

MAINE STATUTES
TITLE 12
CHAPTER 220

§1893. Off-road Recreational Vehicle Division

1. Division established. There is established within the bureau the Off-road Recreational Vehicle Division, referred to in this subchapter as the "division." The division includes the following.

A. Within available funds, the snowmobile program shall develop and maintain snowmobile trails and provide educational and informational materials for the use of operators of snowmobiles. The bureau may charge a reasonable fee for such services and materials when the money credited to it under chapter 937 is insufficient to satisfy the demand for those services and materials. All fees collected must be deposited in the bureau's Snowmobile Trail Fund. The bureau shall administer the Snowmobile Trail Fund, and the snowmobile program's other activities must be conducted pursuant to subsection 3. The Snowmobile Trail Fund receives funding as provided in chapter 937 and Title 36, section 2903-D, subsection 2.

B. The bureau shall administer the ATV Recreational Management Fund established under subsection 2 for the purposes given in that subsection and for the acquisition of land to be used for ATV trails. The bureau may adopt rules in accordance with Title 5, chapter 375, subchapter 2 for the issuance of grants-in-aid from the fund and to further define alpine tundra areas pursuant to section 13001, subsection 4. Additional funding for the ATV Recreational Management Fund is as provided in Title 36, section 2903-D, subsection 3.

2. ATV Recreational Management Fund. The ATV Recreational Management Fund, referred to in this subsection as "the fund," is established and administered by the department.

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.

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

3. Use of fees. This subsection applies to the use of fees credited to the Snowmobile Trail Fund.

A. The bureau is authorized to use the money credited to the Snowmobile Trail Fund to make grants-in-aid to political subdivisions, educational institutions, regional planning agencies, snowmobile groups and others for the construction and maintenance of snowmobile trails and for research, development and planning of snowmobile trails.

(1) For all grants disbursed after July 1, 1984, the bureau shall adopt rules specifying how to apply for the grants, which projects are eligible and the formula for state support.

(2) The bureau may charge a reasonable fee for these services and materials when the money credited to it under this paragraph is insufficient to satisfy the demand for the services and materials. All fees so collected must be deposited in the Snowmobile Trail Fund.

(3) If any of the money is not expended during the year in which the money is collected, the unexpended balance does not lapse, but is carried as a continuing account available for the purposes specified until expended.

B. The bureau is authorized to use money credited to the Snowmobile Trail Fund for snowmobile trail acquisition, including, but not limited to, the purchase or lease of real estate, grants to snowmobile clubs, municipalities and counties for the acquisition of snowmobile trail maintenance equipment and the acquisition of easements, construction, development, planning and maintenance and for providing educational and informational materials for the use of operators of snowmobiles and for research.

C. The money distributed to municipalities by the bureau under this subsection may be appropriated by the municipalities for any purpose for which they may lawfully appropriate money.

§1893-C. ATV Trail Advisory Council established

1. Appointment and composition. The ATV Trail Advisory Council, referred to in this section as "the advisory council" and established by Title 5, section 12004-I, subsection 3-C, consists of 11 members. The director or the director's designee serves as an ex officio member and may vote only to break a tie. The other 10 members are appointed by the commissioner as follows:

A. Three members who represent local ATV clubs from different regions of the State that are ATV Recreational Management Fund grantees. One of these members must belong to both an ATV club and a snowmobile club;

B. One member who represents municipal ATV Recreational Management Fund grantees;

C. One member who represents a statewide organization with an interest in operating ATVs;

D. One member who represents ATV and snowmobile business interests;

E. One member who represents large landowner interests with land holdings of more than 250,000 acres;

F. One member who represents a statewide environmental group;

G. One member who represents a statewide farming organization; and

H. One member who represents woodlot owners' interests.

2. Terms. Members of the advisory council serve for 3 years, except that initially the members appointed under subsection 1, paragraphs A, B, C and D shall draw lots for 2-year or 3-year terms. Members continue serving until a successor is duly appointed and qualified. A member may not serve more than 2 consecutive 3-year terms. When a vacancy occurs, the commissioner shall fill the vacancy by appointing a member from the same category as the member who vacated the advisory council and that member continues to serve for the remainder of the term. An employee of the department may not serve as a member of the advisory council prior to the expiration of one year from the employee's last day of employment with the department. A Legislator may not serve as a member of the advisory council.

3. Compensation. Advisory council members are entitled to reasonable expenses as provided in Title 5, chapter 379, as approved by the director.

4. Duties. The advisory council shall provide to the director advice and information on the management of the ATV Recreational Management Fund, including, but not limited to:

A. The annual establishment of reimbursement rates for ATV club trail grants, municipal ATV trail grants and capital equipment grants; and

B. Expenditures that are over \$30,000 for ATV activities pursuant to section 1893 and are not part of the regular grant program.

5. Chair; vice-chair. The advisory council shall, during its initial meeting, elect one of its appointed members as chair and one of its appointed members as vice-chair for one-year terms.

6. Meetings. The advisory council shall hold meetings in April and September. The advisory council may also meet at other times at the call of the chair or the director or the director's designee.

7. Public meetings; public comment. All meetings of the advisory council are open to the public and must be held in a location that is convenient for public access. Public comment must be accepted at meetings of the advisory council. Comments may be restricted to subjects before the advisory council at the meeting and consistent with any applicable requirements and limitations of the Maine Administrative Procedure Act.

8. Public notice. Public notice of all advisory council meetings must be in accordance with Title 1, section 406.

Chapter 807: FOREST FIRE CONTROL

Subchapter 6: FIRE PREVENTION PRACTICES

§9601-A. Prohibition on sale of equipment without spark arresters

No person may sell or offer to sell any internal combustion all-terrain vehicle, chain saw or skidder in this State that has not been provided with a spark arresting device approved by the director. This prohibition does not apply to casual sales as defined in Title 36, section 1752.

Chapter 903

§10054. Bureau of Warden Service

The Bureau of Warden Service is established within the Department of Inland Fisheries and Wildlife. It is equal in organizational level and status with other major organizational units within the department or its successors. The bureau is administered by a director who is immediately responsible to the deputy commissioner. The director is the Game Warden Colonel and is employed pursuant to section 10103, subsection 3 and Title 5, chapter 59, which are applicable to this position. The director possesses full authority and responsibility for administering all the powers and duties of the bureau, subject to the direction of the commissioner and except as otherwise provided by statute. The responsibilities of the bureau include, but are not limited to:

1. General enforcement. Enforcement of laws or rules as designated by this Part, or as specified;

2. Wildlife and fisheries enforcement. Enforcement of laws and department rules pertaining to the management and protection of inland fisheries and wildlife resources as further designated by section 10353;

3. Snowmobile, watercraft and all-terrain vehicle enforcement. Enforcement of laws and department rules pertaining to the registration and operation of snowmobiles, watercraft and all-terrain vehicles;

4. Search and rescue. The coordination and implementation of all search and rescue operations as specified under section 10105, subsection 4;

5. Safety. Assistance with programs for hunter safety and for the safe operation of snowmobiles, watercraft and all-terrain vehicles;

6. Data collection. The collection of data as needed for the management and protection of the inland fisheries and wildlife resources; and

7. Other. Such responsibilities as specified in state law.

§10056. Division of Public Information and Education

The Division of Public Information and Education is established within the Department of Inland Fisheries and Wildlife and is responsible for the administration of programs to increase the public's knowledge and understanding of inland fisheries and wildlife resources and the management of these resources, including the administration of education programs for hunter safety and for the safe operation of snowmobiles, watercraft and all-terrain vehicles. The division's responsibilities include public education, promotion of inland fisheries and wildlife resources and the dissemination of information.

§10206. Disposition of specific revenues

1. All-terrain vehicle revenues. Revenues received under the provisions of this Part relating to ATVs, including chapter 939, must be disbursed and used as follows.

A. After administrative costs, revenues received under the provisions of this Part relating to ATVs, including chapter 939, are credited as undedicated revenue to the General Fund except that 50% of those revenues is credited to the ATV Recreational Management Fund of the Department of Conservation. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those administrative costs must be verified by the Department of Conservation and the Department of Administrative and Financial Services.

B.

2. Snowmobile and trail-grooming equipment revenues. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. The department's administrative costs must be verified by the Department of Conservation and the Department of Administrative and Financial Services.

A. The snowmobile and trail-grooming equipment registration fee for residents collected under chapter 937 is credited as follows:

- (1) Twenty-two percent is credited to the General Fund as undedicated revenue;**
- (2) Fifty-two percent is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands; and**
- (3) Twenty-six percent is annually distributed to the municipality of the owner's residence as shown on the owner's registration certificate, except that in unorganized territory, 26% is annually distributed to the county of the owner's residence as shown on the owner's registration certificate and credited to the unorganized territory fund of that county established in Title 30-A, section 7502.**

B. The snowmobile registration fee for nonresidents collected under chapter 937 is credited as follows.

- (1) Eighteen percent is credited to the General Fund as undedicated revenue.**
- (2) Seven percent is credited to the Snowmobile Enforcement Fund established under section 10258.**
- (3) The remainder is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands.**

C.

D. The annual fee for each snowmobile dealer number plate issued pursuant to section 13109 is credited as follows:

- (1) Thirty percent is credited to the General Fund as undedicated revenue; and**
- (2) Seventy percent is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands.**

E. All money received under the provisions of this Part relating to snowmobiles, including chapter 937, other than that credited pursuant to paragraphs A to D, including snowmobile dealer license fees, is credited to the General Fund as undedicated revenue.

3. Watercraft revenues. Except as provided in subsection 6, all revenues collected under the provisions of this Part relating to watercraft, including chapter 935, are disposed of as follows.

A. All fees collected for certificates, licenses and permits by the commissioner are paid daily to the Treasurer of State and accrue as undedicated revenue to the General Fund and as dedicated revenue to the Department of Marine Resources in accordance with paragraph C.

B. Each court shall pay all fines, forfeitures and penalties collected for violations of the provisions of this Part relating to watercraft, including chapter 935, and all officers' costs collected for either coastal wardens or game wardens to the Treasurer of State, monthly, and that money accrues as undedicated revenue to the General Fund, except that all fines, forfeitures and penalties collected as a result of the efforts of municipal law enforcement officers or harbor masters enforcing the provisions of this Part relating to watercraft, including chapter 935, in their respective jurisdictions are paid to that municipality for the local enforcement efforts. The department shall record as dedicated revenue to the Department of Marine Resources that portion of fines, forfeitures and penalties allocable to the Department of Marine Resources in accordance with paragraph C.

C. All revenues collected under the provisions of this Part relating to watercraft, including chapter 935, including fines, fees and other available money deposited with the Treasurer of State, must be distributed as undedicated revenue to the General Fund and the Department of Marine Resources according to an allocation rate that directly relates to the administrative costs of the Division of Licensing and Registration. Three dollars of each motorized watercraft registration is dedicated to the Department of Inland Fisheries and Wildlife and is not subject to the split with another agency as required under this paragraph. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this subsection. Those costs must be verified by the Department of Marine Resources and the Department of Administrative and Financial Services. The allocation rate must also allow for any necessary year-end reconciliation and accounting distribution. The allocation rate must be jointly agreed to by the department and the Department of Marine Resources and approved by the Department of Administrative and Financial Services, Bureau of the Budget.

4. Migratory waterfowl revenues. All revenues derived from the sale of permits and art in conjunction with the permits under section 10201, subsection 5 and section 11157 must be deposited into a special account within the department, and that account must be used for acquisition of waterfowl habitat and waterfowl management activities.

5. Alewife, sucker and yellow perch permit revenues. All fees collected under section 12506 accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$42 accrues to the General Fund for each eel pot or eel weir permit issued under section 12506.

6. Lake and river protection sticker revenues. All fees collected by the commissioner from the sale of stickers under section 13058, subsection 3 must be paid daily to the Treasurer of State. Notwithstanding subsection 3, the Treasurer of State shall credit funds received under this subsection as follows:

A. Sixty percent of the revenues must be credited to the Invasive Aquatic Plant and Nuisance Species Fund established in the Department of Environmental Protection under Title 38, section 1863; and

B. Forty percent of the revenues must be credited to the Lake and River Protection Fund established in the department under section 10257. [

7. Resident lifetime license revenues. Revenue from the sale of lifetime licenses under section 10851 is dedicated revenue and must be deposited in the Lifetime License Fund established in subchapter 5. The department may establish payment procedures for licenses under section 10851; a license may not be issued until full payment is received.

8. Moose hunting permit revenues. All revenues derived from the sale of moose hunting permits under section 11154, subsection 11, including all bidding fees, must be deposited into a special nonlapsing account within the department, and that account must be used to pay the costs of administering the process of issuing permits and to fund youth conservation education programs.

9. Moose hunting revenues; moose hunting research and management. Up to \$25,000 may be provided from the revenues generated by moose hunting application and permit fees to carry out the department's documented moose research.

10. Pheasant hunting permit revenues. Revenues generated from the sale of pheasant hunting permits must be deposited into a separate account within the department, to be known as the Pheasant Fund and referred to in this subsection as the "fund." The fund is nonlapsing. The fund may be used only for costs directly related to the administration of the pheasant program, including grants to a qualified rod and gun club or qualified hunting-oriented organization to help defray the costs of purchasing and raising pheasants in accordance with an agreement with the commissioner entered into in accordance with section 10108, subsection 9.

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 multijurisdictional 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.

Chapter 909: GENERAL OFFENSES

§10651. Failure to stop for law enforcement officer

1. Prohibition. A person may not:

A. Fail or refuse to stop a motor vehicle or other conveyance immediately upon request or signal of any officer in uniform whose duty it is to enforce this Part;

B. Fail to stop or move that person's watercraft upon being ordered or directed to do so by any law enforcement officer in uniform whose duty it is to enforce chapter 935;

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;

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

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.

2. Penalty. A person who violates 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.

Chapter 911: HUNTING AND OPERATING UNDER THE INFLUENCE

§10701. Hunting under the influence; operating watercraft, snowmobile or ATV under the influence

1. Prohibition.

1-A. Prohibition. Prohibitions against hunting and operating under the influence are as follows.

A. A person may not hunt wild animals or wild birds:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; or

(3) If less than 21 years of age, while having any amount of alcohol in that person's blood.

B. A person may not operate or attempt to operate a watercraft:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; or

(3) If less than 21 years of age, while having any amount of alcohol in the blood.

C. A person may not operate or attempt to operate a snowmobile:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; or

(3) If less than 21 years of age, while having any amount of alcohol in the blood.

D. A person may not operate or attempt to operate an ATV:

(1) While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs;

(2) If 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; or

(3) If less than 21 years of age, while having any amount of alcohol in the blood.

2. Possession of hunting equipment while intoxicated. The possession of hunting equipment in the fields or forests or on the waters or ice in the State by a person while under the influence of intoxicating liquor or drugs is prima facie evidence that the possessor is in violation of subsection 1-A, paragraph A.

3. Penalties. A person who violates this section commits a Class D crime. In determining an appropriate sentence, refusal to submit to a chemical test must in every case be an aggravating factor. In the following cases the following minimum penalties apply.

A. In the case of a person having no previous convictions of a violation of subsection 1-A within the previous 6-year period, the fine may not be less than \$400. If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete a blood-alcohol test under section 10702, subsection 1, the fine may not be less than \$500. A conviction under this paragraph must include a period of incarceration of not less than 48 hours, none of which may be suspended, when the person:

(1) Was tested as having a blood-alcohol level of 0.15% or more;

(2) Failed or refused to stop upon request or signal of an officer in uniform, pursuant to section 6953 or 10651, during the operation that resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more; or

(3) Failed to submit to a chemical test to determine that person's blood-alcohol level or drug concentration, requested by a law enforcement officer on the occasion that resulted in the conviction.

B. In the case of a person having one previous conviction of a violation of subsection 1-A within the previous 6-year period, the fine may not be less than \$600. If that person was adjudicated within the previous 6-year period for failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 10702, subsection 1, the fine may not be less than \$800. A conviction under this paragraph must include a period of incarceration of not less than 7 days, none of which may be suspended.

C. In the case of a person having 2 or more previous convictions of violations of subsection 1-A within the previous 6-year period, the fine may not be less than \$1,000. If that person was adjudicated within the previous 6-year period for failure

to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 10702, subsection 1, the fine may not be less than \$1,300. A conviction under this paragraph must include a period of incarceration of not less than 30 days, none of which may be suspended.

D. In addition to the penalties provided under paragraphs A to C, the court may order the defendant to participate in the alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the Department of Health and Human Services, Office of Substance Abuse, as established in Title 5, chapter 521.

E. The penalties provided under paragraphs B, C and D may not be suspended by the court.

F. If the State pleads and proves that, while hunting or operating a snowmobile, all-terrain vehicle or watercraft in violation of this section, the defendant in fact caused serious bodily injury as defined in Title 17-A, section 2, subsection 23, to another person or in fact caused the death of another person, the sentencing class for the offenses in subsection 1-A is Class C. The minimum penalties specified in this subsection apply, unless a longer minimum period otherwise applies.

Any alternatives defined in subsection 1-A may be pleaded in the alternative. The State may, but is not required to, elect an alternative prior to submission to the fact finder.

For purposes of this subsection, a prior conviction has occurred within the 6-year period if the date of docket entry by the clerk of a judgment of conviction or adjudication is 6 years or less from the date of the new conduct that is penalized or for which the penalty is or may be enhanced.

In determining the appropriate sentence, the court shall consider the defendant's record of convictions for hunting under the influence or operating a snowmobile, all-terrain vehicle or watercraft while under the influence of intoxicating liquor or drugs and for failure to comply with the duty to submit. The court may rely upon oral representations based on records maintained by the courts, by the Department of Public Safety, State Bureau of Identification; by the Secretary of State, including telecommunications of records maintained by the Secretary of State; or by the department. If the defendant disputes the accuracy of any representation concerning a conviction or adjudication, the court shall grant a continuance for the purposes of determining the accuracy of the record.

References in this Title to this subsection are deemed to refer to the juvenile crime stated in Title 15, section 3103, subsection 1, paragraph E and to the disposition, including a suspension, for that juvenile crime as provided in Title 15,

section 3314, subsection 3, except as otherwise provided or when the context clearly requires otherwise.

§10702. Chemical tests

1. Duty to submit. A person who hunts wild animals or wild birds or operates or attempts to operate a watercraft, snowmobile or ATV within this State has a duty to submit to a test to determine that person's blood-alcohol level or drug concentration by analysis of blood, breath or urine if there is probable cause to believe that the person is hunting wild animals or wild birds or operating or attempting to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete either a blood, breath or urine test or any combination of those tests. Tests and procedures for determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 10703.

A.

B.

2. Failure to comply with duty to submit. A person shall submit to and complete a blood-alcohol or drug concentration test, or both, when requested to do so by a law enforcement officer who has probable cause to believe that the person hunted or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs.

A.

B.

3. Penalties. A person who violates this section commits a civil violation for which a fine of up to \$500 may be adjudged.

§10703. Administering chemical tests; test results; evidence; reporting; immunity

1. Blood or breath test. If the law enforcement officer has probable cause to believe a person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor, then the officer shall inform the person that a breath test will be administered, unless, in the determination of the officer, it is unreasonable for a breath test to be administered, in which case a blood test must be administered. When a blood test is required, the test may be administered by a physician of the accused's choice, at the request of the accused and if reasonably available. The law

enforcement officer may determine which type of breath test, as described in subsection 5, will be administered.

2. Prerequisites to tests. Before any test is given, the law enforcement officer shall inform the person to be tested of the consequences of refusing to comply with the test. If the person fails to comply with the duty to submit to and complete the requested chemical tests at the direction of the law enforcement officer, that person is committing a civil violation for which the person may be required to pay a fine of up to \$500. The officer shall also inform the person that the failure to comply with the duty to submit to a chemical test is admissible in evidence against that person at any trial for hunting or operating under the influence of intoxicating liquor or drugs or a combination of liquor and drugs.

Test results may not be excluded as evidence in any proceeding before any administrative officer or court of this State as a result of the failure of the law enforcement officer to comply with these prerequisites. The only effects of the failure of the officer to comply with the prerequisites are as provided in subsection 7.

3. Results of test. Upon the request of the person who submits to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests must be made available to that person or that person's attorney by the law enforcement officer.

4. Blood-alcohol level. The following percentages by weight of alcohol in the defendant's blood have the following evidentiary effect.

A. If there was, at the time alleged, 0.05% or less by weight of alcohol in the blood of a defendant who was 21 years of age or older at the time of arrest, it is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

B. If there was, at the time alleged, in excess of 0.05% but less than 0.08% by weight of alcohol in the blood of a defendant who was 21 years of age or older at the time of the arrest, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.

C. For purposes of evidence in proceedings other than those arising under section 10701, subsection 1-A, it is presumed that a person was under the influence of intoxicating liquor when that person has:

(1) For a person 21 years of age or older, a blood-alcohol level of 0.08% or more by weight; and

(2) For a person less than 21 years of age, any amount of alcohol in the blood.

D. Percent by weight of alcohol in the blood is based upon grams of alcohol per 100 milliliters of blood.

5. Administration of tests. Persons conducting analyses of blood, breath or urine for the purpose of determining the blood-alcohol level or drug concentration must be certified for each purpose by the Department of Health and Human Services under certification standards set by that department.

A. Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Health and Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine the blood-alcohol level or drug concentration of a person who is complying with the duty to submit to a chemical test. This limitation does not apply to the taking of breath or urine specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine the blood-alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen of blood for chemical testing, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

B. A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a chemical test. The sample specimen must be submitted to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting chemical tests of the sample specimen to determine the blood-alcohol level or drug concentration of that sample.

C. Only equipment approved by the Department of Health and Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Health and Human Services or a person certified by the Department of Health and Human Services for the purpose of conducting tests of the sample specimen to determine the blood-alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the Department of Health and Human Services.

Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

D. As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe hunted wild birds or wild animals or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor, by use of a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level, provided the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Health and Human Services. The result of any such test must be accepted as prima facie evidence of the blood-alcohol level in any court.

E. Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Health and Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

F. Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of blood-alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

G. Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the Department of Health and Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

H. A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

6. Liability. A physician, physician's assistant, registered nurse, person certified by the Department of Health and Human Services or hospital or other health care provider in the exercise of due care is not liable in damages or otherwise for any act

done or omitted in performing the act of collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this section.

7. Evidence. The percentage by weight of alcohol in the defendant's blood at the time alleged and the concentration of drugs at the time alleged, as shown by the chemical analysis of the defendant's blood, breath or urine or by any test authorized by subsection 5 is admissible in evidence.

A. When a person certified under subsection 5 conducts a chemical analysis of blood, breath or urine to determine blood-alcohol level or drug concentration, the person may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the person taking a specimen of blood or urine was a person authorized by subsection 5; that the equipment, chemicals and other materials used in the taking of the blood or urine specimen or a breath sample were of a quality appropriate for the purpose of producing reliable test results; that any equipment, chemicals or materials required by subsection 5 to be approved by the Department of Health and Human Services were in fact approved; that the sample tested by the person certified under subsection 5 was in fact the same sample taken from the defendant; and that the drug concentration or percentage by weight of alcohol in the defendant's blood was, at the time the blood, breath or urine sample was taken, as stated in the certificate, unless with 10 days' written notice to the prosecution, the defendant requests that a qualified witness testify as to any of the matters as to which the certificate constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony.

B. A person certified under subsection 5 as qualified to operate a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the percentage by weight of alcohol in the defendant's blood was, at the time the breath sample was taken, as stated in the certificate, unless, with 10 days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

C. Transfer of sample specimens to and from a laboratory for purposes of analysis must be by certified or registered mail and, when so made, is deemed to comply with all requirements regarding the continuity of custody of physical evidence.

D. The failure of a person to comply with the duty to submit to and complete a chemical test under section 10702, subsection 1 is admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs. If the law enforcement officer having probable cause to believe that the person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs fails to

give either of the warnings required under subsection 2, the failure of the person to comply with the duty to submit to a chemical test is not admissible, except when a test was required pursuant to subsection 11. If a failure to submit to and complete a chemical test is not admitted into evidence, the court may inform the jury of the fact that a test result is not available.

E. If a test result is not available for a reason other than a person's failure to comply with the duty to submit to and complete a chemical test, the unavailability and the reason are admissible in evidence.

8. **Statements by accused.** Any statement by a defendant that the defendant was the operator of a watercraft, snowmobile or ATV that the defendant is accused of operating in violation of section 10701, subsection 1-A is admissible if it was made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the watercraft, snowmobile or ATV was operated by the defendant. Any statement by a defendant that the defendant was hunting wild animals or wild birds is admissible against a defendant accused of hunting wild animals or wild birds in violation of section 10701, subsection 1-A if the statement was made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the defendant was hunting wild animals or wild birds.

9. **Payment for tests.** Persons authorized to take specimens of blood at the direction of a law enforcement officer and persons authorized to perform chemical tests of specimens of blood or breath must be paid from the General Fund or from dedicated revenues of the department when a law enforcement officer of the department authorizes the chemical tests. The Department of Marine Resources shall pay for chemical tests authorized by marine patrol officers with funds available within that department.

10. **Accidents and officer's duties.** The law enforcement officer has the following duties.

A. After a person has been charged with hunting wild animals or wild birds or with operating or attempting to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, the investigating or arresting officer shall investigate to determine whether the charged person has any previous convictions of a violation of section 10701, subsection 1-A or adjudications for failure to comply with the duty to submit to and complete a chemical test under section 10702, subsection 1. As part of that investigation, the officer shall review the records maintained by the courts, the State Bureau of Identification, the Secretary of State, including telecommunications of records maintained by the Secretary of State, or the department.

B. A law enforcement officer may arrest, without a warrant, any person whom the officer has probable cause to believe hunted any wild animal or wild bird or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence that the person was under the influence of intoxicating liquor or drugs.

11. Fatalities. Notwithstanding any other provision of this section, any person hunting wild animals or wild birds who is involved in a hunting accident or any operator of a watercraft, snowmobile or ATV who is involved in a watercraft, snowmobile or ATV accident that results in the death of any person must submit to and complete chemical tests to determine that person's blood-alcohol level or other chemical use by analysis of blood, breath or urine. A law enforcement officer may determine which types of tests will be administered. The results of tests taken pursuant to this subsection are not admissible at trial unless the court is satisfied that probable cause exists, independent of the test results, to believe that the hunter or operator was under the influence of intoxicating liquor or drugs or had an excessive blood-alcohol level.

12. Aid in enforcement among municipalities. Except as otherwise prohibited by municipal charter or ordinance, municipalities may, in the manner provided by Title 30-A, section 2674, enter into agreements regarding mutual aid in enforcing laws governing the hunting of wild animals or wild birds while under the influence of intoxicating liquor or drugs or the operation of a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs.

13. Reporting; immunity. Immunity from certain criminal and civil liabilities for the act of good faith reporting by certain health care professionals on accidents that the reporting person reasonably believes involved a person who was hunting or operating a snowmobile, ATV or watercraft while under the influence of intoxicating liquor or drugs is set forth in Title 29-A, section 2405.

Chapter 913

§10902. Suspension or revocation of or refusal to issue license or permit

1. Conviction or adjudication of violation. Any conviction or adjudication for a violation of this Part is grounds for suspension of any license or permit issued under this Part. Except where provided by law, the commissioner shall determine the suspension period. To suspend a license or permit based upon a conviction or adjudication, the commissioner shall follow the procedures under section 10903. A suspension or revocation of a license by the District Court is subject to the provisions of subsection 5.

2. Refusal to issue license or permit. If a person is convicted or adjudicated of a violation of any provision of this Part and is not the holder of a valid license or

permit issued under this Part, the commissioner may refuse to issue a related license or permit to that person for up to 5 years following the date of conviction or adjudication, except when the killing or wounding of a human being has occurred, in which case the commissioner may refuse to issue the license or permit for a period of not less than 5 years.

3. Failure to pay fine. If a license or registration is suspended pursuant to Title 14, section 3142, the suspension remains in effect until the person pays the fine. On condition of payment of a \$25 reinstatement fee to the department, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the department, which, upon receipt of the \$25 reinstatement fee, shall delete any record of the suspension from that person's record. For the purposes of this subsection, "fine" has the same meaning as in Title 14, section 3141, subsection 1.

4. Mandatory revocation of all licenses issued by the department. A person's license must be revoked under the following circumstances.

A. If a person holding a license or permit under this chapter is convicted of the violation of any provision of Title 17-A while on a hunting or fishing trip or in the pursuit of wild animals, wild birds or fish, the commissioner shall revoke the license or permit held by that person for a period of at least one year, except when the killing or wounding of a human being has occurred, in which case the commissioner shall revoke the license or permit for at least 5 years.

B. Any license issued by the department in effect at the time a person is convicted of a violation of section 12256, disturbing traps, is revoked upon conviction and must be immediately surrendered to the commissioner.

C. If an habitual violator, as defined in section 10605, subsection 1, is convicted or adjudicated of a violation of any provision of this Part, the commissioner shall revoke all licenses and permits held by that person. That person is ineligible to have a license for a period to be determined by the commissioner, which may not be less than 3 years from the date of revocation. A hearing for a person whose licenses and permits have been revoked under this paragraph is governed by the following.

(1) A person whose licenses and permits have been revoked under this paragraph may, within 30 days of the effective date of the revocation, petition for a hearing before the commissioner to show cause why the licenses and permits should not have been revoked.

(2) If, after the hearing, the commissioner finds that the petitioner's record does not bring the petitioner within the definition of an habitual violator, the commissioner shall rescind the revocation. If the commissioner finds that the petitioner's record does bring the petitioner within the definition of an habitual violator, the revocation remains in effect. If the petitioner denies any of the facts contained in the record, the petitioner has the burden of proof.

5. Hunting license revocation or suspension for endangerment or harm to another. The commissioner may bring a complaint in the District Court seeking to revoke or suspend the current hunting license or the privilege to obtain a hunting license of any person whom the commissioner reasonably believes to have killed, wounded or recklessly endangered the safety of another human being while hunting. The District Court shall revoke or suspend the person's license or privilege for a period of at least 5 years if the court finds that the person, while hunting, has killed, wounded or recklessly endangered the safety of another human being and the public safety will be endangered by the person's retention of that license or privilege. For the purpose of this subsection, "recklessly" has the same meaning as that set out in Title 17-A, section 35, subsection 3.

A. A person whose hunting license has been revoked or suspended or whose right to hunt or the right to obtain a hunting license has been denied under this subsection, may, after the expiration of one year from the date of the revocation or suspension, petition the commissioner for restoration of the person's privilege to procure such a license.

B. The commissioner, after hearing, may restore the petitioner's privilege if the commissioner determines that the public safety will not be endangered by restoring that privilege.

C. If the commissioner disallows the petition and thereby refuses to grant the restoration of the privilege, the petitioner may appeal to the commissioner's advisory council, which, after hearing on the petition, may allow it and restore the privilege.

6. Mandatory hunting license revocation for certain violations. The commissioner shall suspend a person's hunting license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted of:

A. A closed season violation, in violation of section 11201 as it relates to bear, deer or moose;

B. Hunting while under the influence of intoxicating liquor or drugs, in violation of section 10701;

C. Night hunting, in violation of section 11206-A;

D. Discharging a firearm within 100 yards of a residential dwelling without owner permission, in violation of section 11209;

E. Buying or selling bear, hunting or trapping bear after having killed one or exceeding the bag limit on bear, in violation of section 11217 or 11351;

F. Buying or selling deer, exceeding the bag limit on deer or hunting deer after having killed one, in violation of section 11217 or 11501;

G. Buying or selling moose, unlawfully hunting moose or unlawfully possessing moose, in violation of section 11154, 11217, 11601, 11652, 12302-A, 12304-A, 12305 or 12403; or

H. Buying or selling wild turkeys, unlawfully hunting wild turkeys, unlawfully possessing wild turkeys or using unlawful methods to hunt wild turkeys, in violation of section 11217, subsection 1; section 11751-A; section 11801; or section 12306, subsection 1.

7. Mandatory hunting license revocation; coyote hunting violation. A hunting license of a person convicted of hunting coyote in violation of section 11160 or 12001 must be revoked and that person is ineligible to obtain any hunting license for a period of one year from the date of conviction.

7-A. Hunting with night vision equipment. A hunting license of a person convicted of night hunting in violation of section 11206, subsection 1 and found to have been in possession of night vision equipment at the time of the offense must be revoked, and that person is ineligible to obtain a hunting license for a period of 5 years from the date of conviction.

8. Mandatory revocation of fishing license. The commissioner shall suspend a person's fishing license for at least one year and may suspend any other license issued under this Part and held by that person if that person is convicted or adjudicated of:

A. Introducing fish into inland waters without a permit in violation of section 12509, subsection 2; and sections 12510, 12511 and 12512;

B. Taking or possessing sport fish in violation of bag, weight and size limits in violation of section 12602, as it relates to trout, salmon, togue and black bass, whenever the violation involves twice the general bag and possession limit adopted by rule by the commissioner for that species of fish;

B-1. Possessing fish in violation of section 12611;

C. Importing live bait fish or smelts, in violation of section 12556;

D. Buying or selling freshwater sport fish, in violation of section 12609-A; or

E. Taking fish by explosive, poisonous or stupefying substances, in violation of section 12653.

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-A, subsection 24;

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

C. Operating an ATV under the influence under 21 years of age, as prohibited under section 10701, subsection 1-A, paragraph D, subparagraph (3);

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.

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.

Chapter 933

Chapter 933: GENERAL RECREATIONAL VEHICLE PROVISIONS

§13001. Definitions

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

1. **Accompanied by adult.** "Accompanied by an adult" means, with respect to operation of an ATV, 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. **Airmobile.** "Airmobile" means any vehicle propelled by mechanical power that is designed to travel upon a cushion of air on or within 2 feet of the water or land surface of the earth.

3. **All-terrain vehicle or ATV.** "All-terrain vehicle" or "ATV" means a motor-driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. "All-terrain vehicle" or "ATV" includes, but is not limited to, a multitrack, multiwheel or low-pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this subpart, "all-terrain vehicle" or "ATV" does not include an automobile as defined in Title 29-A, section 101, subsection 7; an electric personal assistive mobility device as defined in Title 29-A, section 101, subsection 22-A; a truck as defined in Title 29-A, section 101, subsection 88; a snowmobile; an airmobile; a construction or logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

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

5. **Antique snowmobile.** "Antique snowmobile" means a snowmobile more than 25 years old that is registered as an antique snowmobile under section 13104, subsection 5.

6. Aquatic plant. "Aquatic plant" means a vascular plant species that requires a permanently flooded freshwater habitat.

7. Bow. "Bow" means the forward half of a watercraft.

8. Cowling. "Cowling" means the forward or rear portion of a snowmobile, usually of fiberglass or similar material, surrounding the motor and clutch assembly.

9. Division. "Division" means the Department of Inland Fisheries and Wildlife, Division of Licensing and Registration.

10. Dwelling. "Dwelling" means any building used as a permanent residence or place of domicile.

11. Federal waters. "Federal waters" means all waters that are not internal waters and are subject to the jurisdiction of the United States. [

12. 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, Bureau of Geology and Natural Areas, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Regulation Commission.

13. Internal waters. "Internal waters" means waters under the exclusive jurisdiction of the State.

14. Invasive aquatic plant. "Invasive aquatic plant" means a species of aquatic plant described in Title 38, section 410-N.

15. Marina or boat yard owner. "Marina or boat yard owner" means a person who owns a facility that leases storage, docking or mooring space to watercraft.

16. Motorboat. "Motorboat" means any watercraft, including airmobiles, equipped with propulsion machinery of any type, whether or not the machinery is the principal source of propulsion, is permanently or temporarily attached or is available for propulsion on the watercraft.

17. Motorboat carrying passengers for hire. "Motorboat carrying passengers for hire" means a motorboat used for the purpose of carrying a person or persons as passengers for valuable consideration, whether directly or indirectly flowing to the owner, charterer, agent or any other person interested in the watercraft.

18. Operate. "To operate," in all its moods and tenses, means:

A. When it refers to a snowmobile, to use a snowmobile in any manner within the jurisdiction of the State, whether or not the vehicle is under way;

B. When it refers to watercraft of any type or description, to use that watercraft in any manner on the waters specified, whether or not the watercraft is under way; or

C. When it refers to an ATV, to use an ATV in any manner within the jurisdiction of the State, whether or not the vehicle is moving.

19. Operation. "Operation" means the act of operating as defined in subsection 18.

20. Operator. "Operator" means the person who is in control or in charge of a watercraft, snowmobile or ATV while it is in use.

21. Owner. "Owner" means:

A. For the purpose of registration of a snowmobile, a person holding title to a snowmobile or having exclusive right to the use of a snowmobile for a period greater than 30 days;

B. With respect to watercraft, a person who claims lawful possession of the watercraft by virtue of legal title or equitable interest therein that entitles the person to possession; or

C. For the purposes of registration of an ATV, a person holding title to an ATV.

22. Passenger. "Passenger" means every person carried on board a watercraft other than:

A. The owner or the owner's representative;

B. The operator;

C. Bona fide members of the crew engaged in the business of the watercraft who have not contributed consideration for their carriage and who are paid for their services; and

D. A guest on board a watercraft that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for that guest's carriage.

23. Personal watercraft. "Personal watercraft" means any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. "Personal watercraft" includes, but is not limited to, a jet ski, wet bike, surf jet and miniature speedboat. "Personal watercraft" also includes motorized watercraft whose operation is controlled by a water skier.

24. Protective headgear. "Protective headgear" means a helmet that conforms 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.

25. Snowmobile. "Snowmobile" means a vehicle propelled by mechanical power that is primarily designed to travel over ice or snow and is supported in part by skis, belts or cleats.

26. State of principal use. "State of principal use" means the state on whose waters a watercraft is used or to be used most during a calendar year.

27. Use. "Use" means, with respect to watercraft, operate, navigate or employ.

28. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft capable of being used as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, that are customarily used in the operations of the watercraft. "Watercraft" does not include a vessel, boat, canoe or craft located and intended to be permanently docked in one location and not used as a means of transportation on water.

29. Water safety zone. "Water safety zone" means the area of water within 200 feet of shoreline, whether the shoreline of the mainland or of an island.

30. Waters of this State. "Waters of this State" means all internal waters and all federal waters within the jurisdiction of the State.

§13002. Collection by commissioner

The commissioner or agents of the commissioner shall act on behalf of the State Tax Assessor to collect the use tax due under Title 36, chapters 211 to 225 in respect to any watercraft, snowmobile or ATV for which an original registration is required under this Title at the time and place of registration of that watercraft, snowmobile or ATV.

All taxes collected pursuant to this section must be transmitted forthwith to the Treasurer of State and credited to the General Fund as undedicated revenue. The Legislature shall appropriate to the department in each fiscal year an amount equal to the administrative costs incurred by the department in collecting revenue under this section. Those administrative costs must be verified by the Department of Administrative and Financial Services.

For purposes of this section, "original registration" means any registration other than a renewal of registration by the same owner.

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

1. Registration of watercraft. Except in the case of a renewal of registration by the same owner, an application for the registration of a watercraft may not be granted when the sale or use of that watercraft may be subject to tax under Title 36, chapters 211 to 225, unless 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 in question has been collected by the dealer or that the sale of the watercraft 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 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.

§13004. Collection by State Tax Assessor

This section and sections 13002, 13003 and 13005 must be construed as cumulative of other methods prescribed in Title 36 for the collection of the sales or use tax. These sections do not preclude the State Tax Assessor's collecting the tax due in respect to any watercraft, ATV or snowmobile in accordance with such other methods as are prescribed in Title 36 for the collection of the sales or use tax.

§13005. Certificates to be forwarded to State Tax Assessor

An agent of the commissioner shall promptly forward all certificates submitted in accordance with section 13003 to the commissioner. The commissioner shall transmit all such certificates to the State Tax Assessor.

§13006. Impoundment of snowmobiles and ATVs

When a law enforcement officer issues a summons for a violation under chapter 937 or 939, the officer may impound the ATV or snowmobile operated by the person who receives 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 ATV or snowmobile in violation of chapter 937 or 939 and that operation may be a hazard to the safety of persons or property.

The operator or owner of a snowmobile or ATV impounded under this section may reclaim the snowmobile or ATV 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 snowmobile or ATV.

Chapter 939:

§13151. Application

This chapter applies to the operation of ATVs in the State.

§13152. License and training

1. License. An operator's license is not required for the operation of an ATV, except as required by Title 29-A.

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.

§13153. Rule violations; ATVs

The following penalties apply to violations of rules regulating ATVs.

1. Civil. Notwithstanding section 10650, a person who violates a rule regulating ATVs commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

2. Criminal. A person who violates a rule regulating ATVs 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.

§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 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.

§13155. Registration

1. Operating unregistered ATV.

1-A. Operating unregistered ATV. Except as provided in paragraph A, a person may not operate an ATV that is not registered in accordance with subsection 3.

A. The following exceptions apply.

(1) Registration is not required for an ATV operated on land on which the owner lives or on land on which the owner is domiciled, as long as the ATV is not operated elsewhere within the jurisdiction of the State.

(2) Registration is not required for an ATV operated by a commercial ski area for the purpose of packing snow or for rescue operations on the commercial ski area, unless the ATV is required to cross a public way during that operation.

(3) An ATV owned and operated in the State by the Federal Government, the State or a political subdivision of the State is exempt from registration fees but must be registered and is required to display registration numbers.

(4) An ATV registration for the farm use specified in Title 29-A, section 501, subsection 8, paragraph E is not required for a vehicle registered with the Secretary of State under Title 29-A, section 501, subsection 8.

(5) An ATV registered in another state or in a Canadian province may be operated without being registered pursuant to this section at a special event organized to occur in this State if the special event organizer submits a request in writing to the commissioner 60 days prior to the special event and provides the commissioner with a map of the trails to be used during the special event and the commissioner approves the request.

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.

2. Reciprocity.

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.

4. Form of registration. An ATV registration must be in such form as the commissioner may determine.

5. Fees. The annual registration fee for an ATV is \$33 for a resident and \$68 for a nonresident.

5-A. Temporary fee.

6. Duplicate registration certificate. The holder of a registration certificate issued under this section may obtain a duplicate from the commissioner upon application and payment of a fee of \$1.

7. Transfer of ownership, discontinuance of use. A transfer of ownership or discontinuance of use of an all-terrain vehicle is subject to this subsection.

A. Whoever transfers the ownership or discontinues the use of a registered all-terrain vehicle shall, within 10 days, properly sign the registration, indicate the disposition of the all-terrain vehicle and return the registration to the commissioner.

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. The fee for the transfer is \$2, and the registration is valid for the remainder of the registration year for which the previous all-terrain vehicle had been registered.

C. When 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 and shall pay the applicable fee under subsection 5.

8. Restrictions.

8-A. Registration inspection. An owner or operator of an ATV shall present a registration certificate for inspection by any law enforcement officer on demand.

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.

8-B. Notification of destroyed, abandoned, stolen or permanently removed ATV. The registrant shall notify the commissioner if an ATV is destroyed, abandoned, stolen or permanently removed from the State.

9. Display of registration numbers. Each new ATV sold in the State must have 3 1/2 inch by 6 inch spaces provided on the front and rear of the machine, as high above the tires as possible, for the vertical display of the registration numbers. A person may not operate an ATV that is required to be registered under this section unless registration numbers are displayed in these spaces or as otherwise required by the department.

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.

10. Training and education. The department shall provide training and education relating to ATVs.

§13156. ATV registration agents

1. Appointment of ATV registration agents. The commissioner may appoint municipal clerks or other persons whom a municipality may designate as municipal agents to issue ATV registrations. The commissioner may designate other agents as necessary to issue ATV registrations. The commissioner shall determine by rule the period when the agents must act. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Failure to remit funds. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under subsection 1. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

A. The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.

B. If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

C. If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

(1) Terminate the agency for the balance of the year; and

(2) Order that the agency not be renewed for the next year.

3. Service fees. An agent may charge a service fee of \$1 for each ATV renewal registration issued and \$2 for each registration covered by sections 13002 to 13005. This service fee is retained by the agent.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§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.

§13157. Operation of ATVs (REPEALED)

§13157-A. Operation of ATVs

1. No permission given.

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.

2. Stop and identify requirement. Persons operating ATVs upon the land of another shall stop and identify themselves upon the request of the landowner or the landowner's duly authorized representative. A person who violates this subsection commits a Class E crime.

3. Operating ATV upon controlled access highway. The following provisions govern the operation of ATVs on controlled access highways.

A. A person may not operate an ATV upon a controlled access highway or within the right-of-way limits of a controlled access highway, except that:

(1) A properly registered ATV may cross controlled access highways by use of bridges over or roads under those highways or by use of roads crossing controlled access highways at grade; and

(2) The Commissioner of Transportation may issue special permits for designated crossings of controlled access highways.

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.

4. Unlawfully operating ATV on snowmobile trail. Operating an ATV on a snowmobile trail financed in whole or in part with funds from the Snowmobile Trail Fund is governed by section 13107.

5. Unlawfully operating ATV on private road. A person may not operate an ATV upon a private road after having been forbidden to do so by the owner's agent or a municipal official, either personally or by appropriate notices posted conspicuously on that road.

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. Operating ATV on public way. Except as provided in this subsection, a person may not operate an ATV, other than an ATV registered with the Secretary of State

under Title 29-A, on any portion of a public way maintained or used for the operation of conventional motor vehicles or on the sidewalks of any public way.

A. A properly registered ATV may be operated on a public way only the distance necessary, but in no case to exceed 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.

B. A properly registered ATV may be operated on a public way only the distance necessary, but in no case to exceed 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, as long as that operation can be made in safety and that it does not interfere with traffic approaching from either direction on the public way.

C. An ATV may be operated on any portion of a public way when the public way has been closed in accordance with Title 23, section 2953.

D. An ATV may be operated on a public way that is not maintained or used for the operation of conventional motor vehicles, except that operation on the left side of the way is prohibited during the hours from sunset to sunrise.

E. An ATV 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.

F. An ATV 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.

G. An ATV may be operated on a public way on the extreme right of the traveled way by a law enforcement officer for the sole purpose of traveling between the place where the ATV is usually stored and an area to be patrolled by the law enforcement officer.

H. Notwithstanding paragraphs A to G, an ATV may be operated on the extreme right of a public way of a municipality or an unorganized or unincorporated township if the appropriate governmental unit has designated the public way as an ATV-access route. A public way designated by an appropriate governmental unit as an ATV-access route must be posted conspicuously at regular intervals by that governmental unit with highly visible signs designating the ATV-access route. Before designating a public way as an ATV-access route, the appropriate governmental unit shall make appropriate determinations that ATV travel on the extreme right of the public way may be conducted safely and will not interfere with

vehicular traffic on the public way. For purposes of this paragraph, "appropriate governmental unit" means the Department of Transportation, county commissioners or municipal officers within their respective jurisdictions. The jurisdiction of each appropriate governmental unit over public ways pursuant to this paragraph is the same as its jurisdiction over the passage of vehicles on public ways pursuant to Title 29-A, section 2395. Municipal or county law enforcement officials having jurisdiction have primary enforcement authority over any route established under this paragraph.

I. 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.

7. Failing to stop ATV before entering public way. A person shall bring an ATV to a complete stop before entering a public way.

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.

8. Failing to yield right-of-way while operating ATV. A person shall yield the right-of-way to all other types of vehicular traffic while operating an ATV on a public way.

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.

9. Crossing closed bridge, culvert, overpass or underpass with ATV. A person may not cross with an ATV a bridge, culvert, overpass or underpass closed to ATVs by the Commissioner of Transportation pursuant to this subsection. The Commissioner of Transportation may, following a public hearing, prohibit the crossing by an ATV of an individual bridge, culvert, overpass or underpass if the commissioner determines that that crossing or use of a public way is hazardous. Any

bridge, culvert, overpass or underpass closed by the commissioner must be posted by appropriate notices.

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.

10. Reckless operating on ATV. A person may not operate an ATV in such a way as to recklessly create a substantial risk of serious bodily injury to another person. A person who violates this subsection commits a Class D crime.

11. Operating ATV to endanger. A person may not operate an ATV so as to endanger any person or property. A person who violates this subsection commits a Class E crime.

12. Operating ATV at greater than reasonable and prudent speed. A person may not operate an ATV except at a reasonable and prudent speed for the existing conditions.

A person who violates this subsection commits a Class E crime.

13. Operating ATV without protective headgear. Notwithstanding Title 29-A, section 2083, a person under 18 years of age may not operate an ATV without protective headgear.

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.

14. Carrying passenger on ATV without headgear. Notwithstanding Title 29-A, section 2083, a person may not carry a passenger under 18 years of age on an ATV unless the passenger is wearing protective headgear.

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.

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 82 decibels of sound pressure level at 50 feet on the "A" scale, as measured by the SAE standards J-192; 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.

16. ATV headlight and taillight requirements. This subsection establishes light equipment requirements for the operation of an ATV.

A. Except as provided in this subsection and section 13159, a person may not operate an ATV in the State, regardless of where purchased, unless equipped with front and rear lights as follows.

(1) The ATV must 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.

(2) The ATV must have mounted on the rear at least one taillight capable of displaying a light that must be visible at a distance of at least 100 feet behind the ATV.

B. The following are exceptions to the requirements of paragraph A.

(1) An ATV manufactured prior to January 1, 1991 without a headlight or taillight is exempt from the provisions of this subsection while being operated between sunrise and sunset.

(2) A person may operate an ATV without a headlight and taillight between sunrise and sunset if:

(a) The ATV has an engine size of 90 cubic centimeters or less; and

(b) The ATV has 4 or more wheels.

C. 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.

17. Required use of ATV lights. Except as provided in section 13159, the following provisions govern the use of ATV lights.

A. A person shall use the lights required under subsection 16 as follows:

(1) During the period from 1/2 hour after sunset to 1/2 hour before sunrise; and

(2) At any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead.

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.

18. Unlawfully operating ATV on railroad tracks. This subsection governs operation of an ATV on railroad tracks.

A. A person may not:

(1) Operate an ATV along or adjacent and parallel to the tracks of a railroad within the limits of the railroad right-of-way without written permission from the railroad owning the right-of-way; or

(2) Operate an ATV across the tracks of a railroad after having been forbidden to do so by the railroad owning the railroad right-of-way or by an agent of that railroad, either personally or by appropriate notices posted conspicuously along the railroad right-of-way.

B. Notwithstanding paragraph A, a person may operate within the right-of-way of a portion of railroad line that has been officially abandoned under the authority of the Interstate Commerce Commission.

C. 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.

19. Operating too close to certain buildings. A person may not operate an ATV within 200 feet of a dwelling, hospital, nursing home, convalescent home or church.

A. This subsection does not apply when a person is operating an ATV on:

(1) Public ways in accordance with subsections 3, 6, 7, 8 and 9;

(2) The frozen surface of any body of water; or

(3) Land that the operator owns or is permitted to use.

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.

20. Failure to report accident.

21. Operating ATV in prohibited area.

22. Abuse of another person's property. A person may not while operating an ATV:

A. Tear down or destroy a fence or wall on another person's land;

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

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

D. Remove or destroy signs or posted notices.

A person who violates this subsection commits a Class E crime.

23. Operating ATV on cropland or pastureland.

24. Operation of 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 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.

25. 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 or 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.

26. 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 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.

27. Operation of 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 or 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, nonforested 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 or 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.

§13157-B. ATV accidents involving personal injury or death

1. Law enforcement officer notification. The operator of an ATV involved in an accident that results in personal injury or death of a person shall immediately report the accident, by the quickest means of communication, to the available law enforcement officer nearest to the place where the accident occurred.

A. The owner of an ATV who knows that that ATV was involved in an accident as described in this subsection shall report the accident as provided in this subsection if the operator of the ATV is unknown.

2. Provide information to injured party. The operator or a person acting on behalf of the operator of an ATV involved in an accident shall provide to an injured person or the operator or an occupant of any other ATV involved in the accident:

A. The operator's name and address; and

B. The registration number of the operator's ATV.

3. Render assistance. The operator of an ATV involved in an accident shall render reasonable assistance to an injured person.

4. Penalties. A person who violates this section commits a Class E crime.

5. Aggravated punishment category. Notwithstanding subsection 4, a person who intentionally, knowingly or recklessly fails to comply with this section when the accident resulted in serious bodily injury, as defined in Title 17-A, section 2, subsection 23, or death, commits a Class C crime.

§13157-C. ATV accident reports

1. Report requirements. A person shall give notice of an ATV accident within 72 hours to the commissioner on forms provided by the commissioner if the person is:

A. The operator of an ATV involved in an accident that does not result in injuries requiring the services of a physician or in the death of a person but involves property damage estimated to cost \$1,000 or more;

B. A person acting for the operator of an ATV described in paragraph A; or

C. The owner of an ATV described in paragraph A having knowledge of the accident if the operator of the ATV is unknown.

2. Penalties. 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.

§13158. Unlawfully permitting operation; liability for damage by other persons (REPEALED)

§13158-A. Unlawfully permitting operation; liability for damage by other persons

1. ATV owner; operation by another. A person is in violation of this subsection if that person is the owner of an ATV that is operated in violation of this chapter.

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. Parent or guardian; operation by minor. A person is in violation of this subsection if that person is a parent or guardian responsible for the care of a minor under 18 years of age who is operating an ATV in violation of this chapter.

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

§13159. Racing meets

Notwithstanding section 13155 and section 13157-A, subsection 15, subsection 16, paragraph A, subsection 17 and subsection 25, 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. [

§13160. Dealer's registration and license

1. Application and issuance. A person may not engage in the business of selling ATVs in the State unless that person has registered as a dealer and secured a valid dealer's license from the commissioner. A dealer so registered and licensed need not register individual ATVs.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of \$50 and an amount equal to twice the applicable license fee must be imposed.

2. Fees. The annual license fee for a dealer registered under subsection 1 is \$15. The license runs from July 1st of each year.

A. A dealer licensed under Title 29-A, section 954, subsection 2 is not required to pay the license fee under this subsection.

3. Dealer's number plates. Dealer's number plates must be provided and obtained as follows.

A. A dealer registered under subsection 1 may receive dealer's number plates for a \$5 annual fee for each plate.

B. Replacements for lost or stolen plates may be obtained for a fee of \$5 for each plate.

C. If a number plate is lost or stolen, the owner shall notify the commissioner immediately.

4. Temporary registration plate and certificate number. The commissioner may issue temporary registration plates and certificates to a registered dealer who may, upon the sale or exchange of an ATV, issue a temporary registration plate and certificate to a new owner, in order to allow the new owner to operate the ATV for a period of 20 consecutive days, after the date of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration is \$1.

5. Display of dealer's number plate. A dealer shall display the dealer's number on each ATV being used until the sale of the ATV, whereupon it becomes the owner's responsibility to register the 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.

C. Each day a person violates this subsection is a separate offense.

6. Warranties and information on used ATVs. A dealer who offers a warranty in connection with the sale or transfer of a used ATV shall furnish a written statement concerning that warranty. The statement regarding the warranty must indicate the parts or systems of the vehicle that are covered and those not covered by the warranty and what the dealer will do in the event of a defect and at whose expense repairs be made.

The dealer shall also furnish before sale a written statement identifying any and all defects known to the dealer and any type of damage that the vehicle has sustained if such information is known to the dealer.

7. Violation.

§13161. Sale of ATV; light equipment

1. Headlight and taillight required. A person may not sell or offer to sell a new ATV unless:

A. That ATV is equipped with a functioning headlight and taillight; or

B. The ATV:

(1) Is a 2-wheel off-road motorcycle; or

(2) Has an engine size of 90 cubic centimeters or less and has 4 or more wheels.

2. 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.

§501. Fees for registration; motor vehicles

The annual fees for the registration of motor vehicles must accompany the application for registration and are as follows.

1. Automobiles; pickup trucks. The fee for an automobile or pickup truck used for the conveyance of passengers or interchangeably for passengers or property is \$25.

An automobile used for the conveyance of passengers or property is a "combination" vehicle and may be issued a special plate with the word "combination" instead of "Vacationland." A passenger vehicle used under contract with the State, a municipality or a school district to transport students must be designated as "combination." A vehicle owned or operated by parents or legal guardians is exempt from this subsection.

Commercial plates may not be issued for or displayed on an automobile.

The gross weight of a pickup truck registered as provided by this subsection may not exceed 6,000 pounds. An owner of a pickup truck who operates the pickup truck with a gross weight in excess of 6,000 pounds or the pickup truck drawing a semitrailer with a combined gross weight in excess of 6,000 pounds must register the truck as provided in section 504.

Notwithstanding any other provision of law, a combination of vehicles consisting of a pickup truck as defined in section 101, subsection 55 and a semitrailer with a registered weight of 2,000 pounds or less may be registered under this section for the combined gross weight of the pickup truck and the semitrailer.

2. Island vehicles.

2-A. Island vehicles, golf carts and low-speed vehicles. The following provisions apply to vehicles operating on islands that have no public ways maintained or supported by the State.

A. Notwithstanding subsection 1, an automobile may be registered for an annual fee of \$4. A low-speed vehicle or golf cart may be registered for an annual fee of \$4. The registrant must show evidence of payment of the excise tax required by Title 36, section 1482. The municipality may collect an additional \$4 fee annually to defray the cost of removing abandoned vehicles or golf carts.

B. A low-speed vehicle or golf cart may be operated on an island if the governing body of the municipality allows. A low-speed vehicle or golf cart may be operated only on a road or street where the posted speed limit is 35 miles per hour or less. A low-speed vehicle or golf cart may cross, at an intersection, a road or street with a posted speed limit of more than 35 miles per hour.

C. Any person operating a low-speed vehicle or a golf cart on an island must possess a valid driving license in any class.

3. Passenger vehicles for hire. The fee for a passenger vehicle used for hire is double the fee provided in subsection 1. The Secretary of State may issue a 2nd registration for the same vehicle at no additional fee.

4. Funeral coaches. The fee for a private automobile, funeral coach or funeral hearse, used by a licensed practitioner of funeral services under Title 32, chapter 21, is the fee provided in subsection 1. The fee for a funeral coach or funeral hearse used for hire for any other purpose is the same as the fee provided in subsection 3.

5. School vehicles. The fee for a motor vehicle used only to transport school children to and from school is the same as the fee in subsection 1.

6. Buses. An owner or operator of interstate buses for hire used to transport passengers, operating a fleet of 2 or more buses under the authority of the Interstate Commerce Commission, shall pay fees for that number of buses of the owner or operator as the proportion that the mileage of all buses of the owner or operator operated in this State bears to the total mileage of all buses of the owner or operator operated both within and without the State in the preceding year.

7. Temporary registration permit. The Secretary of State may issue a temporary registration permit for the purpose of moving certain vehicles otherwise required to be registered as follows.

A. A temporary registration permit is for one trip only, between the points of origin and destination and intermediate points set forth in the permit.

B. A temporary registration permit is for the transit of the vehicle only. The vehicle may not be used for the transportation of passengers or property, for compensation or otherwise, unless specifically authorized on the temporary registration permit. If the vehicle is a chartered bus that is not covered by a reciprocity agreement with the state or country of registration, the Secretary of State may authorize transportation of passengers.

C. The Secretary of State may not issue a temporary registration permit that is valid for longer than 15 days from the effective date of the registration.

D. The fee for the temporary registration permit is \$12.

E. The temporary registration permit must be carried in the vehicle at all times.

F. A person who operates or moves a vehicle outside the routes specified in the temporary registration permit commits a traffic infraction and may not be fined less than \$25 nor more than \$200.

8. Special permit. The Secretary of State may issue, on application and the payment of a fee of \$4, a special registration permit authorizing the limited operation on the highway of self-propelled golf carts, lawn mowers, ATV's and other similar vehicles with restrictions and limitations of use that minimize the danger to the operator. The following provisions apply to special registration permits.

A. A special registration permit is valid until March 1st of the next calendar year.

B. A driver's license is not required for operation under this subsection.

C. Vehicles registered under this subsection are exempt from the laws regulating the inspection of motor vehicles.

D. A person under the age of 15 years may not operate a vehicle under this subsection on a public way.

E. Operation of an ATV is limited to agricultural purposes in connection with a farm and to operation from or to the premises where kept, from or to a farm lot or between farm lots used for farm purposes by the ATV owner.

9. Attached vehicles. A deputy sheriff with a writ of attachment may move the attached motor vehicle to a place of storage without registration or registration permit as long as the county has insurance as required by chapter 13.

10. Off-highway vehicles. The Secretary of State may issue, on application and the payment of a fee of \$27, a special registration permit authorizing the limited operation on a way of trucks, truck tractors and Class B special mobile equipment that are otherwise used exclusively for off-highway purposes. The following provisions apply to registration permits issued pursuant to this subsection.

A. A registration permit may not be granted unless the applicant presents a written certificate from the tax collector of the municipality from which the vehicle is being moved identifying the vehicle and stating that all personal property taxes applicable to the vehicle, including those for the current year, have been paid or that the vehicle is exempt from those taxes.

B. Highway use is limited to travel to and from garages for the purpose of obtaining repairs or maintenance or travel from one job site to another job site.

C. The registration permit may not authorize transporting property or passengers.

D. A registration permit is valid until March 1st of the next calendar year.

E. A vehicle issued a registration permit pursuant to this subsection is exempt from inspection requirements.

F. The registration permit must be in the vehicle when the vehicle is operated on the highway.

11. Low-speed vehicles. The Secretary of State may issue a registration for a low-speed vehicle upon application and payment of an annual fee of \$25. The registrant must provide a certificate of title required by section 651, proof of financial responsibility required by section 1601 and evidence of payment of the excise tax required by Title 36, section 1482. A low-speed vehicle registered under this section is issued a registration plate with the word "low-speed" instead of "Vacationland." The Secretary of State may issue a facsimile plate for a 60-day period.

§2080. Operation of all-terrain vehicles

Notwithstanding any other provision of law, whenever an all-terrain vehicle is operated on a way, it is subject to all provisions of this Title, except chapters 5, 7, 13 and 15. Whenever an all-terrain vehicle is operated on a way, the operator is not subject to the provisions of chapter 11, except when the all-terrain vehicle is registered for highway use.

Title 36: TAXATION

Part 5: MOTOR FUEL TAXES

Chapter 451: GASOLINE TAX

§2903-D. Distribution of gasoline taxes for nonhighway recreational vehicle programs

This section establishes the percentage of gasoline taxes that are attributable to snowmobile, all-terrain vehicle and motorboat gasoline purchases and equitably distributes that percentage among the appropriate state agencies for the administration of programs and the enforcement of laws relating to the use of those recreational vehicles. For the purposes of this section, the term "total gasoline tax revenues" means the total excise tax on internal combustion engine fuel sold or used within the State, but not including internal combustion fuel sold for use in the propulsion of aircraft.

1. Motorboats. Of total gasoline tax revenues, 1.4437% is distributed among the following agencies in the following manner:

A. The Commissioner of Marine Resources receives 24.6% for research, development and propagation activities of the Department of Marine Resources. In expending these funds, it is the responsibility of the Commissioner of Marine Resources to select activities and projects that will be most beneficial to the commercial fisheries of the State as well as the development of sports fisheries activities in the State; and

B. The Boating Facilities Fund, established under Title 12, section 1896, within the Department of Conservation, Bureau of Parks and Lands, receives 75.4% of that amount.

2. Snowmobiles. Of total gasoline tax revenues, 0.9045% is distributed among the following agencies in the following manner:

A. The Commissioner of Inland Fisheries and Wildlife receives 14.93% of that amount, to be used by the commissioner for the purposes set forth in Title 12, section 1893, subsection 3, section 10206, subsection 2, section 13104, subsections 2 to 13 and section 13105, subsection 1; and

B. The Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands, described in Title 12, section 1893, subsection 3, receives 85.07% of that amount.

3. All-terrain vehicles. Of total gasoline tax revenues, 0.1525% is distributed among the following agencies in the following manner:

A. The ATV Enforcement Grant and Aid Program established in Title 12, section 10322 receives 50% of that amount; and

B. The ATV Recreational Management Fund, established in Title 12, section 1893, subsection 2 receives 50% of that amount.

The State Tax Assessor shall certify to the State Controller by the 15th day of each month the amounts to be distributed and credited under this section as of the close of the State Controller's records for the previous month.

04 DEPARTMENT OF CONSERVATION

059 BUREAU OF PARKS AND LANDS

MAINE REGULATIONS

04 DEPARTMENT OF CONSERVATION

Ch. 1 Rules for State Parks and Historic Sites

The following rules and regulations are established by the Bureau pursuant to the provisions of the "Maine Revised Statutes Annotated," Title 12, Section 1803, subsection 6, and Section 1883.

1. The use of these areas shall be limited to the purposes for which they are being preserved and to activities determined by the Bureau to be compatible with the intended use of the facility. Activities which endanger persons or property are prohibited. The removal, molesting, injury or damage of anything natural, physical, prehistorical, or historical within these areas is strictly prohibited except as outlined in section 21 regarding hunting and trapping.

2. Feeding or touching wild animals found in the park is prohibited. For health and safety reasons, visitors are required to put away food securely and leave picnic areas and campsites clean.

3. Day use areas will be open from 9:00 a.m. to sunset daily, unless posted otherwise due to operational constraints.

4. Use of metal detectors at historic sites is prohibited. Metal detectors are allowed in other areas only by written permit obtained at the park.

5. Intoxicating beverages are not permitted. Disorderly conduct is prohibited. This includes, but is not limited to, indecent acts, intoxication or coarse language.

6. Open fires are allowed only in grills or fireplaces provided by the Bureau. No fires are allowed on beaches. No fires shall be left unattended.

7. No pets are allowed on beaches or in the Sebago Lake State Park campground. Pets must be on a leash not exceeding four feet in length and must not be left unattended. Pet owners must immediately clean up any fecal deposits left by their pets. Pet owners may be assigned picnic or campsites in a less congested area of the park.

8. Wheeled vehicles including bicycles shall be parked only in places designated for that purpose, conform to posted traffic regulations, be confined to roads and trails specifically designated for their use and otherwise comply with all

applicable State laws. Vehicles parked in unauthorized areas may be towed at the owners expense.

9. The discharging of wastes, including soaps and detergents, shall be prohibited except in a receptacle specifically designated for that purpose.

10. All rubbish shall be placed in containers provided by the Bureau. No rubbish shall be deposited in any type of toilet facility. At those areas where the Bureau has a carry in/carry out policy, users shall be responsible for carrying out all their refuse.

11. Soliciting is prohibited.

12. Campsite vacancies will be filled either by the State Park Campsite Reservation System or on a first come, first served basis. All campers must register in person when arriving at a State park campground.

13. The camping day is from 1:00 p.m. until 11:00 a.m. Camping shall be limited to a cumulative total of fourteen (14) nights from the last Saturday in June through the last Saturday in August.

14. Campsite occupancy will be limited to one camping party that shall be defined as:

a. A family consisting of father, mother and any number of their unmarried children.

b. A maximum of six (6) individuals, including children.

c. One (1) R.V., trailer, Camper van or slide in camper allowed per campsite.

d. Not more than two motor vehicles, including the visitor's vehicle.

15. Campsite visitors will be allowed as follows:

a. After 9:00 a.m. by paying the day use fee and leaving before 8:00 p.m. Limit one visiting party to a campsite; the total number of people will not exceed ten, and the limit at Sebago Lake State Park will be eight.

16. Quiet in camping areas is required between the hours of 10:00 p.m. and 7:00 a.m.

17. Trails will be opened and closed by the Bureau as warranted by environmental and safety conditions.

18. The use of chain saws and power equipment is prohibited. Generators may be used between the hours of 9:00 a.m. and 7 p.m. as long as they do not bother other visitors.

19. The use of floating devices, face masks or snorkels is prohibited at surf beaches. Scuba diving may be allowed by permit obtained at the park.

20. Hunting and trapping:

a. All hunting and trapping shall take place in accordance with the laws of the State of Maine, the laws and rules of the Maine Department of Inland Fisheries and Wildlife, and local ordinances.

b. The possession and/or use of firearms or weapons is prohibited in all areas between May 1 and September 30, except where hunting is allowed during this period. Firearms or weapons may be transported across the Restricted Zone of the Allagash Wilderness Waterway, between May 1 and September 30, provided they are securely and completely enclosed in a cover, fastened in a case, or dismantled in at least two pieces in such a manner that they cannot be fired unless the separate pieces are joined together.

c. Hunting is not permitted at any time at State Historic Sites or Memorials, or at any of the properties listed below:

Andrews Beach State Park; that portion of Bradbury Mountain State Park west of State Route 9; Cobscook Bay State Park; Crescent Beach and Kettle Cove State Parks; Damariscotta Lake State Park; Ferry Beach State Park; Holbrook Island Sanctuary State Park; Nickerson Lake State Park; Owls Head Light State Park; that portion of Quoddy Head State Park within 1,000 feet of the lighthouse; Reid State Park; Sebago Lake State Park; Shackford Head State Park; Two Lights State Park; and Wolfe's Neck Woods State Park.

d. Hunting is not permitted between May 1 and September 30 at any of the properties listed below:

Restricted Zone of the Allagash Wilderness Waterway; Aroostook State Park; Birch Point Beach State Park; Bradbury Mountain State Park east of Route 9; Camden Hills State Park; Grafton Notch State Park; Mt. Kineo State Park; Lake St. George State Park; Lamoine State Park; Lily Bay State Park; Moose Point State Park; Mount Blue State Park; Moxie Falls State Park; Peacock Beach State Park; Peaks-Kenny State Park; Popham Beach State Park; Quoddy Head State Park, except as provided in paragraph C. immediately above; Range Pond State Park; Rangeley Lake State Park, except that portion posted as part of the Rangeley Lake Game Sanctuary; Roque Bluffs State Park; Swan Lake State Park; Warren Island State Park.

e. The discharge of any weapon is prohibited from or within 300 feet of any picnic area, camping area or campsite, parking area, building, shelter, boat launch site, posted trail or other developed area.

f. Trails which are closed to hunting will be posted to that effect at access points. On trails posted as closed to hunting loaded weapons are not permitted on the treadway and weapons may not be discharged within 300 feet of the trail.

g. Work areas and areas with significant public use may be temporarily posted as closed to hunting by park management in the interest of public safety.

h. Baiting of wildlife for the purpose of hunting is prohibited

i. Trapping may take place only in accordance with the laws of the State of Maine, the laws and rules of the Maine Department of Inland Fisheries and Wildlife and local ordinances. Trapping on state parks or historic sites in organized townships requires the written permission of the Bureau.

j. Bureau employees or their representatives in the official conduct of their duties and in accordance with bureau policy are exempt from the above rules.

21. The launching or retrieving of whitewater craft on the Lower West Branch of the Penobscot River by commercial whitewater outfitters (as defined in 12 MRSA §7363) is prohibited except at sites designated by the Bureau of Parks and Lands. For safety reasons access may be allowed at other locations with prior approval of the bureau.

Designated commercial access sites are:

- a. McKay Station/G.N.P.
- b. Big Ambejackmockamus
- c. Horserace Brook
- d. Bateau Take Out
- e. Nevers Corner

In addition to any criminal and civil sanctions imposed by law, the Bureau may evict any person violating these rules or other State laws or regulations.

AGENCY CONTACT PERSON

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Chapter 15: GENERAL ATV TRAIL GUIDELINES

- 1) All trails must be established in accordance with Title 12, Chapter 715, Subchapter IV, Laws pertaining to All Terrain Vehicles.**
- 2) The trail corridor is a strip or parcel of land in which the trail is to be located.**
- 3) The trail will consist of a treadway from which hazardous obstacles such as, stumps and rocks will be removed, severe depressions will be filled in, side brush removed at least one foot outside the established treadway and overhead brush and limbs will be cleared to a minimum of (7') seven feet. All brush, trees, stumps and rocks removed from the corridor should be disposed of in a way not to detract from the aesthetic interest of the trail.**

The established treadway should be maintained a minimum of -

Class I - Two feet for two wheel vehicles including dirt bikes, off-road bikes, fat cats, etc.

Class II - Five feet for three and four wheel vehicles 50 inches or less in width, dry registered weight of less than 600 pounds traveling on low pressure tires of 6 pounds or less designed to be straddled by the operator.

Class III - Eight feet for vehicles greater than 50 inches in width, greater than 600 pounds registered dry weight, traveling on Multi-wheels or tracks not limited to but including 4 X 4 trucks, dune buggies, coots and amphibious vehicles.

- 4) **Marking the trail will be consistent with established Bureau guidelines. Signs to be used will be provided by the Bureau or will be of equal quality and design. Signs will be attached to trees or posts with aluminum nails at eye level.**
- 5) **Trails will be established only on land where written landowner permission has been obtained. If written permission is unattainable, oral permission will be accepted with a written affidavit from the club President confirming permission was obtained and the date it was obtained.**
- 6) **Trails should pass through variable terrain to hold users interest and create a reasonable degree of challenge. Established routes will avoid critical wildlife and ecological areas and areas of anticipated serious user conflict such as, tree plantations, dwellings, agricultural land, or other recreational user areas.**
- 7) **Highway crossings should be avoided whenever possible. When necessary, crossing should be made as near 'right angles to the traveled roadway as possible at locations providing clear visibility along the highway in both directions, to assure safe crossing.**
- 8) **Trails should not be routed parallel with steep side slopes. Sustained perpendicular slopes should not exceed 30 percent. Bypass trails should be provided around grades exceeding 25%. Approaches or exits to slopes and grades should be straight for a sufficient distance to make a safe entrance and exit.**
- 9) **If grading trail surfaces is required, precautions should be taken to eliminate future erosion.**
- 10) **Streams and rivers will be bridged in compliance with all environmental regulations. Bridges will be a minimum of (5') five feet wide for Class I and II trails. Class III trails designed for dune buggy or off-highway four wheel drives, will be a minimum of (8') eight feet wide.**
- 11) **Trails will not be established in the stream bed, parallel with the flow of current, on dry or wet channels.**
- 12) **Crossing active railroad tracks will be at authorized crossings clearly approved by the appropriate Rail Line.**
- 13) **Trails should be maintained sufficiently to allow reasonably safe operation of off road motorized vehicles, considering some operators will be less experienced than others. When an approved trail is abandoned or discontinued, the Bureau should be notified immediately in writing.**
- 14) **It is of utmost importance that all trails be monitored on a regular basis in order to assure they are kept in reasonably safe usable condition.**

15) Trail signs and bridges should be removed completely from trails that have been discontinued or abandoned.

16) Trails should not be routed over frozen bodies of water.

REFERENCE NUMBER _____

BATCH NUMBER _____

STATE OF MAINE

ATV CLUB TRAIL APPLICATION/AGREEMENT

ATV TRAIL PROGRAM INSURANCE

This application is made for the Purpose Of Providing liability insurance coverage for landowners, ATV clubs maintaining trails, and municipalities, as defined under the terms of this application.

1) The ATV club must have been organized and recorded with the All Terrain Vehicle Program. Of the Bureau of Parks & Lands. An ATV club, or organization for the purpose of this application shall be defined as an organization formed to encourage safe ATV operation. development of organized trails, and promotion of the sport of ATV Operation.

2) If the organization does not have a Trail Committee Chairman or Trailmaster, one must be appointed who is responsible for maintenance of the trail. This person will be the one to whom we will direct inquiries concerning trail activities.

3) By applying for this agreement, the ATV club, and person executing this application on the club's behalf, are agreeing to the following terms and conditions:

(a) The ATV club trails must be established only on land where the club has received permission from the landowners (and tenant. where applicable) to use. Upon signing this application, the club president is certifying that such permission has been obtained for all trails included in the application. Permission must be in writing. The Bureau will provide sample use permits. If a landowner refuses to sign a permit, an affidavit must be signed by the club president stating who gave the permission, to whom it was given, the date it was given, and how long the permission is gained for. Original copies of the permits are to be submitted with the trail map to the Bureau.

(b) All reasonable efforts have been and will be taken by the club and its members, to ensure that the trails and related facilities, are safe and in good condition and in Conformity with all applicable laws and regulations. These efforts must include the erection of adequate trail signs as per the guidelines established by

the Bureau of Parks & Lands, so that the trail is readily recognizable and hazards are noticed.

(c) The trails will be open to anyone wishing to use them for ATV or other compatible Purposes. All landowners and tenants, from whom permission is required to be obtained, must have been notified of the fact that the trails are to be open to the general ATV public. If trails are designed for certain types of all terrain vehicle use, it should be so stated on the application as per the Bureaus trail classification system.

(d) A map of the trail location must accompany the application and is incorporated into this agreement upon approval of the application. Parking areas, clubhouses and other support facilities information must be noted on the map. The map should be a USCS topographical map or a map of similar scale and quality with the trails drawn on accurately.

(e) Upon approval or denial of the application. the organization will be notified in writing by the Bureau.

(f) The club shall not assign, transfer, lease or encumber its rights or obligations hereunder, or in or to the trail without the State's and the landowner's and tenant's prior written consent. The club shall indemnify, defend, and save the State and its employees harmless from and against any claims, losses, liabilities, costs, expenses, damages or other obligations of any nature in any way & rising out of the use, occupation, maintenance, repair or development of any trails or related facilities or equipment used in connection with the trails. If the trails are abandoned seasonally or permanently, in part or in whole, the club will notify the Bureau in writing immediately in order to amend or discontinue insurance coverage.

(g) The State may at any time inspect any facilities or equipment used in connection with this agreement.

4) Provided that the trail club complies with all the terms of this Agreement, the Bureau shall, upon accepting their application, make its best efforts to provide liability insurance policy which provides coverage protecting the landowner, the tenant, the club and the State. The Bureau shall not be required to provide such a policy if there is not available funding earmarked therefore.

We, the undersigned, have reviewed the contents of this application and agreement and agree to comply with the terms hereof. We further understand that failure to comply with the terms hereof, will void this agreement in addition to any other remedy the state may have. Upon approval by the Bureau of Parks & Lands, this application shall be deemed an agreement between the undersigned and the Bureau of Parks & Lands.

It is further understood that the Bureau of Parks & Lands reserves the right to accept or reject any or all applications, and has no obligation for expenses incurred except in accordance with the terms of this agreement, if approved. The Bureau of Parks & Lands also reserves the right to inspect at any time the trails referred to in this application.

Trail-Design & Maintenance Classification

- Established Treadway -

Class I Two feet for two wheel vehicles including dirt bikes, off-road bikes, fat cats, etc.

Class II - five feet for three and four wheel vehicles 50 inches or less in width, dry registered weight of less than 600 pounds traveling on low pressure tires of 6 pounds or less designed to be straddled by the operator.

Class III - Eight feet for vehicles greater than 50 inches in width, greater than 600 pounds registered dry weight, traveling on Multi-wheels or tracks not limited to but including 4 X 4 trucks, dune buggies, coots and amphibious vehicles.

NAME OF ATV CLUB _____

ADDRESS _____

COUNTY _____ ZIP CODE _____

NAME OF TRAILMASTER _____

ADDRESS _____

TELEPHONE _____

These Trails are designed and designed to accommodate

Class I ___ Class II _____ Class III _____ vehicles.

TRAIL LOCATION

MILES
(one way only)

TOWN _____ COUNTY _____

DATE _____

PRESIDENT (SIGNATURE)

**WITNESS (SIGNATURE)
OR TRAILMASTER (SIGNATURE)**

CHAIRMAN OF TRAIL COMMITTEE

APPROVED BY:

Bureau of Parks & Lands

By _____

Date: _____

Ch. 18 **ATV Municipal Grant-In-Aid Program**

INFORMATION AND GUIDELINES
MUNICIPAL GRANT-IN-AID PROGRAM
1991-92

RE: Administration of Grants-In-Aid to Municipalities for ATV Trails and Facilities, M.R.S.A., Title 12, Chapter 715, Subchapter IV, Section 7854, Paragraph 4B. PLEASE READ!!!

Enclosed is a packet which explains the Bureau of Parks & Lands Grants-In-Aid Program to municipalities which was authorized by the 112th Legislature. Under the terms of the municipal grant, the State can cost share up to but not exceed the rate of 50% State, 50% local. Needless to say, all trail plans will require approval by the Bureau and a determination will be made at that time on what formula will apply. The approved percentage could change annually depending on available funds and the size of any one project.

All applications for assistance with trail development and/or maintenance during the ATV season must be submitted to the Bureau of Parks & Lands no later than May 30. Trail development is considered creating NEW trail, rerouting trail, constructing new bridges, or parking facilities. We have also included in this packet a sample copy of a use permit which may be used to obtain authorization to cross private property. This type of authorization would meet the requirements of the Bureau of Parks & Lands when reviewing your request for assistance. Also included is a sample Project Certification, Project Description, Application, Agreement, and Reimbursement Request.

I. PROCEDURES FOR APPLYING FOR A GRANT

A. The following materials must be submitted when requesting assistance for a municipal ATV trail project. All materials should be originals with original signatures except the map providing the project location.

- (1) Project Certification - This must be typed on municipal letterhead, using the enclosed sample as a guide. Insert the proper wording that applies to your community wherever indicated by BOLD PRINT IN PARENTHESIS on the sample. It must be signed by the appropriate municipal officers (Example: selectmen, town or city council, etc.) This assures us that the Legislative body of

the municipality approves of the proposed project and the requesting of financial assistance.

- (2) Project Description - A detailed description of the proposed project must be submitted before we can give the project funding consideration. The description must include ALL work, type and cost of necessary equipment, personnel required and resources -available for the project. It must also include a breakdown of the material costs, estimated number of hours for labor equipment and the hourly rate to be paid. The cost of purchasing capital equipment items (\$500.00+) is not reimbursable. If the project is to be contracted, the contract should specify the responsibilities of the contractor, the method of payment including the maximum amount and a copy forwarded to this office. We recommend a per hour rate for contracts if that is the way the work will be completed. The construction of bridges requires permits or notification to LURC or DEP. Copies of these notices are required if you want state funding assistance.
- (3) Map - A map of the proposed ATV trail project. The map should be a topographical map if at all possible to enable us to determine the terrain and other natural features. in any event, the scale of the map submitted should be equal to the topographical map or greater. The map must show the proposed trail, water crossings, if any, opportunity for expansion, relationship with existing trails in surrounding areas and number of miles existing in your project. If you are to use the map on file with last years project, you must notify us IN WRITING. This may be included on the Project Description (see sample).
- (4) Landowner Permission - If the request for financial assistance is for use and minor maintenance of existing trail we will accept a letter certifying that all landowners over whose land the trail passes have been contacted and have granted permission, (this may be a part of the Project Description - see sample). However, in the event that the application is requesting financial assistance for development of new trail or major construction on existing trail, landowner permission must be in writing for the areas to be developed.
- (5) Application - The application must be completely filled out and signed by the person given the authority in the Project Certification.
 - a. The estimated costs specified on the application may include administrative costs incurred in obtaining land use permits but not costs of same if a fee is paid for use of the land.
 - b. Cost of the actual development of new trail or improvements to existing trails, including related facilities.
 - c. Cost of maintaining the trail, parking areas, trail signs, enforcement-of trail rules and Maine statutes
- (6) Agreement - The signed agreement may be sent with the original application or held until notification of the application approval by the Bureau of Parks & Lands, the municipality must then submit the original agreement between the State of Maine and the municipality. One signed copy will be returned to the town. Approval of the grant will be expedited if the signed agreement is sent with the grant application.

II. REIMBURSEMENT

A request for reimbursement can be submitted on a monthly basis or at the end of the season, whichever suits the desire of the municipality best. We prefer that they be submitted monthly because we can conduct our review much more quickly at the end of each month than if submitted for an entire season. It is also an advantage to the municipality if the requests are submitted monthly because they will only have to have their portion of the money in a fund rather than the entire amount in order to pay the bills. In any event, THE FINAL REIMBURSEMENT REQUEST MUST BE SUBMITTED NO LATER THAN NOV. 30TH of the year in which the project was operational. Reimbursement requests received POSTMarked after Nov. 30th will forfeit state reimbursement.

Requests containing items not preapproved on the Project Description or by letter, will lose reimbursement by the State for those items. The method of filing for reimbursement is as follows:

- (1) One copy of the Request for Reimbursement completed as per the terms of the grant. A sample is provided in the packet for your reference.
- (2) Copies of all receipts substantiating payment of expenditures reported or a copy of the town warrant on which the payment was made or an invoice marked paid. (See sample enclosed). Worksheets are not invoices or receipts.
- (3) A worksheet must be used by the project director as work is performed or purchases made and a copy of that must be forwarded with the reimbursement request. This should describe briefly where the work is done by site location or trail number.
- (4) The reimbursement request must be signed by the person to whom the town gave the authority to submit the application requesting financial assistance. (See Project Certification).

Upon receipt of the reimbursement request, it will be reviewed by the ATV Program, Bureau of Parks & Lands, to ensure compliance with the terms of the grant and if so, reimbursement will be made on basis of the previously approved percentage of the cost for the work performed during the dates covered by the reimbursement request. All expenses incurred during the period covered should be included on the appropriate request for reimbursement and not carried over to a later request.

ATV TRAIL DESIGN AND CONSTRUCTION GUIDELINES

1. ATV Trails:
 - (a) The minimum trail width should be 5 feet unless where otherwise specifically exempted.
 - (b) Brush will be cleared from an area at least 1 foot outside the trail edge.
 - (c) A height of not less than 7 feet above the trail will be cleared of brush.
 - (d) Sustained grades and slopes will be a maximum of 30%. Grades of less than this are preferred to prevent problems caused by erosion.
 - (e) All signs will be of the same design as that which is approved and used by the Bureau of Parks & Lands. (Signs may be available from Parks & Lands upon request).
2. Any brush or hanging branches at road crossings should be cut back to provide adequate visibility in both directions. Warning signs should be installed on the trail at a sufficient distance to warn ATVers of road crossings. Request for signs along the highway will follow the policy as published by the Department of Transportation.

3. When the trail approaches or exits a steep slope or grade, the trail should be straight for sufficient distance to make a safe entrance and exit.
4. The topography and land characteristics should be of a varied nature to hold the users interest and to create a reasonable degree of challenge.
5. Proper layout, development, and maintenance of the trail is extremely important for usability and enjoyment of the user. This will also help avoid major environmental impacts and associated problems.
6. If stream or river crossings are necessary, bridges at least 5 feet wide must be provided. Permits with LURC or DEP will usually be required to build bridges on navigable streams or rivers.
7. Trails should avoid traversing steep side slopes if at all possible. This type of trail requires a lot of work to lay out and is expensive to maintain.
8. Trails should be laid out in such fashion that they avoid any areas of anticipated conflict such as tree plantations, nurseries, conflicting uses, or any areas on which trail development may be damaging.

Failure to follow the previously listed guidelines or to properly fill out all necessary forms and permits may result in the forfeiture of some or all monies available in this grant. The state may withhold all or any part of the monies which might be payable to municipalities by this or other state programs by invoking the provisions of Title 5 M.R.S.A., Section 133. If you have further questions, please contact:

Department of Conservation
Bureau of Parks & Lands
Off-Road Vehicle Division
ATV Program
Station #22
Augusta, Maine 04333
Tel: 287-4958

AGREEMENT

Municipal Grant-In-Aid Program

THIS AGREEMENT, MADE THIS day of 19_, between the State of Maine acting by and through the Director, Bureau of Parks & Lands, hereinafter referred to as the State and hereinafter referred to as the Municipality.

Municipality

WHEREAS, the Municipality desires to establish, construct and maintain a public ATV trail system and,

WHEREAS, by M.R.S.A. Title 12, Chapter 715, Subchapter IV, Section 7854, Paragraph 4B, the Director of the Bureau of Parks & Lands is authorized to make grants-in-aid to Municipalities from the monies in the State Parks & Lands, ATV Trail Fund.

NOW THEREFORE, IT IS AGREED between the parties hereto: The State agrees to reimburse the Municipality of the cost of trail acquisition, development, and maintenance pursuant to and in accordance with this Agreement. In no event shall the total liability of the State under this Agreement exceed in the aggregate sum of _____ without the prior written consent of the State. This Agreement is subject to the following terms and conditions.

- A. The Municipality shall not be entitled to any reimbursement hereunder with respect to any proposed trail unless the entire trail plan shall have been approved in advance as hereinafter provided by the Supervisor of the ATV Program, Department of Conservation, Bureau of Parks & Lands.
 1. The Municipality shall submit to the Supervisor of the ATV Program, Bureau of Parks & Lands, the following trail documentation (hereinafter called the "trail plan"):
 - a. A topographic map or a local tax map designating to the satisfaction of the State, the location of the proposed trail system over all lands, including public and private. Where the State so requests parcel number shall be assigned to each parcel and a distinction made, on the map, between the private landowners and public lands over which the proposed trail is proposed to go.
 - b. A list of landowners and parcel numbers corresponding to the map of the land owned by each as requested.
 - c. A work plan for the proposed trail. The work plan when accepted by the State, shall constitute the obligation of the Municipality to do all things contained in the work plan at the municipalities' expense, as if said work plan were a part of this Agreement.

The work shall provide the following:

1. Clearing, developing, and maintaining trail;
2. Providing and maintaining parking areas where appropriate;
3. Erecting signs which are approved by the Bureau of Parks and Lands. Sign material content, location and erection shall be

strictly in accordance with guidelines and recommendations of the Bureau of Parks & Lands;

4. Providing information as to the estimated number of signs needed of each denomination;
 5. Providing for adequate sanitary facilities, and picnic areas as appropriate.
 6. Providing for trash receptacles and regular pickup of trash deposited (no less frequent than weekly);
 7. Removing all signs, posts or other related facilities after the season if required by the landowners or by the State;
 8. Enforcement of trail rules/regulations and Maine statutes.
- d. Designation of an individual or agent of the Municipality to serve as administrator of the program hereunder.
2. The Municipality may make any revisions in the original trail plan necessary to make the plan acceptable to the Supervisor of the ATV Program.
 3. Any approval of the trail plan by the Supervisor shall be in writing to the person appointed by the Municipality as administrator of the trail.
 4. The Municipality shall strictly adhere to the terms of the approved trail plan and shall not amend, revise, or alter the same without written approval of the Supervisor of the ATV Program.
 5. The provisions of Title 5 M.R.S.A. 1782(2) regarding nondiscrimination in employment are hereby incorporated into this Agreement by reference as if the same were set out in full herein, and the Municipality agrees to comply therewith.
- B. The Municipality shall provide copies of any permits that are required by law to the Supervisor of the ATV Program before approval can be given for the proposed trail plan. (Examples: Human Services Sanitary Facilities, DEP, LURC, (if proposed development is in the unorganized area of the State), etc.
- C. Subject to budgetary and staff limitation, the State shall provide reasonable technical assistance to the Municipality in the development of ATV trails and related facilities.

The State agrees to reimburse the Municipality on the basis of _____% of all costs directly related to the acquisition of easements, development and maintenance of ATV trails, subject to the terms of this Agreement.

1. The costs incurred must be in accordance with the trail plan as approved by the Supervisor of the ATV Program and any approved revision thereto.
2. The Municipality may acquire land by easement, lease or permit. Any trail easement, lease or permit shall be for such term as is necessary, in the opinion of the Supervisor of the ATV Program, to fully utilize facilities and to implement the purposes hereof.

- a. An affidavit must be provided to insure that the person or entity who is the grantor of the rights to use the land for the proposed ATV trail is the same person or entity shown in the records in the office of the Registrar of Deeds, in the County in which the land is located, to be the owner of the property. All instruments of conveyance, affidavits and the like are subject to approval as to form and content by the State. The State may where it deems the same is necessary, require adequate title opinions to be provided to the State by the Municipality at the Municipality's expense.
3. Contracts entered into by the Municipality for development or services which are funded in whole or in part by the State shall, wherever State law so requires as determined by the Supervisor of the Program, be awarded through competitive bid and following approval of such contracts by the Supervisor.
- D. The Municipality shall submit receipted invoices of the out-of-pocket costs actually incurred by it in the establishment, development and maintenance of the approved ATV trail.
 - a. Upon the submission, not more often than once monthly, of receipted invoices of trail costs, the Municipality may request the State to pay _____% of the amount so submitted and approved by the Supervisor.
 - b. The Municipality shall retain for three years and make available to the State, all records relating to receipt and expenditures of funds under this Agreement.
- E. The State of Maine shall not assume any liability for any expense incurred by the Municipality; (I) which expense was not expressly approved in writing in advance by the Supervisor of the ATV Program or, (II) after depletion of the grants-in-aid funds available. All obligations of the State hereunder are subject to the availability of funds in the ATV Trail Fund.
- F. The Municipality shall operate and maintain the trails and facilities in good and safe condition of their purposes and in accordance with all applicable federal, state and local laws, ordinance, codes, rules, regulations and standards . The Municipality shall not assign, transfer, lease or encumber its rights or obligations hereunder in or to the trails or facilities without the State's prior written consent. The Municipality shall indemnify, defend and save the State and its employees harmless from and against any claims, losses, liabilities, costs, expenses, damages or other obligations of any nature in any way arising out of or in connection with the use, occupation, construction, development, repair or maintenance of any property, facilities or equipment used in connection with the facilities funded under this Agreement. Upon request of the State, the Municipality shall, at its own cost and expense, provide and keep in force comprehensive general public liability insurance against claims for personal injury, death or property damage occurring on, in or about any property or facilities funded under or used in connection with this Agreement, or respecting the use of any vehicle or equipment used in connection therewith. Any such insurance shall be in an amount form and content determined from time to time by the State, shall include the State as a named insured at the State's request, and shall be carried by responsible companies satisfactory to the State. The State may at any time inspect any facilities or equipment used in connection with this Agreement.
- G. Once the trail plan has been approved, the Municipality shall proceed to acquire the necessary interest in the land, establish the trail and open it to use by the general public. Should the Municipality fail to expedite completion of this project or fail to provide for adequate maintenance to keep the trail reasonably safe for public use, provide sanitation

and adequate sanitary facilities where needed, and other maintenance and/or facilities as the State may deem necessary, or fail to comply with any provision of the Agreement (including the trail plan), the State may withhold any future payments and terminate this Agreement immediately upon written notice to the Municipality at its town office. If the Municipality receives any funds improperly paid or misapplies or misuses any funds received from the State pursuant to this Agreement, or if the State incurs or is charged with any costs, expenses or damages in connection with the property which is the subject of this Agreement (except as herein expressly provided), the Municipality shall immediately upon demand promptly reimburse the State for all such amounts. If the Municipality fails to make such payment, the State may withhold all or any part of the monies which may be payable to the Municipality under other State programs, by invoking the provisions of Title 5 M.R.S.A., Section 133 or otherwise.

MUNICIPAL APPROVAL

Municipality: _____ County: _____

Signature: _____ Dated: _____

Title: _____
Chairman of Board of
Selectman/Town/or City
Manager

STATE OF MAINE APPROVAL

Department of Conservation
Bureau of Parks & Lands

By: _____ Dated: _____

Title: _____

Pre-approved as to form by the Office of the Attorney General,

Ch. 51 Use of Public Lands

1.1 Definitions

"Public Lands" shall include the Public Reserved Lands of the State and all other lands under the jurisdiction, and control of the former Bureau of Public Lands. "Bureau" shall mean the Bureau of Parks and Lands within the Department of Conservation.

1.2 Camping

No person shall camp, stay overnight or maintain any tent, camper, shelter, trailer or other camping unit on any public lands for more than fourteen days in any 45 day period, without the prior written permission of the Bureau.

1.3 Fires

Unless ground is snow covered no person shall build or maintain an open fire including charcoal on public lands except (i) at a campsite duly authorized and designated for open fires or (ii) where a permit has been obtained for such fire from the Maine Bureau of Forestry. For visitor safety and resource protection, open fires must be attended. Campstoves fueled with sterno, propane, kerosene, etc. are allowed in any safe location. Charcoal fires, off the ground, attended and used in proper cooking containers, which will not leave a disposable residue or ash on the ground, are permitted on structurally improved leased lots. On islands in tidal areas, all fires shall be built below the mean high tide line.

1.4 Litter

In accordance with State law that prohibits littering, trash which cannot be burned in accordance with Section 1.3 Fires, must be carried out. Plastic and other tarps such as shelters shall be removed.

1.5 Disturbances

All persons camping on public lands will conduct themselves in a manner which does not impair the reasonable use and enjoyment of public lands by others. In consideration of other visitors and wildlife, pets in campsites must be kept leashed, and shall not be left unattended; outside of campsites, pets must be kept under control. To maintain reasonable quiet, the use of chain saws, generators, and other power equipment is prohibited within and around campsites.

1.6 Property

No person shall deface, paint, damage or mutilate any structure, natural feature, tree or marker, on any public lands. Dead and down wood only may be used for campfires. No living trees shall be cut without the Bureau's prior written permission.

1.7 Abandoned Property

Any boat, tent, shelter or other personal property (or structure or fixture) which is left unattended on any public land for more than three consecutive days without prior written authorization from the Bureau shall be deemed to have been abandoned, and the Bureau may take custody of such property and dispose of the same in accordance with the law. For purposes of this regulation, personal property shall be deemed to be "unattended" unless it is actually personally used.

1.8 Closed Areas

During periods determined by the Bureau to be critical for forest fire danger or other condition, any portion of the public lands may be closed to the public at the discretion of the Bureau and no person shall enter or remain in said closed area except agents of the Bureau, law enforcement personnel in the line of duty and others authorized by the Bureau in writing. In making a determination to close any portion of the public lands because of a forest fire danger, the Bureau will consult with the Bureau of Forestry.

1.10 Enforcement

These regulations may be enforced by any law enforcement officer. These regulations shall constitute written authorization to the appropriate agencies of the State and its political subdivisions to enforce the provisions of Title 12, M.R.S.A. §556

1.11 Authorized Storage

Storage of private property on public lands is authorized only by special use permit issued by the Bureau. Unauthorized stored property shall be confiscated or destroyed.

Permits for storage will be subject to an annual fee (based upon the estimated cost of disposing such property). Permittees will be liable for the removal of their property upon request of the Bureau. Failure to remove such property within thirty (30) days of notice will result in the forfeit of said property and payment of a \$50 penalty.

1.12 Firearms

Except for persons holding a valid Maine concealed weapons permit, loaded firearms are not permitted in campsites, on marked

hiking trails, or at boat launches and picnic sites, and should not be discharged within 300 feet of such areas.

1.13 Vehicular Use

Vehicles shall use only designated public access roads. Parked vehicles shall not block any road (including closed side roads).

Off-road travel by wheeled vehicles of any sort is prohibited. Except as specified by the Bureau, all-terrain vehicles (ATVs) are not permitted on public lands.

Snowmobiles are permitted to traverse public lands, but may not travel on plowed roads, marked cross-country ski trails, and other areas so designated.

1.14 Preserves

To preserve Critical Areas, Forest Preserves, Cultural Resources and other designated sites for educational and scientific purposes, such areas and objects are to be left undisturbed.

1.15 (Deleted March 3, 2004)

Ch. 160 Rules for ATV Club Trail Maintenance Grant-in-Aid Program

SECTION 1. SCOPE AND PURPOSE.

Under Title 12, M.R.S.A., Chapter 715, the Bureau of Parks and Lands (Bureau) uses a portion of the annual ATV registration fees to fund ATV related projects, including grants to groups to construct and maintain trails. The purpose of this rule is to establish a process that qualified ATV organizations use to obtain an annual grant, and certain terms and conditions of the grant.

SECTION 2. APPLICATION PROCESS

1. Eligibility Requirements.

To be eligible for the grant program, the ATV organization ("applicant" or "grantee") must meet the following criteria:

A Be a non-profit corporation in good standing. For purposes of this rule, a qualified applicant must be a group formed to encourage safe ATV operations, develop organized trails for the public, and promote appropriate ATV use. The applicant must have a President, Vice President, and Trailmaster, all of whom must be at least 18 years old.

B Register with the Bureau's ATV Program by June 1st. Registration is done by providing a completed Officer update form (provided by the Bureau) which must include the organizations taxpayer ID number

2. Grant Program

A Grant Amount

The grant programs are administered by the Bureau's Off Road Vehicle Division. The Bureau, in its sole discretion, will determine the maximum yearly grant by considering, among other factors, a comparison of the average qualified expenditures of all clubs for the preceding year with anticipated revenue available for the projected year. An applicant may apply for anticipated costs up to the maximum Grant amount established for that year.

B Application process

1 All correspondence and application forms must be submitted to the following address:

**Maine Department of Conservation,
Bureau of Parks and Lands
Off Road Vehicle Division
ATV Grant Program
22 SHS
Augusta, Maine 04333**

2. Grant applications may be submitted beginning May 1 but must be postmarked no later than July 1 of the current year.

3. The applicant must complete and submit the following documents:

(a) **ATV Trail Grant-in-Aid Application/Agreement**
(Supplied by the Bureau)

(b) **An accurate, commercially produced map that shows the trail(s) at a scale of at least one half inch to one mile. The map must show the location of the trails, water bodies, streams, roads, the topography of the land, parking areas, clubhouses, and support facilities.**

4 After reviewing the application, the Bureau will issue a written notification to the applicant approving or denying the application, subject to the availability of funds. Specific terms and conditions of the grant are stated in Section 3, although the Bureau may require additional terms and conditions to effectively carry out its program.

C. Reimbursement process

1. An approved applicant must submit a "Request for Reimbursement" form (Supplied by the Bureau) and required documentation including worksheets and receipts in order to be reimbursed. Requests must be postmarked no later than January 31 of the year following the approved grant application.

2. Only expenses actually incurred from the preceding January 1 through the date of the request for reimbursement will be considered for payment. Only expenses incurred during the calendar year from January 1st through December 31st are eligible for reimbursement. By example, for a grant approved in July 2004, with expenses incurred from January through December 2004, the request must be postmarked by January 30, 2005. In no case will the state reimbursement exceed the maximum approved Grant Amount.

SECTION 3. TERMS AND CONDITIONS OF APPLICATION/AGREEMENT

By applying for the grant, the applicant agrees to the following conditions together with any other terms that are stated in the grant application or approval:

A. All grant money received under the program must be used only for construction and maintenance of the ATV trails specified in the grant application. For purposes of this grant, trail construction and maintenance includes removing rocks, stumps, and debris, trail brushing, constructing or repairing bridges, and developing erosion control features such as ditches and water bars. It also includes the cost of gas, oil, reasonable rates for heavy equipment use, backing material for signs and bridges, and reasonable labor expenses if actually paid to a person who is hired to work on the trails. All expenses to be reimbursed are subject to the approval of the Bureau.

B. The applicant's trails must be established only on land where it has received permission from the landowners (and tenants, where applicable) to use for ATV trail purposes. By signing the application, the applicant's president must certify that landowner permission has been obtained for all trails included in the application.

C. The applicant and its members must ensure, and will continue to ensure, that the trails and related facilities are safe, in good condition, and conform with all applicable laws and regulations, including obtaining all necessary local, DEP and/or LURC permits, and maintaining adequate trail signs, as provided by Bureau guidelines.

D. The trail(s) must aggregate at least 5 miles in length and must be open to the general public for ATV use. Landowners and tenants giving permission to use the land must have been notified the trails are open to the general public for ATV use. The trails must not be part of a system that another grantee has applied for or received a grant under this program.

E. A map of the trail location must be submitted with the application and will be incorporated into the agreement.

F. Approved applicants must submit a request for reimbursement form (supplied by the Bureau) to the ATV Program In order to have expenses considered for full reimbursement. The completed request must be received by the Bureau, or postmarked, no later than January 31st. Request forms postmarked after January 31st, forfeit 10% of the total approved amount for each day the request is late, and may be subject to further reductions if the Bureau determines it no longer has the funds on hand to meet the request.

G. An explanation of expenditures including worksheets must accompany the reimbursement request. All supporting materials (bills & invoices) must be submitted to the ATV Program on request and be available for up to three years for audit by the Bureau. If the grantee does not comply with this requirement, the grantee forfeits the reimbursement.

H. The Bureau has sole discretion to determine if expenditures are permitted and reasonable and the club has complied with the terms of the agreement and all applicable laws, rules and regulations. After making this determination, the Bureau will pay the approved expenditures up to the amount stated in the application, provided funds are available in the appropriate Bureau account as determined by the Bureau.

I. Title 5 M.R.S.A., §784(2) provisions on nondiscrimination in employment apply to the agreement.

J. The applicant agrees not to assign, transfer, lease or encumber its rights or obligations under the agreement or to the trails, without the Bureau's prior written consent. Except for proceeds received by the Bureau under any liability insurance policy, the applicant shall indemnify, defend, and save the State and its employees harmless from and against any claims, losses, liabilities, costs, expenses, damages or other obligations of any nature in any way arising out of the use, occupation, maintenance, repair or development of any trails or related facilities or equipment used in connection with the grant.. The Bureau shall have no responsibility or liability for the maintenance or use of the trails. The Bureau may, in its discretion, provide an insurance policy that, subject to its terms, provides liability coverage to itself, the landowner, and/or the approved applicant covering the use of the property by the applicant and members of the public pursuant to the terms of the grant and this rule.

K. The State may at any time inspect any facilities or equipment in connection with the agreement.

L. The applicant must be a non-profit corporation in good standing with the Secretary of State, Bureau of Corporations, Elections and Commissions.

09

Department of Inland Fisheries and Wildlife

Ch. 9 General Snowmobile and ATV (All-terrain Vehicles) Regulations

***11. ATV Plates**

ATV registration plates shall be displayed on the rear of the vehicle so that it is clearly visible to a person directly behind the vehicle.

12. Registration certificate

The operator of an ATV shall carry his registration certificate with him at all times unless operating on his own land. He shall display the registration certificate upon the request of any landowner who is authorized to stop him as well as to any law enforcement officer.

13. Dealers

Dealers may apply for ATV dealer plates separately, or along with their application for a dealer's permit. Dealers may obtain up to 2 plates if they sold fewer than 10 vehicle in the previous 12 months, up to three plates if they sold 10 or more but less than 20, or up to 4 plates if they sold more than 20.

14. Temporary registrations

Dealers may issue temporary registrations to new owners by completing the form provided by the commissioner. The dealer must pay a fee of \$1 for each temporary registration he receives from the commissioner. He may charge the new owner no more than \$1 for issuing the temporary registration.