HOUSE DOCKET, NO. 3035 FILED ON: 1/21/2011

HOUSE . . . . . No. 2757

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. Stanley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to establishing a trail maintenance program within the Department of Conservation and Recreation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas M. Stanley	*9th Middlesex*

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HOUSE . . . . . No. 2757

By Mr. Stanley of Waltham, a petition (accompanied by bill, House, No. 2757) of Thomas M. Stanley relative to establishing a trail maintenance program within the Department of Conservation and Recreation. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *817* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to establishing a trail maintenance program within the Department of Conservation and Recreation.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 20 of chapter 90B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following definition:

"Trails Maintenance Assessment", a decal issued pursuant to the provisions of this chapter, which authorizes the operation of registered recreation vehicles on designated motorized trails under the jurisdiction of the department of conservation & recreation. All Trails Maintenance Assessment (TMA) decals shall be issued by the by the New England Trail Rider Association or its successor organization, subject to authorization by the department of conservation and recreation, to recreation vehicle operators, granting use of motorcycle and off road vehicle trails. Each TMA shall be placed on the left front fork of a two-wheeled motorcycle, or on left front side cowl of an all-terrain vehicle.

SECTION 2. Said Chapter 90B, as so appearing, is hereby further amended by striking out section 21 and inserting in place thereof the following section:—

"Section 21. No person shall operate a snow vehicle or a recreation vehicle unless such vehicle has been registered in accordance with the provisions of this chapter, and in the case of a recreation vehicle, displays a Trails Maintenance Assessment (TMA) decal and, in the case where said operator is born after January 1, 1988, such person has completed an education and

17 safety program as provided in this section. Education and safety programs utilized under the
18 provisions of this section shall be established by the ATV Safety Institute, that Motorcycle
19 Safety Foundation, or successor organizations in consultation with the Massachusetts Office of
20 Environmental Law Enforcement and shall include but shall not be limited to instruction on
21 safety precautions and techniques and the environmental impacts of illegal riding as part of the
22 course content."

23 SECTION 3. The second sentence of section 22 of said Chapter 90B, as so appearing, is
24 hereby amended by striking the words "and the appropriate fee" and inserting in place thereof
25 the following clause:-

26 ", appropriate fee and proof that the person registering the vehicle has completed the
27 education or safety program as provided in this section."

28 SECTION 4. Section 22 of said chapter 90B of the General Laws, as so appearing, is
29 hereby amended by adding the following paragraph:—

30 "The New England Trail Rider Association or its successor organization shall be an agent
31 of the department of conservation and recreation for the issuance of the Trails Maintenance
32 Assessment (TMA) decals as defined in section 21. The TMA shall be valid annually, beginning
33 on May 1 and expiring on April 30 the following year."

34 SECTION 5. Section 24 of said chapter 90B, as so appearing, is hereby amended as
35 follows:

36 In line two immediately following the term, "red brake light", add the following clause,
37 "rear brake light".

38 SECTION 6. Section 25 of said chapter 90B, as so appearing, is hereby amended as
39 follows:

40 In paragraph 4, following every use of the term "snow vehicle" add "or recreation
41 vehicle"; (for purposes of clarification this would be four insertions.)

42 In addition, in paragraph 7, strike the words "or recreation vehicles".

43 SECTION 7. Section 26 of said chapter 90B, as so appearing, is hereby amended as
44 follows:

45 (a) Include the paragraph below, immediately following paragraph five of the current
46 Section, which ends with the clause, "in a manner approved by the director"

47 "No person shall operate a recreation vehicle on privately owned property, except in
48 cases of emergency, unless: (a) the operator is the owner, lessee, or immediate family member of
49 the owner or lessee of such property; (b) the operator has permission authorizing the operation of

50 a recreation vehicle on such property, or, valid proof of current membership in a club,
51 association or other organization to which express authorization for the operation of recreation
52 vehicle on such property has been granted; provided however, that such operation shall be
53 consistent with the express authorization so granted and any restriction imposed therewith; (or)
54 the owner or lessee of such property has designated the area for use by such recreation vehicles
55 by posting reasonable notice of such designation in a manner approved by the director.

56 (b) Include the following paragraph at the end of the Section.

57 "All operators of recreation vehicles born after January 1, 1988 and operating on land
58 owned by the Commonwealth must have successfully completed a recreation vehicle safety
59 education class approved by the director of the Office of Environmental Law Enforcement.
60 Proof of completion of recreation vehicle safety education class must be carried on said
61 operator."

62 SECTION 8. Section 27 of said chapter 90B, as so appearing, is hereby amended by
63 including the term "one hundred" immediately preceding the word "dollars" in line 3 of the
64 paragraph.

65 In addition include the following sentence at the end of the paragraph: "Any officer
66 authorized to enforce chapter 90B shall immediately notify the Office of Environmental Law
67 Enforcement of any snow vehicle or recreation vehicle accident described above. The director or
68 his designee shall investigate the accident."

69 SECTION 9.: Section 32 of said chapter 90B, as so appearing, is hereby amended by
70 striking out the second sentence and inserting in place thereof the following sentence:

71 "Whoever while operating or in charge of any snow vehicle or recreation vehicle, other
72 than on property owned or leased by the operator or on privately owned property when the
73 operator has been authorized by said property owner, refuses to stop such vehicle after having
74 been requested or signaled to do so by any such officer, or whoever refuses to give his true and
75 correct name and address or refuses to display the certificate of number of such vehicle, and
76 surrender to such officer for examination, and in the case of a recreation vehicle, refuses to
77 display a Trails Maintenance Assessment Decal (TMA), shall be punished by a fine of not less
78 than one hundred dollars nor more than five hundred, or imprisonment of not more than sixty
79 days or both."

80 SECTION 10. Section 34 of said chapter 90B, as so appearing, is hereby amended by
81 striking the entire paragraph and replace it with the following:

82 Whoever violates any provision of sections twenty-one to thirty-three, inclusive, of this
83 chapter 90B or of any rule made hereunder, shall be punished by a fine of not less than one

84 hundred dollars nor more than five hundred, or by imprisonment in a jail or house of correction
85 for not more than sixty days or both.

86 SECTION 11. Chapter 132 of the General Laws, as appearing in the 2002 Official
87 Edition, is hereby amended by striking out section 38A and inserting in place thereof the
88 following section:—

89 Section 38A. The department of conservation and recreation shall construct and maintain
90 trails for horseback riding, hiking, ski touring, snowmobiling, recreation vehicle riding and other
91 uses on land within the control of the division of state parks and recreation in accordance with its
92 off-road vehicle management plan which will minimize conflicting uses and allow each of the
93 aforementioned activities sufficient trail mileage to participate comfortably and safely. The trails
94 shall be open year round except when weather or trail conditions render the trail usage unsafe or
95 a significant threat to department resources. The department may prepare and publish trail maps
96 and other informational material to inform the public of the location and nature of such trails. To
97 the extent practicable, the voluntary services of trail using organizations and individuals shall be
98 utilized in carrying out the work authorized hereunder. Expenses authorized by this section and
99 section 38, including the acquisition of land or easements therein, surveying and mapping, and
100 the cost of development and construction and expenses incidental thereto, may be paid out of
101 funds theretofore or hereafter made available for the purpose of chapter 132A.

102 The department shall establish rules and regulations for the issuance of Trails
103 Maintenance Assessment (TMA) decals, as defined in section 20 of chapter 90B. The rules and
104 regulations shall include but not be limited to the following:

105 (a) The associations designated in section 20 of chapter 90B shall collect the fee for said
106 decal and provide an annual accounting report to the commissioner.

107 (b) Funds generated from the sale of decals shall be used by said associations exclusively
108 for trail establishment, maintenance, enforcement, and decal distribution as authorized by the
109 department.

110 (c) Any money remaining from the sale of said decals at the end of a fiscal year shall be
111 carried over to the next and succeeding fiscal years and shall only be used for the purposes stated
112 in this section.

113 SECTION 12. Section 1 of chapter 90C of the General Laws, as appearing in the 2002
114 Official Edition, is hereby amended by modifying the definition of "Automobile law violation"
115 as follows:

116 Striking the clause "A recreation vehicle and a snow vehicle, both as defined in section
117 20 of Chapter 90B, a" and add a capital "A" immediately proceeding "motorized bicycle".

118 In addition add the following sentence to the end of the paragraph, “A recreation vehicle
119 or snow vehicle, as defined in section 20 of chapter 90B, shall not be considered a motor vehicle
120 for purposes of this chapter”