas.

**House Amendment "A" (H-760)** proposed to remove the Peaks Island wildlife management area from the list of areas that are classified as state-owned wildlife management areas.

***Enacted Law Summary***

Public Law 2003, chapter 587 removes the Lake Christopher wildlife management area from the list of areas that are classified as wildlife management areas.

**LD 1912**

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

**PUBLIC 695  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LANDRY BRYANT	OTP-AM	H-881 S-509 BRYANT

LD 1912 included the recommendations of the Governor's task force on ATV issues. It proposed specific statutory language for one recommendation regarding landowner permission for operating an ATV on the land of another. The bill also proposed to authorize the Joint Standing Committee on Inland Fisheries and Wildlife to submit legislation to the Second Special Session of the 121st Legislature to accomplish one or more of the other recommendations of the task force, which were listed in the bill in concept form.

**Committee Amendment "A" (H-881)** proposed to replace the bill. This amendment proposed to accomplish, with some refinement, a number of the recommendations of the Governor's task force on ATV issues.

1. It proposed to broaden the purpose of the ATV Recreational Management Fund to allow for purchase or lease of real estate and acquisition of easements for ATV trails or sport-riding facility acquisition and permit its use for grants-in-aid to organizations for the purchase of ATV-related equipment.
2. It proposed to create an ATV law enforcement grant program to make enforcement grants to the warden service as well as to other enforcement agencies and to 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. It proposed to authorize the program to accept and disburse donated materials and equipment.

## *Joint Standing Committee on Inland Fisheries and Wildlife*

3. It proposed to increase the penalty for failure of an ATV operator to stop for a law enforcement officer to a Class D crime with a mandatory \$1,000 fine. It proposed to provide that attempting to elude a law enforcement officer is subject to the same penalties.
4. It proposed to require the suspension of all licenses and permits issued by the Department of Inland Fisheries and Wildlife and allow suspension of registrations issued by the department for certain violations of ATV laws (operating an ATV on a temporarily closed trail, abuse of another person's property, operating under the influence under 21 years of age, operating to endanger, reckless operation, operating on land of another without permission, failure to stop or attempting to elude an officer) and proposed to require the violator to complete mandatory training in order to have the suspension lifted.
5. It proposed to change the law regarding payment of sales and use tax on ATV purchases by nonresidents to parallel provisions relating to snowmobiles: it proposed to eliminate the requirement that non-residents pay a sales and use tax (currently they must pay a tax if they use the ATV in the State for more than 30 days in any 12 month period).
6. Current law is ambiguous as to the areas where children under 10 years of age or unaccompanied children under 16 years of age who have not completed required training may operate an ATV; the bill proposed to clarify the law and to add safety-training sites to the list of areas where operation by such children is permitted. Specifically it proposed to provide that a child under 10 years of age or an unaccompanied child under 16 years of age who has not completed required training may operate an ATV only on land on which the child is domiciled, land owned or leased by the child's parent or guardian or in a safety-training site approved by the department.
7. It proposed to prohibit snorkel kits and similar kits designed to allow ATV use in deep water, except at racing events. Violation of this provision would be a civil violation subject to a \$100 to \$500 fine.
8. It proposed to require a parent or guardian to attend ATV training with children under 16 years of age.
9. It proposed to require visible identification on both the front and rear of all ATVs in the form of a sticker. Violation of this provision would be a civil violation subject to a \$100 to \$500 fine.
10. It proposed to establish a legislative finding that abusive use of ATVs places access to private property for recreation at risk.
11. It proposed to prohibit operating an ATV on the land of another without the permission of the landowner or lessee. It proposed to create a presumption of permission on posted ATV trails and land open to ATVs by landowner policy. It proposed to require written permission on cropland, pastureland and orchard (currently written permission is required on cropland and pastureland only).
12. It proposed to repeal the law providing for a special 15-month registration fee; it proposed to provide that registrations issued prior to July 1<sup>st</sup> (the beginning of the normal registration period) but after May 1<sup>st</sup> would be valid from the date of issuance through June 31<sup>st</sup> of the following year.
13. It proposed to prohibit operation of an ATV on a portion of trail posted as temporarily closed. Violation of this provision would be a civil violation subject to a \$100 to \$500 fine.
14. It proposed to change the maximum allowable ATV sound level to 96 decibels in a 20-inch test, to reflect national standards.

## *Joint Standing Committee on Inland Fisheries and Wildlife*

15. It proposed to add rivers, brooks, streams, great ponds, nonforested wetlands, vernal pools and source water protection areas of public drinking water supplies to the list of areas where ATV operation is prohibited when the ground is not frozen. It proposed to provide exceptions for designated trails and for certain maintenance and inspection activities and for governmental officials performing their duties provided certain conditions are met.
16. It proposed to add destruction of signs and posted notices to the current provision prohibiting abuse of another person's property by an ATV operator.

**Senate Amendment "A" to Committee Amendment "A" (S-509)** proposed to add an emergency preamble and emergency clause to the amendment. It proposed to make the provisions of the bill relating to ATV trail closures effective upon approval. It proposed to change the effective date of the remaining sections to August 31, 2004 to coincide with the effective date of the recodification of the fish and wildlife laws.

### *Enacted Law Summary*

Public Law 2003, chapter 695 accomplishes, with some refinement, many of the recommendations of the Governor's task force on ATV issues.

1. It broadens the purpose of the ATV Recreational Management Fund to allow for purchase or lease of real estate and acquisition of easements for ATV trails or sport-riding facility acquisition and permits its use for grants-in-aid to organizations for the purchase of ATV-related equipment.
2. It creates an ATV law enforcement grant program to make enforcement grants to the warden service as well as to other enforcement agencies and dedicates 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. It authorizes the program to accept and disburse donated materials and equipment.
3. It increases the penalty for failure of an ATV operator to stop for a law enforcement officer to a Class D crime with a mandatory \$1,000 fine. It provides that attempting to elude a law enforcement officer is subject to the same penalties.
4. It requires the suspension of all licenses and permits issued by the Department of Inland Fisheries and Wildlife and allows suspension of registrations issued by the department for certain violations of ATV laws (operating an ATV on a temporarily closed trail, abuse of another person's property, operating under the influence under 21 years of age, operating to endanger, reckless operation, operating on land of another without permission, failure to stop or attempting to elude an officer). It requires the violator to complete mandatory training in order to have the suspension lifted.
5. It changes the law regarding payment of sales and use tax on ATV purchases by nonresidents to parallel the law relating to snowmobiles: it eliminates the requirement that non-residents pay a sales and use tax (currently they must pay the tax if they use the ATV in the State for more that 30 days in any 12 month period).
6. Current law is ambiguous as to the areas where children under 10 years of age or unaccompanied children under 16 years of age who have not completed required training may operate an ATV; Public Law 2003, chapter 695 clarifies the law and adds safety-training sites to the list of areas where operation by such children is permitted. Specifically it provides that a child under 10 years of age or an unaccompanied child under 16 years of age who has not completed required training may operate an ATV only on land on which the child is

## *Joint Standing Committee on Inland Fisheries and Wildlife*

- domiciled, land owned or leased by the child's parent or guardian or in a safety-training site approved by the department.
7. It prohibits snorkel kits and similar kits designed to allow ATV use in deep water, except at racing events. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.
  8. It requires a parent or guardian to attend ATV training with children under 16 years of age.
  9. It requires visible identification on both the front and rear of all ATVs in the form of a sticker. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.
  10. It establishes a legislative finding that abusive use of ATVs places access to private property for recreation at risk.
  11. It prohibits operating an ATV on the land of another without the permission of the landowner or lessee. It creates a presumption of permission on posted ATV trails and on land open to ATVs by landowner policy. It requires written permission on cropland, pastureland and orchard (currently written permission is required on cropland and pastureland only).
  12. It repeals the law providing for a special 15-month registration fee; it provides that registrations issued prior to July 1<sup>st</sup> (the beginning of the normal registration period) but after May 1<sup>st</sup> are valid from the date of issuance through June 31<sup>st</sup> of the following year.
  13. It prohibits operation of an ATV on a portion of trail posted as temporarily closed. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.
  14. It changes the maximum allowable ATV sound level to 96 decibels in a 20-inch test, to reflect national standards.
  15. It adds rivers, brooks, streams, great ponds, nonforested wetlands, vernal pools and source water protection areas of public drinking water supplies to the list of areas where ATV operation is prohibited when the ground is not frozen. It provides exceptions for designated trails and for certain maintenance and inspection activities and for governmental officials performing their duties provided certain conditions are met.
  16. It adds destruction of signs and posted notices to the current provision prohibiting abuse of another person's property by an ATV operator.

Public Law 2003, chapter 695 was enacted as an emergency measure effective May 7, 2004. Only the portion of the law relating to temporary closures of ATV trails takes effect on that date. All other portions of the law have an effective date of August 31, the date the recodification of the fisheries and wildlife laws take effect.