



2013 ASSEMBLY BILL 369

September 13, 2013 – Introduced by Representatives MURSAU, SWEARINGEN, A. OTT, BIES and KAHL, cosponsored by Senators TIFFANY and GUDEx. Referred to Committee on Natural Resources and Sporting Heritage.

1 **AN ACT** *to amend* 23.09 (23) (a), 23.119 (1) (b), 23.45 (1) (d), 23.50 (1), 23.50 (3),
2 23.53 (1), 23.56 (1), 23.57 (1) (intro.), 23.58, 23.62 (1) (intro.), 25.29 (1) (a), 30.26
3 (4) (title), 30.26 (4) (a) (intro.), 30.26 (4) (b), 30.29 (1) (b), 46.03 (18) (f), 59.54 (14)
4 (g), 77.51 (13s), 77.61 (1), 77.73 (2), 78.75 (1m) (a) 2m., 78.75 (1m) (a) 3., 110.07
5 (1) (a) 1., 110.07 (3), 322.111, 344.61 (1), 345.11 (1r), 346.66 (1) (c), 346.71 (1),
6 346.71 (2), 800.02 (2) (b), 814.63 (3m) (a), 814.65 (4m) (a), 885.235 (1m), 885.235
7 (4), 895.043 (6), 938.17 (1) (intro.), 938.343 (9), 940.09 (1m) (b), 940.09 (3),
8 940.25 (1m) (b), 940.25 (3), 973.06 (1) (j) and 973.09 (2) (a) 1. d.; and **to create**
9 15.347 (9), 20.370 (1) (jg), 20.370 (1) (jq), 20.370 (3) (av), 23.37, 25.40 (1) (br) and
10 814.77 (17) of the statutes; **relating to:** regulation of off-highway vehicles,
11 creating an off-highway vehicle council, granting rule-making authority,

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- 1 requiring the exercise of rule-making authority, making appropriations, and
2 providing penalties.
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Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) administers the laws regulating the operation and registration of all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs). This bill establishes requirements for the operation and registration of off-highway vehicles (OHVs) that are similar to the requirements that apply under current law to ATVs and UTVs. The bill defines an OHV as a four-wheel drive vehicle that has a ground clearance of at least seven inches, and that is designed for use off of a highway, regardless of whether it is also designed for use on a highway. The bill defines ground clearance as the distance between the base of an off-highway vehicle tire and the underside of the chassis of the off-highway vehicle. The bill excludes ATVs, UTVs, watercraft, and motorcycles from the definition of an OHV.

OHV trails

This bill requires DNR to encourage and supervise a system of OHV trails in the same manner that DNR is required under current law to encourage and supervise a system of ATV trails. The bill allows DNR to establish standards and procedures for certifying the designation of OHV trails. As under current law applicable to ATV trails, this bill allows a county, city, village, or town or DNR to designate corridors through land that it owns or controls for use as OHV trails. The bill also requires DNR to prepare maps that identify each OHV trail in this state.

OHV registration

This bill creates two classes of OHVs. Under the bill, a Class A OHV is an OHV that qualifies for registration by the Department of Transportation (DOT) under the laws that regulate the operation of vehicles on highways. A Class B OHV is generally one that may not be operated on a highway and that does not qualify for registration by DOT. With certain limited exceptions, the bill requires any person who operates an OHV on an OHV trail or other established public off-highway vehicle corridor to register the OHV with DNR and to pay an annual registration fee. The fee for registration of a Class A OHV is \$50 and the fee for registration of a Class B OHV is \$100. The bill also requires a person who is a Class B OHV manufacturer, dealer, distributor, or renter to register with DNR and obtain a commercial OHV certificate. Any person who registers an OHV with DNR must include the name and address of every owner of the OHV.

This bill authorizes DNR to appoint an agent to accept OHV registration applications on behalf of DNR in the same manner as DNR is authorized to appoint agents to register ATVs and UTVs. As with ATV and UTV registration, the agent is entitled to collect, and retain a portion of, a service fee for providing registration services.

Current law establishes a registration program under which the Lac du Flambeau band of Lake Superior Chippewa may issue registration certificates for

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ATVs and UTVs that are equivalent to the registration certificates issued by DNR. This bill establishes a similar registration program for OHV registration under which the Mole Lake band of Lake Superior Chippewa, in addition to the Lac du Flambeau band, may issue registration certificates that are similar to the OHV registration certificates issued by DNR.

Class B OHV equipment requirements

This bill prohibits any person from operating a Class B OHV unless the Class B OHV meets certain requirements. Those requirements include having a minimum of four wheels, being propelled by an electric or internal combustion engine, having a frame-mounted roll cage, having a permanently affixed blaze orange safety flag, and having permanently mounted seats that are equipped with safety belts. The bill also prohibits a person from manufacturing, selling, renting, or operating a Class B OHV in such a manner that it exceeds specified noise limits.

OHV operation

The bill prohibits any person from operating a Class B OHV, or a Class A OHV that is not registered by DOT, on public property unless the person operates the OHV on an OHV trail. To operate such an OHV on private property, the operator must obtain the consent of the property owner.

Under this bill, a person must obtain an operator's license from DOT to operate an OHV. Current law does not require a person to hold an operator's license to operate an ATV or UTV. The bill also prohibits a person from operating an OHV on an OHV trail at a speed greater than the posted speed limit or, if no speed limit is posted, at a speed greater than 20 miles per hour.

Under this bill, only a person who is at least 16 years old may operate an OHV on an OHV trail. The bill provides that if the operator is 16 or 17 years old, he or she may not operate an OHV on an OHV trail unless he or she is accompanied by another person who is at least 18 years old operating an OHV. Finally, if the operator is a person born on or after December 31, 1993, he or she must hold a valid safety certificate to operate the OHV on an OHV trail. This bill requires DNR to establish a program of instruction on OHV laws and to issue certificates to persons who successfully complete the program. These requirements are similar to the requirements that apply under current law concerning programs of instruction on ATV and UTV laws.

This bill prohibits a person from operating an OHV while under the influence of an intoxicant and requires an OHV operator to submit to certain screening tests if a law enforcement officer has probable cause to believe that the operator is violating or has violated the law prohibiting the intoxicated operation of an OHV. These provisions are similar to the provisions in current law relating to the operation of an ATV or UTV while under the influence of an intoxicant.

OHV council

This bill creates an OHV council (council) consisting of five members who are knowledgeable in the recreational use of OHVs. The bill requires DNR to distribute any rule that it proposes that affects the operation of OHVs to each member of the council for review and comment. The bill also requires DNR to consult with the council on proposed changes for the succeeding biennium in the appropriations and

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laws that affect OHVs and requires the council to meet to review the provisions affecting OHVs that are included in each executive budget bill.

OHV grant program and damage claim program

This bill also requires DNR to establish a program to award grants to organizations that promote the operation of OHV vehicles in a manner that is safe and responsible and that does not harm the environment. An organization that receives a grant under this program must use the grant moneys to promote and provide support to the program of instruction on OHV laws.

Under this bill, DNR must also promulgate rules to establish a damage claim program to pay claims to owners of property damaged by the unauthorized operation of OHVs.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.347 (9) of the statutes is created to read:

2 15.347 (9) OFF-HIGHWAY VEHICLE COUNCIL. There is created in the department
3 of natural resources an off-highway vehicle council consisting of 5 members
4 appointed for 3-year terms who are knowledgeable in the various recreational uses
5 of off-highway vehicles.

6 **SECTION 2.** 20.370 (1) (jg) of the statutes is created to read:

7 20.370 (1) (jg) *Off-highway vehicle administration.* From the general fund, a
8 sum sufficient equal to the amount determined under s. 23.37 (8m) (a) for the
9 purposes specified under 23.37 (8m) (b), for issuing and renewing off-highway
10 vehicle registration documentation by the department under s. 23.37 (2) (h), for
11 grants under s. 23.37 (10), for state law enforcement operations related to
12 off-highway vehicles, and for the payment of claims under s. 23.37 (11).

13 **SECTION 3.** 20.370 (1) (jq) of the statutes is created to read:

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1 20.370 (1) (jq) *Off-highway vehicles; enforcement; trail restoration.* All moneys
2 received under s. 23.37 (14) (f) for state law enforcement operations related to
3 off-highway vehicles and for off-highway vehicle trail restoration activities.

4 **SECTION 4.** 20.370 (3) (av) of the statutes is created to read:

5 20.370 (3) (av) *Off-highway vehicle instruction programs.* All moneys remitted
6 to the department under s. 23.37 (9) (d) for programs or courses of instruction under
7 s. 23.37 (9) (d).

8 **SECTION 5.** 23.09 (23) (a) of the statutes is amended to read:

9 23.09 (23) (a) In this subsection, “approval” means any type of approval or
10 authorization issued by the department under ch. 29, subch. V. of ch. 30, or s. 23.33
11 (2), 23.37 (2), 27.01, or 350.12, including a license, permit, certificate, stamp, tag,
12 registration, or vehicle admission receipt.

13 **SECTION 6.** 23.119 (1) (b) of the statutes is amended to read:

14 23.119 (1) (b) “Off-highway vehicle” means a motor-driven craft or vehicle
15 principally manufactured for off-highway use but does not include a snowmobile,
16 all-terrain vehicle, ~~or utility terrain vehicle,~~ or off-highway vehicle defined in s.
17 23.37 (1) (jm).

18 **SECTION 7.** 23.37 of the statutes is created to read:

19 **23.37 Off-highway vehicles. (1) DEFINITIONS.** In this section:

20 (ag) “Alcohol beverage” has the meaning given in s. 125.02 (1).

21 (am) “Alcohol concentration” has the meaning given in s. 340.01 (1v).

22 (ar) “All-terrain vehicle” has the meaning given in s. 340.01 (2g).

23 (aw) “Approved public treatment facility” has the meaning given in s. 51.45 (2)

24 (c).

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1 (b) "Class A off-highway vehicle" means an off-highway vehicle that is eligible
2 for registration under ch. 341.

3 (c) "Class B off-highway vehicle" means an off-highway vehicle that is not
4 eligible for registration under ch. 341 for the reasons specified under s. 341.10 (6).

5 (cf) "Class B off-highway vehicle dealer" means a person engaged in the sale
6 of Class B off-highway vehicles for profit at wholesale or retail.

7 (ch) "Class B off-highway vehicle distributor" means a person who sells or
8 distributes Class B off-highway vehicles to Class B off-highway vehicle dealers or
9 who maintains distributor representatives.

10 (cm) "Class B off-highway vehicle manufacturer" means a person engaged in
11 the manufacture of Class B off-highway vehicles for sale to the public.

12 (cp) "Class B off-highway vehicle renter" means a person engaged in the rental
13 or leasing of Class B off-highway vehicles to the public.

14 (d) "Controlled substance" has the meaning given in s. 961.01 (4).

15 (df) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

16 (dm) "Ground clearance" means the distance between the base of an
17 off-highway vehicle tire and the underside of the chassis of the off-highway vehicle.

18 (e) "Intoxicant" means any alcohol beverage, controlled substance, controlled
19 substance analog, or other drug or any combination thereof.

20 (f) "Intoxicated operation of an off-highway vehicle law" means sub. (4c) or a
21 local ordinance in conformity therewith or, if the operation of an off-highway vehicle
22 is involved, s. 940.09 or 940.25.

23 (g) "Lac du Flambeau band" has the meaning given in s. 23.33 (1) (id).

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1 (h) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c) and
2 includes a person appointed as a conservation warden by the department under s.
3 23.10 (1).

4 (i) "Mole Lake band" means the Mole Lake band of Lake Superior Chippewa.

5 (j) "Motorcycle" has the meaning given in s. 340.01 (32).

6 (jm) "Off-highway vehicle" means a 4-wheel drive vehicle that is powered by
7 an electric or internal combustion engine, that has a ground clearance of at least 7
8 inches, and that is designed for use off of a highway, regardless of whether it is also
9 designed for use on a highway. An off-highway vehicle does not include an
10 all-terrain vehicle, a utility terrain vehicle, a watercraft, or a motorcycle.

11 (k) "Off-highway vehicle club" means a club consisting of individuals that
12 promotes the recreational use of off-highway vehicles.

13 (L) "Off-highway vehicle trail" means a marked corridor on public property or
14 on private lands subject to public easement or lease, designated for use by
15 off-highway vehicle operators by the governmental agency having jurisdiction, but
16 excluding roadways of highways.

17 (m) "Operate" means to exercise physical control over the speed or direction of
18 an off-highway vehicle or to physically manipulate or activate any of the controls of
19 an off-highway vehicle to put it in motion.

20 (mn) "Operation" means the exercise of physical control over the speed or
21 direction of an off-highway vehicle or the physical manipulation or activation of any
22 of the controls of an off-highway vehicle necessary to put it in motion.

23 (n) "Operator" means a person who operates an off-highway vehicle, who is
24 responsible for the operation of an off-highway vehicle, or who is supervising the
25 operation of an off-highway vehicle.

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1 (o) "Owner" means a person who has lawful possession of an off-highway
2 vehicle by virtue of legal title in the off-highway vehicle that entitles the person to
3 possession of the off-highway vehicle.

4 (og) "Purpose of authorized analysis" means for the purpose of determining or
5 obtaining evidence of the presence, quantity, or concentration of any intoxicant in a
6 person's blood, breath, or urine.

7 (or) "Refusal law" means sub. (4p) (e) or a local ordinance in conformity
8 therewith.

9 (p) "Registration documentation" means an off-highway vehicle registration
10 certificate or a registration decal.

11 (pm) "Restricted controlled substance" means any of the following:

12 1. A controlled substance included in schedule I under ch. 961 other than a
13 tetrahydrocannabinol.

14 2. A controlled substance analog, as defined in s. 961.01 (4m), of a controlled
15 substance described in subd. 1.

16 3. Cocaine or any of its metabolites.

17 4. Methamphetamine.

18 5. Delta-9-tetrahydrocannabinol.

19 (q) "Roadway" has the meaning given in s. 340.01 (54).

20 (r) "Snowmobile" has the meaning given in s. 340.01 (58a).

21 (rm) "Test facility" means a test facility or agency prepared to administer tests
22 under s. 343.305 (2).

23 (s) "Utility terrain vehicle" has the meaning given in s. 23.33 (1) (ng).

24 **(2) REGISTRATION.** (a) *Requirement.* No person may operate, and no owner may
25 give another person permission to operate, an off-highway vehicle on an

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1 off-highway vehicle trail unless the off-highway vehicle is registered with the
2 department under this subsection or sub. (2g) or is exempt from registration with the
3 department under this subsection. No person under the age of 18 may register an
4 off-highway vehicle under this subsection.

5 (b) *Exemptions.* An off-highway vehicle is exempt from registration under this
6 subsection if any of the following applies:

7 1. It is owned by this state or a political subdivision of this state and used for
8 enforcement or emergency purposes.

9 2. It is owned or operated under contract with a utility and operated for the
10 purpose of utility work.

11 3. It is owned by the United States, another state, or a political subdivision of
12 that state.

13 (c) *Registration; Class A; fee.* The fee for issuance or renewal of a registration
14 certificate for a Class A off-highway vehicle is \$50.

15 (d) *Registration; Class B; fee.* The fee for issuance or renewal of a registration
16 certificate for a Class B off-highway vehicle is \$100.

17 (e) *Registration; commercial owner; fee.* 1. A person who is a Class B
18 off-highway vehicle manufacturer, Class B off-highway vehicle dealer, Class B
19 off-highway vehicle distributor, or Class B off-highway vehicle renter or any
20 combination thereof engaged in business in this state shall register with the
21 department and obtain from the department a commercial off-highway vehicle
22 certificate.

23 2. The fee for the issuance or renewal of a commercial off-highway vehicle
24 certificate is \$50 except that the fee for the issuance or renewal of a commercial
25 off-highway vehicle certificate to an off-highway vehicle manufacturer is \$150.

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1 (f) *Other fees.* The fee for the issuance of a duplicate off-highway vehicle
2 registration certificate or decal and the fee for transfer of an off-highway vehicle
3 registration certificate is \$5.

4 (g) *Effective period.* An off-highway vehicle registration certificate is valid for
5 one year.

6 (h) *Registration; issuers.* For the issuance of original or duplicate registration
7 documentation and for the transfer or renewal of registration documentation, the
8 department may do any of the following:

9 1. Directly issue, transfer, or renew the registration documentation with or
10 without using the procedures specified in par. (j) 1.

11 2. Appoint persons, who are not employees of the department, as agents of the
12 department to issue, transfer, or renew the registration documentation using either
13 or both of the procedures specified in par. (j) 1.

14 (i) *Registration; required information.* The department may not issue a
15 registration certificate under this subsection for an off-highway vehicle unless the
16 application for the registration certificate includes the name and address of every
17 owner of the off-highway vehicle.

18 (j) *Registration; methods of issuance.* 1. For the issuance of original or
19 duplicate registration documentation and for the transfer or renewal of registration
20 documentation, the department may implement either or both of the following
21 procedures:

22 a. A procedure under which the department or an agent appointed under par.
23 (h) 2. accepts applications for registration documentation and issues a validated
24 registration receipt at the time the applicant submits the application accompanied
25 by the required fees.

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1 b. A procedure under which the department or an agent appointed under par.
2 (h) 2. may accept applications for registration documentation and issue to each
3 applicant all or some of the items of the registration documentation at the time the
4 applicant submits the application accompanied by the required fees.

5 2. Under either procedure under subd. 1., the applicant shall receive any
6 remaining items of registration documentation directly from the department at a
7 later date. The items of registration documentation issued at the time of the
8 submittal of the application under either procedure shall be sufficient to allow the
9 off-highway vehicle for which the application is submitted to be operated in
10 compliance with the registration requirements under this subsection. The items of
11 registration documentation issued under subd. 1. b. shall include at least one
12 registration decal.

13 (k) *Registration; supplemental fees.* 1. In addition to the applicable fee under
14 par. (c), (d), or (f), each agent appointed under par. (h) 2. shall collect a service fee of
15 \$3 each time the agent issues a validated registration receipt under par. (j) 1. a. The
16 agent shall retain the entire amount of each service fee the agent collects.

17 2. In addition to the applicable fee under par. (c), (d), or (f), the department or
18 the agent appointed under par. (h) 2. shall collect a service fee of \$5 each time the
19 procedure under par. (j) 1. b. is provided. The agent shall remit to the department
20 \$1 of each service fee the agent collects.

21 (L) *Display.* A person who is issued a registration decal under par. (j) shall affix
22 the decal to the registered off-highway vehicle in such a manner that it may not be
23 removed. The registration decal shall be displayed on the windshield of a registered
24 Class A off-highway vehicle on the upper right passenger side. The registration

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1 decal shall be displayed within 2 inches of the right rear brake light on a registered
2 Class B off-highway vehicle.

3 (m) *Rules.* The department may establish by rule additional procedures and
4 requirements for off-highway vehicle registration.

5 (2g) LAC DU FLAMBEAU BAND AND MOLE LAKE BAND REGISTRATION PROGRAMS. (a)
6 *Authorization for issuance.* The Lac du Flambeau band and the Mole Lake band may
7 issue registration certificates for off-highway vehicles that are equivalent to the
8 registration certificates for off-highway vehicles that are issued by the department.
9 The Lac du Flambeau band and the Mole Lake band may renew and transfer a
10 registration certificate that the respective band or the department has issued. The
11 Lac du Flambeau band and the Mole Lake band may issue duplicates of only those
12 registration certificates that the respective band issues under this subsection.

13 (b) *Requirements for issuance; fees; effective periods.* 1. For issuing or renewing
14 a registration certificate under this subsection, the Lac du Flambeau band and the
15 Mole Lake band shall collect the same fee that would be collected for the equivalent
16 registration certificate under sub. (2) (a). For transferring a registration certificate
17 or issuing a duplicate registration certificate under this subsection, the Lac du
18 Flambeau band and the Mole Lake band shall collect the same fee that would be
19 collected for the equivalent service under sub. (2) (f).

20 2. The Lac du Flambeau band and the Mole Lake band may not issue, renew,
21 or otherwise process registration certificates under this subsection in conjunction
22 with discount coupons or as part of a promotion or other merchandising offer.

23 3. For a registration certificate issued, transferred, or renewed under this
24 subsection, the effective period shall be the same as it would be for the equivalent
25 registration certificate under sub. (2) (g).

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1 4. The Lac du Flambeau band and the Mole Lake band may issue, renew, or
2 otherwise process registration certificates under this subsection only to applicants
3 who appear in person on the Lac du Flambeau reservation or the Mole Lake
4 reservation, respectively.

5 (c) *Requirements for registration applications and decals.* 1. The Lac du
6 Flambeau band and the Mole Lake band shall use registration applications and
7 registration certificates that are substantially similar to those under sub. (2) with
8 regard to length, legibility, and information content.

9 2. The Lac du Flambeau band and the Mole Lake band shall use registration
10 decals that are substantially similar to those under sub. (2) with regard to color, size,
11 legibility, information content, and placement on the off-highway vehicle.

12 3. The Lac du Flambeau band and the Mole Lake band shall use a sequential
13 numbering system that includes a series of letters or initials that identify the Lac du
14 Flambeau band or the Mole Lake band, respectively, as the issuing authority.

15 (d) *Registration information.* The Lac du Flambeau band and the Mole Lake
16 band shall provide registration information to the state by establishing a 24-hour
17 per day data retrieval system, consisting of either a law enforcement agency with
18 24-hour per day staffing or a computerized data retrieval system to which law
19 enforcement officials of this state have access at all times.

20 (e) *Reports; records; tax collection.* 1. Before June 1 annually, the Lac du
21 Flambeau band and the Mole Lake band shall each submit a report to the
22 department notifying it of the number of each type of registration certificate that the
23 Lac du Flambeau band and the Mole Lake band, respectively, issued, transferred, or
24 renewed, for the period beginning on April 1 of the previous year and ending on
25 March 31 of the year in which the report is submitted.

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1 2. For law enforcement purposes, the Lac du Flambeau band and the Mole Lake
2 band shall each make available for inspection by the department during normal
3 business hours the Lac du Flambeau band's and the Mole Lake band's respective
4 records of all registration certificates issued, renewed, or otherwise processed under
5 this subsection, including copies of all applications made for certificates.

6 3. The Lac du Flambeau band and the Mole Lake band shall ensure that the
7 record of each registration certificate issued, renewed, or otherwise processed under
8 this subsection, including a copy of each application made, is retained for at least 2
9 years after the date of expiration of the certificate.

10 4. The Lac du Flambeau band and the Mole Lake band shall collect the sales
11 and use taxes due under s. 77.61 (1) on any off-highway vehicle registered under this
12 subsection and make the report in respect to those taxes. On or before the 15th day
13 of each month, the Lac du Flambeau band and the Mole Lake band shall pay to the
14 department of revenue all taxes that the Lac du Flambeau band and the Mole Lake
15 band, respectively, collected in the previous month.

16 **(3) DUTIES OF THE OFF-HIGHWAY VEHICLE COUNCIL.** (a) The department shall
17 distribute any rule that it is proposing and that affects the operation of off-highway
18 vehicles to each member of the off-highway vehicle council for his or her review and
19 comment at least 20 days before the notice stating that the proposed rule is in final
20 draft form and is submitted to the legislature in the manner provided under s. 227.19
21 (2). A member of the off-highway vehicle council may submit his or her written
22 comments on the proposed rule to the department.

23 (b) 1. Before June 30 of each even-numbered year, the department shall consult
24 with the off-highway vehicle council on the proposed changes for the succeeding

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1 biennium in the appropriations and laws that affect off-highway vehicles or the
2 operation of off-highway vehicles.

3 2. A member of the off-highway vehicle council may submit before August 1 of
4 the even-numbered year his or her written comments on the proposed changes
5 specified in subd. 1. to the secretary of natural resources.

6 (c) The secretary of natural resources shall submit the written comments that
7 the secretary receives under par. (b) 2. to the natural resources board and to the
8 secretary of administration with the department's submission of its budget report
9 under s. 16.42.

10 (d) Before March 1 of each odd-numbered year, the off-highway vehicle council
11 shall meet and review the provisions that are included in the executive budget bill
12 or bills that affect off-highway vehicles or the operation of off-highway vehicles. A
13 member of the off-highway vehicle council may submit his or her written comments
14 on these provisions to the secretary of natural resources before March 10 of each
15 odd-numbered year.

16 (e) The secretary of natural resources shall submit the written comments that
17 he or she receives under par. (b) 2. or (d) before March 10 of the odd-numbered year
18 to the cochairpersons of the joint committee on finance before March 15 of that
19 odd-numbered year.

20 **(4) OPERATION OF OFF-HIGHWAY VEHICLES.** (a) *Operator's license required.* No
21 person may operate an off-highway vehicle unless the person possesses a valid
22 operator's license issued under ch. 343.

23 (b) *General restrictions.* No person may operate a Class B off-highway vehicle,
24 and no person may operate a Class A off-highway vehicle that is not registered under
25 ch. 341, in the following manner:

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1 1. On public property except on an off-highway vehicle trail that is posted as
2 open to the operation of off-highway vehicles.

3 2. On the private property of another without the consent of the owner or lessee.
4 Failure to post private property does not imply consent for off-highway vehicle use.

5 3. In any careless way so as to endanger the person or property of another.

6 4. On Indian lands without the consent of the tribal governing body or Indian
7 owner. Failure to post Indian lands does not imply consent for off-highway vehicle
8 use.

9 5. With any crossbow in his or her possession unless the crossbow is not cocked
10 or is unloaded and enclosed in a carrying case.

11 6. With any bow in his or her possession unless the bow does not have an arrow
12 nocked.

13 7. With any firearm in his or her possession unless the firearm is unloaded or
14 is a handgun, as defined in s. 175.60 (1) (bm). This subdivision does not apply to a
15 firearm that is placed or possessed on an off-highway vehicle that is stationary, as
16 defined in s. 167.31 (1) (fg).

17 8. To drive or pursue any animal except as part of normal farming operations
18 involving the driving of livestock.

19 9. In a manner that violates rules promulgated by the department.

20 (c) *Restrictions on public land; department requirements.* 1. The department
21 shall establish seasons during which a person may operate an off-highway vehicle
22 on designated trails in state forest lands.

23 2. On or before the first day of the 7th month beginning after the effective date
24 of this subdivision [LRB inserts date], the department shall prepare maps that
25 identify each off-highway vehicle trail in this state. The department shall update

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1 the maps at least annually and shall make them available to the public on the
2 department's Internet site.

3 (d) *Operation on roadway.* A person may operate a Class B off-highway vehicle
4 on the roadway portion of any highway only in the following situations:

5 1. To cross a roadway. The crossing of a roadway is authorized only if the
6 crossing is done in the most direct manner practicable, if the crossing is made at a
7 place where no obstruction prevents a quick and safe crossing, and if the operator
8 stops the off-highway vehicle prior to the crossing and yields the right-of-way to
9 other vehicles, pedestrians, and electric personal assistive mobility devices using the
10 roadway.

11 2. On any roadway that is seasonally not maintained for motor vehicle traffic.
12 Operation of an off-highway vehicle on this type of roadway is authorized only
13 during the seasons when no maintenance occurs and only if the roadway is not
14 officially closed to off-highway vehicle traffic.

15 3. To cross a bridge, culvert, or railroad right-of-way. The crossing of a bridge,
16 culvert, or railroad right-of-way is not authorized if the roadway is officially closed
17 to off-highway vehicle traffic. The crossing is authorized only if the crossing is done
18 in the most direct manner practicable, if the crossing is made at a place where no
19 obstruction prevents a quick and safe crossing, and if the operator stops the vehicle
20 prior to the crossing and yields the right-of-way to other vehicles, pedestrians, and
21 electric personal assistive mobility devices using the roadway.

22 4. On roadways of highways that are off-highway vehicle trails.

23 **(4c)** INTOXICATED OPERATION OF AN OFF-HIGHWAY VEHICLE. (a) *Operation.* 1. No
24 person may operate an off-highway vehicle while under the influence of an
25 intoxicant.

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1 2. No person may operate an off-highway vehicle while the person has an
2 alcohol concentration above 0.0.

3 3. No person may operate an off-highway vehicle while the person has a
4 detectable amount of a restricted controlled substance in his or her blood.

5 4. A person may be charged with and a prosecutor may proceed upon a
6 complaint based upon a violation of any combination of subd. 1., 2., or 3. for acts
7 arising out of the same incident or occurrence. If the person is charged with violating
8 any combination of subd. 1., 2., or 3., the offenses shall be joined. If the person is
9 found guilty of any combination of subd. 1., 2., or 3. for acts arising out of the same
10 incident or occurrence, there shall be a single conviction for purposes of sentencing.
11 Subdivisions 1., 2., and 3. each require proof of a fact for conviction that the others
12 do not require.

13 5. In an action under subd. 3. that is based on the defendant allegedly having
14 a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or
15 delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he
16 or she proves by a preponderance of the evidence that at the time of the incident or
17 occurrence he or she had a valid prescription for methamphetamine or one of its
18 metabolic precursors, gamma-hydroxybutyric acid, or
19 delta-9-tetrahydrocannabinol.

20 (b) *Causing injury.* 1. No person while under the influence of an intoxicant may
21 cause injury to another person by the operation of an off-highway vehicle.

22 2. No person who has an alcohol concentration above 0.0 may cause injury to
23 another person by the operation of an off-highway vehicle.

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1 3. No person who has a detectable amount of a restricted controlled substance
2 in his or her blood may cause injury to another person by the operation of an
3 off-highway vehicle.

4 4. A person may be charged with and a prosecutor may proceed upon a
5 complaint based upon a violation of any combination of subd. 1., 2., or 3. for acts
6 arising out of the same incident or occurrence. If the person is charged with violating
7 any combination of subd. 1., 2., or 3. in the complaint, the crimes shall be joined under
8 s. 971.12. If the person is found guilty of any combination of subd. 1., 2., or 3. for acts
9 arising out of the same incident or occurrence, there shall be a single conviction for
10 purposes of sentencing and counting convictions under sub. (14) (b) 2. and 3.
11 Subdivisions 1., 2., and 3. each require proof of a fact for conviction that the others
12 do not require.

13 5. a. In an action under this paragraph, the defendant has a defense if he or she
14 proves by a preponderance of the evidence that the injury would have occurred even
15 if he or she had been exercising due care and he or she had not been under the
16 influence of an intoxicant, did not have an alcohol concentration of more than 0.0, or
17 did not have a detectable amount of a restricted controlled substance in his or her
18 blood.

19 b. In an action under subd. 3. that is based on the defendant allegedly having
20 a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or
21 delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he
22 or she proves by a preponderance of the evidence that at the time of the incident or
23 occurrence he or she had a valid prescription for methamphetamine or one of its
24 metabolic precursors, gamma-hydroxybutyric acid, or
25 delta-9-tetrahydrocannabinol.

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1 **(4g) PRELIMINARY BREATH SCREENING TEST.** (a) *Requirement.* A person shall
2 provide a sample of his or her breath for a preliminary breath screening test if a law
3 enforcement officer has probable cause to believe that the person is violating or has
4 violated the intoxicated operation of an off-highway vehicle law and if, prior to an
5 arrest, the law enforcement officer requested the person to provide this sample.

6 (b) *Use of test results.* A law enforcement officer may use the results of a
7 preliminary breath screening test for the purpose of deciding whether or not to arrest
8 a person for a violation of the intoxicated operation of an off-highway vehicle law or
9 for the purpose of deciding whether or not to request a chemical test under sub. (4p).
10 Following the preliminary breath screening test, chemical tests may be required of
11 the person under sub. (4p).

12 (c) *Admissibility.* The result of a preliminary breath screening test is not
13 admissible in any action or proceeding except to show probable cause for an arrest,
14 if the arrest is challenged, or to show that a chemical test was properly required of
15 a person under sub. (4p).

16 (d) *Refusal.* There is no penalty for a violation of par. (a). Subsection (14) (a)
17 and the general penalty provision under s. 939.61 do not apply to that violation.

18 **(4j) APPLICABILITY OF THE INTOXICATED OPERATION OF AN OFF-HIGHWAY VEHICLE**
19 **LAW.** The intoxicated operation of an off-highway vehicle law applies to the operation
20 of an off-highway vehicle on any off-highway vehicle trail.

21 **(4L) IMPLIED CONSENT.** Any person who engages in the operation of an
22 off-highway vehicle on any off-highway vehicle trail is deemed to have given consent
23 to provide one or more samples of his or her breath, blood, or urine for the purpose
24 of authorized analysis as required under sub. (4p). Any person who engages in the
25 operation of an off-highway vehicle on any off-highway vehicle trail is considered

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1 to have given consent to submit to one or more chemical tests of his or her breath,
2 blood, or urine for the purpose of authorized analysis as required under sub. (4p).

3 **(4p) CHEMICAL TESTS.** (a) *Requirement.* 1. A person shall provide one or more
4 samples of his or her breath, blood, or urine for the purpose of authorized analysis
5 if he or she is arrested for a violation of the intoxicated operation of an off-highway
6 vehicle law and if he or she is requested to provide the sample by a law enforcement
7 officer. A person shall submit to one or more chemical tests of his or her breath, blood,
8 or urine for the purpose of authorized analysis if he or she is arrested for a violation
9 of the intoxicated operation of an off-highway vehicle law and if he or she is
10 requested to submit to the test by a law enforcement officer.

11 2. A law enforcement officer requesting a person to provide a sample or to
12 submit to a chemical test under subd. 1. shall inform the person of all of the following
13 at the time of the request and prior to obtaining the sample or administering the test:

14 a. That he or she is deemed to have consented to tests under sub. (4L).

15 b. That a refusal to provide a sample or to submit to a chemical test constitutes
16 a violation under par. (e) and is subject to the same penalties and procedures as a
17 violation of sub. (4c) (a) 1.

18 c. That in addition to the designated chemical test under par. (b) 2., he or she
19 may have an additional chemical test under par. (c) 1.

20 3. A person who is unconscious or otherwise not capable of withdrawing
21 consent is presumed not to have withdrawn consent under this paragraph, and if a
22 law enforcement officer has probable cause to believe that the person violated the
23 intoxicated operation of an off-highway vehicle law, one or more chemical tests may
24 be administered to the person without a request under subd. 1. and without
25 providing information under subd. 2.

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1 (b) *Chemical tests.* 1. Upon the request of a law enforcement officer, a test
2 facility shall administer a chemical test of breath, blood, or urine for the purpose of
3 authorized analysis. A test facility shall be prepared to administer 2 of 3 of these
4 tests for the purpose of authorized analysis. The department may enter into
5 agreements for the cooperative use of test facilities.

6 2. A test facility shall designate one chemical test of breath, blood, or urine that
7 it is prepared to administer first for the purpose of authorized analysis.

8 3. A test facility shall specify another chemical test of breath, blood, or urine,
9 other than the test designated under subd. 2., that it is prepared to administer for
10 the purpose of authorized analysis as an additional chemical test.

11 4. A chemical test of blood or urine conducted for the purpose of authorized
12 analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of
13 the laboratory of hygiene, department of health services, and department of
14 transportation under s. 343.305 (6) apply to a chemical test of blood or urine
15 conducted for the purpose of authorized analysis under this subsection. Blood may
16 be withdrawn from a person arrested for a violation of the intoxicated operation of
17 an off-highway vehicle law only by a physician, registered nurse, medical
18 technologist, physician assistant, or person acting under the direction of a physician.
19 The person who withdraws the blood, the employer of that person, and any hospital
20 where blood is withdrawn have immunity from civil or criminal liability as provided
21 under s. 895.53.

22 5. A test facility that administers a chemical test of breath, blood, or urine for
23 the purpose of authorized analysis under this subsection shall prepare a written
24 report, which shall include the findings of the chemical test, the identification of the
25 law enforcement officer or the person who requested a chemical test, and the

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1 identification of the person who provided the sample or submitted to the chemical
2 test. The test facility shall transmit a copy of the report to the law enforcement officer
3 and the person who provided the sample or submitted to the chemical test.

4 (c) *Additional and optional chemical tests.* 1. If a person is arrested for a
5 violation of the intoxicated operation of an off-highway vehicle law or is the operator
6 of an off-highway vehicle involved in an accident resulting in great bodily harm to
7 or the death of someone and if the person is requested to provide a sample or to
8 submit to a test under par. (a) 1., the person may request the test facility to
9 administer the additional chemical test specified under par. (b) 3. or may request, at
10 his or her own expense, a reasonable opportunity to have any qualified person
11 administer a chemical test of his or her breath, blood, or urine for the purpose of
12 authorized analysis.

13 2. If a person is arrested for a violation of the intoxicated operation of an
14 off-highway vehicle law and if the person is not requested to provide a sample or to
15 submit to a test under par. (a) 1., the person may request the test facility to
16 administer a chemical test of his or her breath or may request, at his or her own
17 expense, a reasonable opportunity to have any qualified person administer a
18 chemical test of his or her breath, blood, or urine for the purpose of authorized
19 analysis. If a test facility is unable to perform a chemical test of breath, the person
20 may request the test facility to administer the designated chemical test under par.
21 (b) 2. or the additional chemical test under par. (b) 3.

22 3. A test facility shall comply with a request under this paragraph to
23 administer any chemical test it is able to perform.

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1 4. The failure or inability of a person to obtain a chemical test at his or her own
2 expense does not preclude the admission of evidence of the results of a chemical test
3 required and administered under pars. (a) and (b).

4 (d) *Admissibility; effect of test results; other evidence.* The results of a chemical
5 test required or administered under par. (a), (b), or (c) are admissible in any civil or
6 criminal action or proceeding arising out of the acts committed by a person alleged
7 to have violated the intoxicated operation of an off-highway vehicle law on the issue
8 of whether the person was under the influence of an intoxicant or the issue of
9 whether the person had alcohol concentrations above specified levels or a detectable
10 amount of a restricted controlled substance in his or her blood. Results of these
11 chemical tests shall be given the effect required under s. 885.235. This subsection
12 does not limit the right of a law enforcement officer to obtain evidence by any other
13 lawful means.

14 (e) *Refusal.* No person may refuse a lawful request to provide one or more
15 samples of his or her breath, blood, or urine or to submit to one or more chemical tests
16 under par. (a). A person shall not be considered to have refused to provide a sample
17 or to submit to a chemical test if it is shown by a preponderance of the evidence that
18 the refusal was due to a physical inability to provide the sample or to submit to the
19 test due to a physical disability or disease unrelated to the use of an intoxicant.
20 Issues in any action concerning violation of par. (a) or this paragraph are limited to
21 the following:

22 1. Whether the law enforcement officer had probable cause to believe the
23 person was violating or had violated the intoxicated operation of an off-highway
24 vehicle law.

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1 2. Whether the person was lawfully placed under arrest for violating the
2 intoxicated operation of an off-highway vehicle law.

3 3. Whether the law enforcement officer requested the person to provide a
4 sample or to submit to a chemical test and provided the information required under
5 par. (a) 2. or whether the request and information were unnecessary under par. (a)
6 3.

7 4. Whether the person refused to provide a sample or to submit to a chemical
8 test.

9 **(4t)** REPORT ARREST TO DEPARTMENT. If a law enforcement officer arrests a person
10 for a violation of the intoxicated operation of an off-highway vehicle law or the
11 refusal law, the law enforcement officer shall notify the department of the arrest as
12 soon as practicable.

13 **(4x)** OFFICER'S ACTION AFTER ARREST FOR OPERATING AN OFF-HIGHWAY VEHICLE
14 WHILE UNDER INFLUENCE OF INTOXICANT. A person arrested for a violation of sub. (4c)
15 (a) 1. or 2. or a local ordinance in conformity therewith or sub. (4c) (b) 1. or 2. may
16 not be released until 12 hours have elapsed from the time of his or her arrest or unless
17 a chemical test administered under sub. (4p) (a) 1. shows that the person has an
18 alcohol concentration of 0.05 or less, but the person may be released to his or her
19 attorney, spouse, relative, or other responsible adult at any time after arrest.

20 **(4z)** PUBLIC EDUCATION PROGRAM. (a) The department shall promulgate rules
21 to provide for a public education program to do all of the following:

22 1. Inform off-highway vehicle operators of the prohibitions and penalties
23 included in the intoxicated operation of an off-highway vehicle law.

24 2. Provide for the development of signs briefly explaining the intoxicated
25 operation of an off-highway vehicle law.

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1 (b) The department shall develop and issue an educational pamphlet on the
2 intoxicated operation of an off-highway vehicle law to be distributed, beginning
3 within 6 months after the effective date of this paragraph [LRB inserts date], to
4 persons issued off-highway vehicle registration certificates under sub. (2).

5 (5) EQUIPMENT REQUIREMENTS. No person may operate a Class B off-highway
6 vehicle unless it meets all of the following requirements:

7 (a) If it is equipped with an internal combustion engine, it has a complete
8 exhaust system that includes a muffler and a tailpipe.

9 (b) It has a permanently mounted and attached fuel cell or tank.

10 (c) It has a frame-mounted roll cage that is constructed in a manner specified
11 by the department by rule and that encloses the operator and each passenger.

12 (d) It has a permanently affixed blaze orange safety flag that is at least 144
13 square inches in size and that is displayed from a pole that extends at least 8 feet
14 above the ground on the front passenger side of the off-highway vehicle.

15 (e) It has 2 headlights.

16 (f) It has 2 brake lights.

17 (g) It has front and rear turn signals.

18 (h) It has side markers on the front and rear driver and passenger sides.

19 (i) All of the seats are permanently mounted and equipped with shoulder and
20 lap safety belts.

21 (j) It does not contain an infant or child seat.

22 (k) It is equipped with an unopened kit that is capable of absorbing, containing,
23 and collecting a spill of a minimum of 3.75 gallons of petroleum products.

24 (L) It has a battery that is secured in the vehicle in a manner that requires the
25 use of a wrench or key to remove it.

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1 **(6) NOISE LIMITS.** No person may manufacture, sell, rent, or operate a Class B
2 off-highway vehicle that is constructed in such a manner that noise emitted from the
3 off-highway vehicle exceeds 96 decibels on the A scale as measured in the manner
4 prescribed under rules promulgated by the department.

5 **(6m) SPEED LIMITS.** (a) Except as provided in par. (b), no person may operate
6 an off-highway vehicle on an off-highway vehicle trail at a speed exceeding a posted
7 speed limit or, if no speed limit is posted, at a speed exceeding 20 miles per hour.

8 (b) No person may operate an off-highway vehicle on an off-highway vehicle
9 trail when within 150 feet of a dwelling at a speed exceeding 10 miles per hour.

10 **(7) ACCIDENTS.** If an accident results in the death of any person, in the injury
11 of any person that requires the treatment of the person by a physician, or in property
12 damage of \$500 or more, the operator of each off-highway vehicle involved in the
13 accident shall, within 10 days of the date of the accident, provide a report of the
14 accident to the department in the form and manner required by the department by
15 rule.

16 **(8) TRAILS.** (a) *Department authority.* The department shall encourage and
17 supervise a system of off-highway vehicle trails. The system shall include trails in
18 state forests. The department may establish standards and procedures for certifying
19 the designation of off-highway vehicle trails.

20 (b) *Designation.* A town, village, city, county, or the department may designate
21 corridors through land that it owns or controls, or for which it obtains leases,
22 easements, or permission, for use as off-highway vehicle trails.

23 (c) *Restrictions.* The designating authority may specify effective periods for the
24 use of off-highway vehicle trails and may restrict or prohibit the operation of an
25 off-highway vehicle during certain periods of the year.

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1 (d) *Signs.* The department, in cooperation with the department of
2 transportation, shall establish uniform off-highway vehicle trail signs and
3 standards.

4 (e) *Interference with signs and standards prohibited.* 1. No person may
5 intentionally remove, damage, deface, move, or obstruct any uniform off-highway
6 vehicle trail sign or standard or intentionally interfere with the effective operation
7 of any uniform off-highway vehicle trail sign or standard if the sign or standard is
8 legally placed by the state, any municipality, or any authorized individual.

9 2. No person may possess any uniform off-highway vehicle trail sign or
10 standard of the type established by the department for the warning, instruction, or
11 information of the public, unless he or she obtained the uniform off-highway vehicle
12 trail sign or standard in a lawful manner. Possession of a uniform off-highway
13 vehicle trail sign or standard creates a rebuttable presumption of illegal possession.

14 **(8m) ADMINISTRATION.** (a) Before January 1 of each fiscal year, the department
15 shall determine the total amount of fees received from the registration of
16 off-highway vehicles under sub. (2) in the previous fiscal year.

17 (b) The department may use funds appropriated to the department under s.
18 20.370 (1) (jg) for state off-highway vehicle projects or for aid to towns, villages,
19 cities, counties, and federal agencies for nonstate off-highway vehicle projects
20 conducted for any of the following purposes:

21 1. To acquire an easement or land in fee simple for development of an off-
22 highway vehicle trail.

23 2. To develop or maintain an off-highway vehicle facility, including a parking
24 area, riding area, shelter, toilet, or other improvement.

25 3. To develop or maintain an off-highway vehicle trail.

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1 **(9) AGE RESTRICTIONS FOR OPERATION; SAFETY CERTIFICATE REQUIREMENTS.** (a) No
2 person under the age of 16 may operate an off-highway vehicle on an off-highway
3 vehicle trail.

4 (b) No person who is 16 or 17 years of age may operate an off-highway vehicle
5 on an off-highway vehicle trail unless he or she is subject to the continuous verbal
6 direction and control of a person who is operating another off-highway vehicle and
7 who is at least 18 years of age.

8 (c) No person who is born on or after December 31, 1993, may operate an
9 off-highway vehicle on an off-highway vehicle trail unless he or she holds a valid
10 safety certificate issued under par. (d) or issued by another state or a province of
11 Canada.

12 (d) The department shall establish or supervise the establishment of a program
13 of instruction on off-highway vehicle laws, including the intoxicated operation of an
14 off-highway vehicle law, regulations, safety, and related subjects. The department
15 shall establish by rule an instruction fee for this program. The department shall
16 issue certificates to persons successfully completing the program. An instructor
17 conducting the program of instruction under this paragraph shall collect the fee from
18 each person who receives instruction. The department may determine the portion
19 of this fee, which may not exceed 50 percent, that the instructor may retain to defray
20 expenses incurred by the instructor in conducting the program. The instructor shall
21 remit the remainder of the fee or, if nothing is retained, the entire fee to the
22 department. The department shall issue a duplicate certificate of accomplishment
23 to a person who is entitled to a duplicate certificate of accomplishment and who pays
24 a fee of \$5.

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1 **(10) GRANT PROGRAM.** (a) The department shall establish a program to award
2 grants to organizations that meet the eligibility requirements under par. (b).

3 (b) To be eligible for a grant under this subsection, an organization shall meet
4 all of the following requirements:

5 1. The organization is a nonstock corporation organized in this state.

6 2. The organization promotes the operation of off-highway vehicles in a
7 manner that is safe and responsible and that does not harm the environment.

8 3. The organization promotes the operation of off-highway vehicles in a
9 manner that does not conflict with the laws, rules, and departmental policies that
10 relate to the operation of off-highway vehicles.

11 4. The interest of the organization is limited to the recreational operation of
12 off-highway vehicles on off-highway vehicle trails and other areas that are off of the
13 highways.

14 5. The organization has a board of directors that has a majority of members who
15 are off-highway vehicle enthusiasts and off-highway vehicle trail users.

16 6. The organization provides support to off-highway vehicle clubs.

17 (c) An organization receiving a grant under this subsection shall use the grant
18 moneys to promote and provide support to the program established under sub. (9) (d)
19 by conducting activities that include all of the following:

20 1. Collecting data on the recreational operation of off-highway vehicles off of
21 the highways.

22 2. Providing assistance to the department in locating, recruiting, and training
23 instructors for the program established under sub. (9) (d).

24 3. Attempting to increase participation by current and future off-highway
25 vehicle operators and owners in the program established under sub. (9) (d).

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1 4. In consultation with the department of natural resources and the
2 department of tourism, creating an outreach program to inform local communities
3 of appropriate off-highway vehicle use in their communities and of the economic
4 benefits that may be gained from promoting tourism to attract off-highway vehicle
5 operators.

6 5. Attempting to improve and maintain its relationship with the department
7 of natural resources, the department of tourism, Class B off-highway vehicle
8 dealers, Class B off-highway vehicle manufacturers, all-terrain vehicle clubs, as
9 defined in s. 23.33 (1) (bc), utility terrain vehicle clubs, snowmobile clubs, as defined
10 in s. 350.138 (1) (e), snowmobile alliances, as defined in s. 350.138 (1) (d), and other
11 organizations that promote the recreational operation of all-terrain vehicles, utility
12 terrain vehicles, and snowmobiles.

13 6. Recruiting, assisting in the training of, and providing support to a corps of
14 volunteers that will assist in providing instruction on the safe and responsible
15 operation of off-highway vehicles that is given in the field to off-highway vehicle
16 operators.

17 7. Publishing a manual in cooperation with the department to be used to train
18 volunteers in monitoring the recreational operation of off-highway vehicles for
19 safety issues and other issues that relate to the responsible operation of off-highway
20 vehicles.

21 (d) The department shall pay the grants from the appropriation under s. 20.370
22 (1) (jg).

23 **(11) DAMAGE CLAIM PROGRAM.** The department shall establish, by rule, a
24 program to pay claims to owners of property damaged by the unauthorized operation
25 of off-highway vehicles. The rules shall specify eligibility requirements and

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1 procedures for obtaining a payment under the program. The department shall make
2 payments under this subsection from the appropriation under s. 20.370 (1) (jg).

3 **(12) LOCAL ORDINANCES.** (a) Counties, towns, cities, and villages may enact
4 ordinances regulating off-highway vehicles on off-highway vehicle trails
5 maintained or designated by the county, city, town, or village.

6 (b) Any county, town, city, or village may enact an ordinance that is in strict
7 conformity with this section and rules promulgated by the department under this
8 section if the ordinance encompasses all aspects encompassed by this section.

9 **(13) ENFORCEMENT.** (a) An officer of the state traffic patrol under s. 110.07 (1),
10 inspector under s. 110.07 (3), conservation warden appointed by the department
11 under s. 23.10, county sheriff, or municipal peace officer has authority and
12 jurisdiction to enforce this section and ordinances enacted in accordance with this
13 section.

14 (b) No operator of an off-highway vehicle required to be registered by the
15 department under this section may refuse to stop after being requested or signaled
16 to do so by a law enforcement officer or a commission warden, as defined in s. 939.22
17 (5).

18 **(14) PENALTIES.** (a) *General penalties.* Except as provided in pars. (b) and (c),
19 any person who violates this section shall forfeit not less than \$250 nor more than
20 \$5,000 for a first violation, not less than \$500 nor more than \$10,000 for a 2nd
21 violation within 10 years of the first violation, and not less than \$1,000 nor more than
22 \$25,000 for a 3rd or subsequent violation within 10 years of the immediately
23 preceding violation.

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1 (b) *Penalties related to intoxicated operation.* 1. Except as provided in subds.
2 2. and 3., any person who violates sub. (4c) (a) 1., 2., or 3. or (4p) (e) shall forfeit not
3 less than \$150 nor more than \$300.

4 2. Except as provided in subd. 3., any person who violates sub. (4c) (a) 1., 2., or
5 3. or (4p) (e) and who, within 5 years prior to the arrest for the current violation, was
6 convicted previously under the intoxicated operation of an off-highway vehicle law
7 shall be fined not less than \$300 nor more than \$1,100 and shall be imprisoned not
8 less than 5 days nor more than 6 months.

9 3. Any person who violates sub. (4c) (a) 1., 2., or 3. or (4p) (e) and who, within
10 5 years prior to the arrest for the current violation, was convicted 2 or more times
11 previously under the intoxicated operation of an off-highway vehicle law shall be
12 fined not less than \$600 nor more than \$2,000 and shall be imprisoned not less than
13 30 days nor more than one year in the county jail.

14 (c) *Penalty related to causing injury; intoxicants.* Any person who violates sub.
15 (4c) (b) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned
16 not less than 30 days nor more than one year in the county jail.

17 (d) *Calculation of previous convictions.* In determining the number of previous
18 convictions under par. (b) 2. and 3., convictions arising out of the same incident or
19 occurrence shall be counted as one previous conviction.

20 (dm) *Reporting convictions to the department.* Whenever a person is convicted
21 of a violation of the intoxicated operation of an off-highway vehicle law, the clerk of
22 the court in which the conviction occurred, or the justice, judge, or magistrate of a
23 court not having a clerk, shall forward to the department the record of such
24 conviction. The record of conviction forwarded to the department shall state whether
25 the offender was involved in an accident at the time of the offense.

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1 (e) *Alcohol, controlled substances, or controlled substance analogs; assessment.*

2 In addition to any other penalty or order, a person who violates sub. (4c) (a) or (b) or
3 (4p) (e), or who violates s. 940.09 or 940.25 if the violation involves the operation of
4 an off-highway vehicle, shall be ordered by the court to submit to and comply with
5 an assessment by an approved public treatment facility for an examination of the
6 person's use of alcohol, controlled substances, or controlled substance analogs. The
7 assessment order shall comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure
8 to comply with an assessment ordered under this paragraph constitutes contempt
9 of court, punishable under ch. 785.

10 (f) *Surcharge.* If a court imposes a forfeiture for a violation of a provision of this
11 section, the court shall impose an off-highway vehicle surcharge under ch. 814 in the
12 amount of \$100.

13 (g) *Safety certificate requirement.* In addition to the penalties under par. (a),
14 the court shall require any person who violates this section to successfully complete
15 the program of instruction on off-highway vehicle laws established by the
16 department under sub. (9) (d), regardless of whether the person has previously
17 successfully completed the program.

18 (h) *Restoration or replacement of signs and standards.* In addition to any other
19 penalty, the court may order the defendant to restore or replace any uniform
20 off-highway vehicle trail sign or standard that the defendant removed, damaged,
21 defaced, moved, or obstructed.

22 **SECTION 8.** 23.45 (1) (d) of the statutes is amended to read:

23 23.45 (1) (d) "Registration" means any registration documentation, as defined
24 in s. 23.33 (1) (jn), 23.37 (1) (p), or s. 350.01 (10t), or certification or registration
25 documentation, as defined in s. 30.50 (3b), issued by the department or its agents.

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1 **SECTION 9.** 23.50 (1) of the statutes is amended to read:

2 23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit
3 court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814,
4 for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5),
5 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 and 299.64 (2),
6 subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any
7 administrative rules promulgated thereunder, violations specified under s. 280.98
8 (2) or 285.86, violations of ch. 951 if the animal involved is a captive wild animal,
9 violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k),
10 violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances
11 enacted by any local authority in accordance with s. 23.33 (11) (am), 23.37 (12), or
12 30.77.

13 **SECTION 10.** 23.50 (3) of the statutes is amended to read:

14 23.50 (3) All actions in municipal court to recover forfeitures, plus costs, fees,
15 and surcharges imposed under ch. 814, for violations of local ordinances enacted by
16 any local authority in accordance with s. 23.33 (11) (am), 23.37 (12), or 30.77 shall
17 utilize the procedure in ch. 800. The actions shall be brought before the municipal
18 court having jurisdiction. Provisions relating to citations, arrests, questioning,
19 releases, searches, deposits, and stipulations of no contest in ss. 23.51 (1m), (3), and
20 (8), 23.53, 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to violations of such
21 ordinances.

22 **SECTION 11.** 23.53 (1) of the statutes is amended to read:

23 23.53 (1) The citation created under this section shall, in all actions to recover
24 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of
25 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated

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1 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41
2 (7) (k) be used by any law enforcement officer with authority to enforce those laws,
3 except that the uniform traffic citation created under s. 345.11 may be used by a
4 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law
5 enforcement agency of a municipality or county or a traffic officer employed under
6 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall
7 not be used for violations of ch. 350 relating to highway use. The citation may be used
8 for violations of local ordinances enacted by any local authority in accordance with
9 s. 23.33 (11) (am), 23.37 (12), or 30.77.

10 **SECTION 12.** 23.56 (1) of the statutes is amended to read:

11 23.56 (1) A person may be arrested for a violation of those statutes enumerated
12 in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the
13 Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances
14 enacted by any local authority in accordance with s. 23.33 (11) (am), 23.37 (12), or
15 30.77, after a warrant that substantially complies with s. 968.04 has been issued.
16 Except as provided in sub. (2), the person arrested shall be brought without
17 unreasonable delay before a court having jurisdiction to try the action.

18 **SECTION 13.** 23.57 (1) (intro.) of the statutes is amended to read:

19 23.57 (1) (intro.) A person may be arrested without a warrant when the
20 arresting officer has probable cause to believe that the person is committing or has
21 committed a violation of those statutes enumerated in s. 23.50 (1), any
22 administrative rules promulgated thereunder, any rule of the Kickapoo reserve
23 management board under s. 41.41 (7) (k), or any local ordinances enacted by any local
24 authority in accordance with s. 23.33 (11) (am), 23.37 (12), or 30.77; and:

25 **SECTION 14.** 23.58 of the statutes is amended to read:

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1 **23.58 Temporary questioning without arrest.** After having identified
2 himself or herself as an enforcing officer, an enforcing officer may stop a person in
3 a public place for a reasonable period of time when the officer reasonably suspects
4 that such person is committing, is about to commit or has committed a violation of
5 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
6 thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)
7 (k), or any local ordinances enacted by any local authority in accordance with s. 23.33
8 (11) (am), 23.37 (12), or 30.77. Such a stop may be made only where the enforcing
9 officer has proper authority to make an arrest for such a violation. The officer may
10 demand the name and address of the person and an explanation of the person's
11 conduct. Such detention and temporary questioning shall be conducted in the
12 vicinity where the person was stopped.

13 **SECTION 15.** 23.62 (1) (intro.) of the statutes is amended to read:

14 **23.62 (1)** (intro.) Whenever an enforcing officer has probable cause to believe
15 that a person subject to his or her authority is committing or has committed a
16 violation of those statutes enumerated in s. 23.50 (1), any administrative rules
17 promulgated thereunder, any rule of the Kickapoo reserve management board under
18 s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance
19 with s. 23.33 (11) (am), 23.37 (12), or 30.77, the officer may proceed in the following
20 manner:

21 **SECTION 16.** 25.29 (1) (a) of the statutes is amended to read:

22 **25.29 (1)** (a) Except as provided in ss. 25.293 and 25.295, all moneys accruing
23 to the state for or in behalf of the department under chs. 26, 27, 28, 29, 169, and 350,
24 subchs. I and VI of ch. 77 and ss. 23.09 to 23.31, 23.325 to 23.35, 23.38 to 23.42, 23.50
25 to 23.99, 30.50 to 30.55, 70.58, 71.10 (5), 71.30 (10), and 90.21, including grants

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1 received from the federal government or any of its agencies except as otherwise
2 provided by law.

3 **SECTION 17.** 25.40 (1) (br) of the statutes is created to read:

4 25.40 (1) (br) Moneys received under s. 23.37.

5 **SECTION 18.** 30.26 (4) (title) of the statutes is amended to read:

6 30.26 (4) (title) ~~SNOWMOBILES, ALL-TERRAIN VEHICLES, AND UTILITY TERRAIN~~
7 OFF-HIGHWAY VEHICLES.

8 **SECTION 19.** 30.26 (4) (a) (intro.) of the statutes is amended to read:

9 30.26 (4) (a) (intro.) The department may not prohibit the crossing of a bridge
10 over a wild river by an all-terrain vehicle or utility terrain vehicle traveling on an
11 all-terrain vehicle trail, as defined under s. 23.33 (1) (d), by an off-highway vehicle
12 traveling on an off-highway vehicle trail, as defined under s. 23.37 (1) (L), or by a
13 snowmobile traveling on a snowmobile trail, as defined under s. 350.01 (17), that is
14 constructed in any of the following locations:

15 **SECTION 20.** 30.26 (4) (b) of the statutes is amended to read:

16 30.26 (4) (b) The state shall permit all-terrain vehicles, utility terrain vehicles,
17 off-highway vehicles, and snowmobiles to travel in a corridor across any state land
18 that separates an all-terrain vehicle trail, an off-highway vehicle trail, or a
19 snowmobile trail and the bridges constructed at the locations listed under par. (a).

20 **SECTION 21.** 30.29 (1) (b) of the statutes is amended to read:

21 30.29 (1) (b) "Motor vehicle" includes a utility terrain vehicle, as defined in s.
22 23.33 (1) (ng), ~~and~~ an all-terrain vehicle, as defined in s. 340.01 (2g), and an
23 off-highway vehicle, as defined in s. 23.37 (1) (jm).

24 **SECTION 22.** 46.03 (18) (f) of the statutes is amended to read:

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1 46.03 (18) (f) Notwithstanding par. (a), any person who submits to an
2 assessment or airman or driver safety plan under s. 23.33 (13) (e), 23.37 (14) (e), 30.80
3 (6) (d), 114.09 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall
4 pay a reasonable fee therefor to the appropriate county department under s. 51.42
5 or traffic safety school under s. 345.60. A county may allow the person to pay the
6 assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver
7 safety plan may be reduced or waived if the person is unable to pay the complete fee,
8 but no fee for assessment or attendance at a traffic safety school under s. 345.60 may
9 be reduced or waived. Nonpayment of the assessment fee is noncompliance with the
10 court order that required completion of an assessment and airman or driver safety
11 plan. Upon a finding that the person has the ability to pay, nonpayment of the
12 airman or driver safety plan fee is noncompliance with the court order that required
13 completion of an assessment and airman or driver safety plan.

14 **SECTION 23.** 59.54 (14) (g) of the statutes is amended to read:

15 59.54 (14) (g) A county may establish extensions of the jail, which need not be
16 at the county seat, to serve as places of temporary confinement. No person may be
17 detained in such an extension for more than 24 consecutive hours, except that a court
18 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c),
19 23.37 (14) (b) 2. or 3., or 350.11 (3) (a) 2. or 3. or (b) be imprisoned for more than 24
20 consecutive hours in such an extension. Jail extensions shall be subject to plans and
21 specifications approval by the department of corrections and shall conform to other
22 requirements imposed by law on jails, except that cells may be designed and used for
23 multiple occupancy.

24 **SECTION 24.** 77.51 (13s) of the statutes is amended to read:

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1 77.51 (13s) "Safety classes" means all classes approved by the department of
2 natural resources related to hunting, including hunting with a bow, and related to
3 firearms, all-terrain vehicles, utility terrain vehicles, off-highway vehicles, boats,
4 and snowmobiles.

5 **SECTION 25.** 77.61 (1) of the statutes is amended to read:

6 77.61 (1) (a) No motor vehicle, boat, snowmobile, recreational vehicle, as
7 defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle, utility terrain
8 vehicle, off-highway vehicle, or aircraft shall be registered or titled in this state
9 unless the registrant presents proof that the sales or use taxes imposed by this
10 subchapter have been paid.

11 (b) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as
12 defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, utility terrain
13 vehicles, off-highway vehicles, or aircraft purchased from a retailer, the registrant
14 shall present proof that the tax has been paid to such retailer.

15 (c) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as
16 defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles, utility terrain
17 vehicles, off-highway vehicles, or aircraft registered or titled, or required to be
18 registered or titled, in this state purchased from persons who are not retailers, the
19 purchaser shall file a sales tax return and pay the tax prior to registering or titling
20 the motor vehicle, boat, snowmobile, recreational vehicle, as defined in s. 340.01
21 (48r), semitrailer, all-terrain vehicle, utility terrain vehicle, off-highway vehicle, or
22 aircraft in this state.

23 **SECTION 26.** 77.73 (2) of the statutes is amended to read:

24 77.73 (2) Counties and special districts do not have jurisdiction to impose the
25 tax under s. 77.71 (2) in regard to items, property, and goods under s. 77.52 (1) (b),

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1 (c), and (d), and tangible personal property, except snowmobiles, trailers,
2 semitrailers, all-terrain vehicles, and utility terrain vehicles, and Class B
3 off-highway vehicles purchased in a sale that is consummated in another county or
4 special district in this state that does not have in effect an ordinance or resolution
5 imposing the taxes under this subchapter and later brought by the buyer into the
6 county or special district that has imposed a tax under s. 77.71 (2).

7 **SECTION 27.** 78.75 (1m) (a) 2m. of the statutes is amended to read:

8 78.75 (1m) (a) 2m. A person who uses motor vehicle fuel or an alternate fuel
9 upon which has been paid the tax required under this chapter for the purpose of
10 operating an all-terrain vehicle, as defined under s. 340.01 (2g), or a utility terrain
11 vehicle, as defined under s. 23.33 (1) (ng), may not be reimbursed or repaid the
12 amount of tax paid unless the all-terrain vehicle or utility terrain vehicle is
13 registered for private use under s. 23.33 (2) (d) or (2g). A person who uses motor
14 vehicle fuel or an alternate fuel upon which has been paid the tax required under this
15 chapter for the purpose of operating an off-highway vehicle registered under s. 23.37
16 (2) (a) or (2g) may not be reimbursed or repaid the amount of tax paid.

17 **SECTION 28.** 78.75 (1m) (a) 3. of the statutes is amended to read:

18 78.75 (1m) (a) 3. Claims under subd. 1. shall be made and filed. The forms shall
19 indicate that refunds are not available for motor vehicle fuel or alternate fuels used
20 for motorboats, except motorboats exempt from registration as motor vehicles under
21 s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle
22 fuel or alternate fuels used for snowmobiles and that the estimated snowmobile
23 motor vehicle fuel or alternate fuels tax payments are used for snowmobile trails and
24 areas. The forms shall indicate that refunds are not available for motor vehicle fuel
25 or alternate fuels used for all-terrain vehicles or utility terrain vehicles unless the

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1 vehicle is registered for private use under s. 23.33 (2) (d) or (2g) and shall indicate
2 that estimated all-terrain vehicle or utility terrain vehicle motor vehicle fuel or
3 alternate fuels tax payments are used for all-terrain vehicle trails and areas. The
4 forms shall indicate that refunds are not available for motor vehicle fuel or alternate
5 fuels used for off-highway vehicles registered under s. 23.37 (2) (a) or (2g). The forms
6 shall also indicate that refunds are not available for the tax on less than 100 gallons.
7 The department shall distribute forms in sufficient quantities to each county clerk.

8 **SECTION 29.** 110.07 (1) (a) 1. of the statutes is amended to read:

9 110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and
10 chs. 194, 218, 341 to 349 and 351, and ss. 23.33, 23.37, 125.07 (4) (b), 125.085 (3) (b),
11 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or orders
12 or rules issued pursuant thereto.

13 **SECTION 30.** 110.07 (3) of the statutes is amended to read:

14 110.07 (3) The secretary may employ inspectors who may not wear the uniform
15 of the state patrol, whose duties shall be to enforce and assist in administering s. ss.
16 23.33, 23.37, and 346.63, this chapter and chs. 194, 218, 340 to 345 and 347 to 351,
17 s. ~~23.33~~, the inspection requirements of s. 121.555 (2) (b), and the requirements
18 under s. 346.45 (4) for vehicles being used to transport hazardous materials. Such
19 inspectors, in the performance of these duties, shall have the powers and authority
20 of state traffic officers. For the purpose of death, disability and retirement coverage,
21 such inspectors shall be subject to ch. 40 as is the state traffic patrol. Subject to sub.
22 (5), the secretary may clothe and equip inspectors as the interest of public safety and
23 their duties require.

24 **SECTION 31.** 322.111 of the statutes is amended to read:

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1 **322.111 Article 111 — Drunken or reckless operation of an all-terrain**
2 **vehicle, utility terrain vehicle, vehicle, snowmobile, certain vehicles,**
3 **vessels, and aircraft, or vessel.** Any person who violates s. 23.33 (3) (a) or (4c),
4 23.37 (4) (b) 3. or (4c), 30.68, 30.681, 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b),
5 350.101, 940.25, or 940.09 where the offense involved the operation or physical
6 control of an aircraft, all-terrain vehicle, utility terrain vehicle, off-highway vehicle
7 as defined under s. 23.37 (1) (c), snowmobile, vehicle or vessel on or off a highway
8 shall be punished as the court-martial may direct.

9 **SECTION 32.** 344.61 (1) of the statutes is amended to read:

10 344.61 (1) Notwithstanding s. 344.01 (2) (b), “motor vehicle” does not include
11 trailers, semitrailers, all-terrain vehicles, and utility terrain vehicles, and
12 off-highway vehicles as defined under s. 23.37 (1) (c).

13 **SECTION 33.** 345.11 (1r) of the statutes is amended to read:

14 345.11 (1r) The uniform traffic citation or the citation form under s. 23.54 shall
15 be used for violations of s. 23.33 or 23.37 relating to highway use or ordinances
16 enacted in accordance with that section if the violation is committed on a highway,
17 but no points may be assessed against the driving record of the operator of an
18 all-terrain vehicle ~~or~~, utility terrain vehicle, or Class B off-highway vehicle, as
19 defined under s. 23.37 (1) (c). When the uniform traffic citation is used, the report
20 of conviction shall be forwarded to the department. When the citation form under
21 s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

22 **SECTION 34.** 346.66 (1) (c) of the statutes is amended to read:

23 346.66 (1) (c) Sections 346.67 to 346.70 do not apply to accidents involving only
24 snowmobiles, all-terrain vehicles, utility terrain vehicles, Class B off-highway

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1 vehicles, as defined under s. 23.37 (1) (c), or vehicles propelled by human power or
2 drawn by animals.

3 **SECTION 35.** 346.71 (1) of the statutes is amended to read:

4 346.71 (1) Every coroner or medical examiner shall, on or before the 10th day
5 of each month, report in writing any accident involving a motor vehicle occurring
6 within the coroner's or medical examiner's jurisdiction resulting in the death of any
7 person during the preceding calendar month. If the accident involved an all-terrain
8 vehicle ~~or~~, a utility terrain vehicle, or a Class B off-highway vehicle, as defined in s.
9 23.37 (1) (c), the report shall be made to the department of natural resources and
10 shall include the information specified by that department. If the accident involved
11 any other motor vehicle, the report shall be made to the department and shall include
12 the information specified by the department. The coroner or medical examiner of the
13 county where the death occurs, if the accident occurred in another jurisdiction, shall,
14 immediately upon learning of the death, report it to the coroner or medical examiner
15 of the county where the accident occurred, as provided in s. 979.01 (1).

16 **SECTION 36.** 346.71 (2) of the statutes is amended to read:

17 346.71 (2) In cases of death involving a motor vehicle in which the decedent was
18 the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or
19 electric personal assistive mobility device operator 14 years of age or older and who
20 died within 6 hours of the time of the accident, the coroner or medical examiner of
21 the county where the death occurred shall require that a blood specimen of at least
22 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her
23 death, by the coroner or medical examiner or by a physician so designated by the
24 coroner or medical examiner or by a qualified person at the direction of the physician.
25 All funeral directors shall obtain a release from the coroner or medical examiner of

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1 the county where the accident occurred as provided in s. 979.01 (4) prior to
2 proceeding with embalming any body coming under the scope of this section. The
3 blood so drawn shall be forwarded to a laboratory approved by the department of
4 health services for analysis of the alcoholic content of the blood specimen. The
5 coroner or medical examiner causing the blood to be withdrawn shall be notified of
6 the results of each analysis made and shall forward the results of each such analysis
7 to the department of health services. If the death involved a motor vehicle, the
8 department shall keep a record of all such examinations to be used for statistical
9 purposes only and the department shall disseminate and make public the
10 cumulative results of the examinations without identifying the individuals involved.
11 If the death involved an all-terrain vehicle ~~or, a utility terrain vehicle, or an~~
12 off-highway vehicle, as defined in s. 23.37 (1) (c), that was being operated off the
13 highway, the department of natural resources shall keep a record of all such
14 examinations to be used for statistical purposes only and the department of natural
15 resources shall disseminate and make public the cumulative results of the
16 examinations without identifying the individuals involved.

17 **SECTION 37.** 800.02 (2) (b) of the statutes is amended to read:

18 800.02 (2) (b) Except for parking violations, in traffic regulation actions in
19 municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu
20 of the citation form specified in par. (ag). In actions for violations of local ordinances
21 enacted in accordance with s. 23.33 (11) (am), 23.37 (12), or 30.77, the citation form
22 specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

23 **SECTION 38.** 814.63 (3m) (a) of the statutes is amended to read:

24 814.63 (3m) (a) Except as provided in par. (d), if a defendant is required to
25 appear in court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the

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1 court shall impose and collect from the defendant any costs charged to or paid by a
2 law enforcement agency for the withdrawal of the defendant's blood if the court finds
3 that the defendant violated s. 23.33 (4c), 23.37 (4c), 30.681, 346.63, or 350.101, or a
4 local ordinance in conformity therewith.

5 **SECTION 39.** 814.65 (4m) (a) of the statutes is amended to read:

6 814.65 (**4m**) (a) Except as provided in par. (d), if a defendant is required to
7 appear in municipal court, in addition to any forfeiture, costs, fees, or surcharges it
8 imposes, the municipal court shall impose and collect from the defendant any costs
9 charged to or paid by a law enforcement agency for the withdrawal of the defendant's
10 blood if the court finds that the defendant violated a local ordinance in conformity
11 with s. 23.33 (4c), 23.37 (4c), 30.681, 346.63, or 350.101.

12 **SECTION 40.** 814.77 (17) of the statutes is created to read:

13 814.77 (**17**) The off-highway vehicle surcharge under s. 23.37 (14) (f).

14 **SECTION 41.** 885.235 (1m) of the statutes is amended to read:

15 885.235 (**1m**) In any action under s. 23.33 (4c) (a) 3., 23.37 (4c) (a) 2., 30.681
16 (1) (bn), 346.63 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the
17 person's blood at the time in question, as shown by chemical analysis of a sample of
18 the person's blood or urine or evidence of the amount of alcohol in the person's breath,
19 is admissible on the issue of whether he or she had an alcohol concentration in the
20 range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c)
21 or an alcohol concentration above 0.0 under s. 23.37 (4c) (a) 2. or 346.63 (7) if the
22 sample was taken within 3 hours after the event to be proved. The fact that the
23 analysis shows that the person had an alcohol concentration of more than 0.0 but not
24 more than 0.08 is prima facie evidence that the person had an alcohol concentration

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1 in the range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101
2 (1) (c) or an alcohol concentration above 0.0 under s. 23.37 (4c) (a) 2. or 346.63 (7).

3 **SECTION 42.** 885.235 (4) of the statutes is amended to read:

4 885.235 (4) The provisions of this section relating to the admissibility of
5 chemical tests for alcohol concentration or intoxication or for determining whether
6 a person had a detectable amount of a restricted controlled substance in his or her
7 blood shall not be construed as limiting the introduction of any other competent
8 evidence bearing on the question of whether or not a person was under the influence
9 of an intoxicant, had a detectable amount of a restricted controlled substance in his
10 or her blood, had a specified alcohol concentration, or had an alcohol concentration
11 in the range specified in s. 23.33 (4c) (a) 3., 23.37 (4c) (a) 2., 30.681 (1) (bn), 346.63
12 (2m) or 350.101 (1) (c).

13 **SECTION 43.** 895.043 (6) of the statutes is amended to read:

14 895.043 (6) LIMITATION ON DAMAGES. Punitive damages received by the plaintiff
15 may not exceed twice the amount of any compensatory damages recovered by the
16 plaintiff or \$200,000, whichever is greater. This subsection does not apply to a
17 plaintiff seeking punitive damages from a defendant whose actions under sub. (3)
18 included the operation of a vehicle, including a motor vehicle as defined under s.
19 340.01 (35), a snowmobile as defined under s. 340.01 (58a), an all-terrain vehicle as
20 defined under s. 340.01 (2g), a utility terrain vehicle as defined under s. 23.33 (1) (ng),
21 an off-highway vehicle as defined under s. 23.37 (1) (jm), and a boat as defined under
22 s. 30.50 (2), while under the influence of an intoxicant to a degree that rendered the
23 defendant incapable of safe operation of the vehicle. In this subsection, "intoxicant"
24 has the meaning given in s. 30.50 (4e).

25 **SECTION 44.** 938.17 (1) (intro.) of the statutes is amended to read:

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1 938.17 (1) TRAFFIC, BOATING, SNOWMOBILE, ALL-TERRAIN VEHICLE, AND UTILITY
2 TERRAIN VEHICLE, AND CLASS B OFF-HIGHWAY VEHICLE VIOLATIONS. (intro.) Except for
3 violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1) and 346.67
4 (1) when death or injury occurs, courts of criminal and civil jurisdiction have
5 exclusive jurisdiction in proceedings against juveniles 16 years of age or older for
6 violations of ~~s. ss.~~ 23.33 and 23.37, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic
7 regulations, as defined in s. 345.20, and nonmoving traffic violations, as defined in
8 s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, all-terrain
9 vehicle, ~~or~~ utility terrain vehicle, or Class B off-highway vehicle offense in a court
10 of criminal or civil jurisdiction shall be treated as an adult before the trial of the
11 proceeding except that the juvenile may be held in secure custody only in a juvenile
12 detention facility. A juvenile convicted of a traffic, boating, snowmobile, all-terrain
13 vehicle, ~~or~~ utility terrain vehicle, or Class B off-highway vehicle offense in a court
14 of criminal or civil jurisdiction shall be treated as an adult for sentencing purposes
15 except as follows:

16 **SECTION 45.** 938.343 (9) of the statutes is amended to read:

17 938.343 (9) ALL-TERRAIN ~~OR~~ VEHICLE, UTILITY TERRAIN VEHICLE, OR OFF-HIGHWAY
18 VEHICLE SAFETY COURSE. If the violation is one under s. 23.33 or under an ordinance
19 enacted in accordance with s. 23.33 concerning the use of all-terrain vehicles or
20 utility terrain vehicles, order the juvenile to attend an all-terrain vehicle or utility
21 terrain vehicle safety course. If the violation is one under s. 23.37 or under an
22 ordinance enacted in accordance with s. 23.37 (12) concerning the use of off-highway
23 vehicles, order the juvenile to attend an off-highway vehicle safety course.

24 **SECTION 46.** 940.09 (1m) (b) of the statutes is amended to read:

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1 940.09 **(1m)** (b) If a person is charged in an information with any of the
2 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
3 971.12. If the person is found guilty of more than one of the crimes so charged for
4 acts arising out of the same incident or occurrence, there shall be a single conviction
5 for purposes of sentencing and for purposes of counting convictions under s. 23.33
6 (13) (b) 2. and 3., under s. 23.37 (14) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under
7 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm),
8 (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not
9 require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for
10 conviction which the others do not require.

11 **SECTION 47.** 940.09 (3) of the statutes is amended to read:

12 940.09 **(3)** An officer who makes an arrest for a violation of this section shall
13 make a report as required under s. 23.33 (4t), 23.37 (4t), 30.686, 346.635 or 350.106.

14 **SECTION 48.** 940.25 (1m) (b) of the statutes is amended to read:

15 940.25 **(1m)** (b) If a person is charged in an information with any of the
16 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
17 971.12. If the person is found guilty of more than one of the crimes so charged for
18 acts arising out of the same incident or occurrence, there shall be a single conviction
19 for purposes of sentencing and for purposes of counting convictions under s. 23.33
20 (13) (b) 2. and 3., under s. 23.37 (14) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under
21 ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am),
22 (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the
23 others do not require.

24 **SECTION 49.** 940.25 (3) of the statutes is amended to read:

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1 940.25 (3) An officer who makes an arrest for a violation of this section shall
2 make a report as required under s. 23.33 (4t), 23.37 (4t), 30.686, 346.635 or 350.106.

3 **SECTION 50.** 973.06 (1) (j) of the statutes is amended to read:

4 973.06 (1) (j) If the defendant violated s. 23.33 (4c), 23.37 (4c), 30.681, 346.63,
5 350.101, 940.09 (1), or 940.25, any costs charged to or paid by a law enforcement
6 agency for the withdrawal of the defendant's blood, except that the court may not
7 impose on the defendant any cost for an alternative test provided free of charge as
8 described in s. 343.305 (4). If at the time the court finds that the defendant
9 committed the violation, the law enforcement agency has not paid or been charged
10 with the costs of withdrawing the person's blood, the court shall impose and collect
11 the costs the law enforcement agency reasonably expects to be charged for the
12 withdrawal, based on the current charges for this procedure. Notwithstanding sub.
13 (2), the court may not remit these costs.

14 **SECTION 51.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

15 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 23.37 (4c) or
16 (4p) (e), 30.681, 30.684 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor under
17 s. 346.63 to which s. 973.09 (1) (d) applies.

18 **SECTION 52. Nonstatutory provisions.**

19 (1) Notwithstanding the length of terms specified in section 15.347 (9) of the
20 statutes, as created by this act, the governor shall appoint one of the initial members
21 of the off-highway vehicle council for a term expiring on June 30, 2016, 2 of the initial
22 members of the off-highway vehicle council for terms expiring on June 30, 2017, and
23 2 of the initial members of the off-highway vehicle council for terms expiring on June
24 30, 2018.

25 (END)