

# HOUSE . . . . . No. 3368

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act relative to regulate of off-road vehicles..

*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 1 of Chapter 90 is hereby amended as follows :

2           insert the following new definitions :

3           "Highway", the entire width between the boundary lines of any way or place when any  
4 part thereof is open to the use of the public, as a matter of right, for the purpose of the movement  
5 of vehicular traffic.

6           "Park Road", any road or highway, located on public lands, and constructed by park  
7 authorities on park lands, including those authorized pursuant to Section 33 of Chapter 92.

8           "Private Way" , any road or highway constructed on private property.

9           "Public Way", any path, trail, road or highway, dedicated to public use and located on  
10 public land, except park roads. The area of any public way shall be defined by the entire width  
11 between the boundary lines of its publicly owned right-of-way.

12          "Road", any highway or park road

Section 20 of Chapter 90B is hereby amended as follows :

Strike the existing definitions of “All terrain vehicle,” “Off-road vehicle,” “Recreation vehicle” and “Snow vehicle,” and insert in place thereof, the following new definitions :

"All-Terrain-Vehicle" (ATV), a vehicle designed for off-road use and to travel on four or more tires or two or more tracks, excluding golf carts

"Off-road Vehicle", a category of vehicles that includes all-terrain vehicles, all motorcycles, motorized dirt bikes and snowmobiles, and golf carts including any motor vehicle weighting under 1,000 pounds and designed or modified for use over unimproved terrain if used off a public way or a park road. Any motor vehicle legally registered under chapter ninety will not be subject to registration under this chapter but registration numbers shall be displayed as required by said chapter ninety.

"Snow vehicle", shall mean the same as "snowmobile".

Insert the following new definitions :

"Golf Cart", a vehicle designed for use on golf courses.

"Off-road Motorcycle", an off-road vehicle with two or three wheels, and shall include any motorcycle legally registered for on-highway use.

"Off-Highway Vehicle", shall mean the same as off-road vehicle

“Snowmobile", a motor vehicle designed to travel over ice or snow, driven by track or tracks in contact with snow or ice and steered by a ski or skis in contact with the snow or ice.

SECTION 2. The second paragraph of Section 7U of Chap 90 is hereby stricken.

SECTION 3. Section 24 of Chapter 90B is hereby amended as follows :

Strike the language in the third paragraph and insert in place thereof the following new language:

The use of off-road vehicles on public lands shall be subject to Procedures adopted by the Federal Highway Administration ["Procedures for Abatement of Highway Traffic Noise and Construction Noise" Part 772 of Title 23, of the Code of Federal Regulations Federal Register, 41 (80) April 23, 1976] to establish equivalent noise level standards, specifically the identification of the Activity Category A, namely "Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose," for which the design noise level is established to be 57 decibels (A). Furthermore, all public parks and forests shall qualify as lands of valued serenity and quiet.

The use of off-road vehicles on private lands shall be subject to procedures adopted by the Massachusetts Department of Environmental Protection for community sound level criteria. Regulation 310 CMR 7.10(1) shall apply to any operation of an off-road vehicle on private or public lands, if such operation would (1) increase the peak broadband sound level by more than ten decibels on the A scale above ambient noise levels measured at the property line for any abutting public or private property, or (2) produce a pure tone condition. A landowner shall have the right to refuse access by any off-road vehicle or group of vehicles if in the opinion of the landowner the vehicle(s) is making excessive noise, without the requirement for posting against trespassing and even if the land contains designated and authorized trails for use by off-road vehicles.

55 "No off-road vehicle shall be operated which emits obnoxious fumes or which makes an  
56 unusual or excessive noise. No off-road vehicle shall be operated on public park or forest land  
57 that produces a sound pressure level of more than fifty-five decibels on the A scale, when  
58 measured from a distance of 20 inches using test procedures established by the Society of  
59 Automotive Engineers under Standards J1287 JUL98 or with such other test procedure for  
60 measurement of sound pressure levels as the registrar of motor vehicles may adopt.

61 No off-road vehicle shall be operated on public lands other than park or forest land that  
62 produces a sound pressure level of more than seventy-five decibels on the A scale.

63 Any public agency having care and control of public park and forest lands may adopt  
64 regulations that are applicable to the utility use of off-road vehicles and that allow sound  
65 pressure levels that are up to 20 decibels higher than those specified above for parks and forests,  
66 provided that such vehicles are used only for agriculture, forestry, lumbering or construction  
67 purposes; or are in use for emergency rescue or firefighting use, provided further than in any  
68 complaint brought under this chapter the burden shall be upon the defendant to prove such use.

69 SECTION 4. Chapter 90B is hereby amended by adding the following five new sections:

70 Section 26A. No person shall operate any vehicle on publicly owned park and forest  
71 land, except in cases of medical emergency, unless (a) the operator is a public or contract  
72 employee engaged in public business on said land, or (b) the operation is on a trail designated  
73 and approved for use by off-road vehicles by the public agency in charge of the land, or (c) is a  
74 park road designated for use by motor vehicles by the public agency in charge of the land. Any  
75 off-road vehicle shall be in compliance with all state and municipal laws and regulations  
76 governing the use of public park and forest lands by said vehicles.

77           Section 26B. No person shall operate any vehicle on privately owned property, except in  
78 cases of emergency, unless : (a) the operator is the owner or the lessee or immediate family  
79 member of the owner or lessee of such property; (b) the owner or lessee of such property has  
80 designated the area for use by said vehicles by posting reasonable notice of such designation in a  
81 manner approved by the director, or (c) the operator either has in his possession valid proof of  
82 current membership in a club, association or other organization to which express authorization  
83 for the operation of said vehicles on such property has been granted, or has in his possession a  
84 document, signed by the owner or lessee of such property or his agent, authorizing the operation  
85 of said vehicle on such property by the operator; provided however, that such operation shall be  
86 consistent with the express authorization so granted and any restrictions imposed therewith.

87           Section 26C. No person shall operate an off-road vehicle

88           (1) on public land without an approved safety helmet or use a vehicle that is not  
89 currently registered in Massachusetts under MGL Chapter 90 or 90B. The registration plate  
90 must be displayed on the back of each vehicle.

91           (2) on public land earlier than May 1 nor later than the last Sunday in November of each  
92 year.

93           (3) on any publicly owned park or forest land if said vehicle has an engine displacement  
94 in excess of one hundred-twenty-five cubic centimeters or in excess of a dry weight of 500  
95 pounds.

96           (4) on public land at speeds in excess of 30 mph, and any such off-road vehicle shall  
97 have an engine governor to limit maximum speeds to 30 mph.

(5) on public or private land so as to endanger any person or property, operate at an unreasonable, improper or unsafe speed for existing conditions, or operate under the influence of drugs and/or alcohol.

(6) in a manner so as to harass or chase wildlife or domestic animals, operate in a reforested or planted area in a manner that causes damage to growing stock, or operate on any wetland such as a bog, marsh, or swamp so as to damage or destroy the wetland. Any wetlands damage caused by such vehicle operation shall be subject to the full penalties of Chapter 131 Section 40. When passing hikers, horseback riders, mountain bikers and other trail users, all vehicle operators shall reduce speed, yield the right of way, and do not pass until it can be accomplished with complete safety.

Section 26D. No person shall operate an off-road vehicle on public land while carrying a firearm, unless the firearm is unloaded and in an enclosed case. No person shall operate an off-road vehicle on private land while carrying a firearm, without the permission of the property owner.

Section 26E. All operators of off-road vehicles who seek to operate on any publicly owned park or forest land shall successfully complete an off-road vehicle safety and responsibility course approved by the director of environmental law enforcement. Until said course is completed, said operator may not operate an off-road vehicle on said park or forest land.

SECTION 5. Chapter 21A is hereby amended by inserting the following two sections : -

Section 18B. There is hereby established within the executive office of energy and environmental affairs a state off-road vehicle advisory committee. The committee shall advise

the secretary and the department of conservation and recreation, the department of fish and game, the department of environmental protection, and the office of environmental law enforcement within said executive office on matters involving the commonwealth's regulation of off-road vehicles, including the development and enforcement of state regulations and policies, safety and training programs, and resolution of conflicts between use of off-road vehicles and other park users. The secretary shall appoint the members of the committee, which shall consist of twelve members. Of the committee members, two shall be representatives of state and local law enforcement authorities, two shall be members of state forest or park friends groups associated with the Massachusetts Forest and Park Friends Network, two shall represent the ATV, motorcycle and snowmobile users, one shall be a representative of the department of public health, one shall be a representative of child safety advocates associated with the use of off-road vehicles, one shall be a representative of a non-profit organization that owns and manages land open to the public, and one shall be a member of the Mass Association of Conservation Commissions.

Section 18C. (1) There is hereby established and set up on the books of the commonwealth a separate fund known as the Off-Road Vehicle Enforcement Fund. There shall be credited to the fund 50 (fifty) per cent of all fees, fines, costs, expenses and interest imposed pursuant to section 21 to 32, inclusive, of chapter 90B and the fourth paragraph of section 10H of chapter 21A and any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any appropriation or grant explicitly made to the fund.

(2) All amounts credited to the fund may be expended, without further appropriation, by the executive office of energy and environmental affairs and its office of environmental law

143 enforcement, department of conservation and recreation, the department of fish and game, and  
144 the department of environmental protection for any of the following purposes:

145 (a). the enforcement of statutes, regulations and policies applicable to off-road vehicles;

146 (b). for grants made by the department of conservation and recreation to municipalities  
147 and other entities for the purposes of clause (a);

148 (c). the development and administration of safety and training programs; and

149 (d). for other off road enforcement activities, including all direct and indirect costs of  
150 personnel of the executive office and its office of environmental law enforcement.

151 (3). Monies that are deposited into the fund that are unexpended at the end of the fiscal  
152 year shall not revert to the General Fund and shall be available for expenditure in the subsequent  
153 fiscal year.

154 (4). Within one month of the end of each fiscal year, the secretary of energy and  
155 environmental affairs shall report to the joint committee on environmental, natural resources and  
156 agriculture committee and to the secretary of administration and finance on the expenditures and  
157 receipts of monies to the fund over the previous fiscal year, with a comparison of trends over the  
158 previous five years.