Insert ANL1

no # In providing funding for these projects, DNR must give priority to trails, routes, and other facilities that are open only for use by OHMs.

Insert ANL2

Off–highway motorcycle council

The bill creates the Off–Highway Motorcycle Council (council) consisting of five members who must be members of off–highway motorcycle clubs. The bill authorizes the to make recommendations DNR on matters relating to off–highway motorcycle trails and routes and on other matters relating to the operation of off–highway motorcycles.

Insert 4-1

SECTION 1. 15.09 (1) (a) of the statutes is amended to read:

15.09 **(1)** (a) Unless otherwise provided by law, the governor shall appoint the members of councils for terms prescribed by law. Except as provided in ~~par.~~ pars. (b) and (c), fixed terms shall expire on July 1 and shall, if the term is for an even number of years, expire in an odd–numbered year.

SECTION 2. 15.09 (1) (c) of the statutes is amended to read:

15.09 **(1)** (c) The terms of the members of the off–highway motorcycle council on recycling shall expire on March 1.

Insert 65–10

SECTION 3. 15.347 (10) of the statutes is amended to read:

15.347 **(9)** (10) (a) There is created in the department of natural resources an off–highway motorcycle council consisting of 5 members who are residents of this state and who are appointed for 3–year terms expiring March 1.

(b) Each member of the off–highway motorcycle council shall be a resident of this state, shall be a member of and represent the interests of an off–highway motorcycle club, as defined in s. 23.335 (1) (r), and shall be knowledgeable about

outdoor recreation issues in this state and about trails used by operators of off–highway motorcycles.

(c) The off–highway motorcycle council shall meet at least 3 times annually.

Insert 5-22

SECTION 4. 23.179 of the statutes is created to read:

23.179 Off–highway motorcycle council. The off–highway motorcycle council may make recommendations to the department on matters relating to off–highway motorcycle corridors, as defined in s. 23.335 (1) (s), and off–highway motorcycle routes, as defined in s. 23.335 (1) (u), and on any other matters relating to the operation of off–highway motorcycles.

Insert 39-25

(c) *Priorities.* In providing funding for the types of projects listed in par. (b), the department shall give higher overall priority to projects for facilities and trails that are open only for use by off–highway motorcycles. In determining which off–highway motorcycle projects will be provided funding, the department shall consider all of the following:

1. The distance of a proposed off–highway project from a comparable existing project.

2. The amount of interest demonstrated by a community in developing or maintaining a off–highway motorcycle project.

3. The amount of support demonstrated by a local governmental unit in which the project will be located.

4. The number of existing trails, routes, and facilities that are open to off–highway motorcycles or that are in the process of being developed.

Insert 65-10

SECTION 5. Nonstatutory provisions.

(1) OFF–HIGHWAY MOTORCYCLE COUNCIL. Notwithstanding the length of terms specified in section 15.347 (10) (a) of the statutes, as created by this act, the governor

shall appoint the initial members of the off–highway motorcycle council for the following terms:

(a) One member appointed under section 15.347 (10) of the statutes, as created by this act, for terms expiring on March 1, 2016.

(b) Two members appointed under section 15.347 (10) of the statutes, as created by this act, for terms expiring on March 1, 2017.

(c) Two members appointed under section 15.347 (10) of the statutes, as created by this act, for terms expiring on March 1, 2018.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–0082/2dn
MGG:...

Date

1. Item # 2 in the e–mail containing drafting instructions required that the new material be placed in s. 23.335 (20) and not in s. 23.335 (10) (a) 3.

2. Regarding #3 in that e–mail, the final factor, "commitment of funds" is just too vague, even though I know it is found in current law under s. 30.92 (3) (b) 6. I would need more information to draft this concept properly.

Mary Gibson–Glass
Senior Legislative Attorney
Phone: (608) 267–3215
E–mail: mary.gibson–glass@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–0082/2dn
MGG:kjf:rs

December 18, 2013

1. Item #2 in the e–mail containing drafting instructions required that the new material be placed in s. 23.335 (20) and not in s. 23.335 (10) (a) 3.

2. Regarding #3 in that e–mail, the final factor, "commitment of funds" is just too vague, even though I know it is found in current law under s. 30.92 (3) (b) 6. I would need more information to draft this concept properly.

Mary Gibson–Glass
Senior Legislative Attorney
Phone: (608) 267–3215
E–mail: mary.gibson–glass@legis.wisconsin.gov

Gibson-Glass, Mary

From: Gary, Tim
Sent: Monday, January 13, 2014 11:10 AM
To: Gibson-Glass, Mary
Subject: RE: LRB-0082 OHM

Mary,

That works. Thank you.

Tim Gary

From: Gibson-Glass, Mary
Sent: Monday, January 13, 2014 10:50 AM
To: Gary, Tim
Subject: LRB-0082 OHM

Tim-

I got your voice message Friday and felt that I should run the language I am proposing by you before taking the draft to a /3

I assume that roads that are seasonally not maintained at all should continue to be included in the exemption. Therefore, this is the language I propose:

"3. Operation is on a roadway which is not maintained, or is only minimally maintained, on a seasonal basis for motor vehicle traffic."

Let me know if you think this works,

Mary

Mary Gibson-Glass
Senior Legislative Attorney
Legislative Reference Bureau
608 267 3215

State of Wisconsin
2013 – 2014 LEGISLATURE

Fri

RMR

LRB–0082/~~2~~3
MGG:kjf:rs

2013 BILL

only changes is on p. 23 pp 3 &

Regen

AN ACT ***to amend*** 15.09 (1) (a), 23.09 (23) (a), 23.119 (1) (b), 23.33 (4z) (title), 23.33 (5m) (title), 23.33 (5m) (c) (intro.), 23.33 (5m) (c) 2., 23.33 (5m) (c) 3., 23.35 (1) (intro.), 23.35 (1) (a), 23.35 (1) (b), 23.35 (1) (e), 23.35 (2), 23.45 (1) (d), 23.50 (1), 23.50 (3), 23.53 (1), 23.56 (1), 23.57 (1) (intro.), 23.58, 23.62 (1) (intro.), 25.29 (1) (a), 30.26 (4) (title), 30.26 (4) (a) (intro.), 30.26 (4) (b), 30.29 (1) (b), 46.03 (18) (f), 59.54 (14) (g), 70.11 (45m), 71.05 (6) (b) 44., 71.26 (1) (g), 71.45 (1) (b), 77.51 (13s), 77.61 (1) (a), 77.61 (1) (b), 77.61 (1) (c), 77.73 (2), 78.01 (2) (e), 78.01 (2m) (f), 78.40 (1), 78.75 (1m) (a) 2m., 78.75 (1m) (a) 3., 100.48 (2), 100.48 (3) (a), 100.48 (4) (c), 110.07 (1) (a) 1., 110.07 (3), 322.111, 344.61 (1), 345.11 (1r), 346.66 (1) (c), 346.71 (1), 346.71 (2), 346.94 (1), 800.02 (2) (b), 814.63 (3m) (a), 814.65 (4m) (a), 885.235 (1m), 885.235 (4), 895.043 (6), 895.049, 901.053, 938.17 (1) (intro.), 940.09 (1m) (b), 940.09 (3), 940.25 (1m) (b), 940.25 (3), 973.06 (1) (j) and 973.09 (2) (a) 1. d.; and ***to create*** 15.09 (1) (c), 15.347 (10), 20.370 (1) (jb), 20.370 (3) (ay), 20.370 (5) (cz), 23.119 (1) (at), 23.179, 23.335, 23.45 (1) (d) 3., 25.40 (1)

1 (bt), 100.48 (1) (bg), 100.48 (1) (br), 341.059, 343.05 (4) (b) 1m., 347.24 (1) (d) and
2 938.343 (9m) of the statutes; **relating to:** operation of off–highway
3 motorcycles, granting rule–making authority, providing penalties, and making
4 appropriations.

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 motorcycles (OHMs) that are similar to the requirements that apply under current law to ATVs and UTVs. The bill defines an OHM as a motorcycle that is designed for off–highway operation, regardless of whether it is also designed for on–highway operation.

This bill requires DNR to develop, encourage, and supervise a system of OHM trails and routes in a similar manner that exists under current law for ATV and UTV trails and routes. The bill defines an "OHM trail" to be a corridor on lands open to the public for recreational OHM use. The bill defines an "OHM route" to be a highway or sidewalk open to recreational OHM use. The bill allows DNR to establish standards and procedures for certifying the designation of OHM trails. As under current law applicable to ATV trails, this bill allows a county, city, village, or town (local governmental unit) or DNR to designate OHM routes and corridors through land that it owns or controls for use as OHM trails. Moneys for these OHM projects undertaken by DNR or local governmental units under this system, for enforcement of OHM laws, and for the safety grants as described below, may be appropriated from the general fund. In providing funding for these projects, DNR must give priority to trails, routes, and other facilities that are open only for use by OHMs.

OHM registration and trail passes

This bill distinguishes OHMs that are registered by the Department of Transportation (DOT) from those that are not. The bill does not restrict the owner of an OHM from registering the OHM with DOT for highway use. However, if an owner wishes to operate an OHM off the highway, the owner must register the OHM with DNR and pay an annual registration fee. As to operation on OHM routes, the owner must register the OHM with DNR unless the OHM route is on a highway, as opposed to a sidewalk, and the OHM is registered with DOT. The owner of an OHM may register it with DNR for public use on trails and routes and other areas open for public use. The owner may register an OHM for private use if its use will be limited to operation for agricultural purposes and operation by the owner or a member of his or her family on land that is owned or leased by the owner or a family member. The fee for registration for private use is lower. The bill includes exemptions from this registration requirement which are similar to those exemptions under current law for ATVs and UTVs. The bill also requires a person who sells OHMs for a profit at

retail to register with DNR as an OHM dealer. These registration fees are placed in the transportation fund.

If a person will be operating an OHM off the highways that is not registered with DNR, or that is not exempt from DNR registration, the person must pay a fee and be issued an annual nonresident trail pass by DNR in order to operate the OHM on an OHM trail or other corridors that are open to the public for the recreational use of OHMs.

OHM operation

only minimally maintained

The bill imposes various restrictions on the operation of limited use OHMs that are similar to those imposed on ATVs and UTVs. Basically, limited use OHMs are not allowed on the roadway portion of a highway except as is necessary to cross highways. They are also allowed on highways that are designated as OHM routes or that are closed on a seasonal basis for regular motor vehicle traffic. The bill regulates the operation of OHMs on areas that are adjacent to roadways of highways, and imposes a ten miles per hour speed limit when the OHM is within 150 feet of a dwelling, within 100 feet of a person who is not in or on a motorized vehicle, or within 100 feet of a fishing shanty.

This bill creates an intoxicated operation law that applies to OHM routes, trails, and other off–highway places that are open to the recreational use of OHMs. Under the law, a person may not operate an OHM with an alcohol concentration of 0.08 or more. This bill requires an OHM operator to submit to certain screening tests if a law enforcement officer has probable cause to believe that the operator is operating the OHM under the influence of alcohol. 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, except that the intoxicated operation law does not apply to the use of controlled substances.

Under this bill, a person need not have an operator's license issued by DOT in order to operate an OHM off the highways and need not carry liability insurance on the OHM. With limited exceptions, a person riding on an OHM must wear a helmet when riding off the highways unless he or she is at least 18 years old.

OHM operation; age restrictions

Under this bill, a person under the age of 12 may not operate an OHM on a highway under any circumstance and may operate an OHM off a highway only if he or she is operating a small OHM and he or she is under continuous verbal direction or control of a parent or guardian or of an adult who has been designated by the parent or guardian. The bill defines a "small OHM" to be one that has an engine certified at not more than 100 cubic centimeters or that has an equivalent power unit. Also, under the bill, anyone who is at least 12 of age and who was born after January 1, 1998, must hold a valid safety certificate issued upon completion of the safety instruction program described below. These age restrictions do not apply to the operation of OHMs on private property if the property owner has given consent and does not hold out the property to the public for OHM use.

This bill requires DNR to establish a safety certification program on OHM laws and related subjects 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 for operators of ATVs and UTVs.

No person who rents limited use OHMs to the public (OHM renter) may rent a limited use OHM to a person under 12 years of age. Also, an OHM renter may not rent a limited use OHM without first making sure that any person under the age of 18 who will be on the OHM has a motorcycle helmet that meets federal standards.

OHM safety grant program and landowner incentive program

This bill requires DNR to establish a program to award grants to organizations that promote the operation of OHM 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 OHM laws.

The bill also requires DNR to establish a program under which landowners receive payments for opening their lands for OHM trails and other corridors for recreational OHM use. Fees collected for the issuance of nonresident trail passes are appropriated for making these payments.

Off–highway motorcycle council

The bill creates the Off–Highway Motorcycle Council (council), consisting of five members who must be members of OHM clubs. The bill authorizes the council to make recommendations to DNR on matters relating to OHM trails and routes and on other matters relating to the operation of OHMs.

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.** 15.09 (1) (a) of the statutes is amended to read:

2 15.09 **(1)** (a) Unless otherwise provided by law, the governor shall appoint the
3 members of councils for terms prescribed by law. Except as provided in ~~par.~~ pars. (b)
4 and (c), fixed terms shall expire on July 1 and shall, if the term is for an even number
5 of years, expire in an odd–numbered year.

6 **SECTION 2.** 15.09 (1) (c) of the statutes is created to read:

7 15.09 **(1)** (c) The terms of the members of the off–highway motorcycle council
8 shall expire on March 1.

9 **SECTION 3.** 15.347 (10) of the statutes is created to read:

15.347 **(10)** OFF-HIGHWAY MOTORCYCLE COUNCIL. (a) There is created in the department of natural resources an off–highway motorcycle council consisting of 5 members who are residents of this state and who are appointed for 3–year terms expiring March 1.

(b) Each member of the off–highway motorcycle council shall be a resident of this state, shall be a member of and represent the interests of an off–highway motorcycle club, as defined in s. 23.335 (1) (r), and shall be knowledgeable about outdoor recreation issues in this state and about trails used by operators of off–highway motorcycles.

(c) The off–highway motorcycle council shall meet at least 3 times annually.

SECTION 4. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			2013–14	**2014–15**
20.370 Natural resources, department of				
(5) CONSERVATION AIDS				
(cz) *Recreation aids — off–highway motorcycle landowner incentive program*	SEG	B	–0–	–0–

SECTION 5. 20.370 (1) (jb) of the statutes is created to read:

20.370 **(1)** (jb) *Off–highway motorcycle administration.* From the general fund, a sum sufficient equal to the amount determined under s. 23.335 (20) (a) for the purposes specified under 23.335 (20) (b) and (d), for issuing and renewing off–highway motorcycle registration under s. 23.335 (3), (4), and (5), for grants under

the safety grant program under s. 23.335 (15), and for state and local law enforcement operations related to off–highway motorcycles.

SECTION 6. 20.370 (3) (ay) of the statutes is created to read:

20.370 **(3)** (ay) *Off–highway motorcycle safety certification program.* All moneys remitted to the department under s. 23.335 (14) for the off–highway motorcycle safety certification program under s. 23.335 (14).

SECTION 7. 20.370 (5) (cz) of the statutes is created to read:

20.370 **(5)** (cz) *Recreation aids — off–highway motorcycle landowner incentive program.* Biennially, the amounts in the schedule for incentive payments to landowners for public all–terrain vehicle corridors under s. 23.335 (16). All moneys received by the department under s. 23.335 (16) shall be credited to this appropriation account.

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

23.09 **(23)** (a) In this subsection, "approval" means any type of approval or authorization issued by the department under ch. 29, subch. V. of ch. 30, or s. 23.33 (2), 23.335 (3) or (5), 27.01, or 350.12, including a license, permit, certificate, stamp, tag, registration, or vehicle admission receipt.

SECTION 9. 23.119 (1) (at) of the statutes is created to read:

23.119 **(1)** (at) "Off–highway motorcycle" has the meaning given in s. 23.335 (1) (q).

SECTION 10. 23.119 (1) (b) of the statutes is amended to read:

23.119 **(1)** (b) "Off–highway vehicle" means a motor–driven craft or vehicle principally manufactured for off–highway use but does not include a snowmobile, an all–terrain vehicle, ~~or~~ utility terrain vehicle, or an off–highway motorcycle.

SECTION 11. 23.179 of the statutes is created to read:

1 **23.179 Off–highway motorcycle council.** The off–highway motorcycle
2 council may make recommendations to the department on matters relating to
3 off–highway motorcycle corridors, as defined in s. 23.335 (1) (s), and off–highway
4 motorcycle routes, as defined in s. 23.335 (1) (u), and on any other matters relating
5 to the operation of off–highway motorcycles.

6 **SECTION 12.** 23.33 (4z) (title) of the statutes is amended to read:

7 23.33 **(4z)** (title) PUBLIC EDUCATION PROGRAM REGARDING INTOXICATED OPERATION.

8 **SECTION 13.** 23.33 (5m) (title) of the statutes is amended to read:

9 23.33 **(5m)** (title) SAFETY GRANT PROGRAM.

10 **SECTION 14.** 23.33 (5m) (c) (intro.) of the statutes is amended to read:

11 23.33 **(5m)** (c) (intro.) An organization receiving a grant under this subsection
12 shall use the grant moneys to promote and provide support to the safety certification
13 program established under sub. (5) (d) by conducting activities that include ~~all~~ any
14 of the following:

15 **SECTION 15.** 23.33 (5m) (c) 2. of the statutes is amended to read:

16 23.33 **(5m)** (c) 2. Providing assistance to the department in locating, recruiting,
17 and training instructors for the safety certification program established under sub.
18 (5) (d).

19 **SECTION 16.** 23.33 (5m) (c) 3. of the statutes is amended to read:

20 23.33 **(5m)** (c) 3. Attempting to increase participation by current and future
21 all–terrain vehicle operators and owners in the safety certification program
22 established under sub. (5) (d).

23 **SECTION 17.** 23.335 of the statutes is created to read:

24 **23.335 Off–highway motorcycles. (1)** DEFINITIONS. In this section:

25 (a) "Accompanied" has the meaning given in s. 23.33 (1) (a).

1 (b) "Agricultural purpose" includes a purpose related to the transportation of
2 farm implements, equipment, supplies, or products on a farm or between farms.
3 (c) "Alcohol beverages" has the meaning specified under s. 125.02 (1).
4 (d) "Alcohol concentration" has the meaning given in s. 340.01 (1v).
5 (e) "Approved public treatment facility" has the meaning specified under s.
6 51.45 (2) (c).
7 (f) "All–terrain vehicle route" has the meaning given in s. 23.33 (1) (c).
8 (g) "All–terrain vehicle trail" has the meaning given in s. 23.33 (1) (d).
9 (h) "Electric personal assistive mobility device" has the meaning given in s.
10 340.01 (15pm).
11 (i) "Highway" has the meaning given in s. 340.01 (22).
12 (j) "Immediate family" means persons who are related as spouses, who are
13 related as siblings, or who are related as parent and child.
14 (k) "Intoxicant" means any alcohol beverage.
15 (L) "Intoxicated operation of an off–highway motorcycle law" means sub. (12)
16 (a) or (b) or a local ordinance in conformity therewith or, if the operation of an
17 off–highway motorcycle is involved, s. 940.09 or 940.25.
18 (m) "Junked" means dismantled for parts or scrapped.
19 (n) "Law enforcement officer" means an officer of the state traffic patrol under
20 s. 110.07 (1), inspector under s. 110.07 (3), a conservation warden appointed by the
21 department under s. 23.10, a county sheriff, or a municipal peace officer.
22 (o) "Limited use off–highway motorcycle" means an off–highway motorcycle
23 that is not registered by the department of transportation for use on highways.
24 (p) "Local governmental unit" means a city, village, town, or county.

1 (q) "Off–highway motorcycle" means a 2–wheeled motor vehicle that is
2 straddled by the operator, that is equipped with handlebars, and that is designed for
3 use off a highway, regardless of whether it is also designed for use on a highway.
4 (r) "Off–highway motorcycle club" means a club consisting of individuals that
5 promotes use of off–highway motorcycles for recreational purposes off the highways
6 within this state.
7 (s) "Off–highway motorcycle corridor" means an off–highway motorcycle trail
8 or other established off–highway motorcycle corridor that is open to the public for the
9 operation of off–highway motorcycles for recreational purposes but does not include
10 an off–highway motorcycle route.
11 (t) "Off–highway motorcycle dealer" means a person who is engaged in this
12 state in the sale of off–highway motorcycles for a profit at retail.
13 (u) "Off–highway motorcycle route" means a highway or sidewalk designated
14 for recreational use by operators of off–highway motorcycles by the governmental
15 agency having jurisdiction.
16 (v) "Off–highway motorcycle trail" means a marked corridor on public property
17 or on private lands subject to public easement or lease, designated for recreational
18 use by operators of off–highway motorcycles by the governmental agency having
19 jurisdiction.
20 (w) "Off–highway vehicle" means an all–terrain vehicle, an off–highway
21 motorcycle, or a utility terrain vehicle.
22 (x) "Off–highway vehicle association" means a club or other association
23 consisting of individuals that promotes the recreational operation of any
24 combination of the following:
25 1. All–terrain vehicles.

1 2. Off–highway motorcycles.

2 3. Utility terrain vehicles.

3 (y) "Off the highways" means off–highway motorcycle corridors, off–highway
4 motorcycle routes, and areas where operation is authorized under sub. (10) or (11).

5 (z) "Operate" means to exercise physical control over the speed or direction of
6 an off–highway motorcycle or to physically manipulate or activate any of the controls
7 of an off–highway motorcycle necessary to put it in motion.

8 (zb) "Operation" means the exercise of physical control over the speed or
9 direction of an off–highway motorcycle or the physical manipulation or activation of
10 any of the controls of off–highway motorcycle necessary to put it in motion.

11 (zc) "Operator" means a person who operates an off–highway motorcycle, who
12 is responsible for the operation of an off–highway motorcycle, or who is supervising
13 the operation of an off–highway motorcycle.

14 (zd) "Owner" means a person who has lawful possession of an off–highway
15 motorcycle by virtue of legal title or an equitable interest in the off–highway
16 motorcycle which entitles the person to possession of the off–highway motorcycle.

17 (ze) "Purpose of authorized analysis" means for the purpose of determining or
18 obtaining evidence of the presence, quantity, or concentration of any intoxicant in a
19 person's blood, breath, or urine.

20 (zf) "Refusal law" means sub. (12) (h) or a local ordinance in conformity
21 therewith.

22 (zg) "Registration documentation" means an off–highway motorcycle
23 registration certificate, a validated registration receipt, or a registration decal.

1 (zh) "Small off–highway motorcycle" means an off–highway motorcycle that
2 has either an engine certified by the manufacturer at not more than 100 cubic
3 centimeters or an equivalent power unit.

4 (zi) "Snowmobile" has the meaning given in s. 340.01 (58a).

5 (zj) "Snowmobile route" has the meaning given in s. 350.01 (16).

6 (zk) "Snowmobile trail" has the meaning given in s. 350.01 (17).

7 (zL) "Test facility" means a test facility or agency prepared to administer tests
8 under s. 343.305 (2).

9 (zm) "Validated registration receipt" means a receipt issued by the department
10 or an agent under sub. (4) (g) 1. a. that shows that an application and the required
11 fees for a registration certificate have been submitted to the department or an agent
12 appointed under sub. (4) (f) 2.

13 **(2)** REGISTRATION. (a) *Requirement.* No person may operate an off–highway
14 motorcycle, and no owner may give permission for the operation of an off–highway
15 motorcycle, off the highways unless the off–highway motorcycle is registered with
16 the department under this section.

17 (b) *Exemptions.* An off–highway motorcycle is exempt from the registration
18 requirement under par. (a) if any of the following applies:

19 1. The off–highway motorcycle is covered by a valid registration of a federally
20 recognized American Indian tribe or band, and all of the following apply:

21 a. The registration program of the tribe or band is covered by an agreement
22 under s. 23.35.

23 b. The off–highway motorcycle displays the registration decal required by the
24 tribe or band.

1 2. The off–highway motorcycle displays a plate or sign attached in the manner
2 authorized under sub. (5) (c).
3 3. The off–highway motorcycle will be operated exclusively in racing on a
4 raceway facility or as part of a special motorcycle event as authorized under sub. (10)
5 (b).
6 4. The off–highway motorcycle is present in this state, for a period not to exceed
7 15 days, and is used exclusively as part of an advertisement being made for the
8 manufacturer of the off–highway motorcycle.
9 5. The off–highway motorcycle is specified as exempt from registration by
10 department rule.
11 (c) *Weekend exemption.* A person may operate an off–highway motorcycle off
12 the highways in this state during the first full weekend in June of each year without
13 registering the off–highway motorcycle as required under par. (a).
14 **(3)** REGISTRATION; APPLICATION PROCESS. (a) *Public or private use.* Only the
15 department may register off–highway motorcycles for off–highway operation. Any
16 off–highway motorcycle may be registered for public use. An off–highway motorcycle
17 may be registered for private use if the operation is limited to any of the following:
18 1. Operation for agricultural purposes.
19 2. Operation by the owner of the motorcycle or a member of his or her
20 immediate family only on land owned or leased by the owner or a member of his or
21 her immediate family.
22 (b) *Registration; sales by dealers.* If the seller of an off–highway motorcycle is
23 an off–highway motorcycle dealer, the dealer shall require each buyer to whom he
24 sells an off–highway motorcycle to complete an application for registration for public
25 or private use and collect the applicable fee required under sub. (4) (d) at the time

1 of the sale if the off–highway motorcycle will be operated off the highways. The
2 department shall provide application and registration receipt forms to off–highway
3 motorcycle dealers. Each off–highway motorcycle dealer shall provide the buyer a
4 registration receipt showing that the application and accompanying fee have been
5 obtained by the off–highway motorcycle dealer. The off–highway motorcycle dealer
6 shall mail or deliver the application and fee to the department no later than 7 days
7 after the date of sale.

8 (c) *Registration; other sales.* 1. If an off–highway motorcycle is sold or
9 otherwise transferred by a person other than an off–highway motorcycle dealer and
10 is not registered with the department, the buyer or transferee shall complete an
11 application for registration for public or private use if the buyer or transferee intends
12 to operate the off–highway motorcycle off the highways.

13 (d) *Registration; action by department.* Upon receipt of an application for
14 registration of an off–highway motorcycle on a form provided by the department, the
15 payment of any applicable fees under sub. (4) (d), and of any sales or use taxes that
16 may be due, the department shall issue the a registration certificate to the applicant.

17 (e) *Transfers of registered motorcycles.* Upon transfer of ownership of an
18 off–highway motorcycle which is registered for public or private use, the transferor
19 shall deliver the registration certificate to the transferee at the time of the transfer.
20 The transferee shall complete an application for transfer on a form provided by the
21 department and shall mail or deliver the form to the department within 10 days after
22 the date of the transfer if the transferee intends to operate the off–highway
23 motorcycle off the highways.

24 (f) *Trades; registration required.* An off–highway motorcycle dealer may not
25 accept a limited use off–highway motorcycle in trade unless the off–highway

1 motorcycle is currently registered by the department or is exempt from being
2 registered by the department under sub. (2) (b).

3 **(4)** REGISTRATION; CERTIFICATES AND DECALS. (a) *Period of validity; expiration.*
4 1. A registration certificate issued under sub. (3) for public use is valid beginning on
5 April 1 or the date of issuance or renewal and ending March 31 of the 2nd year
6 following the date of issuance or renewal.

7 2. For renewals of registration certificates for public use, the department shall
8 notify each owner of the upcoming date of expiration at least 2 weeks before that date.

9 (b) *Content of certificate.* Each registration certificate shall contain the
10 registration number, the name and address of the owner, and any other information
11 that the department determines is necessary.

12 (c) *Decal required.* 1. Each registration certificate issued under sub. (3) shall
13 be accompanied by a registration decal. No person may operate an off–highway
14 motorcycle for which a registration decal is required without having the decal so
15 affixed except as provided in subd. 4.

16 2. The decal shall contain a reference to the state and to the department, the
17 vehicle identification number, and the expiration date of the registration, if the
18 off–highway motorcycle is being registered for public use.

19 3. The person required to register an off–highway motorcycle shall affix the
20 registration decal with its own adhesive in a position on the exterior of the motorcycle
21 where it is clearly visible and shall maintain the decal so that it is in legible condition.

22 4. A person may operate an off–highway motorcycle without having a
23 registration decal affixed if the owner has been issued a validated registration
24 receipt that shows that an application and the required fees for a registration
25 certificate have been submitted to the department, and the person operating the

1 off–highway motorcycle has the receipt in his or her possession. The person shall
2 exhibit the receipt, upon demand, to any law enforcement officer.

3 (d) *Fees for certificates and decals.* 1. The fee for the issuance or renewal of a
4 registration certificate for public use and the accompanying decal is $30. The
5 department shall impose an additional late fee of $5 for the renewal of a registration
6 certificate under this subdivision that is filed after the expiration date of the
7 registration certificate unless the renewal is included with an application for
8 transfer of the registration certificate.

9 2. The fee for the issuance or renewal of a registration certificate for private use
10 and the accompanying decal is $15.

11 3. The fee for transferring a certificate issued under sub. (3) (e) is $5.

12 (e) *Duplicate certificates and decals.* 1. If a registration certificate or decal that
13 was issued under par. (a) or (c) is lost or destroyed, the holder of the certificate or
14 decal may apply for a duplicate on a form provided by the department. Upon receipt
15 of the application and the fee required under subd. 2., the department shall issue a
16 duplicate certificate or decal to the applicant.

17 2. The fee for the issuance of a duplicate certificate for public or private use is
18 $5, and the fee for a duplicate decal is $5.

19 (f) *Registration issuers.* For the issuance of original or duplicate registration
20 documentation and for the transfer or renewal of registration documentation, the
21 department may do any of the following:

22 1. Directly issue, transfer, or renew the registration documentation with or
23 without using the service specified in par. (g) 1.

1 2. Appoint persons who are not employees of the department as agents of the
2 department to issue, transfer, or renew the registration documentation using either
3 or both of the services specified in par. (g) 1.

4 (g) *Methods of issuance.* 1. For the issuance of original or duplicate registration
5 documentation and for the transfer or renewal of registration documentation, the
6 department may implement either or both of the following procedures to be provided
7 by the department and any agents appointed under par. (f) 2.:

8 a. A procedure under which the department or an agent appointed under par.
9 (f) 2. accepts applications for registration documentation and issues a validated
10 registration receipt at the time the applicant submits the application accompanied
11 by the required fees.

12 b. A procedure under which the department or agent may accept applications
13 for registration documentation and issue to each applicant all or some of the items
14 of the registration documentation at the time the applicant submits the application
15 accompanied by the required fees.

16 2. Under either procedure under subd. 1., the applicant shall receive any
17 remaining items of registration documentation directly from the department at a
18 later date. The items of registration documentation issued at the time of the
19 submittal of the application under either procedure shall be sufficient to allow the
20 vehicle for which the application is submitted to be operated in compliance with the
21 registration requirements under this subsection. The items of registration
22 documentation issued under subd. 1. b. shall include a registration decal.

23 (h) *Issuing service fees.* 1. In addition to any applicable fee under par. (d) 1.,
24 2., or 3. or (e) 2., an agent appointed under par. (f) 2. who accepts an application to
25 issue, renew, or transfer registration documentation in person and issues a validated

registration receipt under par. (g) 1. a. shall collect a service fee of $3 each time the agent issues the receipt. The agent shall retain the entire amount of each service fee the agent collects.

2. In addition to any applicable fee under par. (d) 1., 2., or 3. or (e) 2., the department or the agent appointed under par. (f) 2. shall collect a service fee of $5 each time the service under par. (g) 1. b. is provided. The agent shall remit to the department $1 of each service fee the agent collects.

(i) *Junked motorcycles.* If an off–highway motorcycle is junked, the owner shall return the certificate of registration to the department marked "junked."

(5) REGISTRATION OF OFF–HIGHWAY MOTORCYCLE DEALERS. (a) A person who is an off–highway motorcycle dealer shall register with the department and obtain from the department a commercial off–highway motorcycle certificate. Upon receipt of the required fee under par. (e) and an application form provided by the department, the department shall issue the applicant a commercial registration certificate and 3 accompanying decals.

(b) A commercial registration certificate is valid for 2 years.

(c) A person who is required to obtain an off–highway motorcycle certificate under par. (a) shall attach in a clearly visible place a plate or sign that is removable and temporarily but firmly mounted to any off–highway motorcycle that the person offers for sale or otherwise allows to be used whenever the off–highway motorcycle is being operated. A registration decal issued by the department shall be affixed to the plate or sign.

(d) If a registration certificate or decal that was issued under par. (a) is lost or destroyed, the holder of the certificate or decal may apply for a duplicate on a form provided by the department. Upon receipt of the application and the required fee

1 under par. (e), the department shall issue a duplicate certificate or decal to the
2 applicant.

3 (e) The fee for the issuance or renewal of a commercial off–highway motorcycle
4 certificate with 3 accompanying decals is $90. The fee for additional commercial
5 registration decals is $30 for each decal. The fee for the issuance of a duplicate
6 commercial off–highway motorcycle certificate is $5. The fee for each duplicate decal
7 is $2.

8 (f) A commercial off–highway motorcycle certificate may not be transferred.

9 **(6)** NONRESIDENT TRAIL PASSES. (a) Except as provided in par. (b), no person may
10 operate an off–highway motorcycle on an off–highway motorcycle corridor unless a
11 nonresident trail pass for off–highway motorcycle operation is issued by the
12 department to the person and the pass is permanently affixed on the exterior of the
13 motorcycle where it is clearly visible.

14 (b) An off–highway motorcycle that is registered under sub. (3) or that is
15 exempt from registration under sub. (2) (b) 2., 3., or 4. is exempt from having a
16 nonresident trail pass. The department may promulgate a rule to provide additional
17 exemptions from the requirement of being issued a nonresident trail pass or from
18 having to pay a fee for the pass. The department may promulgate a rule to exempt
19 off–highway motorcycles that are exempt from registration under sub. (2) (b) 5. from
20 having nonresident trail passes affixed as required under par. (a) or may promulgate
21 a rule to exempt owners of such vehicles from having to pay any applicable
22 nonresident trail pass fee.

23 (c) There is no fee for a nonresident trail pass issued for an off–highway
24 motorcycle that is registered under s. 23.35. The department or Indian tribe or band
25 shall issue a nonresident trail pass for such an off–highway motorcycle when it

1 issues the registration certificate for the motorcycle. The department shall provide
2 Indian tribes or bands that register off–highway motorcycles under s. 23.35 with a
3 supply of trail passes.

4 (d) The fee for an annual nonresident trail pass is $34.25. The fee for a 5–day
5 nonresident trail pass is $19.25. Annual trail passes expire on March 31 of each year.

6 (e) 1. The department may appoint any person who is not an employee of the
7 department as the department's agent to issue nonresident trail passes and collect
8 the fees for these passes.

9 2. Any person, including the department, who issues a nonresident trail pass
10 shall collect in addition to the fee under sub. (6) (d) an issuing fee of 75 cents. An
11 agent appointed under subd. 1. may retain 50 cents of the issuing fee to compensate
12 the agent for the agent's services in issuing the pass.

13 3. The department shall establish, by rule, procedures for issuing nonresident
14 trail passes, and the department may promulgate rules regulating the activities of
15 persons who are appointed to be agents under this paragraph.

16 (f) A person may operate an off–highway motorcycle off the highways in this
17 state during the first full weekend in June of each year without having a nonresident
18 trail pass as required under par. (a).

19 **(7)** RENTAL OF LIMITED USE OFF–HIGHWAY MOTORCYCLES. (a) No person who is
20 engaged in the rental or leasing of limited use off–highway motorcycles to the public
21 may do any of the following:

22 1. Rent or lease a limited use off–highway motorcycle for operation by a person
23 who will be operating the limited use off–highway motorcycle for the first time unless
24 the person engaged in the rental or leasing gives the person instruction on how to
25 operate the limited use off–highway motorcycle.

1 2. Rent or lease a limited use off–highway motorcycle to a person under 12
2 years of age.
3 3. Rent or lease a limited use off–highway motorcycle without first ascertaining
4 that any person under the age of 18 who will be on the vehicle has protective
5 headgear of the type required under s. 347.485 (1) (a).
6 (b) A person who is engaged in the rental or leasing of limited use off–highway
7 motorcycles to the public shall have clean, usable protective headgear available for
8 rent in sufficient quantity to provide headgear to all persons under the age of 18 who
9 will be on the limited use off–highway motorcycles that the person rents or leases.
10 (c) The department may promulgate rules to establish minimum standards for
11 the instruction given under par. (a) 1.
12 **(8)** USE OF PROTECTIVE HEADGEAR. (a) *Off highway.* No person may operate an
13 off–highway motorcycle on an off–highway motorcycle corridor, or be a passenger on
14 an off–highway motorcycle that is being operated on an off–highway motorcycle
15 corridor, without wearing protective headgear of the type required under s. 347.485
16 (1) (a), with the chin strap properly fastened, unless one of the following applies:
17 1. The person is at least 18 years of age.
18 2. The person is traveling for the purpose of hunting or fishing and is at least
19 12 years of age.
20 3. The off–highway motorcycle is being operated for an agricultural purpose.
21 (b) *On highway.* No person may operate a limited use off–highway motorcycle
22 on an off–highway motorcycle route or in an area where operation is authorized
23 under sub. (10) (a) or (11) (a), or be a passenger on an off–highway motorcycle that
24 is being operated on such a route or in such an area, without wearing protective

1 headgear of the type required under s. 347.485 (1) (a), with the chin strap properly
2 fastened, unless the person is at least 18 years of age.
3 (c) No person may operate or be a passenger on an off–highway motorcycle that
4 is being operated on an off–highway motorcycle corridor or on an off–highway
5 motorcycle route without wearing glasses, wearing goggles, or wearing a protective
6 face shield that is attached to headgear approved by the department.
7 **(9)** RULES OF OPERATION. (a) No person who is operating an off–highway
8 motorcycle off a highway may do any of the following:
9 1. Operate the off–highway motorcycle in any careless way so as to endanger
10 another person or the property of another.
11 2. Operate the off–highway motorcycle at a rate of speed that is unreasonable
12 under the circumstances.
13 3. Operate the off–highway motorcycle on private property without the consent
14 of the owner or lessee. Failure to post private property does not imply consent for
15 off–highway motorcycle use.
16 4. Operate the off–highway motorcycle on public property that is posted as
17 closed to off–highway motorcycle operation or on which the operation of an
18 off–highway motorcycle is prohibited by law.
19 5. Operate the off–highway motorcycle on Indian lands without the consent of
20 the tribal governing body or Indian owner. Failure to post Indian lands does not
21 imply consent for off–highway motorcycle use.
22 6. Operate the off–highway motorcycle at a speed exceeding 10 miles per hour,
23 if the off–highway motorcycle is within 100 feet of a fishing shanty.
24 7. Operate the off–highway motorcycle at a speed exceeding 10 miles per hour,
25 if the off–highway motorcycle is within 150 feet of a dwelling. The speed limit

1 specified in this subsection does not apply to a person operating an off–highway
2 motorcycle on a roadway that is designated as an off–highway motorcycle route.
3 8. Operate the off–highway motorcycle on the frozen surface of public waters
4 or on an off–highway motorcycle trail at a speed exceeding 10 miles per hour or
5 without yielding the right–of–way when within 100 feet of another person who is not
6 operating a motor vehicle, an off–highway vehicle, or snowmobile.
7 9. Operate the off–highway vehicle to drive or pursue any animal except as part
8 of normal farming operations involving livestock.
9 10. Operate the off–highway motorcycle in a manner which violates rules
10 promulgated by the department. This subdivision does not authorize the
11 department to promulgate or enforce a rule that imposes a speed restriction that is
12 more stringent than a speed restriction specified under this paragraph.
13 (b) The speed restrictions under par. (a) 6. and 8. do not apply to a race or derby
14 sponsored by a local governmental unit, by an off–highway vehicle association, as
15 defined in sub. (1) (x), or by a similar organization that is approved by a local
16 governmental unit if the sponsor of the race or derby marks the race or derby route
17 or track to warn spectators from entering the route or track.
18 (c) 1. The distance restriction under par. (a) 8. does not apply to persons who
19 are assisting in directing a race or derby sponsored by a local governmental unit, by
20 an off–highway vehicle association or by a similar organization that is approved by
21 a local governmental unit.
22 2. The distance restriction under par. (a) 8. does not apply if the person who is
23 not in the motor vehicle or on the snowmobile or off–highway vehicle gives his or her
24 consent to have the person operating the off–highway motorcycle at a closer distance.

(10) OPERATION ON HIGHWAYS; LIMITED USE MOTORCYCLES. (a) *Generally.* No person may operate a limited use off–highway motorcycle on the roadway portion of any highway unless one of the following applies:

1. Operation on the roadway is necessary to cross the roadway. The crossing of a roadway is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the limited use off–highway motorcycle prior to entering the crossing and yields the right–of–way to any other vehicles, pedestrians, or electric personal assistive mobility devices that are using the roadway.

2. Operation is necessary to cross a bridge, culvert, or railroad right–of–way. The crossing of a bridge, culvert, or railroad right–of–way is not authorized if the roadway is officially closed to off–highway motorcycle traffic. The crossing is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the limited use off–highway motorcycle prior to entering the crossing and yields the right–of–way to any other vehicles, pedestrians, or electric personal assistive mobility devices that are using the roadway.

3. Operation is on a roadway which is ~~seasonally~~ not maintained for motor vehicle traffic. Such operation is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to off–highway motorcycle traffic.

4. Operation is on a roadway that is an off–highway motorcycle route. Such operation is authorized only for the extreme right side of the roadway except that left

1 turns may be made from any part of the roadway which is safe given prevailing
2 conditions.
3 5. The operator of the limited use off–highway motorcycle is a person who holds
4 a Class A permit or a Class B permit under s. 29.193 (2) and who is traveling for the
5 purpose of hunting or is otherwise engaging in an activity authorized by the permit.
6 6. Operation is on a roadway, and the limited use off–highway motorcycle is
7 registered for private use under sub. (3) and is being used exclusively as an
8 implement of husbandry or for agricultural purposes. Such operation is authorized
9 only for the extreme right side of the roadway except that left turns may be made
10 from any part of the roadway which is safe given prevailing conditions.
11 7. The roadway part of the highway is blocked off for a special off–highway
12 motorcycle event as authorized under par. (b).
13 (b) *Off–highway motorcycle events.* A local governmental unit may block off
14 highways under its jurisdiction for the purpose of allowing special off–highway
15 motorcycle events. No state trunk highway or connecting highway, or part thereof,
16 may be blocked off by any local governmental unit for any off–highway motorcycle
17 race or derby. A local governmental unit shall notify the local police department and
18 the county sheriff's office at least one week in advance of the time and place of any
19 off–highway motorcycle race or derby which may result in any street, or part thereof,
20 of the local governmental unit being blocked off.
21 (c) *Freeways.* No person may operate a limited use off–highway motorcycle on
22 any part of any freeway which is a part of the federal system of interstate and defense
23 highways under any circumstances. No person may operate a limited use
24 off–highway motorcycle on any part of any other freeway unless the department of

1 transportation authorizes the use of limited use off–highway motorcycles on that
2 freeway.

3 **(11)** OPERATION ADJACENT TO ROADWAY. (a) *Location of operation.* 1. A person
4 may operate an off–highway motorcycle adjacent to a roadway of a town highway
5 that is designated as an off–highway motorcycle route or an off–highway motorcycle
6 trail without any restriction on how close the limited use off–highway motorcycle is
7 to the roadway.

8 2. A person may operate an off–highway motorcycle adjacent to a roadway of
9 a U.S. numbered highway, a state highway, or a county highway that is designated
10 an off–highway motorcycle route or an off–highway motorcycle trail provided that
11 the operation occurs at a distance of 10 or more feet from the roadway. Travel on the
12 median of a divided highway is prohibited except to cross.

13 (b) *Direction of operation.* 1. Except as provided in subd. 2., a person may
14 operate an off–highway motorcycle on an off–highway motorcycle route or
15 off–highway motorcycle trail adjacent to a road only in the same direction as motor
16 vehicle traffic in the nearest lane.

17 2. A person may operate the off–highway motorcycle in either direction if any
18 of the following applies:

19 a. The off–highway motorcycle is being operated during hours of daylight.

20 b. The off–highway motorcycle is being operated during hours of darkness and
21 the off–highway motorcycle route or off–highway motorcycle trail is located at least
22 40 feet from the roadway or is separated from the roadway by a head lamp barrier.

23 (c) *Other limitation.* A person operating an off–highway motorcycle on an
24 off–highway motorcycle route adjacent to a roadway shall comply with the speed

1 limits of the adjacent roadway and with rules promulgated by the department and
2 approved by the department of transportation.

3 **(12)** INTOXICATED OPERATION. (a) *Operation.* 1. No person may operate an
4 off–highway motorcycle while under the influence of an intoxicant to a degree which
5 renders him or her incapable of safe operation of the off–highway motorcycle.

6 2. No person may engage in the operation of an off–highway motorcycle while
7 the person has an alcohol concentration of 0.08 or more.

8 3. If a person has not attained the age of 21, the person may not engage in the
9 operation of an off–highway motorcycle while he or she has an alcohol concentration
10 of more than 0.0 but not more than 0.08.

11 4. A person may be charged with and a prosecutor may proceed upon a
12 complaint based upon a violation of any combination of subd. 1. or 2. for acts arising
13 out of the same incident or occurrence. If the person is charged with violating any
14 combination of subd. 1. or 2., the offenses shall be joined. If the person is found guilty
15 of any combination of subd. 1. or 2. for acts arising out of the same incident or
16 occurrence, there shall be a single conviction for purposes of sentencing and for
17 purposes of counting convictions under sub. (21) (c) 2. and 3. Subdivisions 1. and 2.
18 each require proof of a fact for conviction which the others do not require.

19 (b) *Operation causing injury.* 1. No person while under the influence of an
20 intoxicant to a degree which renders him or her incapable of safe operation of an
21 off–highway motorcycle may cause injury to another person by the operation of an
22 off–highway motorcycle.

23 2. No person who has an alcohol concentration of 0.08 or more may cause injury
24 to another person by the operation of an off–highway motorcycle.

1 3. A person may be charged with and a prosecutor may proceed upon a
2 complaint based upon a violation of any combination of subd. 1. or 2. for acts arising
3 out of the same incident or occurrence. If the person is charged with violating any
4 combination of subd. 1. or 2. in the complaint, the crimes shall be joined under s.
5 971.12. If the person is found guilty of any combination of subd. 1. or 2. for acts
6 arising out of the same incident or occurrence, there shall be a single conviction for
7 purposes of sentencing and for purposes of counting convictions under sub. (21) (c)
8 2. and 3. Subdivisions 1. and 2. each require proof of a fact for conviction which the
9 others do not require.

10 4. In an action under this paragraph, the defendant has a defense if he or she
11 proves by a preponderance of the evidence that the injury would have occurred even
12 if he or she had been exercising due care and even if he or she did not have an alcohol
13 concentration of 0.08 or more.

14 (c) *Implied consent.* Any person who engages in the operation of an
15 off–highway motorcycle upon the public highways of this state, or in those areas
16 enumerated in par. (d), is considered to have given consent to provide one or more
17 samples of his or her breath, blood, or urine for the purpose of authorized analysis
18 as required under pars. (f) and (g). Any person who engages in the operation of an
19 off–highway motorcycle within this state is considered to have given consent to
20 submit to one or more chemical tests of his or her breath, blood, or urine for the
21 purpose of authorized analysis as required under pars. (f) and (g).

22 (d) *Applicability of law.* The intoxicated operation of an off–highway
23 motorcycle law applies to all of the following:

24 1. The operation of an off–highway motorcycle on any off–highway motorcycle
25 corridor or any off–highway motorcycle route.

1 2. The operation of any off–highway motorcycle on other premises or areas
2 located off the highways that are held out to the public for the recreational use of
3 off–highway motorcycles whether such premises or areas are publicly or privately
4 owned and whether or not a fee is charged for the use of an off–highway motorcycle.
5 3. The operation of a limited use off–highway motorcycle on a highway as
6 authorized under sub. (10).
7 4. The operation of an off–highway motorcycle adjacent to a highway as
8 authorized under sub. (11).
9 (e) *Preliminary breath screening.* 1. A person shall provide a sample of his or
10 her breath for a preliminary breath screening test if a law enforcement officer has
11 probable cause to believe that the person is violating or has violated the intoxicated
12 operation of an off–highway motorcycle law and if, prior to an arrest, the law
13 enforcement officer requested the person to provide this sample.
14 2. A law enforcement officer may use the results of a preliminary breath
15 screening test for the purpose of deciding whether or not to arrest a person for a
16 violation of the intoxicated operation of an off–highway motorcycle law or for the
17 purpose of deciding whether or not to request a chemical test under par. (f).
18 Following the preliminary breath screening test, chemical tests may be required of
19 the person under par. (f).
20 3. The result of a preliminary breath screening test is not admissible in any
21 action or proceeding except to show probable cause for an arrest, if the arrest is
22 challenged, or to show that a chemical test was properly required of a person under
23 par. (f).
24 4. There is no penalty for a violation of subd. 1. Subsection (21) (a) and the
25 general penalty provision under s. 939.61 do not apply to the violation.

1 (f) *Chemical tests; requirement.* 1. A person shall provide one or more samples
2 of his or her breath, blood, or urine for the purpose of authorized analysis if he or she
3 is arrested for a violation of the intoxicated operation of an off–highway motorcycle
4 law and if he or she is requested to provide the sample by a law enforcement officer.
5 A person shall submit to one or more chemical tests of his or her breath, blood, or
6 urine for the purpose of authorized analysis if he or she is arrested for a violation of
7 the intoxicated operation of an off–highway motorcycle law and if he or she is
8 requested to submit to the test by a law enforcement officer.

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

12 a. That he or she is deemed to have consented to tests under par. (c).

13 b. That a refusal to provide a sample or to submit to a chemical test constitutes
14 a violation under par. (h) and is subject to the same penalties and procedures as a
15 violation of par. (a) 1.

16 c. That in addition to the designated chemical test under par. (g) 2., he or she
17 may have an additional chemical test under par. (g) 4.

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

24 (g) *Chemical tests; procedures.* 1. Upon the request of a law enforcement officer,
25 a test facility shall administer a chemical test of breath, blood, or urine for the

1 purpose of authorized analysis. A test facility shall be prepared to administer 2 out
2 of 3 of these tests for the purpose of authorized analysis. The department may enter
3 into agreements for the cooperative use of test facilities.

4 2. A test facility shall designate one chemical test of breath, blood, or urine
5 which it is prepared to administer first as the primary test for the purpose of
6 authorized analysis.

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

10 4. If a person is arrested for a violation of the intoxicated operation of an
11 off–highway motorcycle law or is the operator of an off–highway motorcycle involved
12 in an accident resulting in great bodily harm to or the death of someone and if the
13 person is requested to provide a sample or to submit to a test under par. (f) 1., the
14 person may request the test facility to administer the additional chemical test
15 specified under subd. 3.. or, at his or her own expense, reasonable opportunity to have
16 any qualified person administer a chemical test of his or her breath, blood or urine
17 for the purpose of authorized analysis.

18 5. If a person is arrested for a violation of the intoxicated operation of an
19 off–highway motorcycle law and if the person is not requested to provide a sample
20 or to submit to a test under par. (f) 1., the person may request the test facility to
21 administer a chemical test of his or her breath or may request, at his or her own
22 expense, a reasonable opportunity to have any qualified person administer a
23 chemical test of his or her breath, blood, or urine for the purpose of authorized
24 analysis. If a test facility is unable to perform a chemical test of breath, the person

may request the test facility to administer the chemical test designated under par. (f) 2. or the additional chemical test designated under par. (f) 3.

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

7. The failure or inability of a person to obtain a chemical test at his or her own expense does not preclude the admission of evidence of the results of a chemical test required and administered under par. (f) or (g).

8. A chemical test of blood or urine conducted for the purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of the laboratory of hygiene, department of health services, and department of transportation under s. 343.305 (6) apply to a chemical test of blood or urine conducted for the purpose of authorized analysis under pars. (f) and (g). Blood may be withdrawn from a person arrested for a violation of the intoxicated operation of an off–highway motorcycle law only by a physician, registered nurse, medical technologist, physician assistant, or person acting under the direction of a physician, and the person who withdraws the blood, the employer of that person, and any hospital where blood is withdrawn have immunity from civil or criminal liability as provided under s. 895.53.

9. A test facility which administers a chemical test of breath, blood, or urine for the purpose of authorized analysis under pars. (f) and (g) shall prepare a written report which shall include the findings of the chemical test, the identification of the law enforcement officer or the person who requested a chemical test, and the identification of the person who provided the sample or submitted to the chemical test. The test facility shall transmit a copy of the report to the law enforcement officer and the person who provided the sample or submitted to the chemical test.

1 (h) *Chemical tests; refusal.* No person may refuse a lawful request to provide
2 one or more samples of his or her breath, blood, or urine or to submit to one or more
3 chemical tests under par. (f). A person shall not be considered to have refused to
4 provide a sample or to submit to a chemical test if it is shown by a preponderance of
5 the evidence that the refusal was due to a physical inability to provide the sample
6 or to submit to the test due to a physical disability or disease unrelated to the use of
7 an intoxicant. Issues in any action concerning violation of par. (f) or this paragraph
8 are limited to the following:

9 1. Whether the law enforcement officer had probable cause to believe the
10 person was violating or had violated the intoxicated operation of an off–highway
11 motorcycle law.

12 2. Whether the person was lawfully placed under arrest for violating the
13 intoxicated operation of an off–highway motorcycle law.

14 3. Whether the law enforcement officer requested the person to provide a
15 sample or to submit to a chemical test and provided the information required under
16 par. (f) 2. or whether the request and information was unnecessary under par. (f) 3.

17 4. Whether the person refused to provide a sample or to submit to a chemical
18 test.

19 (i) *Chemical tests; effect of test results.* The results of a chemical test required
20 or administered under par. (f) or (g) are admissible in any civil or criminal action or
21 proceeding arising out of the acts committed by a person alleged to have violated the
22 intoxicated operation of an off–highway motorcycle law on the issue of whether the
23 person was under the influence of an intoxicant or the issue of whether the person
24 had alcohol concentrations at or above specified levels. Results of these chemical
25 tests shall be given the effect required under s. 885.235. Paragraphs (f) to (h) do not

1 limit the right of a law enforcement officer to obtain evidence by any other lawful
2 means.

3 (j) *Report of arrest to department.* If a law enforcement officer arrests a person
4 for a violation of the intoxicated operation of an off–highway motorcycle law or the
5 refusal law, the law enforcement officer shall notify the department of the arrest as
6 soon as practicable.

7 (k) *Release of persons arrested.* 1. A person arrested for a violation of the
8 intoxicated operation of the off–highway motorcycle law may not be released until
9 12 hours have elapsed from the time of his or her arrest or unless a chemical test
10 administered under par. (a) 1. or 2. shows that the person has an alcohol
11 concentration of 0.05 or less, except as provided in subd 2.

12 2. A person arrested for a violation of the intoxicated operation of the
13 off–highway motorcycle law may be released to his or her attorney, spouse, relative,
14 or other responsible adult at any time after arrest.

15 (L) *Public education program.* 1. The department shall promulgate rules to
16 provide for a public education program to:

17 a. Inform off–highway motorcycle operators of the prohibitions and penalties
18 included in the intoxicated operation of an off–highway motorcycle law.

19 b. Provide for the development of signs briefly explaining the intoxicated
20 operation of an off–highway motorcycle law.

21 2. The department shall develop and issue an educational pamphlet on the
22 intoxicated operation of an all–terrain vehicle or a utility terrain vehicle law to be
23 distributed to persons issued off–highway motorcycle registration certificates under
24 sub. (3).

1 **(13)** AGE RESTRICTIONS; SAFETY CERTIFICATE REQUIREMENTS. (a) *Under 12 years*
2 *of age.* No person under 12 years of age may operate an off–highway motorcycle on
3 a roadway under any circumstances and may not operate an off–highway motorcycle
4 off a roadway unless he or she is operating a small off–highway motorcycle and he
5 or she is accompanied by a parent or guardian or by a person who is at least 18 years
6 of age who has been designated by the parent or guardian.

7 (b) *At least 12 years of age.* No person who is at least 12 years of age and born
8 after January 1, 1998, may operate an off–highway motorcycle off the highways
9 unless the person holds a valid certificate issued by the department under sub. (14)
10 or by another state or a province of Canada.

11 (c) *Exemptions.* 1. The restrictions under pars. (a) and (b) do not apply to the
12 operation of an off–highway motorcycle on private property if the owner of the
13 property has given consent for the operation and does not hold the property out to
14 the public for use of off–highway motorcycles.

15 2. The restriction under par. (a) does not apply to a person who is operating a
16 limited use off–highway motorcycle at an off–highway motorcycle event sponsored
17 by a local governmental unit, by an off–highway vehicle association, as defined in
18 sub. (1) (x), or by a similar organization that is approved by a local governmental
19 unit, who is wearing protective headgear in compliance with sub. (8) (a) or (b), and
20 who is accompanied by a person who is at least 18 years of age or a parent or
21 guardian.

22 **(14)** SAFETY CERTIFICATION PROGRAM. The department shall establish or
23 supervise the establishment of a program of instruction on laws related to the
24 operation of off–highway motorcycles for recreational purposes off the highways.
25 The program shall include instruction on the intoxicated operation of an off–highway

1 motorcycle law, safety, and related subjects. The department shall establish by rule
2 an instruction fee for this program. All or part of this program may be conducted by
3 means of online instruction. The department shall issue certificates to persons
4 successfully completing the program. An instructor conducting the program of
5 instruction under this subsection shall collect the fee from each person who receives
6 instruction. The department may determine the portion of this fee, which may not
7 exceed 50 percent, that the instructor may retain to defray expenses incurred by the
8 instructor in conducting the program. The instructor shall remit the remainder of
9 the fee or, if nothing is retained, the entire fee to the department. The department
10 shall issue a duplicate certificate of accomplishment to a person who is entitled to a
11 duplicate certificate of accomplishment and who pays a fee of $2.75.

12 **(15)** SAFETY GRANT PROGRAM. (a) The department shall establish a program to
13 award grants to organizations that meet the eligibility requirements under par. (b).

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

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

17 2. The organization promotes the off–highway operation of off–highway
18 motorcycles in a manner that is safe and responsible and that does not harm the
19 environment.

20 3. The organization promotes the off–highway operation of off–highway
21 motorcycles in a manner that does not conflict with the laws, rules, and departmental
22 policies that are applicable to the operation of off–highway motorcycles.

23 4. The interest of the organization is limited to the recreational operation of
24 off–highway motorcycles on off–highway motorcycle trails, off–highway motorcycle
25 routes, and other areas that are off the highways.

1 5. The organization provides support to off–highway motorcycle clubs.

2 (c) An organization receiving a grant under this subsection shall use the grant
3 moneys to promote and provide support to the safety certification program
4 established under sub. (14) by conducting activities that include all of the following:

5 1. Collecting data on the recreational off–highway operation of off–highway
6 motorcycles.

7 2. Providing assistance to the department in locating, recruiting, and training
8 instructors for the safety certification program established under sub. (14).

9 3. Attempting to increase participation by current and future off–highway
10 motorcycle operators and owners in the safety certification program established
11 under sub. (14).

12 4. Assisting the department of natural resources and the department of
13 tourism in creating an outreach program to inform local communities of appropriate
14 recreational off–highway use of off–highway motorcycles in their communities and
15 of the economic benefits that may be gained from promoting tourism to attract
16 persons who will participate in the recreational off–highway use of off–highway
17 motorcycles.

18 5. Attempting to improve and maintain its relationship with all of the
19 following:

20 a. The department of natural resources and the department of tourism.

21 b. Off–highway motorcycle dealers and manufacturers of off–highway
22 motorcycles.

23 c. All–terrain vehicle dealers, as defined in s. 23.33 (1) (bd), and all–terrain
24 vehicle manufacturers, as defined in s. 23.33 (1) (bp).

1 d. Snowmobile clubs, as defined in s. 350.138 (1) (e), snowmobile alliances, as
2 defined in s. 350.138 (1) (d), and other organizations that promote the recreational
3 operation of snowmobiles.

4 6. Recruiting, assisting in the training of, and providing support to, a corps of
5 volunteers that will assist in providing instruction on the safe and responsible
6 off–highway operation of off–highway motorcycles that is given in the field to
7 operators of off–highway motorcycles.

8 7. Assist the department in publishing a manual that will be used to train
9 volunteers in monitoring the recreational off–highway operation of off–highway
10 motorcycles for safety issues and other issues that relate to responsible operation.

11 (d) The department shall pay the grants from the appropriation under s. 20.370
12 (1) (jb).

13 **(16)** LANDOWNER INCENTIVE PAYMENT PROGRAM. (a) The department shall
14 establish a program to make incentive payments to private landowners who permit
15 off–highway motorcycle corridors on their lands and who apply for the payments.

16 (b) An application is not considered complete until the forester or another
17 employee of each county in which the off–highway motorcycle corridor is located
18 measures the length of the corridor in that county for the purpose of calculating the
19 payment.

20 (c) The department shall allocate a certain amount for the incentive payments
21 that may not be exceeded under this program for each fiscal year and shall
22 promulgate rules to determine the amount of the annual allocation of the individual
23 incentive payments. If the total amount of incentive payments made in a given fiscal
24 year would exceed the amount available for the payments, the department shall
25 establish a system to prorate the payments.

(d) The department shall make the incentive payments under this subsection from the appropriation under s. 20.370 (5) (cz).

(17) EQUIPMENT REQUIREMENTS. (a) No person may operate a limited use off–highway motorcycle during hours of darkness unless it is equipped with a lighted headlamp and a lighted tail lamp. The headlamp is required to display a white light of sufficient illuminating power to reveal any person, vehicle, or substantial object at a distance of at least 200 feet ahead of the off–highway motorcycle. The tail lamp is required to display a red light plainly visible from a distance of 500 feet to the rear.

(b) No person may operate a limited use off–highway motorcycle unless it is equipped with all of the following:

1. At least one brake operated either by hand or by foot.

2. Foot rests or pegs for the operator and any passenger.

3. A functioning spark arrester of a type approved by the U.S. forest service.

4. A functioning muffler unless the off–highway motorcycle is propelled by electric power.

(c) No person may operate a limited use off–highway motorcycle unless the limited use off–highway motorcycle is constructed in such a manner that noise emitted from the limited use off–highway motorcycle does not exceed 96 decibels on the A scale as measured in the manner required under rules promulgated by the department.

(d) Paragraphs (a) to (c) do not apply to the operation of a limited use off–highway motorcycle on private property if the owner of the property has given consent for the operation and does not hold the property out to the public for use of off–highway motorcycles.

1 **(18)** ACCIDENTS. (a) If an operator of an off–highway motorcycle is involved in
2 an accident that occurs off a highway and that results in the death of any person or
3 in the injury of any person that requires treatment by a physician, the operator of
4 each off–highway motorcycle involved in the accident shall give notice of the accident
5 to a conservation warden or local law enforcement officer as soon as possible. Each
6 operator shall also file a written report of the accident with the department on the
7 form provided by it within 10 days after the accident.

8 (b) If an operator of an off–highway motorcycle is physically incapable of
9 making the report required under par. (a) and there was another witness to the
10 accident capable of making the report, the witness may make the report.

11 **(19)** TRAILS AND ROUTES. (a) *Department authority.* The department shall
12 encourage, develop, and supervise a system of off–highway motorcycle trails and
13 off–highway motorcycle routes. The department may establish standards and
14 procedures for designating off–highway motorcycle corridors and off–highway
15 motorcycle routes under the jurisdiction of the department.

16 (b) *Trails.* A local governmental unit or the department may designate
17 corridors through land which it owns or controls, or for which it obtains leases,
18 easements, or permission, for recreational use as off–highway motorcycle trails. A
19 designation may include all or a portion of an all–terrain vehicle trail.

20 (c) *Routes.* A local governmental unit may designate highways as off–highway
21 motorcycle routes. No state trunk highway or connecting highway may be
22 designated as an off–highway motorcycle route unless the department of
23 transportation approves the designation.

24 (d) *Restrictions.* The designating local governmental unit may specify effective
25 periods for the use of off–highway motorcycle trails and off–highway motorcycle

1 routes and may restrict or prohibit the operation of off–highway motorcycles during
2 certain periods of the year.

3 (e) *Signs.* The department, in cooperation with the department of
4 transportation, shall establish uniform signs and standards for off–highway
5 motorcycle routes and off–highway motorcycle trails.

6 (f) *Interference with signs and standards prohibited.* 1. No person may
7 intentionally remove, damage, deface, move, obstruct, or interfere with the effective
8 operation of any uniform off–highway motorcycle route sign or standard or any
9 uniform off–highway motorcycle trail sign or standard if the sign or standard is
10 legally placed by the state, any local governmental unit, or any authorized
11 individual.

12 2. No person may possess any uniform off–highway motorcycle route sign or
13 standard or any uniform off–highway motorcycle trail sign or standard of the type
14 established by the department for the warning, instruction, or information of the
15 public unless he or she obtained the uniform sign or standard in a lawful manner.
16 Possession of a uniform sign or standard creates a rebuttable presumption of illegal
17 possession.

18 **(20)** ENFORCEMENT ACTIVITIES AND PROJECTS; FUNDING. (a) *Calculation of*
19 *registration fees.* Before January 1 of each fiscal year, the department shall
20 determine the total amount of fees received from the registration of off–highway
21 vehicles under subs. (4) (d), (e), and (h) 2. and (5) (e) in the previous fiscal year.

22 (b) *Off–highway motorcycle projects.* The department may use funding from
23 the appropriation under s. 20.370 (1) (jb) for off–highway motorcycle projects that are
24 undertaken by the state or by local governmental units. Any of the following types
25 of off–highway motorcycle projects are eligible for funding:

1. Acquisition of an easement or land in fee simple.

2. An off–highway motorcycle facility such as a parking area, riding area, shelter, toilets, or other improvement.

3. Development of off–highway motorcycle routes or off–highway motorcycle trails.

4. Development or maintenance of an all–terrain vehicle trail, all–terrain vehicle route, or all–terrain vehicle facility or a snowmobile trail, snowmobile route, or snowmobile facility, if the trail, route, or facility is open for use by off–highway motorcycles.

5. Maintenance of off–highway motorcycle trails and off–highway motorcycle routes, including routes on roadways that are not maintained or only minimally maintained for motor vehicle traffic on a seasonal basis.

6. Purchase of liability insurance.

(c) *Priorities.* In providing funding for the types of projects listed in par. (b), the department shall give higher overall priority to projects for facilities and trails that are open only for use by off–highway motorcycles. In determining which off–highway motorcycle projects will be provided funding, the department shall consider all of the following:

1. The distance of a proposed off–highway project from a comparable existing project.

2. The amount of interest demonstrated by a community in developing or maintaining an off–highway motorcycle project.

3. The amount of support demonstrated by a local governmental unit in which the project will be located.

1 4. The number of existing trails, routes, and facilities that are open to
2 off–highway motorcycles or that are in the process of being developed.
3 (d) *Signs.* In addition to the types of projects listed in par. (b), the department
4 may provide funding under this subsection to a local governmental unit for up to 100
5 percent of the cost of placing signs developed under sub. (12) (L) 1. b.
6 (e) *Charging of fees.* A local governmental unit that has not received funding
7 under par. (b) in the prior fiscal year may charge a seasonal or daily use fee for an
8 off–highway motorcycle area operated by the local governmental unit.
9 **(21)** LOCAL ORDINANCES. (a) Any local governmental unit may enact an
10 ordinance which is in strict conformity with this section and rules promulgated by
11 the department under this section, if the ordinance encompasses all aspects
12 encompassed by this section.
13 (b) If a local governmental unit enacts an ordinance regulating off–highway
14 motorcycles, its clerk shall immediately send a copy of the ordinance to the
15 department and to the office of any law enforcement agency of the local governmental
16 unit having jurisdiction over any highway designated as an off–highway motorcycle
17 route.
18 **(22)** ENFORCEMENT. (a) A law enforcement officer has the authority and
19 jurisdiction to enforce this section and ordinances enacted in accordance with this
20 section.
21 (b) No operator of an off–highway motorcycle may refuse to stop after being
22 requested or signaled to do so by a law enforcement officer.
23 **(23)** PENALTIES. (a) *Generally.* Except as provided in pars. (b) to (f), any person
24 who violates this section shall forfeit not more than $250.

1 (b) *Penalty related to nonresident trail passes.* Any person who violates sub.
2 (6) (a) shall forfeit not more than $1,000.

3 (c) *Penalties related to intoxicated operation.* 1. Except as provided under
4 subds. 2. and 3., a person who violates sub. (12) (a) 1. or 2. or (h) shall forfeit not less
5 than $150 nor more than $300.

6 2. Except as provided under subd. 3., a person who violates sub. (12) (a) 1. or
7 2. or (h) and who, within 5 years prior to the arrest for the current violation, was
8 convicted previously under the intoxicated operation of an off–highway motorcycle
9 law shall be fined not less than $300 nor more than $1,100 and shall be imprisoned
10 not less than 5 days nor more than 6 months.

11 3. A person who violates sub. (12) (a) 1. or 2. or (h) and who, within 5 years prior
12 to the arrest for the current violation, was convicted 2 or more times previously under
13 the intoxicated operation of an off–highway motorcycle law shall be fined not less
14 than $600 nor more than $2,000 and shall be imprisoned not less than 30 days nor
15 more than one year in the county jail.

16 4. A person who violates sub. (12) (a) 3. or (h) and who has not attained the age
17 of 21 shall forfeit not more than $50.

18 (d) *Penalty related to causing injury; intoxicants.* A person who violates sub.
19 (12) (b) shall be fined not less than $300 nor more than $2,000 and may be imprisoned
20 not less than 30 days nor more than one year in the county jail.

21 (e) *Penalty related to interference with signs and standards.* Except as provided
22 in par. (f), a person who violates sub. (19) (f) and who, within the last 2 years prior
23 to the arrest for the current violation, was 2 or more times previously convicted for
24 violating a provision of this chapter shall forfeit not more than $500.

1 (f) *Penalties related to causing death or injury; interference with signs and*
2 *standards.* A person who violates sub. (19) (f) 1. is guilty of a Class H felony if the
3 violation causes the death or injury, as defined in s. 30.67 (3) (b), of another person.
4 (g) *Calculation of previous convictions.* In determining the number of previous
5 convictions under par. (c) 2. and 3., convictions arising out of the same incident or
6 occurrence shall be counted as one previous conviction.
7 (h) *Reporting convictions to the department.* Whenever a person is convicted
8 of a violation of the intoxicated operation of an off–highway motorcycle law, the clerk
9 of the court in which the conviction occurred, or the justice, judge, or magistrate of
10 a court not having a clerk, shall forward to the department the record of such
11 conviction. The record of conviction forwarded to the department shall state whether
12 the offender was involved in an accident at the time of the offense.
13 (i) *Intoxicants; assessment.* In addition to any other penalty or order, a person
14 who violates sub. (12) (a), (b), or (h) shall be ordered by the court to submit to and
15 comply with an assessment by an approved public treatment facility for an
16 examination of the person's use of an intoxicant. The assessment order shall comply
17 with s. 343.30 (1q) (c) 1. Intentional failure to comply with an assessment ordered
18 under this paragraph constitutes contempt of court, punishable under ch. 785.
19 (j) *Restoration or replacement of signs and standards.* In addition to any other
20 penalty, the court may order the defendant to restore or replace any uniform
21 off–highway motorcycle route sign or standard, or any uniform off–highway
22 motorcycle trail sign or standard, that the defendant removed, damaged, defaced,
23 moved, or obstructed.
24 **SECTION 18.** 23.35 (1) (intro.) of the statutes is amended to read:

23.35 **(1)** (intro.) The secretary shall enter into a reciprocal agreement with a federally recognized American Indian tribe or band in this state to exempt, from the registration and certification requirements of this state, boats, snowmobiles, all–terrain vehicles, ~~and~~ utility terrain vehicles, and off–highway motorcycles that are owned by tribal or band members and registered under a registration program established by the tribe or band if the tribe or band requests the agreement and if the registration program does all of the following:

SECTION 19. 23.35 (1) (a) of the statutes is amended to read:

23.35 **(1)** (a) Requires that boats, snowmobiles, all–terrain vehicles, ~~and~~ utility terrain vehicles, and off–highway motorcycles display decals or identification numbers showing valid registration by the tribe or band.

SECTION 20. 23.35 (1) (b) of the statutes is amended to read:

23.35 **(1)** (b) Employs registration decals and certificates of number that are substantially similar to those employed by the registration or certification programs of this state with regard to size, legibility, information content and placement on the boat, snowmobile, all–terrain vehicle, ~~or~~ utility terrain vehicle, or off–highway motorcycle.

SECTION 21. 23.35 (1) (e) of the statutes is amended to read:

23.35 **(1)** (e) Provides reciprocal exemptions, from the tribe's or band's registration requirements, for boats, snowmobiles, all–terrain vehicles, ~~and~~ utility terrain vehicles, and off–highway motorcycles that are registered or certified by this state that are substantially as favorable as the exemptions enjoyed by the tribe or the band under the agreement. In this paragraph, "reciprocal exemption" means an exemption under the agreement that exempts from a tribe's or band's registration requirements, for operation within the boundaries of the tribe's or band's

reservation, a boat, snowmobile, all–terrain vehicle, ~~or~~ utility terrain vehicle, or off–highway motorcycle that is owned by a person who is not a member of the tribe or band and that is registered or certified by this state to the same extent that the agreement exempts from state registration and certification requirements, for the operation outside the boundaries of the tribe's or band's reservation, a boat, snowmobile, all–terrain vehicle, ~~or~~ utility terrain vehicle, or off–highway motorcycle that is registered by the tribe or band.

SECTION 22. 23.35 (2) of the statutes is amended to read:

23.35 **(2)** An agreement entered into under sub. (1) may cover a registration program for boats, snowmobiles, all–terrain vehicles, ~~or~~ utility terrain vehicles, or off–highway motorcycles, or any combination thereof.

SECTION 23. 23.45 (1) (d) of the statutes is amended to read:

23.45 **(1)** (d) "Registration" means any registration documentation, as defined in s. 23.33 (1) (jn), 23.335 (1) (zg), or s. 350.01 (10t), or certification or registration documentation, as defined in s. 30.50 (3b), issued by the department or its agents.

SECTION 24. 23.45 (1) (d) 3. of the statutes is created to read:

23.45 **(1)** (d) 3. Any certificate issued by the department under s. 23.335 (3).

SECTION 25. 23.50 (1) of the statutes, as affected by 2013 Wisconsin Act 69, is amended to read:

23.50 **(1)** The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81, and 299.64 (2), subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 280.98

(2) or 285.86, violations of s. 281.36 if the department chooses to proceed under s. 281.36 (14) (f), violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77.

SECTION 26. 23.50 (3) of the statutes is amended to read:

23.50 **(3)** All actions in municipal court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77 shall utilize the procedure in ch. 800. The actions shall be brought before the municipal court having jurisdiction. Provisions relating to citations, arrests, questioning, releases, searches, deposits, and stipulations of no contest in ss. 23.51 (1m), (3), and (8), 23.53, 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to violations of such ordinances.

SECTION 27. 23.53 (1) of the statutes is amended to read:

23.53 **(1)** The citation created under this section shall, in all actions to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, and any rule of the Kickapoo reserve management board under s. 41.41 (7) (k) be used by any law enforcement officer with authority to enforce those laws, except that the uniform traffic citation created under s. 345.11 may be used by a traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law enforcement agency of a municipality or county or a traffic officer employed under s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall

not be used for violations of ch. 350 relating to highway use. The citation may be used for violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77.

SECTION 28. 23.56 (1) of the statutes is amended to read:

23.56 **(1)** A person may be arrested for a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77, after a warrant that substantially complies with s. 968.04 has been issued. Except as provided in sub. (2), the person arrested shall be brought without unreasonable delay before a court having jurisdiction to try the action.

SECTION 29. 23.57 (1) (intro.) of the statutes is amended to read:

23.57 **(1)** (intro.) A person may be arrested without a warrant when the arresting officer has probable cause to believe that the person is committing or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77; and:

SECTION 30. 23.58 of the statutes is amended to read:

23.58 Temporary questioning without arrest. After having identified himself or herself as an enforcing officer, an enforcing officer may stop a person in a public place for a reasonable period of time when the officer reasonably suspects that such person is committing, is about to commit or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)

(k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77. Such a stop may be made only where the enforcing officer has proper authority to make an arrest for such a violation. The officer may demand the name and address of the person and an explanation of the person's conduct. Such detention and temporary questioning shall be conducted in the vicinity where the person was stopped.

SECTION 31. 23.62 (1) (intro.) of the statutes is amended to read:

23.62 **(1)** (intro.) Whenever an enforcing officer has probable cause to believe that a person subject to his or her authority is committing or has committed a violation of those statutes enumerated in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77, the officer may proceed in the following manner:

SECTION 32. 25.29 (1) (a) of the statutes is amended to read:

25.29 **(1)** (a) Except as provided in ss. 25.293 and 25.295, all moneys accruing to the state for or in behalf of the department under chs. 26, 27, 28, 29, 169, and 350, subchs. I and VI of ch. 77 and ss. 23.09 to 23.31, 23.325, 23.33, 23.335, except as provided in s. 25.40 (1) (bt), 23.35 to 23.42, 23.50 to 23.99, 30.50 to 30.55, 70.58, 71.10 (5), 71.30 (10), and 90.21, including grants received from the federal government or any of its agencies except as otherwise provided by law.

SECTION 33. 25.40 (1) (bt) of the statutes is created to read:

25.40 **(1)** (bt) Moneys received by the department of natural resources under s. 23.335 (4) (d), (e), and (h) 2. and (5) (e).

SECTION 34. 30.26 (4) (title) of the statutes is amended to read:

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

SECTION 35. 30.26 (4) (a) (intro.) of the statutes is amended to read:

30.26 **(4)** (a) (intro.) The department may not prohibit the crossing of a bridge over a wild river by an all–terrain vehicle or utility terrain vehicle traveling on an all–terrain vehicle trail, as defined under s. 23.33 (1) (d), by an off–highway motorcycle traveling on an off–highway motorcycle trail designated under sub. (19) (b), or by a snowmobile traveling on a snowmobile trail, as defined under s. 350.01 (17) that is constructed in any of the following locations:

SECTION 36. 30.26 (4) (b) of the statutes is amended to read:

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

SECTION 37. 30.29 (1) (b) of the statutes is amended to read:

30.29 **(1)** (b) "Motor vehicle" includes a utility terrain vehicle, as defined in s. 23.33 (1) (ng), ~~and~~ an all–terrain vehicle, as defined in s. 340.01 (2g), and an off–highway motorcycle, as defined in s. 23.335 (1) (q).

SECTION 38. 46.03 (18) (f) of the statutes is amended to read:

46.03 **(18)** (f) Notwithstanding par. (a), any person who submits to an assessment or airman or driver safety plan under s. 23.33 (13) (e), 23.335 (23) (i), 30.80 (6) (d), 114.09 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d) shall pay a reasonable fee therefor to the appropriate county department under s. 51.42 or traffic safety school under s. 345.60. A county may allow the person to pay the assessment fee in 1, 2, 3 or 4 equal installments. The fee for the airman or driver

safety plan may be reduced or waived if the person is unable to pay the complete fee, but no fee for assessment or attendance at a traffic safety school under s. 345.60 may be reduced or waived. Nonpayment of the assessment fee is noncompliance with the court order that required completion of an assessment and airman or driver safety plan. Upon a finding that the person has the ability to pay, nonpayment of the airman or driver safety plan fee is noncompliance with the court order that required completion of an assessment and airman or driver safety plan.

SECTION 39. 59.54 (14) (g) of the statutes is amended to read:

59.54 **(14)** (g) A county may establish extensions of the jail, which need not be at the county seat, to serve as places of temporary confinement. No person may be detained in such an extension for more than 24 consecutive hours, except that a court may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c), 23.335 (23) (c) 2. or 3. or (d), or 350.11 (3) (a) 2. or 3. or (b) be imprisoned for more than 24 consecutive hours in such an extension. Jail extensions shall be subject to plans and specifications approval by the department of corrections and shall conform to other requirements imposed by law on jails, except that cells may be designed and used for multiple occupancy.

SECTION 40. 70.11 (45m) of the statutes is amended to read:

70.11 **(45m)** SNOWMOBILE, ALL–TERRAIN VEHICLE, AND UTILITY TERRAIN VEHICLE CLUBS. Trail groomers owned by a snowmobile club, an all–terrain vehicle club, ~~or~~ a utility terrain vehicle club, or an off–highway motorcycle club that is exempt from taxation under section 501 (c) (3), (4), or (7) of the Internal Revenue Code.

SECTION 41. 71.05 (6) (b) 44. of the statutes is amended to read:

71.05 **(6)** (b) 44. For taxable years beginning after December 31, 2006, the amount of any incentive payment received by an individual under s. 23.33 (5r) or 23.335 (16) in the taxable year to which the claim relates.

SECTION 42. 71.26 (1) (g) of the statutes is amended to read:

71.26 **(1)** (g) For taxable years beginning after December 31, 2006, the amount of any incentive payment received by ~~an individual~~ any person under s. 23.33 (5r) or 23.335 (16) in the taxable year to which the claim relates.

SECTION 43. 71.45 (1) (b) of the statutes is amended to read:

71.45 **(1)** (b) For taxable years beginning after December 31, 2006, the amount of any incentive payment received by an ~~individual~~ insurer under s. 23.33 (5r) or 23.335 (16) in the taxable year to which the claim relates.

SECTION 44. 77.51 (13s) of the statutes is amended to read:

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

SECTION 45. 77.61 (1) (a) of the statutes is amended to read:

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

SECTION 46. 77.61 (1) (b) of the statutes is amended to read:

77.61 **(1)** (b) In the case of motor vehicles, boats, snowmobiles, recreational vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all–terrain vehicles,

utility terrain vehicles, off–highway motorcycles, or aircraft purchased from a retailer, the registrant shall present proof that the tax has been paid to such retailer.

SECTION 47. 77.61 (1) (c) of the statutes is amended to read:

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

SECTION 48. 77.73 (2) of the statutes is amended to read:

77.73 **(2)** Counties and special districts do not have jurisdiction to impose the tax under s. 77.71 (2) in regard to items, property, and goods under s. 77.52 (1) (b), (c), and (d), and tangible personal property, except snowmobiles, trailers, semitrailers, limited use off–highway motorcycles, all–terrain vehicles, and utility terrain vehicles, purchased in a sale that is consummated in another county or special district in this state that does not have in effect an ordinance or resolution imposing the taxes under this subchapter and later brought by the buyer into the county or special district that has imposed a tax under s. 77.71 (2).

SECTION 49. 78.01 (2) (e) of the statutes is amended to read:

78.01 **(2)** (e) Gasoline sold for nonhighway use in mobile machinery and equipment; other than use in a snowmobile, a limited use off–highway motorcycle that is not registered for private use under s. 23.335 (3) (a), an all–terrain vehicle or utility terrain vehicle that is not registered for private use under s. 23.33 (2) (d), or

a recreational motorboat; and delivered directly into the consumer's storage tank in an amount of not less than 100 gallons.

SECTION 50. 78.01 (2m) (f) of the statutes is amended to read:

78.01 **(2m)** (f) It is dyed diesel fuel and is sold for off–highway use other than use in a snowmobile, in a limited use off–highway motorcycle that is not registered for private use under s. 23.335 (3) (a), in an all–terrain vehicle or utility terrain vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g), or in a recreational motorboat or if no claim for a refund for the tax on the diesel fuel may be made under s. 78.75 (1m) (a) 3.

SECTION 51. 78.40 (1) of the statutes is amended to read:

78.40 **(1)** IMPOSITION OF TAX AND BY WHOM PAID. An excise tax at the rate determined under ss. 78.405 and 78.407 is imposed on the use of alternate fuels. The tax, with respect to all alternate fuel delivered by an alternate fuel dealer into supply tanks of motor vehicles in this state, attaches at the time of delivery and shall be collected by the dealer from the alternate fuels user and shall be paid to the department. The tax, with respect to alternate fuels acquired by any alternate fuels user other than by delivery by an alternate fuel dealer into a fuel supply tank of a motor vehicle, ~~or~~ of a snowmobile, of a limited use off–highway motorcycle that is not registered for private use under s. 23.335 (3) (a), of an all–terrain vehicle or utility terrain vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g), or of a recreational motorboat, attaches at the time of the use of the fuel and shall be paid to the department by the user. The department may permit any supplier of alternate fuels to report and pay to the department the tax on alternate fuels delivered into the storage facility of an alternate fuels user or retailer which will be consumed for alternate fuels tax purposes or sold at retail.

1 **SECTION 52.** 78.75 (1m) (a) 2m. of the statutes is amended to read:

2 78.75 **(1m)** (a) 2m. A person who uses motor vehicle fuel or an alternate fuel
3 upon which has been paid the tax required under this chapter for the purpose of
4 operating an all–terrain vehicle, as defined under s. 340.01 (2g), or a utility terrain
5 vehicle, as defined under s. 23.33 (1) (ng), may not be reimbursed or repaid the
6 amount of tax paid unless the all–terrain vehicle or utility terrain vehicle is
7 registered for private use under s. 23.33 (2) (d) or (2g). A person who uses motor
8 vehicle fuel or an alternate fuel upon which has been paid the tax required under this
9 chapter for the purposes of operating a limited use off–highway motorcycle, as
10 defined in s. 23.335 (1) (o), that is registered under s. 23.335 (3) may not be
11 reimbursed or repaid the amount of tax paid unless the off–highway motorcycle is
12 registered for private use under s. 23.335 (3) (a).

13 **SECTION 53.** 78.75 (1m) (a) 3. of the statutes is amended to read:

14 78.75 **(1m)** (a) 3. Claims under subd. 1. shall be made and filed. The forms shall
15 indicate that refunds are not available for motor vehicle fuel or alternate fuels used
16 for motorboats, except motorboats exempt from registration as motor vehicles under
17 s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle
18 fuel or alternate fuels used for snowmobiles and that the estimated snowmobile
19 motor vehicle fuel or alternate fuels tax payments are used for snowmobile trails and
20 areas. The forms shall indicate that refunds are not available for motor vehicle fuel
21 or alternate fuels used for all–terrain vehicles or utility terrain vehicles unless the
22 vehicle is registered for private use under s. 23.33 (2) (d) or (2g) and shall indicate
23 that estimated all–terrain vehicle or utility terrain vehicle motor vehicle fuel or
24 alternate fuels tax payments are used for all–terrain vehicle trails and areas. The
25 forms shall indicate that refunds are not available for motor vehicle fuel or alternate

fuels used for limited use off–highway motorcycles unless the motorcycle is registered for private use under s. 23.335 (3) (a) and shall indicate that estimated off–highway motorcycle fuel or alternate fuels tax payments are used for off–highway motorcycle trails and areas. The forms shall also indicate that refunds are not available for the tax on less than 100 gallons. The department shall distribute forms in sufficient quantities to each county clerk.

SECTION 54. 100.48 (1) (bg) of the statutes is created to read:

100.48 **(1)** (bg) "Off–highway motorcycle" has the meaning given in s. 23.335 (1) (q).

SECTION 55. 100.48 (1) (br) of the statutes is created to read:

100.48 **(1)** (br) "Off–highway vehicle" means a snowmobile, an all–terrain vehicle, a utility terrain vehicle, or an off–highway motorcycle.

SECTION 56. 100.48 (2) of the statutes is amended to read:

100.48 **(2)** No person may, either personally or through an agent, remove, replace, disconnect, reset, tamper with, alter, or fail to connect, an hour meter attached to farm equipment, ~~a snowmobile, an all–terrain vehicle, a utility terrain~~ an off–highway vehicle, or a boat with the intent to defraud by changing or affecting the number of hours of operation indicated on the hour meter.

SECTION 57. 100.48 (3) (a) of the statutes is amended to read:

100.48 **(3)** (a) Nothing in this section shall prevent the service, repair or replacement of an hour meter if the number of hours of operation indicated on the hour meter remains the same as before the service, repair or replacement. If an hour meter attached to farm equipment, ~~a snowmobile, an all–terrain vehicle, a utility terrain~~ an off–highway vehicle, or a boat is incapable of registering the same number of hours of operation as before its service, repair or replacement, the hour meter shall

be adjusted to read zero, and a sticker shall be affixed by the owner of the vehicle or device to which the hour meter is attached or an agent, in proximity to the hour meter, specifying the number of hours of operation recorded on the hour meter prior to its service, repair or replacement and the date on which it was serviced, repaired or replaced. No person who services, repairs or replaces an hour meter attached to farm equipment, ~~a snowmobile, an all–terrain vehicle, a utility terrain~~ an off–highway vehicle, or a boat that is incapable of registering the same number of hours of operation as before such service, repair or replacement may fail to adjust the hour meter to read zero or fail to affix the sticker required by this paragraph.

SECTION 58. 100.48 (4) (c) of the statutes is amended to read:

100.48 **(4)** (c) Any person who violates sub. (2) or (3) with respect to an hour meter attached to ~~a snowmobile, an all–terrain vehicle, a utility terrain vehicle,~~ an off–highway vehicle or a boat may be fined not more than $5,000 or imprisoned for not more than one year in the county jail, or both, for each violation.

SECTION 59. 110.07 (1) (a) 1. of the statutes is amended to read:

110.07 **(1)** (a) 1. Enforce and assist in the administration of this chapter and chs. 194, 218, 341 to 349 and 351, and ss. 23.33, 23.335, 125.07 (4) (b), 125.085 (3) (b), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or orders or rules issued pursuant thereto.

SECTION 60. 110.07 (3) of the statutes is amended to read:

110.07 **(3)** The secretary may employ inspectors who may not wear the uniform of the state patrol, whose duties shall be to enforce and assist in administering ~~s.~~ ss. 23.33, 23.335, and 346.63, this chapter and chs. 194, 218, 340 to 345 and 347 to 351, ~~s. 23.33,~~ the inspection requirements of s. 121.555 (2) (b) and the requirements under s. 346.45 (4) for vehicles being used to transport hazardous materials. Such

inspectors, in the performance of these duties, shall have the powers and authority of state traffic officers. For the purpose of death, disability and retirement coverage, such inspectors shall be subject to ch. 40 as is the state traffic patrol. Subject to sub. (5), the secretary may clothe and equip inspectors as the interest of public safety and their duties require.

SECTION 61. 322.111 of the statutes is amended to read:

322.111 Article 111 — Drunken or reckless operation of ~~an all–terrain vehicle, utility terrain vehicle, vehicle, snowmobile, aircraft, or vessel~~ certain vehicles, vessels, and aircraft. Any person who violates s. 23.33 (3) (a) or (4c), 23.335 (9) (a) 1. or (12) (a) or (b), 30.68, 30.681, 114.09, 346.62, 346.63 (1) or (2), 350.10 (1) (b), 350.101, 940.25, or 940.09 where the offense involved the operation or physical control of an aircraft, all–terrain vehicle, utility terrain vehicle, snowmobile, vehicle, off–highway vehicle, or vessel on or off a highway shall be punished as the court–martial may direct.

SECTION 62. 341.059 of the statutes is created to read:

341.059 Off–highway motorcycles. All motorcycles that are only being operated off the highways, as defined in s. 23.335 (1) (y), are not required to be registered under this chapter but shall be registered as required under s. 23.335 (3).

SECTION 63. 343.05 (4) (b) 1m. of the statutes is created to read:

343.05 **(4)** (b) 1m. A person while operating a limited use off–highway motorcycle, as defined in s. 23.335 (1) (o).

SECTION 64. 344.61 (1) of the statutes is amended to read:

344.61 **(1)** Notwithstanding s. 344.01 (2) (b), "motor vehicle" does not include trailers, semitrailers, all–terrain vehicles, ~~and~~ utility terrain vehicles, or limited use off–highway motorcycles, as defined in s. 23.335 (1) (o).

1 **SECTION 65.** 345.11 (1r) of the statutes is amended to read:

2 345.11 **(1r)** The uniform traffic citation or the citation form under s. 23.54 shall
3 be used for violations of s. 23.33 or 23.335 relating to highway use or ordinances
4 enacted in accordance with that section if the violation is committed on a highway,
5 but no points may be assessed against the driving record of the operator of an
6 all–terrain vehicle ~~or~~, utility terrain vehicle, or an off–highway motorcycle, as
7 defined in s. 23.335 (1) (q), operated off the highways, as defined in s. 23.335 (1) (y).
8 When the uniform traffic citation is used, the report of conviction shall be forwarded
9 to the department. When the citation form under s. 23.54 is used, the procedure in
10 ss. 23.50 to 23.85 applies.

11 **SECTION 66.** 346.66 (1) (c) of the statutes is amended to read:

12 346.66 **(1)** (c) Sections 346.67 to 346.70 do not apply to accidents involving only
13 snowmobiles, all–terrain vehicles, utility terrain vehicles, off–highway motorcycles,
14 as defined in s. 23.335 (1) (q), that were being operated off the highways, as defined
15 in s. 23.335 (1) (y), or vehicles propelled by human power or drawn by animals.

16 **SECTION 67.** 346.71 (1) of the statutes is amended to read:

17 346.71 **(1)** Every coroner or medical examiner shall, on or before the 10th day
18 of each month, report in writing any accident involving a motor vehicle occurring
19 within the coroner's or medical examiner's jurisdiction resulting in the death of any
20 person during the preceding calendar month. If the accident involved an all–terrain
21 vehicle or utility terrain vehicle, the report shall be made to the department of
22 natural resources and shall include the information specified by that department.
23 If the accident involved an off–highway motorcycle, as defined in s. 23.335 (1) (q),
24 operated off the highways, as defined in s. 23.335 (1) (y), the report shall be made to
25 the department of natural resources and the department of transportation and shall

include the information specified by each department. If the accident involved any other motor vehicle, the report shall be made to the department of transportation and shall include the information specified by ~~the~~ that department. The coroner or medical examiner of the county where the death occurs, if the accident occurred in another jurisdiction, shall, immediately upon learning of the death, report it to the coroner or medical examiner of the county where the accident occurred, as provided in s. 979.01 (1).

SECTION 68. 346.71 (2) of the statutes is amended to read:

346.71 **(2)** In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or electric personal assistive mobility device operator 14 years of age or older and who died within 6 hours of the time of the accident, the coroner or medical examiner of the county where the death occurred shall require that a blood specimen of at least 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of the physician. All funeral directors shall obtain a release from the coroner or medical examiner of the county where the accident occurred as provided in s. 979.01 (4) prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the department of health services for analysis of the alcoholic content of the blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the department of health services. If the death involved a motor vehicle, the department shall keep a record of all such examinations to be used for statistical

purposes only and the department shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved. If the death involved an all–terrain vehicle ~~or~~, utility terrain vehicle, or an off–highway motorcycle, as defined in s. 23.335 (1) (q), that was being operated off the highways, as defined in s. 23.335 (1) (y), the department of natural resources shall keep a record of all such examinations to be used for statistical purposes only and the department of natural resources shall disseminate and make public the cumulative results of the examinations without identifying the individuals involved.

SECTION 69. 346.94 (1) of the statutes is amended to read:

346.94 **(1)** DRIVING ON SIDEWALK. Except as authorized in s. 23.33 (4) (f) or when the sidewalk is an all–terrain vehicle route, as defined in s. 23.33 (1) (c) or an off–highway motorcycle route, as defined in s. 23.335 (1) (u), the operator of a vehicle ~~shall~~ may not drive upon any sidewalk area except at a permanent or temporarily established driveway unless permitted to do so by the local authorities.

SECTION 70. 347.24 (1) (d) of the statutes is created to read:

347.24 **(1)** (d) An off–highway motorcycle, as defined in s. 23.335 (1) (q), that is being operated as an implement of husbandry off a highway need only comply with the lamp requirements established under s. 23.335 (17) (a).

SECTION 71. 800.02 (2) (b) of the statutes is amended to read:

800.02 **(2)** (b) Except for parking violations, in traffic regulation actions in municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu of the citation form specified in par. (ag). In actions for violations of local ordinances enacted in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77, the citation form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

SECTION 72. 814.63 (3m) (a) of the statutes is amended to read:

814.63 **(3m)** (a) Except as provided in par. (d), if a defendant is required to appear in court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the court shall impose and collect from the defendant any costs charged to or paid by a law enforcement agency for the withdrawal of the defendant's blood if the court finds that the defendant violated s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681, 346.63, or 350.101, or a local ordinance in conformity therewith.

SECTION 73. 814.65 (4m) (a) of the statutes is amended to read:

814.65 **(4m)** (a) Except as provided in par. (d), if a defendant is required to appear in municipal court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the municipal court shall impose and collect from the defendant any costs charged to or paid by a law enforcement agency for the withdrawal of the defendant's blood if the court finds that the defendant violated a local ordinance in conformity with s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681, 346.63, or 350.101.

SECTION 74. 885.235 (1m) of the statutes is amended to read:

885.235 **(1m)** In any action under s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood at the time in question, as shown by chemical analysis of a sample of the person's blood or urine or evidence of the amount of alcohol in the person's breath, is admissible on the issue of whether he or she had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was taken within 3 hours after the event to be proved. The fact that the analysis shows that the person had an alcohol concentration of more than 0.0 but not more than 0.08 is prima facie evidence that the person had an alcohol concentration

in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

SECTION 75. 885.235 (4) of the statutes is amended to read:

885.235 **(4)** The provisions of this section relating to the admissibility of chemical tests for alcohol concentration or intoxication or for determining whether a person had a detectable amount of a restricted controlled substance in his or her blood shall not be construed as limiting the introduction of any other competent evidence bearing on the question of whether or not a person was under the influence of an intoxicant, had a detectable amount of a restricted controlled substance in his or her blood, had a specified alcohol concentration, or had an alcohol concentration in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63 (2m), or 350.101 (1) (c).

SECTION 76. 895.043 (6) of the statutes is amended to read:

895.043 **(6)** LIMITATION ON DAMAGES. Punitive damages received by the plaintiff may not exceed twice the amount of any compensatory damages recovered by the plaintiff or $200,000, whichever is greater. This subsection does not apply to a plaintiff seeking punitive damages from a defendant whose actions under sub. (3) included the operation of a vehicle, including a motor vehicle as defined under s. 340.01 (35), an off–highway motorcycle, as defined in s. 23.335 (1) (q), a snowmobile as defined under s. 340.01 (58a), an all–terrain vehicle as defined under s. 340.01 (2g), a utility terrain vehicle as defined under s. 23.33 (1) (ng), and a boat as defined under s. 30.50 (2), while under the influence of an intoxicant to a degree that rendered the defendant incapable of safe operation of the vehicle. In this subsection, "intoxicant" has the meaning given in s. 30.50 (4e).

SECTION 77. 895.049 of the statutes is amended to read:

895.049 Recovery by a person who fails to use protective headgear while operating certain motor vehicles. Notwithstanding s. 895.045, failure by a person who operates or is a passenger on a utility terrain vehicle, as defined in s. 23.33 (1) (ng), a motorcycle, as defined in s. 340.01 (32), an all–terrain vehicle, as defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a highway, to use protective headgear shall not reduce recovery for injuries or damages by the person or the person's legal representative in any civil action. This section does not apply to any person required to wear protective headgear under s. 23.33 (3g), 23.335 (8) (a) or (b), or 347.485 (1).

SECTION 78. 901.053 of the statutes is amended to read:

901.053 Admissibility of evidence relating to use of protective headgear while operating certain motor vehicles. Evidence of use or nonuse of protective headgear by a person, other than a person required to wear protective headgear under s. 23.33 (3g), 23.335 (8) (a) or (b), or 347.485 (1), who operates or is a passenger on a utility terrain vehicle, as defined in s. 23.33 (1) (ng), a motorcycle, as defined in s. 340.01 (32), an all–terrain vehicle, as defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a highway, is not admissible in any civil action for personal injury or property damage. This section does not apply to the introduction of such evidence in a civil action against the manufacturer or producer of the protective headgear arising out of any alleged deficiency or defect in the design or manufacture of the protective headgear or, with respect to such use of protective headgear, in a civil action on the sole issue of whether the protective headgear contributed to the personal injury or property damage incurred by another person.

SECTION 79. 938.17 (1) (intro.) of the statutes is amended to read:

938.17 **(1)** TRAFFIC, BOATING, SNOWMOBILE, ALL–TERRAIN VEHICLE, ~~AND~~ UTILITY TERRAIN VEHICLE, AND LIMITED OFF–HIGHWAY MOTORCYCLE VIOLATIONS. (intro.) Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1) and 346.67 (1) when death or injury occurs, courts of criminal and civil jurisdiction have exclusive jurisdiction in proceedings against juveniles 16 years of age or older for violations of ~~s.~~ ss. 23.33 and 23.335, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic regulations, as defined in s. 345.20, and nonmoving traffic violations, as defined in s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile, all–terrain vehicle, ~~or~~ utility terrain vehicle, or limited off–highway motorcycle offense in a court of criminal or civil jurisdiction shall be treated as an adult before the trial of the proceeding except that the juvenile may be held in secure custody only in a juvenile detention facility. A juvenile convicted of a traffic, boating, snowmobile, all–terrain vehicle, ~~or~~ utility terrain vehicle, or limited off–highway motorcycle offense in a court of criminal or civil jurisdiction shall be treated as an adult for sentencing purposes except as follows:

SECTION 80. 938.343 (9m) of the statutes is created to read:

938.343 **(9m)** OFF–HIGHWAY MOTORCYCLE SAFETY CERTIFICATION PROGRAM. If the violation is one under s. 23.335 or under an ordinance enacted in accordance with s. 23.335 concerning the use of off–highway motorcycles, as defined in s. 23.335 (1) (q), order the juvenile to attend the off–highway motorcycle safety certification program under s. 23.335 (14).

SECTION 81. 940.09 (1m) (b) of the statutes is amended to read:

940.09 **(1m)** (b) If a person is charged in an information with any of the combinations of crimes referred to in par. (a), the crimes shall be joined under s. 971.12. If the person is found guilty of more than one of the crimes so charged for

1 acts arising out of the same incident or occurrence, there shall be a single conviction
2 for purposes of sentencing and for purposes of counting convictions under s. 23.33
3 (13) (b) 2. and 3., under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under
4 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm),
5 (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not
6 require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for
7 conviction which the others do not require.

8 **SECTION 82.** 940.09 (3) of the statutes is amended to read:

9 940.09 **(3)** An officer who makes an arrest for a violation of this section shall
10 make a report as required under s. 23.33 (4t), 23.335 (11) (j), 30.686, 346.635 or
11 350.106.

12 **SECTION 83.** 940.25 (1m) (b) of the statutes is amended to read:

13 940.25 **(1m)** (b) If a person is charged in an information with any of the
14 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
15 971.12. If the person is found guilty of more than one of the crimes so charged for
16 acts arising out of the same incident or occurrence, there shall be a single conviction
17 for purposes of sentencing and for purposes of counting convictions under s. 23.33
18 (13) (b) 2. and 3., under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under
19 ss. 343.30 (1q) and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am),
20 (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the
21 others do not require.

22 **SECTION 84.** 940.25 (3) of the statutes is amended to read:

23 940.25 **(3)** An officer who makes an arrest for a violation of this section shall
24 make a report as required under s. 23.33 (4t), 23.335 (12) (j), 30.686, 346.635 or
25 350.106.

1 **SECTION 85.** 973.06 (1) (j) of the statutes is amended to read:

2 973.06 **(1)** (j) If the defendant violated s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681,
3 346.63, 350.101, 940.09 (1), or 940.25, any costs charged to or paid by a law
4 enforcement agency for the withdrawal of the defendant's blood, except that the court
5 may not impose on the defendant any cost for an alternative test provided free of
6 charge as described in s. 343.305 (4). If at the time the court finds that the defendant
7 committed the violation, the law enforcement agency has not paid or been charged
8 with the costs of withdrawing the person's blood, the court shall impose and collect
9 the costs the law enforcement agency reasonably expects to be charged for the
10 withdrawal, based on the current charges for this procedure. Notwithstanding sub.
11 (2), the court may not remit these costs.

12 **SECTION 86.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

13 973.09 **(2)** (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 23.335 (12)
14 (a), (b), or (h), 30.681, 30.684 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor
15 under s. 346.63 to which s. 973.09 (1) (d) applies.

16 **SECTION 87. Nonstatutory provisions.**

17 (1) OFF-HIGHWAY MOTORCYCLE COUNCIL. Notwithstanding the length of terms
18 specified in section 15.347 (10) (a) of the statutes, as created by this act, the governor
19 shall appoint the initial members of the off–highway motorcycle council for the
20 following terms:

21 (a) One member appointed under section 15.347 (10) of the statutes, as created
22 by this act, for a term expiring on March 1, 2016.

23 (b) Two members appointed under section 15.347 (10) of the statutes, as created
24 by this act, for terms expiring on March 1, 2017.

1 (c) Two members appointed under section 15.347 (10) of the statutes, as created
2 by this act, for terms expiring on March 1, 2018.

3 **SECTION 88. Effective date.**

4 (1) This act takes effect on the first day of the 7th month beginning after
5 publication, or on the 2nd day after publication of the 2013–15 budget act, whichever
6 is later.

7 **(END)**

Parisi, Lori

From: Gary, Tim
Sent: Friday, January 24, 2014 12:14 PM
To: LRB.Legal
Subject: Draft Review: LRB -0082/3 Topic: Regulation and registration of off highway motorcycles

Please Jacket LRB -0082/3 for the ASSEMBLY.