

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz (BY REQUEST)

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 bill:

An Act relative to regulation of off-road vehicles.

PETITION OF:

NAME:

Stephen H. Kaiser

DISTRICT/ADDRESS:

191 Hamilton Street #3
Cambridge, MA 02139

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT RELATIVE TO REGULATION 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

3 insert the following new definitions :

4

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

8

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

11

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

13

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

17

18 "Road", any highway or park road

19

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

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

23

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

26

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

33

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

35

36 Insert the following new definitions :

37

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

39

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

42

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

44

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

47

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

49

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

51

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

53

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

61 design noise level is established to be 57 decibels (A). Furthermore, all public parks and forests
62 shall qualify as lands of valued serenity and quiet.

63

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

74

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

81

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

84

85 Any public agency having care and control of public park and forest lands may adopt regulations
86 that are applicable to the utility use of off-road vehicles and that allow sound pressure levels that
87 are up to 20 decibels higher than those specified above for parks and forests, provided that such

88 vehicles are used only for agriculture, forestry, lumbering or construction purposes; or are in use
89 for emergency rescue or firefighting use, provided further than in any complaint brought under
90 this chapter the burden shall be upon the defendant to prove such use.

91

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

93

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

101

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

112

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

114

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

118

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

120

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

123

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

126

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

130

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

138

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

143

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

148

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

150

151 Section 18B. There is hereby established within the executive office of energy and
152 environmental affairs a state off-road vehicle advisory committee. The committee shall advise
153 the secretary and the department of conservation and recreation, the department of fish and
154 game, the department of environmental protection, and the office of environmental law
155 enforcement within said executive office on matters involving the commonwealth's regulation of
156 off-road vehicles, including the development and enforcement of state regulations and policies,
157 safety and training programs, and resolution of conflicts between use of off-road vehicles and
158 other park users. The secretary shall appoint the members of the committee, which shall consist
159 of twelve members. Of the committee members, two shall be representatives of state and local
160 law enforcement authorities, two shall be members of state forest or park friends groups
161 associated with the Massachusetts Forest and Park Friends Network, two shall represent the
162 ATV, motorcycle and snowmobile users, one shall be a representative of the department of
163 public health, one shall be a representative of child safety advocates associated with the use of
164 off-road vehicles, one shall be a representative of a non-profit organization that owns and
165 manages land open to the public, and one shall be a member of the Mass Association of
166 Conservation Commissions.

167

168 Section 18C. (1) There is hereby established and set up on the books of the commonwealth a
169 separate fund known as the Off-Road Vehicle Enforcement Fund. There shall be credited to the
170 fund 50 (fifty) per cent of all fees, fines, costs, expenses and interest imposed pursuant to section
171 21 to 32, inclusive, of chapter 90B and the fourth paragraph of section 10H of chapter 21A and
172 any revenue from appropriations or other monies authorized by the general court and specifically
173 designated to be credited to the fund, and any appropriation or grant explicitly made to the fund.

174

175 (2) All amounts credited to the fund may be expended, without further appropriation, by the
176 executive office of energy and environmental affairs and its office of environmental law
177 enforcement, department of conservation and recreation, the department of fish and game, and
178 the department of environmental protection for any of the following purposes:

179

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

181

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

184

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

186

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

189

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

193

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