

**TESTIMONY OF THE
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
BEFORE THE JOINT STANDING COMMITTEE ON INLAND
FISHERIES AND WILDLIFE
IN SUPPORT OF L.D. 1439**

**“An Act To Clarify All-terrain Vehicle Registration Requirements and Establish
Regular Maintenance of Designated State-approved All-terrain Vehicle Trails”**

DATE OF HEARING: April 21, 2021

Good morning Senator Dill, Representative Landry and members of the Inland Fisheries and Wildlife Committee. I am Tim Peabody, Deputy Commissioner at the Department of Inland Fisheries and Wildlife, speaking on behalf of the Department, in support of **L.D. 1439**.

This is a Department bill that as currently written the Committee voted ought to pass unanimously during a special session in July of 2020. During that session the Committee made several changes that were different than what the ATV Task Force originally proposed in 2020. We submitted LD 1439 without any changes but feel it's important that we provide this Committee with some of the most recent history, a refresher for some, new information for others of how we got to this point.

In 2018 a resolve was passed, [Resolve c. 35](#) which directed DIFW to consult with interested parties on the registration fees for ATVs and snowmobiles. ATV registrations fees had not kept pace with the growth of the sport and proper maintenance of state approved ATV trails on private land. Two bill resulted from this resolve that were enacted in 2019, [PL c. 75](#) which provided increased funding to the ATV Recreational Management Fund and established the ATV Enforcement Fund and [PL c. 204](#) which modified the definition an ATV to eliminate certain types of motor vehicles (mini-trucks) from state ATV trails.

During the testimony of the previous bills there were a number of unresolved issues related to the growth of ATV use in Maine. At the top of the list was growth in Utility Task Vehicles (UTV / side by sides) on the Maine trail system as well as deferred maintenance on ATV trails on private land.

In May 2019 Governor Mills signed an Executive Order to create an ATV Task Force to address these lingering issues and prepare Maine to manage the increase in ATV use into the future. For more information the following links are provided:

- [Office of Governor Mills Announces Creation of ATV Task Force May 1, 2019](#)
- [Executive Order](#).

The final [2020 ATV Task Force Report](#) was presented to the IFW Committee during the 2nd Regular Session of 129th Legislature (early 2020).

The Task Force made a number of recommendations in the report which were presented during the 2nd Regular Session of the 129th Legislature [LD 2130](#) “An Act To Fund Maine's Recreational Trails” was proposed as well as [LR 3280](#) “An Act To Clarify All-terrain Vehicle Registration Requirements and Establish Regular Maintenance of All-terrain Vehicle Trails” where both the LD and LR ultimately died after the adjournment of the session due to the COVID pandemic.

This Committee during a special session via ZOOM on July 10, 2020 had work sessions for both LD 2130 and LR 3280. During this 1-day session the Committee amended both the LR and LD and voted them “Ought to Pass” unanimously. The session ended and the bills ultimately died.

As I mentioned previously LD 1439 was printed as we believe the last working document from the 129th Legislature without any changes from the Department. I will go through each section and point out language that was changed from the Task Force recommendation.

Section 1

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 1. 12 MRSA §1893, sub-§1, ¶B, as amended by PL 2003, c. 414, Pt. B, §22 and affected by c. 614, §9, is further amended to read:

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 designated state-approved ATV trails. The bureau may adopt rules in accordance with Title 5, chapter 375, subchapter ~~2~~ 2-A 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.

Section 2

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 2. 12 MRSA §1893, sub-§1, ¶C is enacted to read:

C. The bureau shall use funds in the ATV Recreational Management Fund established under subsection 2 to ensure that maintenance of designated state-approved ATV trails occurs annually and to adopt and use best practices of motorized trail construction during construction and maintenance of designated state-approved ATV trails. The bureau shall adopt rules that establish a procedure to prioritize the bureau's maintenance of designated state-approved ATV trails. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Section 3

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 3. 12 MRSA §1893, sub-§2, ¶A, as amended by PL 2003, c. 695, Pt. B, §2 and affected by Pt. C, §1, is repealed and the following enacted in its place:

A. The fund may be used for the following purposes:

- (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.

Section 4.

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 4. 12 MRSA §13001, sub-§4-A is enacted to read:

4-A. Antique all-terrain vehicle or antique ATV. "Antique all-terrain vehicle" or "antique ATV" means an all-terrain vehicle more than 25 years old that is registered as an antique ATV under section 13155, subsection 5-C.

Section 5.

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 5. 12 MRSA §13155, sub-§1-A, ¶A, as amended by PL 2017, c. 97, §3, is further amended by amending subparagraph (1) to read:

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

Section 6.

Current language in LD 1439 is consistent with the ATV Task Force recommendation with the exception of the last two lines where the ATV Task Force did not support oversized ATV's on any state approved ATV trails. We should also discuss the necessity for an agent to be required to explain orally in addition to in writing.

Sec. 6. 12 MRSA §13155, sub-§3, as affected by PL 2003, c. 614, §9 and amended by c. 695, Pt. B, §13 and affected by Pt. C, §1, is further amended to read:

3. Application and issuance. The commissioner, or an agent designated by the commissioner, may register and assign a registration number to an ATV upon application and payment of an annual fee by the owner. The commissioner shall charge a fee of \$1 in addition to the annual fee for each registration issued by an employee of the department. The registration number in the form of stickers issued by the commissioner must be clearly displayed on the front and rear of the vehicle. A registration is valid for one year commencing July 1st of each year, except that any registration issued prior to July 1st but after May 1st is valid from the date of issuance until June 31st ~~30th~~ of the following year. A registration agent shall explain orally and in writing to the person who requests to register an oversized ATV as defined under subsection 5-B the size and weight restrictions for registering that ATV, including whether it qualifies for registration, and the provisions of section 13157-A regarding the operation of oversized ATVs on designated state-approved ATV trails

Section 7.

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 7. 12 MRSA §13155, sub-§5, as amended by PL 2019, c. 75, §3, is further amended to read:

5. Fees. The ATV registration fee is:

A. For a resident, ~~\$45~~ \$70 annually. The registration for an ATV owned by a resident is valid for one year, beginning on July 1st of each year; and

B. For a nonresident:

(1) ~~Seventy-five~~ One hundred dollars for a registration valid for 7 consecutive days. A person may purchase more than one 7-day registration in any season; and

(2) ~~Ninety~~ One hundred fifteen dollars for a registration valid for one year.

The registration for an ATV owned by a nonresident must specify the dates for which the registration is valid.

~~Twelve~~ Thirty-seven dollars of each fee collected pursuant to this subsection must be deposited in the ATV Recreational Management Fund established in section 1893, subsection 2 and must be used to maintain designated state-approved ATV trails.

Ten dollars of each fee collected pursuant to paragraph B must be deposited in the ATV Enforcement Fund established in section 10267.

Section 8.

Current language in LD 1439 is consistent with the ATV Task Force recommendation. We will be

reviewing how the language is applied within current ATV statute to alleviate any unintended consequences.

Sec. 8. 12 MRSA §13155, sub-§5-B is enacted to read:

5-B. Oversized ATV. A person may not register an oversized ATV except as provided in this subsection. A resident who has registered an oversized ATV prior to January 1, 2022 may continue to register that oversized ATV upon payment of the fee specified in subsection 5, paragraph A. Registration for an oversized ATV may not be transferred to another person. For purposes of this subsection, "oversized ATV" means an ATV that is wider than 65 inches or weighs more than 2,000 pounds according to the manufacturer's specifications.

Section 9.

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 9. 12 MRSA §13155, sub-§5-C is enacted to read:

5-C. Antique ATV. A person who owns an ATV that is more than 25 years old and that is substantially maintained in its original or restored condition may register that ATV under this subsection as an antique ATV. Notwithstanding subsection 5, the fee for an antique ATV registration is \$33. An antique ATV registration is valid until the ownership of the ATV is transferred to another person. Upon the transfer of ownership, the new owner may reregister that ATV as an antique ATV by paying the \$33 antique ATV registration fee. The registration fee for an antique ATV must be deposited in the ATV Recreational Management Fund established in section 1893, subsection 2.

Section 10.

Current language in LD 1439 is consistent with the ATV Task Force recommendation.

Sec. 10. 12 MRSA §13155, sub-§12 is enacted to read:

12. Review of ATV registration fees and trail maintenance needs. In consultation with the Department of Agriculture, Conservation and Forestry, the department shall review ATV registration fees and maintenance needs of designated state-approved ATV trails in 2022 and 2023 and every 2 years thereafter. The Commissioner of Inland Fisheries and Wildlife shall report the findings and recommendations from the review to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters by February 1st each year a review is required. The committee may report out legislation related to ATV registration fees and maintenance needs of ATV trails to the session of the Legislature in which the report is received.

Section 11.

Current language in LD 1439 is not consistent with the ATV Task Force recommendation with the by allowing an "oversized ATV on designated state-approved ATV trails. The Task Force intent was to not allow oversized ATVs on the state approved trail system but make it clear that landowners always had the right to be more restrictive than "state standards" on their land.

Sec. 11. 12 MRSA §13157-A, sub-§1-A, as amended by PL 2007, c. 509, §1, is further amended to read:

1-A. Permission required. A person may not operate an ATV on the land of another without the permission of the landowner or lessee. Permission is presumed on designated state-approved ATV trails or in areas open to ATVs by landowner policy. A landowner or lessee may limit the use of a designated state-approved ATV trail on that landowner's or lessee's property through agreements with the State or an ATV club to address environmental, public safety or management concerns, including by limiting the size and weight of ATVs permitted on the landowner's or lessee's property. A person operating an ATV, including an oversized ATV, on designated state-approved ATV trails shall adhere to limitations imposed by a landowner or lessee and the State on that part of the designated state-approved ATV trail on the landowner's or lessee's property in accordance with this subsection. Written permission of the landowner or lessee is required for use of an ATV 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. For purposes of this subsection, "oversized ATV" has the same meaning as defined in section 13155, subsection 5-B. Nothing in this subsection may be construed to limit or expand a landowner's or lessee's property rights.

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.

Section 12.

Current language in LD 1439 is not consistent with the ATV Task Force recommendation. The Task Force wished to limit it to grandfathered oversized ATV's only.

Sec. 12. 12 MRSA §13157-A, sub-§28 is enacted to read:

28. Operation of oversized ATVs by residents. Except as prohibited in this section, a resident may operate an oversized ATV on frozen bodies of water. For purposes of this subsection, "oversized ATV" has the same meaning as defined in section 13155, subsection 5-B.

Section 13.

Current language in LD 1439 is consistent with the ATV Task Force recommendation, but perhaps misleading to the dealers and purchaser

Sec. 13. 12 MRSA §13160, sub-§1-A is enacted to read:

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

Section 14.

Current language in LD 1439 is consistent with the ATV Task Force recommendation

Sec. 14. Oversized ATV education component. The Department of Inland Fisheries and Wildlife shall develop and make available an education component for ATV dealers and owners and ATV registration agents regarding the operation and registration of oversized ATVs, as defined in the Maine Revised Statutes, Title 12, section 13155, subsection 5-B. The education component must provide guidance regarding which ATVs are considered oversized ATVs, when oversized ATVs may be registered and where oversized ATVs may be operated pursuant to Title 12, section 13155, subsection

Section 15.

Sec. 15. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 12, section 13155, subsection 5 takes effect May 1, 2022.