SENATE DOCKET, NO. 1077 FILED ON: 1/15/2015

SENATE . . . . . No. 416

The Commonwealth of Massachusetts

PRESENTED BY:

Anne M. Gobi

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 adoption of the accompanying bill:

An Act establishing a snowmobile educational safety program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Anne M. Gobi	*Worcester, Hampden, Hampshire and Middlesex*
Marc R. Pacheco	*First Plymouth and Bristol*
Gailanne M. Cariddi	*1st Berkshire*
Carolyn C. Dykema	*8th Middlesex*
Stephen Kulik	*1st Franklin*
Stephen L. DiNatale	*3rd Worcester*
Kimberly N. Ferguson	*1st Worcester*
Jennifer L. Flanagan	*Worcester and Middlesex*
Donald F. Humason, Jr.	*Second Hampden and Hampshire*
Kay Khan	*11th Middlesex*
Paul W. Mark	*2nd Berkshire*
William Smitty Pignatelli	*4th Berkshire*
Michael J. Rodrigues	*First Bristol and Plymouth*
John W. Scibak	*2nd Hampshire*
Todd M. Smola	*1st Hampden*

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SENATE . . . . . No. 416

By Ms. Gobi, a petition (accompanied by bill, Senate, No. 416) of Anne M. Gobi, Marc R. Pacheco, Gailanne M. Cariddi, Carolyn C. Dykema and others for legislation to establish a snowmobile educational safety program. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3856* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act establishing a snowmobile educational safety program.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote the safe operation and recreation of snow vehicles, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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

1 SECTION 1. Section 2 of chapter 21 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out, in line 2, the figure “13” and inserting in
3 place the following figure:- 14.

4 SECTION 2. Section 2A of said chapter 21, as so appearing, is hereby amended by
5 inserting after the first paragraph the following paragraph:-

6 The commissioner shall request the board of directors of the Snowmobile Association of
7 Massachusetts, or its successor organization, to nominate 3 candidates for 1 additional member

8 of the council. From the nominations received from the board, the commissioner shall select 2
9 candidates whom he shall recommend to the governor. The governor shall appoint the 1
10 additional member of the council from the candidates recommended.

11 SECTION 3. Chapter 29 of the General Laws, is hereby amended by inserting after
12 section 2KKKK, the following section:-

13 Section 2LLLL.There shall be set up on the books of the Commonwealth a separate fund
14 to be known as the Recreational Trail Land Acquisition Trust Fund.

15 Amounts credited to the trust fund may be expended without appropriation, by the
16 commissioner of the department of recreation and conservation for the department to acquire
17 interests in land, including ownership, easements and leases, for the primary purpose to establish
18 public snow vehicle recreational trails. Snow vehicle trails established on such acquired land
19 shall be designated and marked by the department.

20 Unless restricted by law, deed, covenant or the nature of the interest in land so acquired,
21 any part of such land, may, as allowed by the commissioner, also be utilized during anytime of
22 the year for: (i) other recreational and open space purposes, (ii) agriculture, and (iii) other uses
23 existing at the time such interest is acquired and any future uses, provided a declaration that sets
24 forth in detail each existing and future use, signed by the commissioner is filed in the appropriate
25 registry of deeds upon such acquisition. Notwithstanding, the commissioner shall not allow any
26 other utilization of such land that will hinder significantly or affect adversely, the public's
27 seasonal use of snow vehicle trails so established.

28 The trust fund shall consist of all revenues to be credited in accordance with subsection
29 (b) of section 21C of chapter 90B, any appropriations and authorizations of the general court and

30 such other amounts to be expressly credited to the trust fund from any other source to include,
31 any public or private donations, grants, repayments and other receipts. The state treasurer as the
32 custodian and treasurer of the trust fund, shall receive and deposit in accordance with state law,
33 all monies credited to the trust fund to provide the highest rate of interest consistent with the
34 safety of the monies so deposited, All accrued fund investment income shall be credited to the
35 trust fund.

36 Prior to expending any monies from the trust fund, the commissioner shall consult with
37 the Snowmobile Association of Massachusetts.

38 Monies deposited into the trust fund that are unexpended at the end of the fiscal year shall
39 not revert to the General Fund and shall be available in the following fiscal year. No expenditure
40 made from the trust fund shall cause the trust fund to become deficient at any point during a
41 fiscal year.

42 SECTION 4. Section 20 of chapter 90B of the General Laws, as so appearing in the 2012
43 Official Edition, is hereby amended by inserting, after the definition of "directly supervised" the
44 following definition:-

45 "Director" the director of law enforcement of the office of law enforcement, or his
46 authorized designee.

47 SECTION 5. Said section 20 of said chapter 90B is hereby further amended by inserting,
48 after the definition of "Law Enforcement Officer" the following definition:-

49 “Office of Law Enforcement” or “Office of Environmental Law Enforcement”, the office
50 of law enforcement established under section 10A of chapter 21A, also commonly known as the
51 Massachusetts Environmental Police.

52 SECTION 6. Said chapter 90B is hereby further amended by inserting after section 21 the
53 following 3 sections:-

54 Section 21A. No person under 14 years of age shall operate a snow vehicle.
55 Notwithstanding this provision,

56 (i) a person who is under 14 years of age and no younger than 12 years of age, may
57 operate a snow vehicle when under the direct supervision of another who is 18 years of age or
58 older;

59 (ii) a person who is under 12 years of age and no younger than 10 years of age, may
60 operate a snow vehicle on land where he is domiciled, when under the direct supervision of
61 another who is 18 years of age or older; and

62 (iii) a person who is under 10 years of age may operate a size and age appropriate snow
63 vehicle on land where he is domiciled, when under direct supervision of another who is 18 years
64 of age or older, provided the snow vehicle has a stock engine capacity of no greater than 150
65 cubic centimeters.

66 A person who is allowed to operate a snow vehicle under clause (ii) or (iii) may operate
67 the vehicle only at such specified location and with the permission of the land owner,
68 notwithstanding any other law or regulation to the contrary.

69 Section 21B. (a) No person who is 12 years of age and older, and was born after July 1,
70 1997, shall operate a snow vehicle in the Commonwealth unless such person has successfully
71 completed a director approved safety education program for the operation of snow vehicles, and
72 has obtained in his name, a certificate of completion issued for such program.

73 Notwithstanding, the requirements of the prior paragraph shall not apply when such
74 person is: (i) 14 years of age or older, and is operating a snow vehicle on land owned by such
75 person or his spouse, or on land owned by a parent, sibling, grandparent, step-parent, step-sibling
76 or legal guardian, of such person or his spouse; (ii) operating a snow vehicle under the direct
77 supervision of an instructor for such program certified by the director; or (iii) exempted by
78 regulation of the office of law enforcement.

79 A person who is required to obtain a certificate of completion to operate a snow vehicle,
80 shall, when operating the vehicle, possess the certificate, and upon demand of a law enforcement
81 officer, shall produce the certificate and allow the officer to examine the document. A person
82 shall have an affirmative defense against a charge for the failure to produce the certificate as
83 required, if before or at trial on such charge, the certificate that was issued in the person's name
84 and that is considered to be valid when the violation occurred, is given to the court or trial
85 justice.

86 (b) The director shall establish a safety education program for the operation of snow
87 vehicles. Such program shall include a minimum of 6 hours of instruction and be available to the
88 public in various director approved locations across the Commonwealth. The director shall
89 consult with the Snowmobile Association of Massachusetts for advice prior to the establishment
90 or substantial change of such program, including content and curriculum, identification of best

91 snow vehicle operator's safety practices and standards, and public access to such program.
92 Notwithstanding, a segment of such program shall provide information on certain laws relative to
93 snow vehicle safety and other operator requirements. The office of law enforcement shall make
94 available on its public website any written educational program materials that the public may
95 access and print. No fee shall be charged to participate in such program or to obtain related
96 program information on such website.

97 The director or an authorized instructor designee for such program, shall issue a
98 certificate of completion to a person in his name, who successfully completes such program. The
99 certificate shall be valid for the lifetime of the person in whose name it was issued. Upon
100 request, the director shall replace a prior issued certificate that was lost or destroyed, provided
101 the office of law enforcement issued the certificate or has a record that the certificate had been
102 issued in such person's name. A replacement certificate shall be considered a valid substitute for
103 the prior issued certificate. The director may impose a minimal fee for such replacement
104 certificate. A certificate of completion issued in the name of a person by another state, province
105 or country that represents the successful completion of its equivalent safety education program
106 for snow vehicles, as determined by the director, shall be valid in the Commonwealth to satisfy
107 the safety education and certification requirements under this section. A list of other jurisdictions
108 as determined to meet the requirements under the prior sentence shall be posted on the office of
109 law enforcement's public website

110 The director shall adopt regulations related to the statewide establishment and
111 administration of such program, to include, the required qualifications to certify program
112 instructors.

113 Section 21C. (a) No registration for a snow vehicle shall be issued initially, renewed or
114 transferred under section 22, unless the director or his authorized agent, issues a trail land
115 acquisition stamp with the registration certificate for the vehicle. The indicia of said stamp shall
116 be in such form as prescribed by the director, provided it is clearly imprinted or marked on the
117 registration certificate. A trail land acquisition stamp assigned to a registration of a snow vehicle
118 shall expire on the last day of the registration period, or earlier, upon the registration being
119 surrendered, suspended or revoked. Each registration certificate issued, shall display a valid trail
120 land acquisition stamp, and said stamp shall issue only in such manner.

121 An application for a trail land acquisition stamp for a snow vehicle shall be made by the
122 owner, to the director or his authorized agent, on such form and with the required information as
123 the director shall prescribe. Said application shall be submitted with a completed registration
124 application for the snow vehicle and all applicable fees as established under law or regulation. A
125 person shall not knowingly make a false statement in an application for a trail land acquisition
126 stamp.

127 The fee for a trail land acquisition stamp for a snow vehicle shall be: $5 for a stamp that
128 issues with an initial or renewal registration of a 1 year period for the vehicle, and $10 for a
129 stamp that issues with an initial or renewal registration of a 2 year period for the vehicle.
130 Notwithstanding, no fee shall be collected for a trail land acquisition stamp for a snow vehicle:
131 (i) owned by the Commonwealth or a political subdivision thereof, (ii) when the registration of
132 such vehicle is exempt from registration fees at the time an application for the stamp is made to
133 the director or his authorized agent, (iii) upon application made to the director or his authorized
134 agent, to transfer to such vehicle a valid registration issued to another snow vehicle; provided,
135 both vehicles have the same documented ownership, or (iv) when the applicant has paid a stamp

136 fee for another snow vehicle, within 90 days from the date an application for said stamp is made
137 to the director or his authorized agent; provided, the owner's name and address on the
138 registration of the other vehicle and the registration for the vehicle upon issuance with the stamp,
139 will be the same.

140 The director shall be authorized to adopt regulations for the administration of this section.

141 (b) All amounts collected for trail land acquisition stamps under subsection (a), shall be
142 credited to the Recreational Trail Land Acquisition Trust Fund established under section 2LLLL
143 of chapter 29.

144 SECTION 7. Subsection (e) of section 26 of said chapter 90B, as so appearing, is hereby
145 amended by inserting after the second paragraph the following 2 paragraphs:-

146 A person who operates a snow vehicle on publicly-owned property shall be required to
147 have displayed on the vehicle a valid membership trail decal or label issued by a club,
148 association or other organization that actively throughout the Commonwealth, promotes snow
149 vehicle safety, performs maintenance of snow vehicle recreational trails on publicly-owned and
150 privately-owned property, and obtains certain authorizations to access property as described
151 under clause (ii) of the first paragraph to further snow vehicle recreation. Said decal or label shall
152 be issued to the vehicle of the member owner, by a club, association or organization that is
153 approved by the director, and shall be affixed to the vehicle in the manner prescribed by
154 regulation of the office of law enforcement. Provided a required decal or label is so displayed, a
155 person who is not the member issued said affixed decal or label, shall not be in violation of the
156 provisions of this paragraph when operating the vehicle. This requirement shall not apply to a
157 person who: (i) is an employee, agent or representative of any governmental entity when

158 operating a snow vehicle for official use, (ii) has been issued a waiver subject to any restrictions,
159 by the director, (iii) has been issued a waiver subject to any restriction, by the commissioner of
160 the department of conservation and recreation when so operating on property under the custody
161 and control of the department, (iv) is operating a snow vehicle on publicly-owned property for a
162 non recreational purpose, which was authorized by the property owner or a law enforcement
163 official, or (v) is exempt by regulation of the office of law enforcement.

164 For the purpose of this subsection, the term "publicly-owned property" shall mean any
165 ownership, easement and lease in real property, owned or acquired by the commonwealth or
166 other governmental entity.

167 SECTION 8. Said chapter 90B is hereby amended by inserting after section 26E the
168 following section:-

169 Section 27F. Whoever, without right, knowingly operates a motor vehicle on wheels over
170 a snow vehicle trail on public property shall be subject to a fine of $250 for the first offense and
171 a fine of $500 for any subsequent offense.

172 The provisions of this section shall not apply where the operation of the wheeled vehicle
173 onto a snow vehicle trail occurred from an adjoining public way or place, or private way or place
174 which members of the public are allowed access; unless, signage that prohibits the public use of
175 a wheeled vehicle on the trail is posted conspicuously at such location.

176 For the purposes of this section, the words, "snow vehicle trail", shall mean a path or
177 road on publicly-owned property that is designated and marked as a trail for snow vehicles by the
178 property owner, provided that during any period of such allowed use as may be established by
179 the owner, the trail is closed to the public use of motor vehicles other than snow vehicles; and the

180 words, “motor vehicle on wheels” or “wheeled vehicle”, shall mean a recreational vehicle as
181 defined under this chapter, and a motor vehicle as defined under chapter 90, not excluding any
182 motor vehicle used exclusively in the building repair and maintenance of highways; provided,
183 such vehicle is designed to travel on one or more wheels in contact with the ground.

184 SECTION 9. Notwithstanding the second paragraph of section 2A of chapter 21, as
185 added by section 2 of this act, or any general or special law to the contrary, the appointment of
186 the additional member to the stewardship council under said second paragraph of said section 2A
187 of said chapter 21A shall be made within 90 days of the enactment of this act.

188 SECTION 10. Notwithstanding section 21A of chapter 90B, as added by section 6 of this
189 act, or any general or special law to the contrary, no penalty or liability shall be assessed or
190 imposed, for a violation related directly to the snow vehicle operator age requirements and
191 prohibitions under said section 21A of said chapter 90B or any related regulation, occurring
192 before November 1, 2015.

193 SECTION 11. On or before December 1, 2015, the director of the office of law
194 enforcement in the executive office of energy and environmental affairs shall establish
195 requirements for the authorization of safety education program instructor designees under section
196 21B of chapter 90B, as added by section 6 of this act.

197 SECTION 12. On and after February 1, 2016, the office of law enforcement in the
198 executive office of energy and environmental affairs shall post information on its public web
199 site, as required under subsection (b) of section 21B of chapter 90B, as added by section 6 of this
200 act, any written educational materials for the snow vehicle safety education program and a list of
201 acceptable completion certifications issued by other jurisdictions, which represents the

202 successful completion of an equivalent snow vehicle safety education program; subject to the
203 additional requirement that notice of any change to such information shall be posted on the
204 website not less than 30 days in advance of the change.

205 SECTION 13. Notwithstanding section 21B of chapter 90B, as added by section 6 of this
206 act, or any general or special law to the contrary, no penalty or liability shall be assessed or
207 imposed, for a violation related directly to the requirement for snow vehicle operators to
208 complete successfully an approved safety education program and to possess and produce the
209 required certification for such program under said section 21B of said chapter 90B or any related
210 regulation, occurring before November 1, 2016.

211 SECTION 14. On or before February 1, 2016, the director of the office of law
212 enforcement in the executive office of energy and environmental affairs shall prescribe forms to
213 make application for snow vehicle trail acquisition stamps under section 21C of chapter 90B, as
214 added by section 6 of this act. Notwithstanding any contrary provision under said section 21C of
215 said chapter 90B or any related regulation, no snow vehicle trail acquisition stamp shall be issued
216 before April 1, 2016.

217 SECTION 15. Notwithstanding the third paragraph of subsection (e) of section 26 of
218 chapter 90B, as added by section 7 of this act, or any general or special law to the contrary, no
219 penalty shall be assessed or imposed for a violation of said third paragraph of said subsection (e)
220 of said section 26 of said chapter 90B or any related regulation, occurring before November 1,
221 2015.

222 SECTION 16. Notwithstanding section 27F of chapter 90B as added by section 8 of this
223 act, or any general or special law to the contrary, no penalty shall be assessed or imposed for a

224 violation by an operator of a motor vehicle of said section 27F of said chapter 90B or any related
225 regulation, occurring before November 1, 2015.

226 SECTION 17. Notwithstanding any provision under chapter 30A, or any general or
227 special law to the contrary, the director of the office of law enforcement in the executive office
228 of energy and environmental affairs, shall have the authority to adopt temporary emergency
229 regulations without holding a public hearing, for section 21A of chapter 90B, as added by section
230 6 of this act, and the third and fourth paragraphs of subsection (e) of section 26 of chapter 90B,
231 as added by section 7 of this act; provided, there are less than 150 days from the date this act
232 takes effect until November 1, 2015. In the event emergency regulations are adopted, the director
233 shall, within 90 days of the date that such regulations are filed with the secretary of state, hold a
234 public hearing and adopt permanent regulations.