

Office of Policy and Legal Analysis

Date: 4-26-21
To: Joint Standing Committee on Inland Fisheries and Wildlife
From: Jon Clark, Deputy Director, OPLA
Re: [LD 1439](#), An Act To Clarify All-terrain Vehicle Registration Requirements and Establish Regular Maintenance of Designated State-approved All-terrain Vehicle Trails (Theriault)

Summary

[LD 2130 as amended, and LR 3280, a committee bill, were voted unanimously last year but died as a result of the pandemic shutdown – references to those bills in relation to provision of LD 1439 are noted below].

Increases ATV registration fees, provides for periodic review of fees and modifies use of fees:

Sec. 7 and Sec 15. Beginning May 1, 2022, increase the registration fees for ATVs by \$25 for each type of registration

- resident increased from \$45 to \$70;
- nonresident 7-day from \$75 to \$100;
- resident annual from \$90 to \$115.

It provides that all of the increase of each fee collected must be deposited in the ATV Recreational Management Fund and must be used to maintain designated state-approved ATV trails.

[As provided in LD 2130 as amended by the committee – increase delayed a year]

Sec. 10. Requires the ACF and IFW departments to review ATV vehicle registration fees and maintenance needs for ATV trails in 2022 and 2023 and every 2 years thereafter and report their findings to the committee. The committee is authorized to report out legislation on the subject matter after receiving a report.

[This is from LR 3280, dates pushed forward one year]

Sec 1. Provides that the Bureau of Parks and Lands must use the registration fees deposited into the ATV Recreational Management Fund (“ATV Fund”) to oversee construction and maintenance of *designated state-approved* all-terrain vehicle trails.

[This is from LR 3280]

Sec 2. Requires the bureau use the ATV Fund to ensure that maintenance of designated state-approved ATV trails occurs annually and requires the bureau to adopt and use best practices of motorized trail construction during construction and maintenance of designated state-approved ATV trails. The bureau is directed to adopt rules that establish a procedure to prioritize the bureau's maintenance of designated state-approved ATV trails.

[This is from LD 2130, as amended by the committee]

Sec. 3 Allows the ATV Fund to be used following purposes (*italics indicates the new purpose added by the bill*):

- (1) Conducting research on issues related to the management of ATVs;

- (2) Assisting in the formation of nonprofit ATV groups;
- (3) Making grants-in-aid to others, including political subdivisions, educational institutions, regional planning agencies and ATV groups, to construct and maintain designated state-approved ATV trails, to purchase equipment or to otherwise carry out the purposes of the fund;
- (4) Assisting in the design and development of designated state-approved ATV trails;
- (5) *Ensuring that designated state-approved ATV trails are inspected annually;*
- (6) Purchasing, leasing or otherwise acquiring interests in land, including, but not limited to, fee or easement interests for designated state-approved ATV trails or sport-riding facilities;
- (7) Providing protection to landowners against ATV-related suit or liability; and
- (8) Otherwise providing for the wise and orderly management of ATVs.

[This is from LR 3280]

Establishes antique ATV registration

Sec. 4 and Sec 9. Creates, for registration purposes, a category of “antique ATV,” which is an ATV over 25 years old. It provides that the registration fee for an antique ATV is \$33, which is deposited in the ATV Recreational Management Fund.

[This is from LR 3280]

[DIFW noted fiscal impact – depends on number of ATV that will qualify; regular ATV fee is split between ATV Recreational Management Fund and ATV Enforcement Fund]

Allows unregistered ATVs to be used on land operator owns

Sec. 5. Allows operation of an unregistered ATV on land that the operator owns or leases, regardless of where the operator is domiciled.

[This is from LR 3280]

Creates new category of oversized ATV and provides for specific regulation

Sec. 8. Create a category of “oversized ATV,” which is an ATV wider than 65 inches or that weighs more than 2,000 pounds according to the manufacturer’s specifications.

- **Sec 8.** (“Grandfathered”). Registration of an oversized all-terrain vehicle is allowed only for residents who registered that oversized all-terrain vehicle prior to January 1, 2022.
 - Registration of an oversized all-terrain vehicle may not be transferred to another person.

[NOTE: from LR 3280, but previous grandfathering date was August 1, 2020]

- **Sec. 12.** allows residents to operate oversized ATVs on frozen bodies of water.
[DIFW noted ATV Task Force recommended allowing only grandfathered registered oversized ATVs to operate on frozen bodies of water.]
[Note, as written, it appears only to allow registered (grandfathered) ATVs to operate on the ice – unregistered ATVs are not allowed to operate anywhere other than on operator’s land]

- **Sec. 6.** provides that, when registering an oversized ATV, a registration agent must explain orally and in writing the size and weight restrictions for registering that ATV and provisions of the law regarding the use of ATVs on designated state-approved ATV trails.
[\[DIFW noted ATV Task Force recommended not allowing oversized ATVs on state-approved ATV trails\]](#)
[\[DIFW suggested removing the oral explanation and having just a written form, which DIFW would create\]](#)
- **Sec. 13.** requires that a dealer selling a new or used oversized ATV explain orally and in writing the size and weight restrictions for registering that ATV vehicle and the provisions of law regarding the use of ATVs on designated state-approved ATV trails.
[\[DIFW noted ATV Task Force recommended not allowing oversized ATVs on state-approved ATV trails\]](#)
[\[DIFW suggested removing the oral explanation and having just a written form, which DIFW would create\]](#)
- **Sec. 14.** requires the DIFW to develop and make available an education component for ATV owners and ATV registration agents regarding the operation and registration of oversized ATVs, including guidance regarding which ATVs are considered oversized ATVs, under which conditions oversized ATVs may be registered and where oversized ATVs may be operated.

[This is all from LR 3280, except NOTE: Sec. 14 is new; also, the placement in statute of the dealer requirement is slightly different from LR 3280 – see Additional Information below for discussion]

Sec. 11. Clarifies landowner and lessee rights to limit use of all-terrain vehicles on designated state-approved all-terrain vehicle trails on their land, including limiting the size and weight of all-terrain vehicles permitted. Also provides that operators of all-terrain vehicles, including oversized all-terrain vehicles, on designated state-approved all-terrain vehicle trails must adhere to limitations imposed by landowners, lessees and the State.

[This is from LR 3280]

[\[DIFW ATV Task Force recommended not allowing oversized ATVs on state-approved ATV trails\]](#)

Testimony [4-21-21](#)

The following persons testified orally (see testimony link for written testimony):

Pro: Rep. Theriault (sponsor); Tim Peabody (DIFW); Ed Pineau (ATV ME); Richard Howlett, John Bryant; John Raymond; Ronnie Green; Patrick Strauch (Forest Products Council); Christopher Fife (Weyerhaeuser); Tom Doak (ME Woodland Owners)

Con: none

NF/NA: none

Additional Information:

The ATV Task Force Report is linked [here](#)

Related bills from the 129th (both died due to pandemic shutdown):

- Committee bill on ATVs, LR 3280, that had been voted by the committee but not yet reported out, may be viewed [here](#)
- [LD 2130](#)
 - Committee amendment reported out (unanimous) may be viewed [here](#)

Nearly all of LD 1439 is taken from the committee's ATV bill (LR 3280) and LD 2130 as amended, with variations noted in the summary, above. Here is an explanation of the Sec 13 difference:

- **Sec 13** amends 12 MRSA §13160 to require dealers to provide information on registration information. This is the same as in the committee ATV in the 129th. The committee ATV bill in the 129th, however, also put this requirement to §13161 (which provides for a penalty, whereas 13160 does not):

Sec. ____ 12 MRSA §13161, sub-§1-A is enacted to read:

1-A. Dealer registration information. A dealer may not sell a new or used oversized ATV without explaining orally and in writing the size and weight restrictions for registering that ATV under section 13155, subsection 5-B and the provision of section 13157-A regarding the use of ATVs on designated, state-approved ATV trails. For purposes of this section, "oversized ATV" has the same meaning as in section 13155, subsection 5-B.

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.

It is better from a drafting clarity point of view not to have the same provision in 2 sections. It can go in either section. If the committee wishes to have the penalty provision apply to a dealer who fails to provide the required information to customers, the bill could be amended to move this provision to §13161.

Proposed amendments:

- ATV ME suggested:
 - Define "ATV" as 65" or less wide and 2,000lbs or less.
 - NOTE: this will change the application of all ATV laws (a larger ATV would be exempt from all laws relating to ATVs)
 - Adopt ATV task force recommendations: amend bill to prohibit over-sized ATVs on state trails
- Ronnie Green:
 - Remove the prohibition on transfer of registration an oversized ATV to another.
 - Change the definition of "oversized ATV" to 2500 lb or greater

Fiscal Impact: not yet determined

Oversized ATVs

Registration of OS ATV:

Allowed: “grandfathered” resident who registered that ATV prior to January 1, 2022

Prohibited: Everyone else

Operation OS ATV		Operation regular ATV	
Nonregistered	Registered (<i>only grandfathered residents can register</i>)	Nonregistered	Registered
Only on land operator owns or leases	On land operator owns	Only on land operator owns or leases	On land operator owns
	On another’s land, with permission of the landowner		On another’s land, with permission of the landowner
	On State-approved ATV trails, subject to any landowner limits		On State-approved ATV trails, subject to any landowner limits
	On frozen bodies of water or anywhere else not prohibited or restricted		On frozen bodies of water or anywhere else not prohibited or restricted