

A history of actions for Bill S366

Date	Branch	Action
1/20/2009	Senate	Referred to the committee on Joint Committee on Environment, Natural Resources and Agriculture
1/20/2009	House	House concurred
6/10/2009	Senate	Discharged to the committee on Joint Committee on Public Safety and Homeland Security
6/11/2009	House	House concurred Public Hearing date 7/28 at 1:30 PM in Hearing Room A-1
12/24/2009	Senate	Accompanied a new draft, see S2235

A history of actions for Bill S2235

Date	Branch	Action
12/24/2009	Senate	Reported from the committee on Joint Committee on Public Safety and Homeland Security
12/24/2009	Senate	New draft of S366
12/24/2009	Senate	Bill reported favorably by committee and referred to the committee on Senate Committee On Ways and Means
1/19/2010	Senate	Committee recommended ought to pass with an amendment, substituting therefore a new draft, see S2251
1/19/2010	Senate	Rules suspended
1/19/2010	Senate	Read second
1/19/2010	Senate	New draft substituted, see S2251

A history of actions for Bill S2251

Date	Branch	Action
1/19/2010	Senate	Reported from the committee on Senate Committee On Ways and Means
1/19/2010	Senate	New draft of S2235
1/19/2010	Senate	Rules suspended
1/19/2010	Senate	Substituted for S2235
1/19/2010	Senate	Ordered to a third reading
1/21/2010	Senate	Read third
1/21/2010	Senate	Motion to lay on the table pending and postponed to the next session
1/28/2010	Senate	Motion to lay on the table negatived
1/28/2010	Senate	Amendment adopted
1/28/2010	Senate	Amendment adopted
1/28/2010	Senate	Amendment adopted
1/28/2010	Senate	Amendment adopted
1/28/2010	Senate	Amendment adopted
1/28/2010	Senate	Amendment rejected
1/28/2010	Senate	Amendment adopted

A history of actions for Bill S2251

Date	Branch	Action
1/28/2010	Senate	Amendment rejected
1/28/2010	Senate	Passed to be engrossed
1/28/2010	Senate	Reprinted as amended, see S2257

A history of actions for Bill S2257

Date	Branch	Action
1/28/2010	Senate	Text of S2251, printed as amended
1/28/2010	Senate	Passed to be engrossed
2/1/2010	House	Read; and referred to the committee on House Committee On Ways and Means
6/9/2010	House	Committee recommended ought to pass with an amendment, substituting therefore a bill with the same title, see H4744
6/9/2010	House	Referred to the committee on House Committee On Steering, Policy and Scheduling with the amendment pending
6/9/2010	House	Committee reported that the matter be placed in the Orders of the Day for for the next sitting for a second reading, with the amendment pending
6/9/2010	House	Rules suspended
6/9/2010	House	Read second
6/9/2010	House	New text substituted, see H4744
6/9/2010	House	Ordered to a third reading
6/9/2010	House	Rules suspended
6/9/2010	House	Read third (title changed)
6/9/2010	House	Amendment 1 adopted
6/9/2010	House	Amendment 2 adopted
6/9/2010	House	Amendment 7 adopted
6/9/2010	House	Amendment 4 rejected
6/9/2010	House	Amendment 8 rejected 44 YEAS to 106 NAYS (See Yea and Nay in Supplement, No. 413)
6/9/2010	House	Amendment 5 adopted
6/9/2010	House	Amendment 6 adopted
6/9/2010	House	Amendment 9 rejected
6/9/2010	House	Amendment 10 rejected
6/9/2010	House	Amendment 13 adopted
6/9/2010	House	Passed to be engrossed 141 YEAS to 12 NAYS (See Yea and Nay in Supplement, No. 414)
7/19/2010	Senate	Rules suspended
7/19/2010	Senate	Senate concurred in the House amendment
7/22/2010	House	Enacted
7/22/2010	Senate	Enacted and laid before the Governor
7/31/2010	Governor	Signed by the Governor, Chapter 202 of the Acts of 2010

A history of actions for Bill H4744

Date	Branch	Action
6/9/2010	House	Reported from the committee on House Committee On Ways and Means
6/9/2010	House	Recommended new text for S2257
6/9/2010	House	Substituted new text for S2257
6/9/2010	House	Published as amended, see H4747

A history of actions for Bill H4747

Date	Branch	Action
6/9/2010	House	H4744, published as amended
6/9/2010	House	See S2257

SENATE SESSION - THURSDAY, JULY 22, 2010

OFF-HIGHWAY AND RECREATION VEHICLES: The Senate enacted S 2257 to regulate the use of off highway and recreation vehicles.

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HOUSE SESSION (NOON - 4:15 P.M.) THURSDAY, JULY 22, 2010

OFF-ROAD VEHICLES: The House enacted S 2257 to regulate the use of off highway and recreation vehicles.

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SENATE SESSION - MONDAY, JULY 19, 2010

HIGHWAY AND RECREATION VEHICLES: The Senate concurred with a House amendment (H 4747) to S 2257 regulating the use of off highway and recreation vehicles.

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STATE CAPITOL BRIEFS - THURSDAY, JUNE 9, 2010

HOUSE BACKS ATV AGE MINIMUM

Inspired in part by the death of an eight-year-old Plymouth boy, the House endorsed legislation Wednesday prohibiting children under 14 from riding all-terrain vehicles. The bill, characterized by supporters as a public safety measure and an environmental boon, passed on a 141-12 vote. The Senate passed similar legislation in January, which must now be reconciled with the House-passed bill before heading to Gov. Deval Patrick's desk. House members deflected a GOP attempt to protect homeowners from liability if an ATV driver trespasses on their property and gets injured. Members tacked on several amendments without explanation before adopting the proposal. Supporters said 30 to 40 percent of people injured on ATVs are children under 16, and they said children under 14 are physically incapable of handling them. Children between 14 and 16 would be required to take additional training courses. The bill has been in the making for years, gaining momentum in 2007, a year after Sean Kearney, 8, of Plymouth died while riding an ATV unsupervised while on a play-date at a friend's house. In a 33-minute morning stretch, the House advanced a slew of sick leave bank and local bills, new regulations for public charities, motorcycle safety rule changes, and legislation relative to the bond amounts paid by gasoline distributors. In a brief ceremony, the 82nd Airborne Division Association presented Rep. Paul Kujawski with an award for his work on behalf of veterans. In a statement released by her office, Senate President Therese Murray said, "I am pleased that the House of Representatives passed the ATV safety bill which is

critical to the well-being of our children. I want to commend the Kearneys, who, through their tragic loss, were able to find the strength to advocate for our children's safety. Working with them, we have been able to pass legislation that will hold negligent users or owners accountable and help reduce the bad practices that harm individuals and children."

http://66.105.150.70/cgi/as_web.exe?2010.ask+D+8436321

MA H.R. Jour., 6/9/2010

Reports of Committees.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Senate Bill to regulate the use of off highway and recreation vehicles (Senate No. 2257) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4744. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Mr. Kafka of Stoughton, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Costello of Newburyport, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the bill, as amended, was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn), was read a third time, its title having been changed by said committee to read: "An Act regulating the use of off-highway and recreation vehicles."

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Smizik of Brookline moved to amend it in section 13, after line 227, by inserting the following sentence "No person shall operate a snow vehicle or recreation vehicle on publicly-owned property except on trails marked and designated for use by such vehicles, or without the express permission of the owner.;" and the amendment was adopted.

Mr. Scibak of South Hadley then moved to amend the bill in section 8, in line 139, by inserting after the word "vehicle." the following three sentences "The registration number shall be painted or by means of a decal or sticker which is firmly attached to both sides of the cowl of the vehicle and located so that both are clearly visible and not obstructed. The registration number displayed shall be not less than three inches in height and not less than one half inch in width and shall be in a color that is in marked and distinct contrast to the background to which the number is applied. The registration number shall be maintained in a legible condition at all times." The amendment was adopted.

Mr. Rodrigues of Westport then moved to amend the bill in section 1, in line 38, by inserting after the word "year." the following paragraph:

"(d) Not less than twenty-five percent of the monies deposited in the fund shall be expended on a fiscal year basis for the activities identified in subsection (b)(ii) or for grants made pursuant to subsection (b)(iii) to fund the activities identified in subsection (b)(ii). Monies that are deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year."

The amendment was adopted.

Mr. Pignatelli of Lenox and other members of the House then moved to amend the bill in section 13, in line 200, by inserting after the word "year." the following sentence "A person operating an *appropriately aged and speed regulated recreational vehicle or snow vehicle under the accompanied* direct supervision of a parent, guardian or other authorized adult, all of whom have complied with any certification in safety education programs shall be exempt from the provisions of this section." The amendment was rejected.

Mr. Frost of Auburn then moved to amend the bill in section 13, in line 227, by inserting after the word "director." the following paragraph:

"Any municipality or owner of land who permits the public to use snow vehicles or recreational vehicles on such land without imposing a charge or fee therefor, or who leases such land for said purposes to the commonwealth or any political subdivision thereof or to any nonprofit corporation, trust or association, shall not be liable for personal injuries or property damage sustained by such members of the public, including without limitation a minor, while on said land in the absence of willful, wanton, or reckless conduct by such person. Such permission shall not confer upon any member of the public using said land, including without limitation a minor, the status of an invitee or licensee to whom any duty would be owed by said person."

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 44 members voted in the affirmative and 106 in the negative.

Therefore the amendment was rejected.

Mr. Quinn of Dartmouth and other members of the House then moved to amend the bill by adding the following section:

"SECTION 27. Chapter 242 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 7A thereof the following new section:--

Section 7B. Field crop product and agricultural property destruction.

(a) Any person operating an off-highway or recreational vehicle who damages or destroys a field crop product and agricultural property situated on the land of another shall be liable to the owner of such product in tort.

(b) A party recovering judgment under this section shall be entitled to an award of damages in an amount up to, but not greater than, three times the amount assessed for the removal, damage or destruction of the farm crop product and agricultural property, plus attorney fees and litigation costs. In assessing damages under this subsection, the courts shall consider the market value of the field crop product and agricultural property prior to its removal, damage or destruction, and all costs directly related to the production, research, testing, replacement and development of the field crop product and agricultural property.

(c) Damages awarded under this section shall not limit remedies available under chapter 266 or under any other applicable local, state or federal laws.

(d) Liability under this section shall not apply to any federal, state or local government agency, including the department of agricultural resources, or to any employee of any such agency acting in the course of their employment.

(e) For purposes of this section, a 'field crop product' shall mean any product of the soil that is grown in the context of a research or product development program in conjunction or coordination with a private research facility or a university or any federal, state or local governmental agency or any crop produced for commercial purposes on an agricultural operation as defined by M.G.L. chapter 128 Section 1A.

(f) For purposes of this section, an 'agricultural property' shall mean any implement of husbandry, structure used for the conveyance of water, or structure used in the production, growing, processing of field crop products or keeping and raising of livestock."

The amendment was adopted.

Representatives Sandlin of Agawam and Pignatelli of Lenox then moved to amend the bill in section 4, in lines 76 and 77, by striking out the words "off highway vehicle manufacturers and dealers" and inserting in place thereof the words "the Specialty Vehicle Industry Association and the Massachusetts Powersport Dealers Association"; and the amendment was adopted.

Mr. Rodrigues of Westport then moved to amend the bill by inserting after section 18 the following section:

"SECTION 18A. Section 1 of Chapter 90C of the General Laws, as appearing in the most recent edition, is hereby amended by inserting at the end of the definition of 'police chief' the following:-- or the director of law enforcement in the office of law enforcement in the executive office of energy and environmental affairs."

The amendment was rejected.

Ms. Peake of Provincetown then moved to amend the bill in section 24, in line 475, by inserting after the word "Laws." the following paragraph:

"Any duly authorized law enforcement officer, including a municipal police officer shall not be liable for personal injuries sustained by the operator or passenger of a snow vehicle or recreation vehicle that are sustained while attempting to flee from said duly authorized law enforcement officer."

The amendment was rejected.

Ms. Gobi of Spencer then moved to amend the bill in section 13, in line 200, by inserting after the word "vehicle." the following two sentences "This section shall not apply to a person operating a recreation vehicle or snow vehicle in preparation for, or while a participant in, a sanctioned race, rally or organized event which is supervised by a person aged 18 or older and which has been authorized or approved by a municipal permitting authority. It shall be an affirmative defense in a delinquency proceeding for a violation of this section that a juvenile was supervised by a person aged 18 or older while operating such a vehicle within 21 days before such sanctioned race, rally or organized event or while a participant in such a sanctioned race, rally or organized event." The amendment was adopted.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays at the request of Mr. Costello of Newburyport; and on the roll call 142 members voted in the affirmative and 12 in the negative.

Therefore the bill, as amended, was passed to be engrossed, in concurrence (for House text, as amended, see House document numbered 4747, published as amended). The bill (Senate, No. 2257, amended) then was sent to the Senate for concurrence in the House amendment.

Subsequently a statement of Mr. Cabral of New Bedford was spread upon the records of the House, as follows:

MR. SPEAKER, On the taking of the above yeas and nays, on the question on passing the bill to be engrossed, I voted in the affirmative, but for some inexplicable reason, I was recorded in the negative.

<http://www.mass.gov/legis/journal/hj060910.pdf>

HOUSE SESSION - WEDNESDAY, JUNE 9, 2010

ATV REGULATIONS: Question came on engrossing S 2257 regulating ATVs.

Rep. Costello said, We're here to vote on the ATV bill. My committee deals with victims and families of victims. There's a story that will be talked about a couple times today about a family, the father came in and the mother, and the event happened on a Sunday afternoon.

Rep. Kujawski said he could not hear. Rep. Costello. The chair asked for quiet.

Rep. Costello said, Most times I don't care if people talk over me but I believe this is a real important issue. On a Sunday afternoon, when most kids want to go out with their friends, the family got a call saying their son wanted to go out with their friend. The friend called and said he could not have the playdate. Then the call came in the afternoon saying we can play now in the afternoon. Being a father who wanted to make his kid happy, he said OK we can go over. The 1 or 2 year old came over and said I love you, Sean. And the father smiled and drove off, not knowing it would be the last time he would see his son alive. Then a tragedy, the ATV flipped over and killed Sean. This bill has got two pieces to it. One

is a public safety bill and the second piece is an environmental piece. The bill basically prohibits anyone under the age of 14 from riding an ATV. I talked to the doctor and the family, and I struggled with this, too, and we talked about moderating the bill. It made imminent sense that we should at least go to 14. In Massachusetts, 30-40 percent of those injured on ATVs are children between zero and 16. The average age of an injured child is 12.9. When we were discussing this in caucus, I got an email from a doctor at Children's Hospital. In May, there were 15 accidents, seven required surgery and four resulted in brain injury. When you hear those compelling statistics, there's no balance.

Rep. Costello asked for a roll call vote and there was support.

SMIZIK AMENDMENT: Rep. Smizik offered an amendment. The House adopted the amendment on voice vote.

SCIBAK AMENDMENT: Rep. Scibak offered an amendment. The House adopted the amendment on voice vote.

RODRIGUES AMENDMENT: Rep. Rodrigues offered an amendment. The House adopted the amendment on voice vote.

PIGNATELLI AMENDMENT: Rep. Pignatelli offered an amendment. The House rejected the amendment on voice vote.

FROST AMENDMENT: Rep. Frost offered an amendment. Question came on the amendment.

Rep. Frost said, The language of this amendment comes directly from existing statute. This amendment attempts to codify under existing law. When someone, who has your permission or not, wants to go on property and use an ATV and an injury happened to them on the ATV, they cannot turn around and sue the landowner. I think it makes a lot of common sense, that we don't have a frivolous lawsuit. I know it's commonly understood that when someone's going hiking or fishing or hunting and breaks your leg, they're not going to come after you with a lawsuit. If someone wants to use them, they should do so at their own risk. We're not discouraging ATV use.

Rep. Frost asked that a vote on the amendment be taken by a call of the yeas and nays. There was support.

Rep. Costello said, I rise in opposition to this amendment. I've spoken to my friend from Auburn and I understand where he's trying to go with this piece. There are some pitfalls if we follow through with this amendment. To write in recreational vehicles, you've got machines that are moving at high speeds. If you open up your farm for snowmobiling and you took your barbed wire down, you could get fined. I think that if the statute on the books would encourage this kind of activity - this is a plan where someone's on your property that's not supposed to be on my property.

Rep. Frost said, This amendment would protect private landowners, to protect out municipalities and to make clear that if an individual wants to use their ATV or snowmobile on your property, they do so at their own risk. We're talking about liability issues. So, why would we want to do this? If someone's charging a fee to use their property, there is no violation. I completely understand that there should be some liability there. So why can't this be in place, without disturbing ATV use. It actually enhances it. The alternative is that they do use land without permission and then the person whose land it is is liable.

BY A ROLL CALL VOTE OF 44-106, AMENDMENT NOT ADOPTED

QUINN AMENDMENT: Rep. Quinn offered an amendment. There was no objection to dispensing with the reading of the amendment.

The amendment was ADOPTED.

SANDLIN AMENDMENT: Rep. Sandlin offered an amendment. There was no objection to dispensing with the reading of the amendment.

The amendment was ADOPTED.

RODRIGUES AMENDMENT: Rep. Rodrigues offered an amendment. There was no objection to dispensing with the reading of the amendment.

The amendment was NOT ADOPTED.

PEAKE AMENDMENT: Rep. Peake offered an amendment. There was no objection to dispensing with the reading of the amendment.

The amendment was NOT ADOPTED.

GOBI AMENDMENT: Rep. Gobi offered an amendment. There was no objection to dispensing with the reading of the amendment.

The amendment was ADOPTED.

ENGROSSMENT: Question came on engrossing the bill.

Rep. deMacedo said, I rise in support of the bill and I ask for support. We spent a lot of time on this bill for the past three or four years. The bill addresses the important issues before us. I want to recognize the work of Sen. Baddour, Senate President Murray, the chairman of Public Safety. It truly does make sense. I'm not one to support government regulation to solve issues. That being said, as I spent time on this issue, I came to the realization that this really is important. As we said earlier, the average age of injuries is 12.9. We need a guarantee. ATVs have a higher center of gravity. That's why we're not

addressing snowmobiles. What we're doing here is to try and save lives, to trying and save young people from getting injured. We know that sometimes when we get involved in legislation, it would make a difference and I hearken back to the junior operator's license. We extended the time one would have to learn to be behind the wheel. It has made a huge difference. It has saved lives. We are saying that under the age of 14, these vehicles are much too dangerous, too fast, too heavy to maneuver and have the ability to maneuver them. I'm hopeful we can all get together and support this. I just had a recent incident in Plymouth, but we had a 12-year-old girl operating a 300CC ATV. If it were not for her 14 year old brother who found her face first in a cranberry bog and administered CPR, she wouldn't be here today. I believe when we change this law, we are going to put people on notice that these vehicles are dangerous. They're not dangerous until it's too late. They should not be operated by someone under 14. I hope this bill is adopted.

Rep. Koutoujian said, I rise in support of this very important legislation. It's important to know that once again, this is a very important piece of legislation. Today we're in a position to save lives. The gentleman before me, and the gentleman who will follow me spoke about the Kearneys. They left their son off on a play date with a pair of responsible people. The story we're talking about, the child we're speaking about, is the child of the Kearneys. He was dropped off on a play date with responsible parents. They got a call that their child had suffered life-threatening injuries. When they arrived, they found out that their son was allowed to go out on an ATV weighing four to five hundred pounds. As horrible as it sounds, it is not an unusual incident in the United States. Since 2004, 45,000 children under 16 have been treated in emergency rooms. Since 1982, more than 1,000 children died as a result of trauma. Aside from common sense reasons, all ATVs require physical strength and judgment for safe operation. They don't enclose the driver. Children under 16 lack maturity to make proper decisions. Almost four-fifths of injuries are to children under 14. 90 percent of injuries are as a result of unsafe and warned-against behavior. In 2004 and 2005, DPH reports 935 pediatric injuries. How do we know this will work? The junior license law showed us a reduction in mortality. I ask you to support this legislation. Don't support it only in the name of the Kearneys. No family should have to deal with a loss like this.

Rep. Calter said, I ask you piece to think of just a few pieces of data. If you're a parent or grandparent, think of a 60 pound child riding on a 600 pound machine going 60 miles an hour. A 60 pound child on a 600 pound machine traveling 60 miles an hour. It doesn't take a rocket scientist to understand that those three numbers simply don't go together. We have an opportunity and responsibility to never let it happen again. The industry will tell us they control their own destiny. 90 percent of all these ATV-related fatalities are the result of behavior that contradicts the guidance given by the industry standards. Children under 14 years old don't have the mental capacity to make sound decisions. Parenting is not what it should be. Parents are not as involved in children's lives as they once were. Join with me today as we pass this very important piece of legislation. The two person scooters we see going down the street - we regulated that. You can't drive that until you're 16 years old. Yet on ATVs, we allow 60 pound children to drive 600 pound machines going 60 miles an hour. I ask for your support.

Rep. Patrick said, I rise in favor of this bill. I originally filed this bill 4 years ago. I filed it because of true environmentalists. People said trails and back woods were getting torn up. Erosion was a big problem.

But I found it was really a child safety issue. It was obvious to me we needed to regulate the use of these vehicles. There was the death of a young boy in Sandwich in 2003. There were compelling stories from parents and doctors. I'm very happy with the way the language has turned out. We're going to save lives. I urge you to vote in favor of this bill.

BY A ROLL CALL VOTE OF 141-12, BILL ENGROSSED. Time was 3:16 p.m. Rep. Donato took the chair.

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WEDNESDAY, JUNE 9, 2010

HOUSE FORMAL SESSION: The House holds a formal session Wednesday at 11 a.m., when action is anticipated on Senate-approved legislation (S 2257) dealing with all-terrain vehicles as well as bills on the House calendar and legislation delivered by the Senate. According to the office of Rep. Matthew Patrick, who sponsored ATV legislation in 2007, the bill makes it illegal for those under age 14 to ride an all-terrain vehicle or recreation utility vehicle unless in an organized event supervised by a person 18 or older. The bill also increases the fines and penalties and calls for more supervision and requires that all-terrain vehicles or recreation utility vehicles be registered and anyone driving one must successfully complete a recreation vehicle safety and responsibility course. The bill also restricts kids under 16 from riding an all-terrain vehicle or recreation utility vehicle with an engine capacity greater than 90 cubic centimeters.

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JOURNAL OF THE SENATE: THURSDAY, JANUARY 28, 2010

The Senate Bill to regulate the use of off highway and recreation vehicles (Senate, No. 2251),-- was considered, the main question being on passing it to be engrossed.

The pending motion, previously moved by Mr. Richard T. Moore, to lay the matter on the table,— was considered; and it was negatived.

Pending the question on passing the bill to be engrossed, Mr. Michael O. Moore moved that the bill be amended in Section 11, by striking out, in lines 190 to 193, inclusive, the words "that for recreation vehicles, the public way and the crossing shall be marked and approved for use by recreation vehicles by the applicable state or local authorities as part of a publicly or privately authorized recreation vehicle trail system and" and inserting in place thereof the following words:- "that for recreation vehicles, the public way and the crossing shall be marked and approved for use by recreation vehicles by the applicable state or local authorities as part of a publicly or privately authorized recreation vehicle trail system. The costs necessary to establish and maintain proper markings for said trail system shall be incurred by the applicable state or local authorities; provided, however, that these authorities shall be

reimbursed from the Off Highway Vehicle Program Fund. Properly submitted additions to said trail system shall be deemed approved if not acted upon within 30 days of submission to the applicable state or local authority. Decisions to disapprove trail systems and trail system additions by state or local authorities may be appealed to the director of the office of environmental law enforcement.”; and by adding the following section:-

“SECTION 26. The applicable state or local authorities authorized to submit public ways and crossings for use by recreation vehicles as part of a publicly or privately authorized recreation vehicle trail system under section 25 of chapter 90B of the General Laws shall submit all existing public ways and crossings in use by recreation vehicles as part of any publicly or privately authorized recreation vehicle trail systems not less than 30 days after the effective date of this act.”

After remarks, the amendment was adopted.

Mr. Michael O. Moore moved that the bill be amended by inserting after Section 18 the following section:-

“SECTION 18A. The definition of ‘Police chief’ in section 1 of chapter 90C of the General Laws, as appearing in section 86 of chapter 35 of the acts of 2009, is hereby amended by inserting after the words “the chairman of the Massachusetts Department of Transportation,” the following words:- , or the director of environmental law enforcement within the executive office of energy and environmental affairs.”

The amendment was adopted.

Mr. Baddour moved that the bill be amended in section 7, by striking out the proposed first paragraph of section 22 of chapter 90B of the General Laws, and inserting in place thereof the following paragraph:-

“No person shall operate a snow vehicle or a recreation vehicle unless the vehicle has been registered in accordance with this chapter and a registration number assigned by the director is displayed on the vehicle. A motor vehicle license or learner’s permit shall not be required for the operation of a snow vehicle or a recreation vehicle; provided, however, that a person between 14 and 16 years of age shall not operate an all terrain vehicle or recreation utility vehicle with an engine capacity greater than 90 cubic centimeters; provided, further, that a person between 14 and 16 years of age may operate an all terrain vehicle or recreation utility vehicle with an engine capacity equal to or less than 90 cubic centimeters if directly supervised by an adult 18 years of age or older as provided under section 25C.”;

In section 13, by striking out the proposed section 25B of said chapter 90B, and inserting in place thereof the following section:-

"Section 25B. No person under 14 years of age shall operate an all terrain vehicle or recreation utility vehicle. This section shall not apply to a person operating a recreation vehicle or snow vehicle in preparation for, or while a participant in, a sanctioned race, rally or organized event which is supervised by a person aged 18 or older and which has been authorized or approved by a municipal permitting authority. It shall be an affirmative defense in a delinquency proceeding for a violation of this section that a juvenile was supervised by a person aged 18 or older while operating such a vehicle within 21 days before such sanctioned race, rally or organized event or while a participant in such a sanctioned race, rally or organized event.";

In said section 13, by striking out the proposed section 25J of said chapter 90B;

In section 14, by striking out, in line 305, the word "and" and inserting in place thereof the following word:- "or";

In said section 14, by striking out, in lines 317 and 320, the figure "26E" and inserting in place thereof, in each instance, the following figure:- "26D"; and

In said section 14, by striking out, in lines 395 and 396, the words "of section 25 or".

The amendment was adopted.

Messrs. Richard T. Moore and Brewer moved that the bill be amended in section 9, by inserting after the word "adopt.", in line 173, the following sentence:- "A snowmobile that was manufactured prior to January 28, 1985 and that is substantially maintained in its original or restored condition shall meet the sound and emission specifications in place at the time of its manufacture."

After remarks, the amendment was adopted.

Messrs. Richard T. Moore and Brewer moved that the bill be amended in section 9, by striking out, in line 176, the figure "\$50" and inserting in place thereof the following figure:- "\$250".

After remarks, the amendment was adopted.

Mr. Richard T. Moore moved that the bill be amended in section 3, by inserting after the word "protection", in line 79, the following words:- "; provided, however, that said departments shall annually report to the house and senate committees on ways and means and the joint committees on environment, natural resources and agriculture, transportation and public safety and homeland security relative to the source and amount of funds deposited and the purpose and recipient of expenditures from the fund".

After remarks, the amendment was adopted.

Messrs. Richard T. Moore, Brewer and Knapik moved that the bill be amended in section 12, by striking out the proposed sections 25B, 25C and 25D of chapter 90B of the General Laws and inserting in place thereof the following section:--

"Section 25B. (a) No person under 10 years of age shall operate an all terrain vehicle or recreation utility vehicle.

(b) No person between the age of 10 years and 14 years shall operate an all terrain vehicle or recreation utility vehicle with an engine capacity greater than 70 cubic centimeters unless under the direct supervision of a person aged 18 or older. For the purposes of this section, 'direct supervision' shall mean that the supervising adult shall be sufficiently close to an operator at all times that the vehicle is in operation, such that a reasonable person under the totality of the circumstances including, but not limited to, vehicle and ambient noise, the landscape, topography and geography of the location, and the operator's wearing of protective headgear, would reasonably believe that he is maintaining visual contact and verbal communication with the operator.

(c) No person between the age of 14 years and 16 years shall operate an all terrain vehicle or recreation utility vehicle with an engine capacity greater than 90 cubic centimeters unless under the direct supervision of an adult 18 years of age or older. For the purposes of this section, 'direct supervision' shall mean that the supervising adult shall be sufficiently close to an operator at all times that the vehicle is in operation, such that a reasonable person under the totality of the circumstances including, but not limited to, vehicle and ambient noise, the landscape, topography and geography of the location, and the operator's wearing of protective headgear, would reasonably believe that he is maintaining visual contact and verbal communication with the operator."

After debate, the amendment was rejected.

Mr. Rosenberg in the Chair, Mr. Richard T. Moore doubted the vote, and asked for a standing vote; and the amendment was rejected by a vote of 5 to 9.

Mr. Panagiotakos moved that the bill be amended in section 3, in the proposed section 18C of chapter 21A of the General Laws, by striking out subsection (a) and inserting in place thereof the following subsection:-

"(a) There shall be established and set up on the books of the commonwealth an Off Highway Vehicle Program Fund. Notwithstanding the provisions relative to the distribution of fines, penalties and forfeitures in section 10G of chapter 21 to the contrary, there shall be credited to the fund all of the fees collected pursuant to section 22 of chapter 90B, 75 per cent of all fines, costs, forfeitures, expenses and interest imposed pursuant to section 21 and sections 24 to 32, inclusive, of said chapter 90B and pursuant to the fourth paragraph of section 10H of chapter 21A, any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any

appropriation or grant explicitly made to the fund and any income derived from the investment of amounts credited to the fund. The remaining 25 per cent of the fines, costs, forfeitures, expenses and interest imposed pursuant to said section 21 and said sections 24 to 32, inclusive of said chapter 90B and pursuant to the fourth paragraph of section 10H of chapter 21A shall be distributed equally among the division, departments or offices involved or to the division, department or office if a single law enforcement agency was involved.” and

In section 17, by striking out the proposed section 34 of chapter 90B of the General Laws, and inserting in place thereof the following section:-

“Section 34. Notwithstanding the provisions relative to the distribution of fines, penalties and forfeitures in section 10G of chapter 21 to the contrary, of the fines collected by the commonwealth pursuant to a violation of the fourth paragraph of section 10H of chapter 21A and section 21 and 24 to 32, inclusive, 75 per cent shall be deposited into the Off Highway Vehicle Program Fund, established in section 18C of said chapter 21A, and the remaining 25 per cent shall be distributed equally among the divisions, departments or offices involved in the enforcement of the laws which resulted in the assessment of such fines.”

The amendment was adopted.

Messrs. Brewer and Richard T. Moore moved that the bill be amended in section 3, by inserting after the word “fund.”, in line 62, the following sentence:- “A minimum of 25 per cent of the Off Highway Vehicle Program Fund shall be expended for trail land acquisition and maintenance.”; and in said section 3, by inserting after the word “vehicles”, in line 72, the following words:- “and snow vehicles”.

The amendment was rejected.

The bill (Senate, No. 2251, amended) was then passed to be engrossed.[For text of bill, printed as amended, see Senate, No. 2257].

Sent to the House for concurrence.

<http://www.mass.gov/legis/journal/186/sj012810.htm>

SENATE SESSION - THURSDAY, JAN. 28, 2010

OFF-HIGHWAY AND REC VEHICLES: Question came on laying on the table S 2251 to regulate the use of off highway and recreation vehicles.

Bill not laid on table, by voice vote.

Sen. Murray said several amendments will be considered.

M. MOORE AMENDMENT: Sen. M. Moore offered an amendment relative to crossings.

Sen. M. Moore said this amendment alleviates a mandate on communities. A community has to mark and maintain crossings and crosswalks. It also creates a fund a municipality can access to maintain and survey the crossing areas. I am trying to alleviate a mandate.

Amendment adopted.

M. MOORE AMENDMENT: Sen. M. Moore offered an amendment relative to citation books. It was adopted.

BADDOUR AMENDMENT: Sen. Baddour offered an amendment that Sen. Murray called technical. It was adopted.

R. MOORE AMENDMENT: Sen. R. Moore offered an amendment.

Sen. R. Moore said one of the concerns I have is much is very good and will probably move forward to a safer recreational opportunity but there are some provisions relative to crossing and it would appear that without clarification members with older vehicles that meet industry standards for noise and pollution ought to be able to continue. This says vehicles older than 25 years would be grandfathered and would not be unusable.

Amendment adopted:

R. MOORE AMENDMENT: Sen. R. Moore offered an amendment regarding legislative reporting.

Sen. R. Moore said this is a technical amendment but one that is rather important. A fund created in the bill, in the language we didn't say anyone had to report it and it's off budget. This requires the money coming in and the expenditures would be reported.

Sen. Murray said I need to say no action has been taken because the incorrect title was read.

PROPERTY DAMAGE AMENDMENT: The clerk read the title of a new amendment relative to property damage, which was put before the Senate.

Sen. R. Moore said that is a different amendment. He said it does not take much to get to \$50 damage. \$250 is a more appropriate amount. This will reduce administrative requirements on the owners. I hope the amendment at \$250 is adopted.

Amendment adopted.

R. MOORE LEGISLATIVE REPORTING AMENDMENT: Sen. R. Moore offered an amendment relative to legislative reporting.

Sen. R. Moore said he hopes the amendment is adopted.

Amendment adopted.

MINIMUM AGE REQUIREMENTS: Sen. R. Moore offered an amendment relative to minimum age requirements.

Sen. R. Moore said under the bill if you are under age 14 you could not use any ATV. Above age 14 to age 16.5 you could under some parent supervision with a vehicle of 90 cc power, you could operate but only for practicing for racing. This creates a different tier of use for from 10 to 14 and only under adult supervision and from 14 to 16 you can do 90 cc. Direct supervision would be the real crux of the safety issues. It's defined in the bill itself, personal immediate contact. Provisions require training and certification still would apply. It's a more appropriate compromise than banning them altogether. It's appropriate not to deny some families the opportunity to conduct with some common sense the nationally recognized sport and recreational activity.

Sen. Brewer said this is a far better bill today than a week ago. When I was 10 I was driving tractors and trucks into fields on the farm I grew up on. Ten-year-olds are not combat ready perhaps, but I was driving Ford trucks in fields. Young people with the right guidance can drive these vehicles and it is necessary on large tracts of land. You can do this responsibly with the right supervision.

Amendment rejected.

Sen. R. Moore doubted the vote and asked for a standing vote.

By a standing vote of 5-9, amendment rejected at 3:04 p.m.

PANAGIOTAKOS AMENDMENT: Sen. Panagiotakos offered an amendment described as a "technical amendment."

Amendment adopted.

R. MOORE AMENDMENT: Sen. R. Moore offered amendment relative to trail acquisition and maintenance.

Amendment rejected.

Bill engrossed by voice vote at 3:05 p.m. Sen. Rosenberg called a recess.

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STATE CAPITOL BRIEFS - THURSDAY, JAN. 21, 2010

SENATE DELAYS ACTION ON ATV, WIND ENERGY BILLS

The Senate's only formal session of the week was a brief affair, with action postponed on a wind energy siting reform bill and legislation requiring registration of all-terrain vehicles, dirt bikes and snowmobiles. The Senate also opted not to act on a House-approved bill giving cities and towns greater enforcement powers over residents who improperly discard garbage or fail to shovel snow on sidewalks. The so-called ATV bill, which was released from the Senate Ways and Means Committee last week, also requires recreation and snowmobile operators to wear helmets, establishes fines for "reckless and negligent use," and bans individuals under 14 from operating an ATV unless the individuals are in a race supervised by someone over 18. Action on the bill was postponed at the request of Uxbridge Sen. Richard Moore moments after the Senate was introduced to a Plymouth couple whose son was killed in an ATV accident. Moore said there are a "lot of questions" about the bill. "Some individuals are concerned about what it does to their family recreational opportunities," Moore told the News Service after the session. "I'm concerned about safety and of course the other problem is how would you enforce it, other than after the fact someone is injured."

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SENATE SESSION - THURSDAY, JAN. 21, 2010

OFF-ROAD AND RECREATION VEHICLES: Question came on engrossing S 2251 regulating the use of off-highway and recreation vehicles.

Sen. Moore said, I know this bill has a great deal of merit, but there have also been a lot of questions, I ask that this matter be laid upon the table. The bill was laid over until the next session.

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SENATE SESSION - TUESDAY, JAN. 19, 2010

OFF-ROAD VEHICLES: The Senate adopted a Ways and Means substitute amendment for S 2235 regulating the use of off-highway and recreation vehicles. The bill, as amended, was ordered to third reading.

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