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Legislative Document

No. 1824

S.P. 614

In Senate, June 3, 2019

An Act To Make Certain Snowmobile and Watercraft Laws Consistent with All-terrain Vehicle Laws

Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 204.
Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered
printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.

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

2 **Sec. 1. 12 MRSA §10651, sub-§1, ¶E**, as affected by PL 2003, c. 614, §9 and
3 amended by c. 695, Pt. B, §6 and affected by Pt. C, §1, is further amended to read:

4 E. Attempt to elude a law enforcement officer by:

5 (1) Operating or attempting to operate an all-terrain vehicle or snowmobile past
6 a clearly identifiable police roadblock; or

7 (2) After being requested or signaled to stop by a law enforcement officer in
8 uniform, operating or attempting to operate an all-terrain vehicle, snowmobile or
9 watercraft at a reckless rate of speed.

10 **Sec. 2. 12 MRSA §10703, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2 and
11 affected by c. 614, §9, is amended to read:

12 **1. Blood or breath test.** If the law enforcement officer has probable cause to
13 believe a person hunted wild animals or wild birds or operated or attempted to operate a
14 watercraft, snowmobile or ATV while under the influence of intoxicating liquor, then the
15 officer shall inform the person that a breath test will be administered, unless, in the
16 determination of the officer, it is unreasonable for a breath test to be administered, in
17 which case a blood test must be administered. ~~When a blood test is required, the test may~~
18 ~~be administered by a physician of the accused's choice, at the request of the accused and~~
19 ~~if reasonably available.~~ The law enforcement officer may determine which type of breath
20 test, as described in subsection 5, will be administered.

21 **Sec. 3. 12 MRSA §10703, sub-§2**, as affected by PL 2003, c. 614, §9 and
22 amended by c. 655, Pt. B, §77 and affected by §422, is further amended to read:

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

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

36 **Sec. 4. 12 MRSA §10703, sub-§4, ¶B**, as amended by PL 2009, c. 447, §11, is
37 further amended to read:

38 B. If, at the time alleged, a defendant who was 21 years of age or older at the time
39 of the arrest had an alcohol level in excess of 0.05 grams of alcohol ~~or more~~ but less
40 than 0.08 grams of alcohol per 100 milliliters of blood or 210 liters of breath, it is

1 relevant evidence, but it is not to be given prima facie effect in indicating whether or
2 not the defendant was under the influence of intoxicating liquor within the meaning
3 of this section, but that fact may be considered with other competent evidence in
4 determining whether or not the defendant was under the influence of intoxicating
5 liquor.

6 **Sec. 5. 12 MRSA §10703, sub-§5, ¶A**, as amended by PL 2009, c. 447, §12, is
7 further amended to read:

8 ~~A. Only a duly licensed physician, registered physician's assistant, registered nurse~~
9 ~~or a person certified by the Department of Health and Human Services under~~
10 ~~certification standards set by that department, acting at the request of a law~~
11 ~~enforcement officer, may draw a specimen of blood to determine an alcohol level or~~
12 ~~drug concentration of a person who is complying with the duty to submit to a~~
13 ~~chemical test. Only a physician, registered physician's assistant, registered nurse or~~
14 ~~person whose occupational license or training allows that person to draw blood~~
15 ~~samples may draw a specimen of blood for the purpose of determining the blood-~~
16 ~~alcohol level or the presence of a drug or drug metabolite. This limitation does not~~
17 ~~apply to the taking of breath or urine specimens. When a person draws a specimen of~~
18 ~~blood at the request of a law enforcement officer, that person may issue a certificate~~
19 ~~that states that the person is in fact a duly licensed or certified person as required by~~
20 ~~this subsection and that the person followed the proper procedure for drawing a~~
21 ~~specimen of blood to determine an alcohol level or drug concentration. That~~
22 ~~certificate, when duly signed and sworn to by the person, is admissible as evidence in~~
23 ~~any court of the State. It is prima facie evidence that the person was duly licensed or~~
24 ~~certified and that the person followed the proper procedure for drawing a specimen of~~
25 ~~blood for chemical testing, unless, with 10 days' written notice to the prosecution, the~~
26 ~~defendant requests that the person testify as to licensure or certification, or the~~
27 ~~procedure for drawing the specimen of blood.~~

28 **Sec. 6. 12 MRSA §10703, sub-§6**, as enacted by PL 2003, c. 414, Pt. A, §2 and
29 affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

30 **6. Liability.** ~~A physician, physician's assistant, registered nurse, person certified by~~
31 ~~the Department of Health and Human Services or hospital~~ Only a physician, registered
32 physician's assistant, registered nurse or person whose occupational license or training
33 allows that person to draw blood samples or other health care provider in the exercise of
34 due care is not liable in damages or otherwise for any act done or omitted in performing
35 the act of collecting or withdrawing specimens of blood at the request of a law
36 enforcement officer pursuant to this section.

37 **Sec. 7. 12 MRSA §10757**, as amended by PL 2015, c. 281, Pt. A, §2, is further
38 amended to read:

39 **§10757. Fraudulently obtaining or possessing license, permit or registration**

40 A person may not obtain or possess a paper or electronic license ~~or~~ permit or
41 registration authorized in this Part through fraud, misstatement or misrepresentation. A
42 person who violates this section commits a Class E crime.

1 **Sec. 8. 12 MRSA §10902, sub-§10**, as amended by PL 2011, c. 253, §17, is
2 further amended to read:

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

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

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

11 C. Operating an ATV to endanger, as prohibited under section 13157-A, subsection
12 11, operating a snowmobile to endanger, as prohibited under section 13106-A,
13 subsection 10, or operating a watercraft to endanger, as prohibited under section
14 13068-A, subsection 5;

15 D. Reckless operation of an ATV, as prohibited under section 13157-A, subsection
16 10, reckless operation of a snowmobile, as prohibited under section 13106-A,
17 subsection 9, or reckless operation of a watercraft, as prohibited under section
18 13068-A, subsection 6; or

19 E. Failure or refusal to stop an ATV or attempting to elude an officer, as prohibited
20 under section 10651, subsection 1, paragraphs D and E, failure or refusal to stop a
21 snowmobile or attempting to elude an officer, as prohibited under section 10651,
22 subsection 1-E, or failure or refusal to stop a watercraft or attempting to elude an
23 officer, as prohibited under section 10651, subsection 1-E.

24 The commissioner shall reinstate licenses, permits and registrations that have been
25 suspended pursuant to this subsection after the period of suspension has lapsed and after
26 that person has successfully completed an ~~ATV safety and ethics course as provided in~~
27 ~~subsection 9~~ ethics course as required by the department and has successfully completed
28 a safety course as required by the department that relates to the specific violation for
29 which the person was convicted or adjudicated.

30 **Sec. 9. 12 MRSA §13001, sub-§25**, as enacted by PL 2003, c. 414, Pt. A, §2 and
31 affected by c. 614, §9, is amended to read:

32 **25. Snowmobile.** "Snowmobile" means a vehicle propelled by mechanical power
33 that is primarily designed to travel over ice or snow and is supported in part by skis, belts
34 or cleats. "Snowmobile" does not include a motor vehicle as defined in Title 29-A,
35 section 101.

36 **Sec. 10. 12 MRSA §13056, sub-§8**, as amended by PL 2009, c. 213, Pt. OO,
37 §§14 and 15, is further amended to read:

38 **8. Fees.** The fees for each original or renewal certificate of number with 2 validation
39 stickers are set out in this subsection.

- 1 A. For a watercraft requiring or whose owner requests a certificate of number and
2 that is equipped with a motor having a manufacturer's horsepower rating of:
- 3 (1) Ten horsepower or less, the fee is \$25 for operating on inland waters of the
4 State and \$15 for operating only on tidal waters of the State;
- 5 (2) Greater than 10, but not more than 50 horsepower, the fee is \$30 for
6 operating on inland waters of the State and \$20 for operating only on tidal waters
7 of the State; and
- 8 (3) Greater than 50 horsepower but not more than 115 horsepower, the fee is \$36
9 for operating on inland waters of the State and \$26 for operating only on tidal
10 waters of the State.
- 11 B. For a personal watercraft requiring or whose owner requests a certificate of
12 number and watercraft equipped with a motor having a manufacturer's horsepower
13 rating of 115 horsepower or greater, the fee is \$44 for operating on inland waters of
14 the State and \$34 for operating only on tidal waters of the State.
- 15 C. For a duplicate certificate of number, the fee is \$1.
- 16 D. For a duplicate validation sticker (per set), the fee is \$1.
- 17 E. For a certificate of number issued with transfer of ownership authorized in
18 subsection 10, the fee is \$2.

19 Validation stickers are nontransferable.

20 A motorboat that is used for governmental purposes and is owned and operated in the
21 State by the Federal Government, the State or a political subdivision of the State is
22 exempt from registration fees.

23 **Sec. 11. 12 MRSA §13104, sub-§13**, as affected by PL 2003, c. 614, §9 and
24 amended by c. 655, Pt. B, §390 and affected by §422, is repealed.

25 **Sec. 12. 12 MRSA §13106-A, sub-§10, ¶B**, as enacted by PL 2003, c. 655, Pt.
26 B, §394 and affected by §422, is amended to read:

27 B. Operating the snowmobile in a manner that fails to control its speed at all times
28 as necessary to avoid colliding with any person, vehicle, snowmobile or other object
29 ~~on or adjacent to the snowmobile trail.~~

30 **Sec. 13. 12 MRSA §13113, sub-§6**, as enacted by PL 2005, c. 93, §3, is repealed.

31 **Sec. 14. 36 MRSA §2903-D, sub-§2, ¶A**, as amended by PL 2003, c. 414, Pt. B,
32 §66 and affected by c. 614, §9, is further amended to read:

33 A. The Commissioner of Inland Fisheries and Wildlife receives 14.93% of that
34 amount, to be used by the commissioner for the purposes set forth in Title 12, section
35 1893, subsection 3, section 10206, subsection 2, section 13104, subsections 2 to ~~4~~
36 12 and section 13105, subsection 1; and

1 **SUMMARY**

2 This bill amends certain laws governing snowmobiles and watercraft to make them
3 consistent with laws governing all-terrain vehicles. Specifically, this bill:

4 1. Extends to operators of snowmobiles and watercraft certain penalties that apply to
5 violations applicable to operation of all-terrain vehicles that result in the mandatory
6 revocation of a license;

7 2. Updates the laws concerning operation of a recreational vehicle while under the
8 influence to more closely mirror the laws governing operation of a motor vehicle while
9 under the influence;

10 3. Extends the general prohibition against the fraudulent acquisition or possession of
11 licenses and permits issued by the Department of Inland Fisheries and Wildlife to also
12 apply to registrations and repeals specific prohibitions that are therefore unnecessary;

13 4. Exempts from registration fees motorboats used for governmental purposes and
14 owned and operated in the State by the Federal Government, the State or a political
15 subdivision of the State;

16 5. Specifies that, for purposes of the laws governing recreational vehicles, a motor
17 vehicle is not a snowmobile; and

18 6. Removes language that limits to on or adjacent to a snowmobile trail the location
19 of a snowmobile collision that constitutes operating a snowmobile to endanger.