



EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

Kathleen A. Theoharides, Secretary
Grant Announcement

BID ENV 21 DCS 12
Dated: January 22, 2020

Off Highway Vehicle Conservation Grant FY 21

I. GRANT OPPORTUNITY SUMMARY:

A. PROPOSALS SOUGHT FOR: Financial assistance to non-profit 501(c) organizations and municipalities for the purchase of land or interests in land appropriate both for conservation and well-designed off highway vehicle riding.

B. OVERVIEW AND GOALS: The Executive Office of Energy and Environmental Affairs (EEA) protects, conserves, and restores the natural resources of the Commonwealth. EEA also convenes the Off Highway Vehicle (OHV) Advisory Committee and administers the Off-Highway Vehicle Program Fund (OHV Fund) per Chapter 202, Acts of 2010. To fulfill this mission, Kathleen A. Theoharides, Secretary of EEA, is making available funding from the OHV Fund for the new Off Highway Vehicle Conservation Grant Program. One of the purposes of the OHV Fund is to provide OHV riding opportunities in the Commonwealth. This program provides funding to assist not-for-profit organizations and municipalities in acquiring and holding interests in lands suitable for conservation and OHV recreation purposes. Grants may also be used to plan, design, construct and restore OHV trails and unpaved woods roads on privately owned land or land owned by a 501(c) organization formed for recreational purposes in compliance with a Conservation Restriction held by a non-profit 501(c)(3) organization formed for land conservation and stewardship purposes. Grants may also be used to match federal or state grants (such as the MassTrails grants at the Department of Conservation and Recreation (DCR)) for the acquisition of land for OHV riding or to plan, design, construct or restore OHV trails.

The Off Highway Vehicle Conservation Grant Program is a component of the Baker Administration's goal of providing outdoor recreational opportunities to every Massachusetts resident. This BID is also a part of the Administration's efforts to permanently preserve highly valuable natural resources within the Commonwealth. It is a reimbursement program.

C. ELIGIBLE PROJECTS:

- 1) Land, and conservation restrictions (CR) purchased by an eligible Applicant
 - 2) Due diligence for acquisitions by or donations of land or a CR to an eligible Applicant
 - 3) Plan, design, construction or restoration of OHV trails or unpaved woods roads that are in compliance with a conservation restriction to be placed on the land.
- See further detail on eligible projects in Section 2B.

D. ELIGIBLE APPLICANTS: This BID is open to qualified IRS 501(c) organizations that have been formed for one of the purposes described in Section 4(a) of Chapter 180 of the General Laws. An organization must have 501(c) status at the time an application is submitted. Two types of non-profits may apply. Non-profits with a purpose of fostering OHV riding may receive funding for acquisition of the fee interest in land and to plan, design, construct or restore OHV trails and unpaved woods roads. Non-profits with a purpose of conservation of land may apply to hold conservation restrictions that must allow OHV riding that does not degrade sensitive natural resources on the land. Municipalities are also eligible for grants to acquire land, hold CRs or plan, design, construct or restore OHV trails and unpaved woods roads. (See further detail on eligible applicants in Section 2A.). It is

anticipated that there may be multiple partners for an application (e.g., OHV 501(c), Land Conservation 501(c)(3) and municipality); however, only one organization or municipality can be the applicant and sign the contract with EEA. Organizations are encouraged to have a back-up organization named in their by-laws should they disband in the future.

E. APPLICATION DEADLINE: Thursday, July 22, 2021 at 3:00 pm (See further detail on deadlines and grant program calendar in Section 4).

F. FUNDING AVAILABILITY: The maximum grant award for a single acquisition project, including fee and CR components, is \$300,000; for due diligence for gifts, the maximum award for a single project is \$20,000. For OHV trail plans, designs, construction or restoration, the maximum award is \$75,000. The maximum reimbursement amount available for a single project is 75% of the total eligible project cost, up to the grant award maximum of \$375,000 (if both acquisition and OHV trail components are part of the budget request). Exceptions may be made at the Secretary's discretion. There is no guarantee that monies will be awarded (see further detail on Funding Availability in Section 2C).

G. NON-STATE FUNDING REQUIREMENT: Applicants selected to receive grant funding must use funds from non-state sources for at least 25% of the total project costs (i.e., the project budget must show funds from non-state sources for at least 25% of the total project cost with the OHV Conservation Grant amount requested making up to 75% of the total project cost). As this is a reimbursement program, applicants must fund the total project cost and then receive the grant funds as reimbursement based on submittal of the proof of payment such as canceled checks or wire transfer receipts for the total project costs. Approved expenditures must not be spent until after the selected Applicant has an executed contract with EEA. All land acquired or gifted to be used as non-state match must be subject to a CR in compliance with General Law Chapter 184, Section 32, including review and approval by the Secretary. The CR must protect the natural resources of the parcel(s) and include a reserved right for the public for OHV riding and other outdoor recreation public access that does not reduce reasonable OHV riding opportunities. Land gifts or bargain sale values to be used toward the 25% match must have documentation of the value of the gift in an independent appraisal that meets the EEA appraisal specifications (See further detail on budget requirements in Section 2D.)

H. TOTAL ANTICIPATED DURATION OF CONTRACT(S): The contract period will begin on the date that EEA signs the contract. Contracts issued pursuant to this BID must expend 100% of costs associated with the approved project on or before June 30, 2023 in order to be eligible for reimbursement (see further detail on anticipated duration of contract(s) in Section 2F).

I. REGULATIONS, STATUTES, OR AUTHORIZATION GOVERNING THIS GRANT PROGRAM: Chapter 202, Acts of 2010 (see Attachment C).

J. CONTACT INFORMATION:

Scott Morrill, OHV Coordinator
Executive Office of Energy and Environmental Affairs
436 Dwight Street
Springfield, MA 01103
(857) 296-9399
scott.morrill@mass.gov
<https://www.mass.gov/grant-programs-offered-by-the-division-of-conservation-services>

2. Performance and Contract Specifications

A. ELIGIBLE APPLICANTS:

- This BID is open to qualified IRS 501(c) organizations that have been formed for one of the purposes

described in Section 4(a) of Chapter 180 of the General Laws. In addition, any 501(c)(3) organizations that will be holding the conservation restriction must be formed for land conservation and stewardship purposes. Municipal departments (such as Conservation Commissions or Town Forest Committees) capable of permanently holding land for conservation purposes may also apply.

- Multiple contracts may be awarded to the same applicant under this BID. Applicants may choose to package several adjacent landholdings into one application. Unrelated, separate landholdings must be submitted as individual applications.

B. ELIGIBLE PROJECT(S)/SCOPE(S) OF WORK:

EEA seeks to further the conservation of suitable conservation and recreation land so that outdoor recreational opportunities are available to every Massachusetts resident. OHV Conservation Grants seek to meet the purposes of conserving and stewarding land in a natural condition and to provide public OHV riding opportunities. Projects that meet local, regional or statewide priorities for conserving land (such as open space and recreation plans or regional open space plans) and that are well-suited to OHV riding with low impact to the land are preferred.

Land that is already permanently protected through Article 97 (e.g., through an EEA grant program, Conservation Restriction, Watershed Preservation Restriction, or Agricultural Preservation Restriction) is not eligible for acquisition funding. Lands enrolled in Chapter 61, 61A, or 61B are not classified as permanently protected land and are eligible to receive funding. The Applicant must apply for the interest in land that they plan on holding.

OHV trail projects must be on land acquired through the OHV Conservation Grant program. Trail projects should include an assessment of the land to determine the trail routes that are safe with regard to trail layout, terrain and trail density; and that avoid unique or fragile natural resources and that cross watercourse with best practices. All trail layout and maintenance should follow the best practice guidelines of the National Off-Highway Vehicle Conservation Council (NOHVCC) (<https://www.nohvcc.org/assistance/manager-assistance/online-resource-hub/>).

The public must be able to access the land for the intended OHV use. Public use may be limited by parking or by safety restrictions or a trail permit requirement by the organization that proposes to own the land. Trail permits must be open to all but may be limited in number. The cost of trail permits for those who are not members of the organization that proposes to own the land may not be more than twice the cost for members.

Types of eligible projects are:

1.) Land and/or conservation restriction purchased by an eligible Applicant

An eligible Applicant may request grant funding for reimbursement of approved acquisition and due diligence costs associated with the purchase of land (fee simple title) or of an interest in land (conservation restriction).

Conversion of a term-limited CR to a permanent CR is eligible for funding.

2.) Due diligence costs for acquisitions or gifts to an eligible Applicant

An eligible Applicant may request grant funding for reimbursement of approved due diligence costs associated with a land or conservation restriction gift donated to the Applicant or for the due diligence costs associated with the acquisition of land by an Applicant.

3.) OHV trail planning, design, layout and construction costs

An eligible Applicant may request grant funding for reimbursement of approved trail costs on land or interests acquired or protected through this program. Trails must meet the NOHVCC trail best practices and guidelines and be in compliance with all state and local laws, permits and regulations. Trail planning and design includes field work by expert consultants and meetings with local community officials and residents to gain input into trails and OHV use.

NOTE: Preservation of Agricultural Land: Executive Order 193 discourages the irreversible conversion of the Commonwealth’s productive agricultural land base. State grants shall not be used to encourage the irreversible conversion of agricultural land to other uses when feasible alternatives are available. In the event that all feasible alternatives have been explored, and the conversion of suitable agricultural lands to non-agricultural use, such as habitat, remains the only feasible alternative to protection of open space, a mitigation plan must be developed to be eligible for reimbursement under a state grant. Applicants contemplating projects that would convert any agricultural lands should consult with the Department of Agricultural Resources at (617) 626-1700 prior to submitting an application.

C. FUNDING AVAILABILITY, BUDGETING GUIDELINES & ALLOWABLE EXPENDITURES:

The maximum award under this grant program is \$375,000 (\$300,000 for land acquisition and due diligence and \$75,000 for trails). Applicants must submit the appropriate type of appraisal (see Section 3B), the estimated total eligible project cost, and a specific grant request as part of the application package. Contract awards are not to exceed **75% of the total eligible project cost** with a maximum grant request and award of \$375,000. For acquisitions of land or conservation restrictions, the appraised value of landowner donations or bargain sale of land or conservation restrictions may be counted towards the 25% share of the applicant. For trail projects on land acquired through this program, the cost of trail construction by volunteers (with a rate approved by EEA) may be counted toward the 25% share of the applicant.

Reimbursable project costs:

Eligible expenses occur during the grant recipient’s contract period, which begins when EEA signs a Standard Contract with a selected Applicant (approximately 90 days after the close of this BID) (the contract execution date), and ends at the close of business on June 30, 2023. The grant award maximum is 75% of the eligible expenses shown below that are expended during the contract period as shown through canceled Applicant checks or wire transfer statements or receipts, up to \$375,000 (up to \$300,000 for land acquisition and \$75,000 for trail projects).

<p>Eligible expense categories:</p> <ul style="list-style-type: none"> • Title search • Acquisition (appraised value or negotiated price, whichever is less) • Baseline Documentation Report • Chapter 21E assessment • Survey • Legal fees associated with the acquisition • Recording fees • Trail planning, design, construction and restoration (including consultant costs associated with holding community meetings) • Signage 	<p>Ineligible expense categories: <i>Please note that this is not a complete list.</i></p> <ul style="list-style-type: none"> • Costs associated with preparation and submission of application in response to BID • Staff salaries • Stewardship or monitoring endowments • Equipment or goods
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Project cost calculations are subject to approval by EEA. Only project costs approved by EEA will be considered when grant awards are calculated. Only acquisition and due diligence costs approved by EEA and expended by the Applicant during the contract period, demonstrated by canceled Applicant checks or wire transfer statements or receipts will be eligible for reimbursement.

Requirements for reimbursement of eligible expenditures:

The OHV Conservation Grant Program is a **reimbursement** program. Applicants selected to receive grant funding must complete the approved project and expend 100% of costs associated with it on or before June 30, 2023, in order for those costs to be eligible for reimbursement.

Any expenses incurred prior to the execution of a contract with EEA will not be reimbursed.

Final reimbursement notes: Selected Applicants must provide actual cost documentation when filing for reimbursement for each approved project cost that was included as a part of the final total approved project budget. For acquisitions, EEA will use the actual purchase price OR the appraised value (supported by contracted appraisal(s) submitted by the Applicant as part of the application package), whichever is less. EEA will only reimburse expenses paid for through the Applicant's checking account. For the applicant's 25% share, documentation must accompany the reimbursement request. The applicant's 25% share can be documented by an applicant's canceled check or wire transfer statement or receipt for eligible project costs or by documentation of land donations or bargain sale (documented via an appraisal that meets EEA standards) or by documentation of volunteer costs for trail building (with an approved rate by EEA).

All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, a contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift the suspension if available funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

D. BUDGET REQUIREMENT:

Applicants selected to receive grant funding must show the use of funds from non-state sources or the value of land donations or committed volunteer work (for trail building) equal to at least 25% of the total project costs. The grant award will not exceed \$300,000 for acquisitions and \$75,000 for the trail planning, design, building or restoration part of the project. Non-state funding sources include, but are not limited to, other grants from private, federal or non-profit foundations and cash contributions from local partners or individuals. Applicants must provide documentation of the source and amount of funds. Funds from other state programs may not be used with this grant program. However, please note that the Recreation Trails Grants administered by DCR receives its funds from federal funding and is considered a federal source and is eligible to use for the 25% Applicant share of the project. The final reimbursement amount will be determined by the receipt of Applicant canceled checks or wire transfer statements or receipts and documentation of land donations and the value of volunteer trail construction.

E. PROJECT TERMS:

If awarded, all projects will be required to abide by the Standard Commonwealth of Massachusetts Terms and Conditions. All final contracts are subject to successful negotiation of a Final Scope of Services. EEA does not guarantee that any contracts will result from this BID, or that any particular funding amount will be awarded. It is anticipated that projects could commence soon after EEA's awards announcement.

F. ANTICIPATED DURATION OF CONTRACTS:

Contracts are anticipated to start approximately 90 days after the close of the application period of the BID. All contracts will end on June 30, 2023; spending for land purchase, OHV trail construction and other reimbursable

expenditures must occur on or before this date. Extension of the contract is at the sole discretion of EEA and is unlikely to occur. Any extension granted will not necessarily change the monetary value of the contract.

G. DELIVERABLES AND OWNERSHIP:

Contracts executed under this BID must include conveyance of a CR that meets the requirements of General Laws Chapter 184 to be held by a 501(c)(3) organization with a purpose to conserve land or by the municipality where the land is located, acting through its Conservation Commission or Town Forest Committee.

Conveyance of the CR must be completed before reimbursement. Please allow adequate time for review and approval of the CR by the necessary parties (e.g. municipal officials, Secretary of Energy and Environmental Affairs and/or appropriate state agency). Draft CRs must be submitted separately to EEA for review. EEA representatives must be invited to any public events sponsored by the Applicant in celebration of an OHV Conservation grant award.

H. REPORTING:

No interim reports are required.

I. INVOICING:

Applicants selected to receive grant funding will be required to provide the following documentation when filing for reimbursement:

- ☐ Reimbursement Billing Form and Project Cost Worksheet (provided once contract has been executed)
- ☐ Deed and/or executed and recorded CR with language ensuring appropriate public access highlighted (copies of recorded documents)
- ☐ Title certification (copy)
- ☐ Cancelled checks from the Applicant (both sides), wire transfer statements, bank statements, or attested statement of Treasurer indicating the amount of payment, date paid, associated check or transaction numbers and authority of payment (copy)
- ☐ Documentation of the Applicant's 25% share of the project
- ☐ GIS Data Entry Form (provided once contract has been executed)

3. Instructions for Application Submission

A. EVALUATION PROCESS:

A project Selection Committee composed of members of the Executive Office of Energy and Environmental Affairs staff will evaluate all applications. Once preliminary application review and rating is complete, the Selection Committee will develop comments and draft recommendations. These draft recommendations are subject to further review, including by EEA senior management, the Secretary of EEA and the Governor's Office, prior to final approval.

Site inspections: Proposals will not be funded on a sight unseen basis. A member of the Selection Committee will contact you to schedule an inspection of the property. Recreational opportunities indicated as being provided by the project will be verified by the EEA representative conducting the site visit.

Evaluation criteria: Each Application will be scored using the following measures below. The detailed distribution of these points is included as Attachment B: Response Review Rating System.

I. Organizational Characteristics

- Applicant and project partners have a proven ability to successfully acquire (via purchase and/or donation) fee or CR interests in land

- Applicant and project partners have a proven capacity to carry out proper long-term stewardship of fee or CR interests in conservation land
- Number of full-time equivalent staff in the Applicant's organization
- Articles of incorporation for Applicant and/or project partners that specifically state permanent land protection, land conservation, recreation, including responsible OHV use, as one of its missions

2. Land Characteristics

- Project includes valuable natural resources, including water resources and wetlands, climate resilience and connectivity, unfragmented forests
- Project contributes to the conservation of the surrounding landscape
- Project includes durable natural resource areas suited for laying out an OHV trail system that is safe for users and protective of the surrounding natural resources
- Project links to regional OHV trails where users have agreements to ride

3. Land Protection

- Total acreage protected.
- Project abuts other protected open space. Non-adjacent properties connected by a river or stream do not count as abutting. Protected open space can include land protected by a Conservation Restriction, Agricultural Preservation Restriction, or Watershed Preservation Restriction; Article 97 land; or land owned by a non-profit organization for conservation or recreation purposes.

4. OHV Trail Networks

- Project has adequate acreage and natural characteristics for a safe OHV trail network with low impact to natural resources.
- Project connects to a regional OHV trail network where agreements exist for authorized OHV riding

5. Working Farms and Forests

- Majority of the project parcel(s) is enrolled in Chapter 61, 61A, 61B, Forest Stewardship program, Farm Viability program, or Forest Viability program
- Project parcel will continue in active management

6. Recreational Opportunities

- Project will fill an unmet need for the type of OHV riding it provides for the region of the state where it is located
- Project will provide other public recreational opportunities, with a network that is compatible for OHV and other outdoor recreational uses
- How significantly project's recreational value would be impacted by development (if the parcel remained unprotected)
- Project will provide recreational opportunities to residents that currently are lacking them
- Project will advance goals, objectives or action plan items stated in the community's *current* Open Space and Recreation Plan

7. Overall Project Quality and Importance

- Overall quality and importance of the proposed project – both by offering new OHV riding opportunities and conserving important open space

B. APPRAISAL REQUIREMENTS:

1.) Land or conservation restriction purchased by an eligible Applicant

Applications for projects that involve the purchase of land or a conservation restriction must **include the appropriate type of appraisal with the application:**

- A. *Parcels with an estimated total project cost equal to or greater than \$170,000:*
One full narrative appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than one year prior to the application submission deadline.
- B. *Parcels with an estimated total project cost less than \$170,000:*
One full narrative appraisal OR one contracted market analysis OR one contracted opinion of value, completed by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the application submission deadline.

NOTE: The Applicant or one of the Applicant's project partners must be the client for the appraisal, market analysis, or opinion of value. The owner of the property cannot be the client and cannot donate money to cover the cost.

For projects that involve the purchase of land or a conservation restriction, **applications lacking the appropriate type of appraisal will be rejected.**

2.) Land or a conservation restriction gift donated to an eligible Applicant

Applications for projects that involve a land or conservation restriction donation to the Applicant **DO NOT require an appraisal**, market analysis, or opinion of value unless the value of the donation will be used to meet the 25% Applicant share of the grant.

C. APPLICATION SUBMISSION INSTRUCTIONS:

Applications must be received via email to the email address below by **3:00 pm, July 22, 2021**. Any application received after the deadline will be rejected. Applications will **not** be accepted by fax. Hard copies via mail must also be received at the address below up to two days after the above deadline. The outside of the package should be marked BID ENV 21 DCS 12. Submit **one original** (clearly identified as such) and **one paper copy** of the application package to:

Scott Morrill, OHV Coordinator
Executive Office of Energy and Environmental Affairs
436 Dwight Street
Springfield, MA 01103
(857) 296-9399
scott.morrill@mass.gov
<https://www.mass.gov/grant-programs-offered-by-the-division-of-conservation-services>

A complete application package includes a completed OHV Conservation Application Form (Attachment A), and the supporting documentation listed in Section D: Additional Required Documentation. Failure to provide any of the materials requested in the application package may result in the disqualification of the Proposal.

Help reduce waste: *Print double-sided wherever possible. Use the least packaging necessary to ensure good organization.*

Public records: Please note that all responses and information submitted in response to this BID are subject to the Massachusetts Public Records Law, M.G.L. c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes, including marking of information as confidential, shall be disregarded. Please do not submit any information that the Applicant may not wish to disclose publicly, such as home addresses or personal telephone numbers, social security numbers, or other similar information.

D. ADDITIONAL DOCUMENTATION:

If selected, the following forms will be required to execute a contract. They are available from the Commonwealth's Operational Services Division website (<https://www.mass.gov/lists/osd-forms>) and Respondents are encouraged to review these forms prior to submission of a BID.

- Commonwealth Terms and Conditions
- Commonwealth W-9 Request for Taxpayer Identification Number and Certification
- Contractor Authorized Signature Verification Form (both sides)
- Authorization for Electronic Funds Payment (attach cancelled check)

Documentation required for reimbursement:

If selected, the Respondent will be required to submit the following additional forms to be reimbursed:

- Reimbursement Billing Form and Project Cost Worksheet (provided once contract has been executed)
- Deed and/or CR, as executed and recorded with language ensuring appropriate public access highlighted (copy)
- Title certification (copy)
- Recent survey (copy)
- Cancelled checks from the Respondent (both sides), wire transfer statements, bank statements (copies); OR attested statement of Treasurer indicated the amount of payment, date paid, associated check or transaction numbers and authority of payment
- Documentation of the completion of the Applicant's 25% share of the project.
- GIS Data Entry Form (provided once contract has been executed)

4. Deadlines and Procurement Calendar

A. RELEASE OF BID: January 22, 2021

B. INFORMATION SESSION: March 24, 2021 at 1:00. Applicants need to email Scott Morrill by March 23 to receive a virtual meeting link for this meeting.

C. APPLICATION DUE DATE: Thursday, July 22, 2021, 3:00 pm

D. ESTIMATED AWARD DATE: Awards are estimated to be announced on or about 90 days after the application deadline, with contract negotiations to begin immediately thereafter. Please note this is an estimated timeframe, subject to change based on availability of funds and other factors.

E. ESTIMATED CONTRACT START DATE: Notwithstanding any verbal representations by the parties, or an earlier start date listed in the Standard Contract Form, and only after an award is issued and a final scope of services has been negotiated, the effective start date of a contract shall be the latest of the following dates: the date the Standard Contract Form has been executed by an authorized signatory of the contractor and EEA; the date of secretariat or other approval(s) required by law or regulation; or a later date specified in the Standard Contract Form. The estimated start date for contracts resulting from this BID is 90 days after the application due date and is subject to change as noted above.

5. Miscellaneous

A. TYPE OF PROCUREMENT: Grant

B. USE OF THIS PROCUREMENT BY SINGLE OR MULTIPLE DEPARTMENTS: This BID is single department procurement. All contracts awarded under this BID will be utilized solely by EEA.

C. REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS: This BID may result in multiple contractors.

D. BID DISTRIBUTION METHOD: This BID has been distributed electronically using the Commbuys system. It is the responsibility of every Applicant to check Commbuys for any addenda or modifications to a BID to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Applicants who fail to check for amended BIDs and submit inadequate or incorrect responses. Potential Applicants are advised to check the “last change” field on the summary page of BIDs for which they intend to submit a response to ensure they have the most recent BID files.

Applicants may not alter BID language or any BID component files. Those submitting a proposal must respond in accordance with the BID directions and complete only those sections that prompt a Respondent for a response. Modifications to the body of this BID, specifications, terms and conditions, or which change the intent of this BID are prohibited. Any unauthorized alterations will disqualify response.

E. LIST OF ATTACHMENTS:

- A. Application Form
- B. 2020 OHV Conservation Grant – Response Review Rating System
- C. OHV Law REF HERE: see Attachment A

APPLICATION FORM

FY 21 OHV CONSERVATION GRANT PROGRAM Executive Office of Energy and Environmental Affairs

SUBMIT: An email with attachments with application and all supporting documentation. One original application form with supporting documentation and one paper copy of the completed application and supporting documentation.* Please help reduce waste—print double sided and use the minimum packaging necessary for good organization.

(*NOTE: Only ONE copy of the appraisal, market analysis, or opinion of value is needed)

DEADLINE: Thursday, July 22, 2021, 3:00 pm

TO: Scott Morrill
RE: BID ENV 21 DCS 12
436 Dwight Street
Springfield, MA. 01103
scott.morrill@mass.gov

A. APPLICANT INFORMATION

Applicant Name: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip: _____

Project Title: _____

Project Location (street address, including municipality): _____

Type of project: Acquisition Due diligence for gift Trail building?

Requested grant amount: \$ _____

[→ **Attachment 8:** Articles of Incorporation and IRS 501(c) letter, as well as a copy of your 2020 Massachusetts Annual Report as filed to the Secretary of State's office. Corporation must be formed for one of the purposes described in Section 4(a) of Chapter 180 of the General Laws.] (this is required both for the OHV 501(c) and the land conservation 501(c) organizations).

B. CONTACT PERSON

Name: _____ Title: _____

Mailing Address (if different from above): _____

City/Town: _____ State: _____ Zip: _____

Email address: _____

Telephone: _____

C. ORGANIZATIONAL CHARACTERISTICS (FOR BOTH THE OHV AND LAND CONSERVATION ORGANIZATIONS)

For Land Conservation Organization (501(c)(3) organization or municipal Conservation Commission or Town Forest Committee):

1a.) How many acres of land does your Organization have under fee ownership? _____

1b.) How many acres of land does your Organization have under CRs? _____

For how many acres of CR land have Baseline Documentation Reports been prepared? _____

2a.) Does your organization have a Strategic Land Acquisition Plan? Yes No

2b.) Does your organization have Land Acquisition Guidelines? Yes No

3.) How do you finance stewardship, monitoring, and enforcement?

Annual Operating Budget	Yes	No
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Segregated Stewardship & CR Monitoring Fund	Yes	No
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Segregated CR Enforcement Fund	Yes	No
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Other (explain): _____

What is your annual stewardship/monitoring budget? \$_____ Endowed? Yes No

4.) Does your organization have full-time stewardship or land management staff? Yes No

5.) If no staff, how do you maintain your properties? Volunteers Contract work

6.) Does your proposed project have board approval? Yes No
If no, when do you expect to receive it? _____

7.) Do your Articles of Incorporation specifically list permanent land conservation or habitat protection or recreation as one of your organization's goals? If yes, highlight the relevant passage in the Articles (Attachment 8).
Yes No

For the OHV Organization:

9.) How many members does your organization have?

10.) Does your organization help to maintain areas where your members ride? If yes, explain.

11.) About how many hours of collective volunteering (total hours) do your organization members do per year of trail maintenance projects?

12.) How do you intend to maintain the property proposed for protection in this application?

13.) Briefly describe the guidelines your organization would put in place to assure safe riding and low impact to the land proposed for acquisition.

14.) How do you intend to encourage all riders on the property in this application to follow the organization's guidelines?

D. PARCEL INFORMATION

Please complete a copy of this section (i.e. PARCEL INFORMATION) for each parcel that is part of this grant application.

1.) Total **Project Acreage**: _____

Total number of parcels (print off and fill out a copy of this page for each parcel): _____

2.) This **Parcel Information** form is being completed for:

A parcel or interest in a parcel to be **purchased**

Fee

CR

A parcel or interest in a parcel that will be **donated**

Fee

CR

3.) Parcel Information:

Owner(s): _____

Location: _____ Acres: _____

(municipality)

Street: _____

Assessors Sheet #: _____ Lot #: _____

Building(s) on the parcel? Yes No

If yes, please explain how they will be utilized (Buildings that remain must contribute to the conservation/recreation function of the property. Buildings that do not so contribute to the property should be removed.): _____

[→ **Attachment 3:** Copy of a USGS topological map that clearly shows parcel location. Include name and date of the USGS topo quad. If project involves multiple parcels, include one map that clearly shows the location of each parcel.]

4.) Encumbrances? Yes No If yes, what type? Mortgage Easement Lien(s)

Describe

5.) **Appraisal** – If the proposed project involves the purchase of land or a conservation restriction, please refer to the Appraisal Requirements (Section 3B) in this BID to determine the type of appraisal that must be submitted with this application.

Please check one:

Full narrative appraisal

Market analysis

Opinion of value

Appraiser: _____

Valuation: \$_____

Date of appraisal, market analysis, or opinion of value:_____

(NOTE: Appraisal, market analysis, or opinion of value can be dated **no earlier than one year prior** to the Application submission deadline)

[→ **Attachment 7:** One copy of the appraisal, market analysis, or opinion of value.]

All projects that receive funding through the OHV Conservation Grant program must convey a perpetual conservation restriction within the meaning of sections 31 and 32 of MGL Chapter 184, to the municipality in which the project is located or a not-for-profit corporation, or combination of these entities over the parcel included in this application.

6.) To what municipal Conservation Commission, Town Forest Committee or 501(c) land trust organization do you intend to convey a conservation restriction?

Organization Name: _____

Contact Person: _____

Address: _____

Telephone: _____

Email Address: _____

[→ **Attachment 4:** Letter of commitment from the town Conservation Commission, Town Forest Committee or 501(c) not-for-profit stating the intent to hold the conservation restriction]

E. PROJECT DESCRIPTION

[→ **Attachment 1: Project Narrative:** 2-3 pages]

1.) Using the OHV Conservation Grant Response Review Rating System (Attachment B) as a guide, please describe in a 2-3 page attachment the nature of your project. At a minimum, describe:

- a. The property(s) and property interest(s) to be acquired or donated
- b. The natural characteristics and ecological value of the property (water resources (including wetlands and drinking water supply resources), climate resilience (see TNC map link in #2 below), BioMap 2, Priority Habitat, etc.)
- c. The potential for the land for safe OHV trails with low impact to the land (a preliminary map of potential OHV trails that avoid sensitive natural resources)
- d. The proposed project's ability to protect or promote sustainable working lands
- e. The type of public OHV access that will be available (snowmobiles, dirt bikes, ATV/UTV and/or 4WD trucks)
- f. The applicant's approach to managing OHV use on the property so it is safe and low impact to the land (guidelines, education, day to day management)
- g. The type of other outdoor recreational opportunities that will be available, especially those that go above and beyond to provide access to people with disabilities, and how public access will be assured and managed so it is compatible with the primary OHV use
- h. The project's ability to advance objectives in the community's *current* Open Space and Recreation Plan (note: it is not sufficient to attach Goals and Objectives from the OSRP, some analysis is needed)
- i. The impact of residential or commercial development on the project parcel's resource and outdoor recreational value (should the land not be protected)
- j. The expansion of recreational amenities provided by the parcel to the Commonwealth's residents

[→ **Attachment 2: Proposed Budget:** 1-2 pages]

- a.) An itemized list of estimated project costs (both acquisition and trail planning, design and construction)
- b.) Estimated total project cost
- c.) Grant request amount
- d.) Description of the methods/sources of financing for the proposed project
- e.) Detailed timeline with the anticipated start and end date of each step needed to successfully complete your proposed project on or before June 30, 2023.

[→ **Attachment 3:** Map(s) showing the location of the project parcel(s) in relation to relevant water resources, existing drinking water supply areas, medium and high yield aquifers, and/or wetlands.]

[→ **Attachment 9:** A letter of request to the Natural Heritage and Endangered Species Program with the map of the parcel requesting information regarding the wildlife value of the parcel and compatibility with responsible, well designed OHV trail use. To request comments, please send an email to the Natural Heritage & Endangered Species Program at natural.heritage@mass.gov. The email's subject line should read "OHV Conservation Program comment letter request" and its body should include a brief description of the acquisition or project, and a map of the acquisition or project location. There is no charge for this comment letter.

G. LAND PROTECTION

I.) How many acres would this project protect?

- ☐ > 150 acres
- ☐ 100-150 acres
- ☐ 75-99 acres
- ☐ 50-75 acres

☐ < 50 acres

2.) Does the proposed project abut other protected open space?*

- ☐ Abuts >100 acres of protected open space
- ☐ Abuts 75-99 acres of protected open space
- ☐ Abuts 50-74 acres of protected open space
- ☐ Abuts < 50 acres of protected open space

*Chapter 6I, 6IA, and 6IB lands are not considered protected open space

[→ **Attachment 3:** Map(s) showing the location of the project parcel(s) in relation to other protected open space.]

2.) How resilient is the proposed project considered to be resilient for climate change? See the Resilient Mapping Tool at <http://maps.tnc.org/resilientland/>. List the numeric score below.

_____ SD

3.) How many acres of wetland are on the property? _____ acres

How many acres of upland are on the property? _____ acres

How many potential house lots are on the property (from appraisal)? _____

[→ **Attachment 3:** Map(s) showing the location of the project parcel(s) in relation to BioMap2 habitats.]

H. OHV TRAIL NETWORKS

1.) Does the project have adequate acreage and natural characteristics for a safe OHV trail network with low impact to natural resources?:

- ☐ Parcel size and layout is ideal for the proposed OHV use
- ☐ Parcel size and layout is adequate for the proposed OHV use
- ☐ Parcel size and layout will need further acquisitions to be adequate

2.) Project connects to a regional OHV trail network where agreements exist for authorized OHV riding

- ☐ Yes, connects to a significant regional network for the OHV use proposed
- ☐ Yes, connects to a local network for the OHV use proposed
- ☐ No, does not connect to a network outside of the parcel

I. WORKING FARMS AND FORESTS

1.) Is the majority of the project parcel(s) enrolled in any of the following programs and will continue to be once purchased? If yes, please indicate which program(s):

- ☐ Chapter 6I or active forest management
- ☐ Chapter 6IA or active agriculture
- ☐ Forest Stewardship program
- ☐ Farm Viability program
- ☐ Forest Viability program

2.) Will the property continue, or begin, to have active forestry or agriculture?

- ☐ Yes
- ☐ No

If yes, explain:

[→ **Attachment 6:** Documentation to support your answer (e.g. a letter confirming enrollment in one of the above programs from the program administrator or documentation from town/city assessor's office).]

J. RECREATIONAL OPPORTUNITIES

1) What public OHV uses will be allowed on the property? (check which box best describes your project; use the space below to describe or clarify how multiple OHV uses will be managed)

- ☐ Snowmobiles
- ☐ Off highway motorcycles
- ☐ All-terrain vehicles (ATV's)
- ☐ Utility-terrain vehicles (UTV's)
- ☐ 4 wheel drive trucks

Describe/clarify:

2) Project will fill an unmet need for the type of OHV riding it provides for the region of the state where it is located:

- ☐ Little or no public riding available in this region for the type of OHV use proposed.
- ☐ Moderate amount of public riding available in this region for the type of OHV use proposed (for this analysis regions are the MA counties)

3.) Other public outdoor recreational opportunities will the project provide? (check which box best describes your project; use the space below to describe or clarify.) *Recreational opportunities will be verified by the Selection Committee representative during the site visit.*

- ☐ Trail-based activities (eg, walking, Nordic skiing, biking, horseback riding)
- ☐ Water-based activities (eg, canoeing, fishing, swimming, skating)
- ☐ Wilderness activities (eg, camping, hunting)

Describe/clarify:

4.) Will the proposed project advance priorities, goals, or objectives in the current local Open Space and Recreation Plan or Regional Recreation Plan?

- ☐ Yes
- ☐ No

If yes, describe how:

[→ **Attachment 5:** Your narrative should include a written analysis of the OSRP and how it relates to this project; and/or relevant sections from a local or regional greenway plan]

K. CERTIFICATION STATEMENT

This application was prepared by:

Name: _____

Title: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip: _____

Email address: _____

Telephone: _____ Fax: _____

To the best of my knowledge, the information and data which has been submitted to qualify for the FY21 OHV Conservation Grant are true and correct.

Signed: _____ Date: _____

L. ATTACHMENT CHECKLIST

Please include the following supporting documentation and forms with your application:

- ☐ **Attachment 1:** Project narrative
- ☐ **Attachment 2:** Budget proposal, grant request, funding sources/methods, and project timeline
- ☐ **Attachment 3:** Maps, including:
 - USGS topographic map with parcel(s) outlined
 - Surrounding other protected open space (identify adjacent parcels)
 - Water resources (drinking water supply zones I/II or A/B; aquifers; proximity to wetlands, etc.)
 - BioMap2
 - Local or regional greenway plan or regional OHV trail network map
 -
- ☐ **Attachment 4:** Letter of commitment from the municipal Conservation Commission, Town Forest Committee or 501(c) land trust stating the intent to hold the conservation restriction
- ☐ **Attachment 5:** Copy of relevant sections of local or regional greenway plan, Open Space and Recreation Plan or OHV regional trail network to support the answers provided in Section E: "Project Description."
- ☐ **Attachment 6:** Documentation to support parcel enrollment in the Chapter 61, 61A, 61B, Forest Stewardship program, Farm Viability program, or Forest Viability program.
- ☐ **Attachment 7:** Appraisal, market analysis, or opinion of value
- ☐ **Attachment 8:** IRS 501(c) letter for both OHV and Land Trust (if a partner on the project) including purposes for OHV riding and land conservation respectively.
- ☐ **Attachment 9: Massachusetts Natural Heritage and Endangered Species Program comments:** All applicants must request comments from the Massachusetts Natural Heritage & Endangered Species Program (NHESP) on the presence or absence of rare species listed under the Massachusetts Endangered Species Act (MESA) on or near the proposed land acquisition or park project. To request comments, please send an email to the Natural Heritage & Endangered Species Program at natural.heritage@mass.gov. The email's subject line should read "OHV Conservation Program comment letter request" and its body should include a brief description of the acquisition or project, and a map of the acquisition or project location. There is no charge for this comment letter.

Additional Forms required if selected for funding:

The following forms are available at the Commonwealth's Operational Services Division website <https://www.mass.gov/lists/osd-forms>.

- ☐ Commonwealth Terms and Conditions
- ☐ Commonwealth W-9 Request for Taxpayer Identification Number and Certification

- ☐ Contractor Authorized Signature Verification Form
- ☐ Authorization for Electronic Funds Payment

Note: this form must be completed online.

Attachment B
FY 21 CONSERVATION PARTNERSHIP GRANT - RESPONSE REVIEW
RATING SYSTEM
100 TOTAL POINTS

I. Organizational Characteristics (33 points maximum)

Land Trust Partner

- 1.) Applicant or partner currently has under their care and control land under fee ownership and/or CR and has acquired the land through a planned process:
Yes = 1 pt
No = 0 pts
- 2.) Applicant or partner has proven capacity to carry out proper future stewardship of fee or CR interest:
Yes = 2 pts
No = 0 pts
- 3.) Articles of incorporation specifically state permanent land protection, land conservation, recreation as one of its missions
Yes = 2 pts
No = 0 pts

OHV 501(c) Partner

- 1.) How many members does your organization have?
150+ members = 6 pts
100-149 members = 5 pts
75-99 members = 4 pts
50-74 members = 4 pts
- 2.) Does your organization help to maintain areas where your members ride? If yes, explain.
Yes = 2 pts
No = 0 pts
- 3.) About how many hours of collective volunteering (total hours) do your organization members do per year of trail maintenance projects?
5,000+ hours/year = 5 pts

4-5,000 hours/year = 4 pts
3-4,000 hours/year = 3 pts
2-3,000 hours/year = 2 pts
1-2,000 hours/year = 1 pt

- 4.) How do you intend to maintain the property proposed for protection in this application?
Well-developed plan = 5 pts
Developing a plan = 2 pts
No plan yet = 0 pt
- 5.) Briefly describe the guidelines your organization would put in place to assure safe riding and low impact to the land proposed for acquisition.
Well-developed guidelines = 5 pts
Plan needs further work = 2 pts
No plan yet = 0 pt
- 6.) How do you intend to encourage all riders on the property in this application to follow the organization's guidelines?
Well-developed strategy = 5 pts
Strategy needs further work = 2 pts
No strategy yet = 0 pts

II. Land Characteristics (9 points maximum)

- 1.) Location of sensitive resources (combined area of BioMap 2, Priority Habitat, wetlands and river protection act buffers, and drinking water protection zones (A,B,C and I and II) and the OHV trail network
- ☐ Total sensitive resources = 15- 25% of property and are located so that a viable OHV trail network can be located = 5 pts
 - ☐ Total sensitive resources = 5-15% of property and are located so that a viable OHV trail network can be located = 3 pts
 - ☐ Less than 5% sensitive resources and a viable OHV trail network can be located = 2 pt
- 2.) Is the proposed project considered to be resilient for climate change, as it demonstrates landscape complexity and permeability/connectivity?
- ☐ Yes = 1, 2, 3, or 4 pts

☐ No = 0 pts

III. Land Protection (21 points maximum)

1.) Total acreage protected (via purchase and/or donation):

- ☐ > 150 acres = 5 pts
- ☐ 100-150 acres = 4 pts
- ☐ 75-99 acres = 3 pts
- ☐ 50-75 acres = 2 pts
- ☐ < 50 acres = 1 pt

2.) Does the proposed project abut other protected open space?*

- ☐ Abuts >100 acres of protected open space = 4 pts
- ☐ Abuts 75-99 acres of protected open space = 3 pts
- ☐ Abuts 50-74 acres of protected open space = 2 pts
- ☐ Abuts < 50 acres of protected open space = 1 pt

*Chapter 61, 61A, and 61B lands are not considered protected open space

3.) Proposed project abuts or links other protected open space:

- Abuts >25 acres of protected open space = 6 pts
- Abuts 11-25 acres of protected open space = 3 pts
- Abuts 1-10 acres of protected open space = 1 pt

4.) How significantly will the subject parcel's resource value be impacted by its development (rating determined based on how this application compares to others received)?

- High impact = 6 pts
- Medium impact = 3 pts
- Low impact = 1 pt

IV. OHV Trail Networks (10 point maximum)

1.) Does the project have adequate acreage and natural characteristics for a safe OHV trail network with low impact to natural resources?:

- ☐ Parcel size and layout is ideal for the proposed OHV use (5 pts)

- ☐ Parcel size and layout is adequate for the proposed OHV use (3 pts)
- ☐ Parcel size and layout will need further acquisitions to be adequate (1 pt)

2.) Project connects to a regional OHV trail network where agreements exist for authorized OHV riding

- ☐ Yes, connects to a significant regional network for the OHV use proposed (5 pts)
- ☐ Yes, connects to a local network for the OHV use proposed (3 pts)
- ☐ No, does not connect to a network outside of the parcel (1 pt)

V. Working Farms and Forests (6 point maximum)

1.) The majority of the project parcel(s) will remain (or be) enrolled in one or more of the following programs:

- Chapter 61 or active forest management = 2 points
- Chapter 61A or active agriculture = 2 points
- Forest Stewardship program = 1 point
- Farm Viability program = 1 point
- Forest Viability program = 1 point

2.) The project parcel will continue or begin active forest management or agriculture:

- Yes = 2
- No = 0

VI. Recreational Opportunities (10 points maximum)

1.) Project supports public recreational opportunities (especially those that go above and beyond to provide access for people with disabilities):

	Yes (2pts)	Marginal (1pts)	No (0pts)
Education activities (eg, camps, walks)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wilderness activities (eg, camping, hunting)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trail-based activities (ie, hiking, biking, walking)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Water-based activities ☐ ☐ ☐
(eg, swimming, kayaking, fishing)

2.) Project meets priorities, goals, or objectives identified in the community's Open Space and Recreation Plan (OSRP)

Yes = 2 pts

No = 0

VII. Overall Project Quality and Importance (11 points)

1.) What is the overall quality and importance of the proposed project?

High = 8-11 pts

Medium = 4-7 pts

Low = 0-3 pts

Attachment C

Policies, Statutes, Legislation Guiding this Grant Program

Acts of 2010, Chapter 202

AN ACT REGULATING THE USE OF OFF-HIGHWAY AND RECREATION VEHICLES.

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

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35NN the following section:-

Section 35OO. (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 21A 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.

(b) The secretary of energy and environmental affairs, as trustee, shall administer the fund. All amounts credited to the fund may be expended, without further appropriation, for use by the office of environmental law enforcement, the department of conservation and recreation, the department of fish and game and the department of environmental protection for the following purposes: (i) the enforcement of statutes, regulations and policies applicable to off-highway vehicles; (ii) the acquisition of land for use as commonwealth-approved trails and facilities for off-highway vehicles or for the development, maintenance, repair or restoration of commonwealth-approved trails and facilities; (iii) grants made by the department of conservation and recreation to municipalities and other public entities for the purposes of clauses (i) and (ii); (iv) the development and administration of safety, training and education programs relative to off-highway vehicles; and (v) other off-highway program activities, including all direct and indirect costs of personnel or contractors of the office of environmental law enforcement, the department of conservation and recreation, the department of fish and game and the department of environmental protection; provided, however, that the secretary of energy and environmental affairs shall report annually, not later than January 15, 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 into the fund, the amount distributed to each department and the purpose and recipient of expenditures from the fund.

(c) Monies deposited into 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.

(d) Not less than 25 per cent of the monies deposited in the fund shall be expended on a fiscal year basis for the activities identified in clause (ii) of subsection (b) or for grants made pursuant to clause (iii) of subsection (b) to fund the activities identified in clause (ii) of subsection (b). 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.

SECTION 2. Section 10H of chapter 21A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:-

A person notified to appear before the clerk of a district court as provided in section 10G for a violation of sections 21 to 24, inclusive, of said chapter 90B may so appear within the time specified and pay a fine of \$250.

SECTION 3. Said chapter 21A is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. There shall be within the office of law enforcement a boating safety advisory board. The board shall consist of 5 members to be appointed by the governor, 2 of whom shall be representatives of the boating public, each of whom shall hold a certificate of number issued pursuant to section 3 of chapter 90B; 1 of whom may represent the harbormaster's association; and 2 of whom shall represent the recreational boating business, 1 of whom shall operate a boat dealership. Each member shall serve for a term of 3 years. The chair of the board shall be appointed from among the 5 members, annually by the governor and, in the absence of same, shall be designated by the director. Board members shall be appointed or reappointed for terms of 3 years.

The boating safety advisory board shall meet at least quarterly and 3 members in attendance shall constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the inland enforcement bureau established under section 6 of chapter 21, or their designees, shall attend all meetings of the board and shall provide such information as the board shall request.

The board shall review the budgetary recommendations of the director and the secretary of energy and environmental affairs concerning the expenditure of federal funds allocated to the division for recreational boating safety each fiscal year prior to the submission of such recommendations to the secretary or the governor, as the case may be. In the event the board disapproves of any such recommendation it may file a report noting its objection and such report shall be transmitted to the governor and to the house and senate committees on ways and means.

SECTION 4. Said chapter 21A is hereby further amended by adding the following section:-

Section 23. There is hereby established within the executive office of energy and environmental affairs a state off-highway 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 on matters involving the commonwealth's regulation of off-highway vehicles, as defined in section 20 of chapter 90B, including the development and enforcement of state regulations and policies, safety and training programs and the distribution of available state funding. The committee shall consist of 13 members to be appointed by the secretary, 3 of whom shall be representatives of off-highway vehicle users, 1 of whom shall be a representative of the New England Trail Rider Association; 1 of whom shall be a representative of the Specialty Vehicle Industry Association and the Massachusetts Powersport Dealers Association; 1 of whom shall be a representative of the department of public health; 1 of whom shall be a representative of child safety advocates associated with the safe use of off-highway vehicles; 1 of whom shall be a representative of the Snowmobile Association of Massachusetts, Inc.; 2 of whom shall be representatives of a nonprofit organization that owns and manages land open to the public; 1 of whom shall be a representative of an association or organization of large private land owners; 1 of whom shall be a member of a friend's group of the Massachusetts Forest and Parks Network; and 2 of whom shall be representatives of state or local law enforcement authorities. Members shall serve without compensation. Members shall be appointed for terms of 3 years.

The committee shall select a chair annually by a majority vote of the members. The committee shall meet at least twice each year and shall also meet at the request of the secretary or the committee chair.

SECTION 5. Section 20 of chapter 90B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “Law enforcement officer” and inserting in place thereof the following 3 definitions:-

“All-terrain vehicle”, a motorized recreational vehicle designed or modified for travel on 4 low pressure tires and having a seat designed to be straddled by the operator and handlebars for steering control.

“Directly supervised”, the supervising adult shall be sufficiently close to the operator at all times that the operator’s vehicle is in operation, such that a reasonable person acting as supervisor 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.

“Law enforcement officer”, the director, a deputy director of enforcement, a chief of enforcement, a deputy chief of enforcement, an environmental police officer and a deputy environmental police officer of the office of environmental law enforcement, the registrar or an authorized agent thereof, a police officer, a member of the state police, a city or town police officer or an employee of the commonwealth having police powers on public lands.

SECTION 6. Said section 20 of said chapter 90B, as so appearing, is hereby further amended by striking out the definition of “Recreation vehicle” and inserting in place thereof the following 2 definitions:-

“Recreation utility vehicle” or “utility vehicle”, a motorized flotation tire vehicle with not less than 4 and not more than 6 low pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control.

“Recreation vehicle” or “off-highway vehicle”, any motor vehicle designed or modified for use over unimproved terrain for recreation or pleasure while not being operated on a public way as defined in chapter 90 including, but not limited to, all-terrain vehicles, off-highway motorcycles, dirt bikes, recreation utility vehicles and all registered motor vehicles while not being operated on a public way as defined in said chapter 90; provided, however, that recreation vehicles and off-highway vehicles operated exclusively for agricultural, forestry, lumbering or construction purposes shall not be subject to this chapter and it shall be an affirmative defense that such vehicle was being operated for such purposes at the time of an alleged violation of this chapter.

SECTION 7. Said chapter 90B is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:-

Section 21. No person under 18 years of age shall operate a recreation vehicle unless he has successfully completed a recreation vehicle safety and responsibility course approved by the director of environmental law enforcement. Such course shall include, but shall not be limited to, notification of the potential criminal penalties and forfeiture process for certain violations of law relative to the safe operation of recreation vehicles. A parent or legal guardian of an operator of a recreation vehicle under 16 years of age shall participate in at least 1 session of the recreation vehicle safety and responsibility course or as required by the director. Proof of the successful completion of the course shall be carried on the person of the operator while operating a recreation vehicle. Proof of an operator’s successful completion of another state’s equivalent recreation vehicle safety and responsibility course, as determined by the director, shall be valid in the commonwealth.

SECTION 8. Section 22 of said chapter 90B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following 2 paragraphs:-

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. 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 3 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. A motor vehicle license or learner's permit shall not be required for the operation of a snow vehicle or a recreation vehicle.

Application for registration of a snow vehicle or a recreation vehicle shall be made by the owner to the director or his agent on such forms as the director shall prescribe and shall state the name and address of the owner of the vehicle. No person shall knowingly make a false statement in an application for registration of a snow vehicle or recreation vehicle.

SECTION 9. Said section 22 of said chapter 90B, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

The fee for initial registration of each such vehicle and for each renewal thereof, other than vehicles for which application is made by a manufacturer or dealer as hereinafter provided, shall be determined annually by the commissioner of administration as provided in section 3B of chapter 7, except that no fee shall be collected for the registration of any such vehicle owned by the commonwealth or any political subdivision thereof or a vehicle used exclusively for agricultural, forestry, lumbering or construction purposes.

In the case of a recreation vehicle to be operated exclusively for agricultural, forestry, lumbering or construction purposes, the owner of such vehicle may apply for an exemption from the registration fee. The application for exemption shall be on a form prescribed by the director of law enforcement. If the director is satisfied that the vehicle for which a fee exemption is sought is to be operated exclusively for agricultural, forestry, lumbering or construction purposes, the director shall grant the application and the owner of such vehicle shall be exempt from the registration fee for such vehicle. If the vehicle ceases to be operated exclusively for agricultural, forestry, lumbering or construction purposes, the owner shall no longer be exempt from paying such registration fee and shall be required to pay a portion of the registration fee for the year in which the exemption no longer applies. A new application for a fee exemption shall be required for further fee exemption with an application for registration renewal. A fee exemption granted pursuant to this section shall not be admissible nor relevant at trial on the question of whether such vehicle was being operated for agricultural, forestry, lumbering or construction purposes at the time of an alleged violation of this chapter.

SECTION 10. Section 24 of said chapter 90B, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:-

No snow vehicle or recreation vehicle shall be operated which emits noxious fumes or makes unusual or excessive noise. No snow vehicle or recreation vehicle manufactured on or after January 1, 1998, shall be sold, offered for sale or operated that produces a sound pressure level of more than 96 decibels when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or with such other test procedures for measurement of sound pressure levels as the registrar may adopt. No snow vehicle or recreation vehicle manufactured prior to January 1, 1998, shall be offered for sale or operated that produces a sound pressure level of more than 101 decibels when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or

with such other test procedures for measurement of sound pressure levels as the registrar may adopt.

SECTION 11. Section 25 of said chapter 90B, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

No person under 16 and one-half years of age shall operate a snow vehicle or a recreation vehicle across or on a public way unless the operator holds a valid license or right to operate a motor vehicle or is directly supervised by a person 18 years of age or older. An operator of a snow vehicle or a recreation vehicle that meets the requirements of the preceding sentence shall, after coming to a full stop, cross, as directly as possible, a public way; provided, however, 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. An operator of a snow vehicle or a recreation vehicle shall make the crossing safely and without interfering with the free movement of vehicular traffic. An operator of a snow vehicle or a recreation vehicle shall yield the right of way to all other vehicular traffic when making such crossing; provided, further, that an operator shall not cross a controlled access highway.

SECTION 12. Said section 25 of said chapter 90B, as so appearing, is hereby further amended by inserting after the word "vehicle", in lines 29, 30, 32, 33 and 34, each time it appears, the following words:- or recreation vehicle.

SECTION 13. Said chapter 90B is hereby further amended by striking out section 26, as so appearing, and inserting in place thereof the following section:-

Section 26. (a) (1) 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.

(2) No person between 14 and 16 years of age shall operate an all-terrain vehicle or recreation utility vehicle with an engine capacity greater than 90 cubic centimeters; provided, however, 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 a person 18 years of age or older.

(b) No person aged 18 years of age or older shall knowingly permit another, who is under the age of 18, to operate a snow vehicle or recreation vehicle in his custody or under his control in violation of this chapter. Lack of ownership of the vehicle or mistake as to the age of the operator shall not be available defenses to a violation of this section.

(c) No person operating or in control of a snow vehicle or recreation vehicle shall refuse to stop such vehicle after having been requested or signaled to do so by a law enforcement officer. No such person shall refuse to give his correct name, address and registration number to such officer.

(d) No person shall operate or ride in or on a snow vehicle or a recreation vehicle or ride in or on a sled, inflated tube or similar article attached to such vehicle and which is pulled by such vehicle, without wearing protective headgear. Such headgear shall conform to minimum standards for construction and performance as the registrar of motor vehicles may prescribe.

(e) No person shall operate a snow vehicle or a recreation vehicle on privately-owned property unless: (i) the operator is the owner or lessee or an immediate family member of the owner or lessee of the property; (ii) the operator has in his possession either a document, signed by the owner or lessee of such property or his agent, authorizing the operation of a such vehicle on the property by the operator or valid proof of current membership in a club, association or other organization to which express authorization for the operation of such vehicles on the property has been granted; provided, however, that such operation shall be consistent with the express authorization granted and any restrictions imposed therewith; or (iii) the owner or lessee of the property has designated the area for use by such vehicles by posting reasonable notice of such designation in a manner approved by the director.

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.

(f) No person shall operate a snow vehicle or a recreation vehicle in a manner that harasses or otherwise harms deer or other wildlife. No person shall operate a snow vehicle or recreation vehicle in a reforested or planted area in a manner that causes damage to growing stock. No person shall operate a snow vehicle or a recreation vehicle in a manner that causes damage to public or private property including, but not limited to, lands owned or managed by the department of conservation and recreation or the division of fisheries and wildlife, wetlands or other waters of the commonwealth, priority habitats delineated as such by the division of fisheries and wildlife pursuant to chapter 131A, lands used for public water supply purposes or historic or archaeological sites.

(g) No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is unloaded and in an enclosed case. This section shall not apply to a law enforcement officer or other person with enforcement powers authorized in section 32, or to a paraplegic as provided in section 65 of chapter 131.

(h) No person shall operate a snow vehicle or recreation vehicle after the registration has been suspended or revoked.

SECTION 14. Said chapter 90B is hereby further amended by inserting after section 26, as appearing in the 2008 Official Edition, the following 5 sections:-

Section 26A. (a) Whoever being 21 years of age or older operates a snow vehicle or recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .08 or greater, as determined by a chemical test or analysis of his blood or as indicated by a chemical test or analysis of his breath pursuant to section 24 of chapter 90; or (2) while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less than \$500 nor more than \$5,000.

(b) Whoever being under 21 years of age operates a snow vehicle or recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined by a chemical test or analysis of his blood or as indicated by a chemical test or analysis of his breath pursuant to section 24 of chapter 90; or (2) while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less than \$500 nor more than \$5,000.

Section 26B. (a) Whoever operates a snow vehicle or recreation vehicle recklessly or operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the public might be endangered shall be punished by a fine of not less than \$250 nor more than \$1,000.

(b) Whoever operates a snow vehicle or recreation vehicle and, without stopping and making known his name, address and the registration number of his snow vehicle or recreation vehicle, leaves the

scene after knowingly colliding with or otherwise causing injury to another snow vehicle or recreation vehicle or property shall be punished by a fine of not less than \$250 nor more than \$1,000; provided, however, that the damage to property shall be greater than \$500.

(c) Whoever operates a snow vehicle or a recreation vehicle and, without stopping and making known his name, address and the registration number of his snow vehicle or recreation vehicle, leaves the scene after knowingly colliding with or otherwise causing bodily injury to another shall be punished by a fine of not less than \$500 nor more than \$1,000.

(d) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives or safety of the public might be endangered and, by such operation, causes serious bodily injury, shall be punished by imprisonment in a jail or house of correction for not more than 2 and one-half years or by a fine of not less than \$300 nor more than \$5,000, or by both such fine and imprisonment. For the purposes of this section "serious bodily injury" shall mean bodily injury which creates a substantial risk of death or which involves either total disability or the loss or substantial impairment of some bodily function for a substantial period of time.

(e) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by such operation causes the death of another person, shall be punished by imprisonment in a jail or house of correction for not more than 2 and one-half years or by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

Section 26C. (a) Upon a conviction or adjudication by reason of a violation of subsections (c) to (e), inclusive, of section 26B or upon a second or subsequent conviction or adjudication of delinquency for violation of section 26, or any combination thereof, a snow vehicle or recreation vehicle used in the commission of such violation or violations shall be subject to forfeiture.

(b) A district attorney or the attorney general may petition the superior or district court in the name of the commonwealth in the nature of a proceeding in rem to order forfeiture of such snow vehicle or recreation vehicle. The petition shall be filed in the court having jurisdiction over the criminal proceeding brought under this section. The proceeding shall be deemed a civil suit in equity. In all such actions in which the snow vehicle or recreation vehicle is jointly owned before the date of the violation committed by the defendant by either a parent, spouse, child, grandparent, brother, sister or parent of the spouse living in the defendant's household, the commonwealth shall have the burden of proving to the court the existence of probable cause to institute the action.

(c) The court shall order the commonwealth to give notice by certified or registered mail to the owners of the snow vehicle or recreation vehicle and to such other persons or entities who appear to have an interest therein, and the court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. Upon the motion of an owner of the snow vehicle or recreation vehicle, the court may continue the hearing on the petition pending the outcome of a criminal trial related to the violation. During the pendency of the proceedings, the court may issue at the request of the commonwealth ex-parte any preliminary order or process as is necessary to seize or secure the property for which forfeiture is sought and to provide for its custody. Process for seizure of the property shall issue only upon a showing of probable cause, and the application therefor and the issuance, execution and return thereof shall be subject to chapter 276, as applicable.

(d) At a hearing under this section, the court shall hear evidence and make findings of fact and conclusions of law and shall issue a final order from which the parties shall have such right of appeal as from a decree in equity. No forfeiture under this section shall extinguish a perfected security interest held by a creditor in the property at the time of the filing of the forfeiture action. In all actions where a final order results in forfeiture, the final order shall provide for disposition of the property by the commonwealth or any subdivision thereof in any manner not prohibited by law, including official

use by an authorized law enforcement or other agency, or at sale at public auction or by competitive bidding, with the sale being conducted by the office of the district attorney or the attorney general that obtained the final order of forfeiture.

(e) The final order of the court shall provide that the proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be deposited into the Off-Highway Vehicle Program Fund, established in section 3500 of chapter 10 and the remaining 25 per cent shall be distributed equally by the court among the division, departments or offices involved in the seizure or to the division, department or office if a single law enforcement agency was involved.

(f) Any moneys and proceeds received by a division, department or office pursuant to this section may be expended without further appropriation to defray the costs of investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants or to accomplish such other law enforcement, environmental or public recreational purposes as the head of such division, department or office deems appropriate, but such funds shall not be considered a source of revenue to meet the operating needs of such division, department or office.

Section 26D. A summons may be issued instead of a warrant for arrest upon a complaint for a violation of section 26A or 26B if in the judgment of the court or justice receiving the complaint there is reason to believe that the defendant will appear upon a summons. Nothing in this section shall limit a law enforcement officer's power to arrest under any other provisions of the General Laws or at common law.

Section 26E. (a) Any person age 18 or older with custody or control of a snow vehicle or recreation vehicle, who knowingly permits another, who is under the age of 18, to operate such vehicle shall be held liable, jointly and severally with the operator, for any damage or injuries caused by such operator's operation of the vehicle and for any fines, penalties or restitution resulting therefrom.

(b) An owner of a snow vehicle or recreation vehicle or other person who knowingly permits a person 18 years of age or older to operate a snow vehicle or a recreation vehicle in violation of this chapter shall be held liable, jointly and severally, with the operator, for any damage or injuries caused by such operator's negligent operation and for any fines, penalties or restitution resulting therefrom.

(c) Lack of ownership of the vehicle or mistake as to the age of the operator shall not be defenses in an action filed pursuant to this section.

SECTION 15. Said chapter 90B is hereby amended by inserting after section 28, as so appearing, the following 2 sections:-

Section 28A. Notwithstanding section 28, upon conviction of, or adjudication of delinquency by reason of a violation of subsections (c) to (e), inclusive, of section 26B the registrar shall immediately suspend the operator's license or right to operate a motor vehicle and the director shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The registrar, after having suspended or revoked the license or right to operate of a person pursuant to this section, shall issue a new license or reinstate the right to operate of such person if the prosecution or adjudication of such person is terminated in favor of the defendant or juvenile and the director shall issue a new registration number if a vehicle was registered to such person. The registrar may, after an investigation or upon a hearing, issue a new license or reinstate the right to operate and the director may issue a new snow vehicle or recreation vehicle registration number to a person convicted or adjudicated delinquent for a violation of said subsections (c) to (e), inclusive, of said section 26B; provided, however, that no such license, right to operate or registration shall be reinstated by the registrar or issued by the director to any person so convicted or adjudicated delinquent by reason of said subsection (c) or (d) of said section 26B until 1 year after the date of suspension or revocation following his original conviction or adjudication of delinquency if for a first offense or until 2 years after

the date of suspension or revocation if for a subsequent conviction or adjudication of delinquency, or to any person convicted of or adjudicated delinquent by reason of subsection (e) of said section 26B until 5 years after the date of suspension or revocation following his original conviction or adjudication if for a first offense, or until 15 years after the date of suspension or revocation if for a subsequent conviction or adjudication.

If the person so convicted or adjudicated is under age 17 at the time of a conviction or adjudication of delinquency under subsections (c) to (e), inclusive, of section 26B, inclusive, and he has not been issued a license or right to operate or has not been issued a snow vehicle or recreation vehicle registration number, neither the registrar nor the director shall issue such license or right to operate a motor vehicle or a snow vehicle or recreation vehicle registration until the time periods provided in the previous paragraph have passed and calculation of such time period shall not commence to run until such person reaches age 16 for purposes of issuance of a right to operate a motor vehicle and 16 and one-half for purposes of issuance of a license to operate a motor vehicle and for issuance of a snow vehicle or recreation vehicle registration number.

Section 28B. Notwithstanding section 28, upon conviction of, or adjudication of delinquency by reason of a violation of section 26A, the registrar shall immediately suspend the operator's license or right to operate a motor vehicle and the director shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The registrar, after having suspended or revoked the license or right to operate of any person under this section, shall issue a new license or reinstate the right to operate and the director shall issue a new registration number, if the prosecution or adjudication of delinquency of such person is terminated in favor of the defendant or juvenile. The registrar may, after an investigation or upon hearing, issue a new license or reinstate the right to operate and the director may issue a new snow vehicle or recreation vehicle registration number to a person so convicted of or adjudicated delinquent by means of a violation of said section 26A; provided, however, that no such license or right to operate shall be issued by the registrar nor shall a registration number be issued by the director to a person convicted of a violation of subsection (a) of said section 26A, for a first offense, until 1 year after the date of suspension or revocation following his original conviction, or from the date of his original conviction if the person is unlicensed or has not been issued the right to operate or, for a subsequent offense, until 2 years after the date of such suspension, revocation or conviction, or to any person convicted of or adjudicated delinquent for a violation of subsection (b) of said section 26A, for a first offense, until 2 years after the date of suspension or revocation or, if the person is unlicensed or has not been issued a right to operate, until 2 years after the date of his original conviction or adjudication or, for a subsequent offense, until 3 years after the date of such suspension, revocation, conviction or adjudication; provided, however, that a person whose license or right to operate was suspended due to a conviction of said subsection (a) of said section 26A may, after the expiration of 3 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or educational purposes, which license shall be effective for not more than an identical 12-hour period every day on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control, and the registrar may, in his discretion, issue such license or right to operate under such terms and conditions as he deems appropriate and necessary; and provided further, that such person may, after the expiration of 6 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license or right to operate on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license or right to operate under such terms and conditions as he deems appropriate and necessary.

If the person so convicted or adjudicated is under age 17 at the time of such conviction or adjudication and has not been issued a license or right to operate or a snow vehicle or recreation

vehicle registration number, the registrar shall not issue such license or right to operate a motor vehicle and the director shall not issue a snow or recreation vehicle registration until the time periods provided in the previous paragraph have passed but the calculation of such time period shall not commence until such person reaches age 16 for purposes of issuance of a right to operate a motor vehicle and 16 and one-half for purposes of issuance of a license to operate a motor vehicle and for issuance of a snow vehicle or recreation vehicle registration number.

SECTION 16. The first paragraph of section 32 of said chapter 90B, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:- Sections 21 to 34, inclusive, and the rules and regulations promulgated thereunder shall be enforced by law enforcement officers; provided, however, that any investigation, arrest or decision to seek application for complaint relative to a violation of subsections (c) to (e), inclusive, of section 26B shall be executed by a law enforcement officer who has successfully completed minimum training requirements for the enforcement of such sections as determined by the secretary of public safety and security.

SECTION 17. Said chapter 90B is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. Whoever violates any provision of sections 21 to 24, inclusive, or any rule or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than \$500.

Whoever violates subsections (e) to (h), inclusive, of section 26 shall be punished by a fine of not less than \$250 nor more than \$1,000.

Whoever violates any provision of section 25 or subsections (a) to (d), inclusive, of section 26 shall be punished for a first offense, by a fine of \$250, and for a second or subsequent offense, by a fine of not less than \$500 nor more than \$2,500, and the snow vehicle or recreation vehicle in use at the time of such second or subsequent offense shall be subject to forfeiture under section 26C.

SECTION 18. Said chapter 90B is hereby further amended by striking out section 35, as so appearing, and inserting in place thereof the following section:-

Section 35. Notwithstanding the provisions relative to the distribution of fines, penalties and forfeitures in section 10G of chapter 21A 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 sections 24 to 32, inclusive, 75 per cent shall be deposited into the Off-Highway Vehicle Program Fund, established in section 35OO of chapter 10, 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.

SECTION 19. Chapter 242 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 7A the following section:-

Section 7B. (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 awarded judgment under this section shall be entitled to damages in an amount up to, but not greater than, 3 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 section, the court 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 law.

(d) Liability under this section shall not apply to any federal, state or local government agency, or to any employee of any such agency acting in the course of his 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, any federal, state or local governmental agency or any crop produced for commercial purposes on an agricultural operation as defined by Section 1A of chapter 128.

(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 or processing of field crop products or for keeping and raising of livestock.

SECTION 20. Section 121A of chapter 266 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words “two hundred and fifty dollars” and inserting in place thereof the following figure:- \$500.

SECTION 21. Notwithstanding any general or special law to the contrary, in making initial appointments to the off-highway vehicle advisory committee established pursuant to section 23 of chapter 21A, added by section 4 of this act, the secretary of energy and environmental affairs shall appoint 4 members to serve for a term of 1 year, 4 members to serve for a term of 2 years and 5 members to serve for a term of 3 years.

SECTION 22. The director of law enforcement in the executive office of energy and environmental affairs may, after consultation with the off-highway vehicle advisory committee and a public hearing, promulgate regulations consistent with this act including, but not limited to, increasing the age at which persons may operate all-terrain vehicles or regulating the engine size and speed capabilities of such vehicles, based on the age of the operator.

SECTION 23. On or before February 1, 2011, the director of law enforcement in the executive office of energy and environmental affairs shall amend regulations of the division that are inconsistent with this act.

SECTION 24. On or before November 1, 2010, the director of law enforcement in the executive office of energy and environmental affairs shall prescribe forms for application for registration fee exemption for vehicles used exclusively for agricultural, forestry, lumbering or construction purposes under section 22 of chapter 90B of the General Laws.

SECTION 25. On or before November 1, 2010, the director of law enforcement in the executive office of energy and environmental affairs shall adopt minimum training requirements for law enforcement officers, except state and municipal police officers, as required by section 32 of chapter 90B of the General Laws.

SECTION 26. Section 7 shall take effect on February 1, 2011; provided, however, that no operator of a snow vehicle or recreation vehicle shall be assessed a penalty for violation of section 22 of chapter 90B of the General Laws until May 1, 2011.

SECTION 27. The provisions of subsections (b) and (c) of section 26B of chapter 90B of the General Laws prohibiting an operator of a snow vehicle or recreation vehicle from leaving the scene after causing injury to property or to a person without making known his registration number shall take effect on February 1, 2011. Nothing in this section shall affect the prohibition in said subsections (b) and (c) of said section 26B of said chapter 90B against an operator leaving the scene after causing injury to property or to a person without stopping and making known his name, address and registration number on or after October 1, 2010.

Approved July 31, 2010

