



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 SENATE BILL 395

November 20, 2015 - Introduced by Senator PETROWSKI, cosponsored by Representatives MURSAU, KRUG, BALLWEG, CZAJA, ALLEN, A. OTT and WEATHERSTON. Referred to Committee on Transportation and Veterans Affairs.

1 **AN ACT to amend** 15.09 (1) (a), 23.09 (23) (a), 23.119 (1) (b), 23.35 (1) (intro.),
2 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 (3), 23.53 (1), 23.56 (1), 23.57 (1) (intro.), 23.58, 23.62 (1) (intro.), 25.29 (1) (a),
4 30.26 (4) (title), 30.26 (4) (a) (intro.), 30.26 (4) (b), 30.29 (1) (b), 46.03 (18) (f),
5 59.54 (14) (g), 70.11 (45m), 77.51 (13s), 77.61 (1) (a), 77.61 (1) (b), 77.61 (1) (c),
6 77.73 (2), 78.01 (2) (e), 78.01 (2m) (f), 78.40 (1), 78.75 (1m) (a) 2m., 78.75 (1m)
7 (a) 3., 100.48 (2), 100.48 (3) (a), 100.48 (4) (c), 110.07 (1) (a) 1., 110.07 (3),
8 322.111, 344.61 (1), 345.11 (1r), 346.66 (1) (c), 346.71 (1), 346.71 (2), 346.94 (1),
9 800.02 (2) (b), 814.63 (3m) (a), 814.65 (4m) (a), 885.235 (1m), 885.235 (4),
10 895.043 (6), 895.049, 901.053, 938.17 (1) (intro.), 940.09 (1m) (b), 940.09 (3),
11 940.25 (1m) (b), 940.25 (3), 973.06 (1) (j) and 973.09 (2) (a) 1. d.; and **to create**
12 15.09 (1) (c), 15.347 (10), 20.370 (1) (jb), 20.370 (3) (ay), 23.119 (1) (at), 23.179,
13 23.335, 25.40 (1) (bt), 100.48 (1) (bg), 341.059, 343.05 (4) (b) 1m., 347.24 (1) (d)
14 and 938.343 (9m) of the statutes; **relating to:** operation of off-highway

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1 motorcycles, granting rule-making authority, making appropriations, and
2 providing penalties.

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 to that existing 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, are 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 deposited in the transportation fund.

If a person will be operating an OHM off the highways, and the OHM is not registered with DNR, or is not exempt from DNR registration, the person must pay

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a fee and be issued an annual nonresident trail pass by DNR in order to operate the OHM on an OHM trail or other corridor that is open to the public for the recreational use of OHMs.

OHM operation

The bill imposes various restrictions on the operation of limited use OHMs that are similar to those imposed on ATVs and UTVs. A limited use OHM is an OHM that is not registered by DOT for use on highways. Generally, limited use OHMs are not allowed on the roadway portion of a highway except as is necessary to cross the highway. They are also allowed on highways that are designated as OHM routes or that are only minimally maintained 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 speed limit when the OHM is within a specified distance of a dwelling, a person who is not operating a motorized vehicle, or 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.

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 under continuous verbal direction or control of a parent or guardian or of an adult who has been designated by the parent or guardian. 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.

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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 safety certification program on OHM laws.

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:

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

13 (b) Each member of the off-highway motorcycle council shall be a resident of
14 this state, shall be a member of and represent the interests of an off-highway

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1 motorcycle club, as defined in s. 23.335 (1) (r), and shall be knowledgeable about
2 outdoor recreation issues in this state and about trails used by operators of
3 off-highway motorcycles.

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

5 **SECTION 4.** 20.370 (1) (jb) of the statutes is created to read:

6 20.370 (1) (jb) *Off-highway motorcycle administration.* From the general fund,
7 a sum sufficient in each fiscal year equal to the amount determined under s. 23.335
8 (20) (a) in that fiscal year for the purposes specified under 23.335 (20) (b) and (d), for
9 issuing and renewing off-highway motorcycle registration under s. 23.335 (3), (4),
10 and (5), for grants under the safety grant program under s. 23.335 (15), and for state
11 and local law enforcement operations related to off-highway motorcycles.

12 **SECTION 5.** 20.370 (3) (ay) of the statutes is created to read:

13 20.370 (3) (ay) *Off-highway motorcycle safety certification program.* All
14 moneys remitted to the department under s. 23.335 (14), for the off-highway
15 motorcycle safety certification program under s. 23.335 (14).

16 **SECTION 6.** 23.09 (23) (a) of the statutes is amended to read:

17 23.09 (23) (a) In this subsection, “approval” means any type of approval or
18 authorization issued by the department under ch. 29, subch. V. of ch. 30, or s. 23.33
19 (2), 23.335 (3) or (5), 27.01, or 350.12, including a license, permit, certificate, stamp,
20 tag, registration, or vehicle admission receipt.

21 **SECTION 7.** 23.119 (1) (at) of the statutes is created to read:

22 23.119 (1) (at) “Off-highway motorcycle” has the meaning given in s. 23.335
23 (1) (q).

24 **SECTION 8.** 23.119 (1) (b) of the statutes is amended to read:

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

4 **SECTION 9.** 23.179 of the statutes is created to read:

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

10 **SECTION 10.** 23.335 of the statutes is created to read:

11 **23.335 Off-highway motorcycles. (1) DEFINITIONS.** In this section:

12 (a) “Accompanied” has the meaning given in s. 23.33 (1) (a).

13 (b) “Agricultural purpose” includes a purpose related to the transportation of
14 farm implements, equipment, supplies, or products on a farm or between farms.

15 (c) “Alcohol beverages” has the meaning specified under s. 125.02 (1).

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

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

18 (e) “All-terrain vehicle route” has the meaning given in s. 23.33 (1) (c).

19 (f) “All-terrain vehicle trail” has the meaning given in s. 23.33 (1) (d).

20 (g) “Approved public treatment facility” has the meaning specified under s.
21 51.45 (2) (c).

22 (gk) “Controlled substance” has the meaning given in s. 961.01 (4).

23 (gm) “Controlled substance analog” has the meaning given in s. 961.01 (4m).

24 (h) “Electric personal assistive mobility device” has the meaning given in s.
25 340.01 (15pm).

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1 (hm) "Hazardous inhalant" means a substance that is ingested, inhaled, or
2 otherwise introduced into the human body in a manner that does not comply with
3 any cautionary labeling that is required for the substance under s. 100.37 or under
4 federal law, or in a manner that is not intended by the manufacturer of the substance,
5 and that is intended to induce intoxication or elation, to stupefy the central nervous
6 system, or to change the human audio, visual, or mental processes.

7 (i) "Highway" has the meaning given in s. 340.01 (22).

8 (j) "Immediate family" means persons who are related as spouses, who are
9 related as siblings, or who are related as parent and child.

10 (k) "Intoxicant" means any alcohol beverage, hazardous inhalant, controlled
11 substance, controlled substance analog, or other drug or any combination thereof.

12 (L) "Intoxicated operation of an off-highway motorcycle law" means sub. (12)
13 (a) or (b) or a local ordinance in conformity therewith or, if the operation of an
14 off-highway motorcycle is involved, s. 940.09 or 940.25.

15 (m) "Junked" means dismantled for parts or scrapped.

16 (n) "Law enforcement officer" means an officer of the state traffic patrol under
17 s. 110.07 (1), an inspector under s. 110.07 (3), a conservation warden appointed by
18 the department under s. 23.10, a county sheriff, or a municipal peace officer.

19 (o) "Limited use off-highway motorcycle" means an off-highway motorcycle
20 that is not registered by the department of transportation for use on highways.

21 (p) "Local governmental unit" means a city, village, town, or county.

22 (q) "Off-highway motorcycle" means a 2-wheeled motor vehicle that is
23 straddled by the operator, that is equipped with handlebars, and that is designed for
24 use off a highway, regardless of whether it is also designed for use on a highway.

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1 (qm) "Off-highway motorcycle association" means a club or other association
2 consisting of individuals that promotes the recreational operation of off-highway
3 motorcycles.

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

22 (z) "Operate" means to exercise physical control over the speed or direction of
23 an off-highway motorcycle or to physically manipulate or activate any of the controls
24 of an off-highway motorcycle necessary to put it in motion.

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1 (zb) "Operation" means the exercise of physical control over the speed or
2 direction of an off-highway motorcycle or the physical manipulation or activation of
3 any of the controls of an off-highway motorcycle necessary to put it in motion.

4 (zc) "Operator" means a person who operates an off-highway motorcycle, who
5 is responsible for the operation of an off-highway motorcycle, or who is supervising
6 the operation of an off-highway motorcycle.

7 (zd) "Owner" means a person who has lawful possession of an off-highway
8 motorcycle by virtue of legal title or an equitable interest in the off-highway
9 motorcycle which entitles the person to possession of the off-highway motorcycle.

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

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

15 (zg) "Registration documentation" means an off-highway motorcycle
16 registration certificate, a validated registration receipt, or a registration decal.

17 (zgm) "Restricted controlled substance" means any of the following:

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

20 2. A controlled substance analog of a controlled substance described in subd.

21 1.

22 3. Cocaine or any of its metabolites.

23 4. Methamphetamine.

24 5. Delta-9-tetrahydrocannabinol.

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

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

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

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

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

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

10 **(2) REGISTRATION.** (a) *Requirement.* No person may operate an off-highway
11 motorcycle, and no owner may give permission for the operation of an off-highway
12 motorcycle, off the highways unless the off-highway motorcycle is registered with
13 the department under this section or is exempt from registration or the person
14 operating the off-highway motorcycle holds a registration receipt provided by an
15 off-highway motorcycle dealer under sub. (3) (b).

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

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

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

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

24 2. The off-highway motorcycle displays a plate or sign attached in the manner
25 authorized under sub. (5) (c).

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1 3. The off-highway motorcycle will be operated exclusively in racing on a
2 raceway facility or as part of a special off-highway motorcycle event as authorized
3 under sub. (10) (b).

4 4. The off-highway motorcycle is present in this state, for a period not to exceed
5 15 days, and is used exclusively as part of an advertisement being made for the
6 manufacturer of the off-highway motorcycle.

7 5. The off-highway motorcycle is specified as exempt from registration by
8 department rule.

9 (c) *Weekend exemption.* A person may operate an off-highway motorcycle off
10 the highways in this state during the first full weekend in June of each year without
11 registering the off-highway motorcycle as required under par. (a).

12 **(3) REGISTRATION; APPLICATION PROCESS.** (a) *Public or private use.* Only the
13 department may register off-highway motorcycles for off-highway operation. Any
14 off-highway motorcycle may be registered for public use. An off-highway motorcycle
15 may be registered for private use if the operation is limited to any of the following:

16 1. Operation for agricultural purposes.

17 2. Operation by the owner of the motorcycle or a member of his or her
18 immediate family only on land owned or leased by the owner or a member of his or
19 her immediate family.

20 (b) *Registration; sales by dealers.* If the seller of an off-highway motorcycle is
21 an off-highway motorcycle dealer, the dealer shall require each buyer to whom he
22 or she sells an off-highway motorcycle to complete an application for registration for
23 public or private use and collect the applicable fee required under sub. (4) (d) at the
24 time of the sale if the off-highway motorcycle will be operated off the highways and
25 is not exempt from registration under sub. (2) (b). The department shall provide

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

6 (c) *Registration; other sales.* If an off-highway motorcycle is sold or otherwise
7 transferred by a person other than an off-highway motorcycle dealer and is not
8 registered with the department, the buyer or transferee shall complete an
9 application for registration for public or private use if the buyer or transferee intends
10 to operate the off-highway motorcycle off the highways and the off-highway
11 motorcycle is not exempt from registration under sub. (2) (b).

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

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

23 (f) *Transfers; action by department.* Upon receipt of an application for transfer
24 of an off-highway motorcycle registration certificate under par. (e), and the payment

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1 of the fee under sub. (4) (d) 3. and of any sales or use taxes that may be due, the
2 department shall transfer the registration certificate to the applicant.

3 (g) *Trades; registration required.* An off-highway motorcycle dealer may not
4 accept a limited use off-highway motorcycle in trade unless the off-highway
5 motorcycle is currently registered by the department or is exempt from being
6 registered by the department under sub. (2) (b).

7 (4) REGISTRATION; CERTIFICATES AND DECALS. (a) *Period of validity; expiration.*

8 1. A registration certificate issued under sub. (3) for public use is valid beginning on
9 April 1 or the date of issuance or renewal and ending March 31 of the 2nd year
10 following the date of issuance or renewal.

11 1m. A registration certificate issued under sub. (3) for private use is valid from
12 the date of issuance until ownership of the off-highway motorcycle is transferred.

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

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

18 (c) *Decal required.* 1. Each registration certificate issued under sub. (3) shall
19 be accompanied by a registration decal. No person may operate an off-highway
20 motorcycle for which registration is required without having the decal affixed as
21 described in subd. 3., except as provided in subd. 4.

22 2. The decal shall contain a reference to the state and to the department, the
23 vehicle identification number, and the expiration date of the registration, if the
24 off-highway motorcycle is being registered for public use.

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

4 4. A person may operate an off-highway motorcycle without having a
5 registration decal affixed if the owner has been issued a validated registration
6 receipt that shows that an application and the required fees for a registration
7 certificate have been submitted to the department, and the person operating the
8 off-highway motorcycle has the receipt in his or her possession. The person shall
9 exhibit the receipt, upon demand, to any law enforcement officer.

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

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

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

19 (e) *Duplicate certificates and decals.* 1. If a registration certificate issued under
20 sub. (3) or accompanying decal is lost or destroyed, the holder of the certificate or
21 decal may apply for a duplicate on a form provided by the department. Upon receipt
22 of the application and the fee required under subd. 2., the department shall issue a
23 duplicate certificate or decal to the applicant.

24 2. The fee for the issuance of a duplicate certificate for public or private use is
25 \$5, and the fee for a duplicate decal is \$5.

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

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

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

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

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

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

21 2. Under either procedure under subd. 1., the applicant shall receive any
22 remaining items of registration documentation directly from the department at a
23 later date. The items of registration documentation issued at the time of the
24 submittal of the application under either procedure shall be sufficient to allow the
25 vehicle for which the application is submitted to be operated in compliance with the

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1 registration requirements under this subsection. The items of registration
2 documentation issued under subd. 1. b. shall include a registration decal.

3 (h) *Issuing service fees.* 1. In addition to any applicable fee under par. (d) 1.,
4 2., or 3. or (e) 2., an agent appointed under par. (f) 2. who accepts an application to
5 issue, renew, or transfer registration documentation in person and issues a validated
6 registration receipt under par. (g) 1. a. shall collect a service fee of \$3 each time the
7 agent issues the receipt. The agent shall retain the entire amount of each service fee
8 the agent collects.

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

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

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

21 (b) A commercial off-highway motorcycle certificate is valid for 2 years.

22 (c) A person who is required to obtain a commercial off-highway motorcycle
23 certificate under par. (a) shall attach in a clearly visible place a plate or sign that is
24 removable and temporarily but firmly mounted to any off-highway motorcycle that
25 the person offers for sale or otherwise allows to be used whenever the off-highway

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1 motorcycle is being operated. A decal issued by the department under par. (a) shall
2 be affixed to the plate or sign.

3 (d) If a certificate or decal that was issued under par. (a) is lost or destroyed,
4 the holder of the certificate or decal may apply for a duplicate on a form provided by
5 the department. Upon receipt of the application and the required fee under par. (e),
6 the department shall issue a duplicate certificate or decal to the applicant.

7 (e) The fee for the issuance or renewal of a commercial off-highway motorcycle
8 certificate with 3 accompanying decals is \$90. The fee for additional decals is \$30 for
9 each decal. The fee for the issuance of a duplicate commercial off-highway
10 motorcycle certificate is \$5. The fee for each duplicate decal is \$2.

11 (f) A commercial off-highway motorcycle certificate may not be transferred.

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

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

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1 (c) There is no fee for a nonresident trail pass issued for an off-highway
2 motorcycle that is registered under s. 23.35. The department or Indian tribe or band
3 shall issue a nonresident trail pass for such an off-highway motorcycle when it
4 issues the registration certificate for the motorcycle. The department shall provide
5 Indian tribes or bands that register off-highway motorcycles under s. 23.35 with a
6 supply of trail passes.

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

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

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

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

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

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

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1 1. Rent or lease a limited use off-highway motorcycle for operation by a person
2 who will be operating the limited use off-highway motorcycle for the first time unless
3 the person engaged in the rental or leasing gives the person instruction on how to
4 operate the limited use off-highway motorcycle.

5 2. Rent or lease a limited use off-highway motorcycle to a person under 12
6 years of age.

7 3. Rent or lease a limited use off-highway motorcycle without first ascertaining
8 that any person under the age of 18 who will be on the vehicle has protective
9 headgear of the type required under s. 347.485 (1) (a).

10 (b) A person who is engaged in the rental or leasing of limited use off-highway
11 motorcycles to the public shall have clean, usable protective headgear available for
12 rent in sufficient quantity to provide headgear to all persons under the age of 18 who
13 will be on the limited use off-highway motorcycles that the person rents or leases.

14 (c) The department may promulgate rules to establish minimum standards for
15 the instruction given under par. (a) 1.

16 **(8) USE OF PROTECTIVE HEADGEAR.** (a) *Off highway.* No person may operate an
17 off-highway motorcycle on an off-highway motorcycle corridor, or be a passenger on
18 an off-highway motorcycle that is being operated on an off-highway motorcycle
19 corridor, without wearing protective headgear of the type required under s. 347.485
20 (1) (a), with the chin strap properly fastened, unless one of the following applies:

21 1. The person is at least 18 years of age.

22 2. The person is traveling for the purpose of hunting or fishing and is at least
23 12 years of age.

24 3. The off-highway motorcycle is being operated for an agricultural purpose.

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1 (b) *On highway.* No person may operate a limited use off-highway motorcycle
2 on an off-highway motorcycle route or in an area where operation is authorized
3 under sub. (10) (a) or (11) (a), or be a passenger on an off-highway motorcycle that
4 is being operated on such a route or in such an area, without wearing protective
5 headgear of the type required under s. 347.485 (1) (a), with the chin strap properly
6 fastened, unless the person is at least 18 years of age.

7 (c) *On corridors and routes.* No person may operate or be a passenger on an
8 off-highway motorcycle that is being operated on an off-highway motorcycle
9 corridor or on an off-highway motorcycle route without wearing glasses, wearing
10 goggles, or wearing a protective face shield that is attached to headgear approved by
11 the department.

12 **(9) RULES OF OPERATION.** (a) No person who is operating an off-highway
13 motorcycle off a highway may do any of the following:

14 1. Operate the off-highway motorcycle in any careless way so as to endanger
15 another person or the property of another.

16 2. Operate the off-highway motorcycle at a rate of speed that is unreasonable
17 under the circumstances.

18 3. Operate the off-highway motorcycle on private property without the consent
19 of the owner or lessee. Failure to post private property does not imply consent for
20 off-highway motorcycle use.

21 4. Operate the off-highway motorcycle on public property that is posted as
22 closed to off-highway motorcycle operation or on which the operation of an
23 off-highway motorcycle is prohibited by law.

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1 5. Operate the off-highway motorcycle on Indian lands without the consent of
2 the tribal governing body or Indian owner. Failure to post Indian lands does not
3 imply consent for off-highway motorcycle use.

4 6. Operate the off-highway motorcycle at a speed exceeding 10 miles per hour,
5 if the off-highway motorcycle is within 100 feet of a fishing shanty.

6 7. Operate the off-highway motorcycle at a speed exceeding 10 miles per hour,
7 if the off-highway motorcycle is within 150 feet of a dwelling. The speed limit
8 specified in this subsection does not apply to a person operating an off-highway
9 motorcycle on a roadway that is designated as an off-highway motorcycle route.

10 8. Operate the off-highway motorcycle on the frozen surface of public waters
11 or on an off-highway motorcycle trail at a speed exceeding 10 miles per hour or
12 without yielding the right-of-way when within 100 feet of another person who is not
13 operating a motor vehicle, an all-terrain vehicle, a utility terrain vehicle, an
14 off-highway motorcycle, or a snowmobile.

15 9. Operate the off-highway motorcycle to drive or pursue any animal except as
16 part of normal farming operations involving livestock.

17 10. Operate the off-highway motorcycle in a manner which violates rules
18 promulgated by the department. This subdivision does not authorize the
19 department to promulgate or enforce a rule that imposes a speed restriction that is
20 more stringent than a speed restriction specified under this paragraph.

21 (b) The speed restrictions under par. (a) 6. and 8. do not apply to a race or derby
22 sponsored by a local governmental unit, by an off-highway motorcycle association,
23 or by a similar organization that is approved by a local governmental unit if the
24 sponsor of the race or derby marks the race or derby route or track to warn spectators
25 from entering the route or track.

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1 (c) 1. The distance restriction under par. (a) 8. does not apply to persons who
2 are assisting in directing a race or derby sponsored by a local governmental unit, by
3 an off-highway motorcycle association, or by a similar organization that is approved
4 by a local governmental unit.

5 2. The distance restriction under par. (a) 8. does not apply if the person who is
6 not operating the motor vehicle, all-terrain vehicle, utility terrain vehicle,
7 off-highway motorcycle, or snowmobile gives his or her consent to have the person
8 operating the off-highway motorcycle at a closer distance.

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

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

19 2. Operation on the roadway is necessary to cross a bridge, culvert, or railroad
20 right-of-way. The crossing of a bridge, culvert, or railroad right-of-way is not
21 authorized if the roadway is officially closed to off-highway motorcycle traffic. The
22 crossing is authorized only if the crossing is done in the most direct manner
23 practicable, if the crossing is made at a place where no obstruction prevents a quick
24 and safe crossing, and if the operator stops the limited use off-highway motorcycle
25 prior to entering the crossing and yields the right-of-way to any other vehicles,

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1 pedestrians, or electric personal assistive mobility devices that are using the
2 roadway.

3 2m. Operation is on the roadway or shoulder for the purpose of crossing a bridge
4 that is 1,000 feet in length or less if the operation is in compliance with a county
5 ordinance adopted under sub. (21) (am) that applies to that bridge and a city, village,
6 or town ordinance adopted under sub. (21) (am) that applies to that bridge.

7 3. Operation is on a roadway which is not maintained, or is only minimally
8 maintained, on a seasonal basis for motor vehicle traffic. Such operation is
9 authorized only during the seasons when no maintenance occurs and only if the
10 roadway is not officially closed to off-highway motorcycle traffic.

11 4. Operation is on a roadway that is an off-highway motorcycle route. Such
12 operation is authorized only for the extreme right side of the roadway except that left
13 turns may be made from any part of the roadway which is safe given prevailing
14 conditions.

15 5. The operator of the limited use off-highway motorcycle is a person who holds
16 a Class A permit or a Class B permit under s. 29.193 (2) and who is traveling for the
17 purpose of hunting or is otherwise engaging in an activity authorized by the permit.

18 6. The limited use off-highway motorcycle is registered for private use under
19 sub. (3) and is being used exclusively as an implement of husbandry or for
20 agricultural purposes. Such operation is authorized only for the extreme right side
21 of the roadway except that left turns may be made from any part of the roadway
22 which is safe given prevailing conditions.

23 7. The roadway part of the highway is blocked off for a special off-highway
24 motorcycle event as authorized under par. (b).

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1 (b) *Off-highway motorcycle events.* A local governmental unit may block off
2 highways under its jurisdiction for the purpose of allowing special off-highway
3 motorcycle events. No state trunk highway or connecting highway, or part thereof,
4 may be blocked off by any local governmental unit for any off-highway motorcycle
5 event. A local governmental unit shall notify the local police department and the
6 county sheriff's office at least one week in advance of the time and place of any
7 off-highway motorcycle event that may result in any street, or part thereof, of the
8 local governmental unit being blocked off.

9 (c) *Freeways.* No person may operate a limited use off-highway motorcycle on
10 any part of any freeway which is a part of the federal system of interstate and defense
11 highways under any circumstances. No person may operate a limited use
12 off-highway motorcycle on any part of any other freeway unless the department of
13 transportation authorizes the use of limited use off-highway motorcycles on that
14 freeway.

15 **(11) OPERATION ADJACENT TO ROADWAY.** (a) *Location of operation.* 1. A person
16 may operate an off-highway motorcycle adjacent to a roadway of a town highway
17 that is designated as an off-highway motorcycle route or an off-highway motorcycle
18 trail without any restriction on how close the off-highway motorcycle is to the
19 roadway.

20 2. A person may operate an off-highway motorcycle adjacent to a roadway of
21 a U.S. numbered highway, a state highway, or a county highway that is designated
22 an off-highway motorcycle route or an off-highway motorcycle trail provided that
23 the operation occurs at a distance of 10 or more feet from the roadway or such greater
24 distance as is reasonably necessary in order to avoid an obstruction. Travel on the
25 median of a divided highway is prohibited except to cross.

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1 (b) *Direction of operation.* 1. Except as provided in subd. 2., a person may
2 operate an off-highway motorcycle on an off-highway motorcycle route or
3 off-highway motorcycle trail adjacent to a roadway only in the same direction as
4 motor vehicle traffic in the nearest lane.

5 2. A person may operate the off-highway motorcycle in either direction if any
6 of the following applies:

7 a. The off-highway motorcycle is being operated during hours of daylight.

8 b. The off-highway motorcycle is being operated during hours of darkness and
9 the off-highway motorcycle route or off-highway motorcycle trail is located at least
10 40 feet from the roadway or is separated from the roadway by a head lamp barrier.

11 (c) *Other limitation.* A person operating an off-highway motorcycle on an
12 off-highway motorcycle route or off-highway motorcycle trail adjacent to a roadway
13 shall comply with the speed limits of the adjacent roadway and with rules
14 promulgated by the department and approved by the department of transportation.

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

18 2. No person may engage in the operation of an off-highway motorcycle while
19 the person has an alcohol concentration of 0.08 or more.

20 2m. No person may engage in the operation of an off-highway motorcycle while
21 the person has a detectable amount of a restricted controlled substance in his or her
22 blood.

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

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1 4. 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., 2., or 2m. for acts
3 arising out of the same incident or occurrence. If the person is charged with violating
4 any combination of subd. 1., 2., or 2m., the offenses shall be joined. If the person is
5 found guilty of any combination of subd. 1., 2., or 2m. for acts arising out of the same
6 incident or occurrence, there shall be a single conviction for purposes of sentencing
7 and for purposes of counting convictions under sub. (23) (c) 2. and 3. Subdivisions
8 1., 2., and 2m. each require proof of a fact for conviction which the others do not
9 require.

10 5. In an action under subd. 2m. that is based on the defendant allegedly having
11 a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or
12 delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he
13 or she proves by a preponderance of the evidence that at the time of the incident or
14 occurrence he or she had a valid prescription for methamphetamine or one of its
15 metabolic precursors, gamma-hydroxybutyric acid, or
16 delta-9-tetrahydrocannabinol.

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

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

23 2m. No person who has a detectable amount of a restricted controlled substance
24 in his or her blood may cause injury to another person by the operation of an
25 off-highway motorcycle.

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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., 2., or 2m. for acts
3 arising out of the same incident or occurrence. If the person is charged with violating
4 any combination of subd. 1., 2., or 2m. in the complaint, the crimes shall be joined
5 under s. 971.12. If the person is found guilty of any combination of subd. 1., 2., or 2m.
6 for acts arising out of the same incident or occurrence, there shall be a single
7 conviction for purposes of sentencing and for purposes of counting convictions under
8 sub. (23) (c) 2. and 3. Subdivisions 1., 2., and 2m. each require proof of a fact for
9 conviction which the 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 had not been under
13 the influence of an intoxicant to a degree which rendered him or her incapable of safe
14 operation, did not have an alcohol concentration of 0.08 or more, or did not have a
15 detectable amount of a restricted controlled substance in his or her blood.

16 5. In an action under subd. 2m. that is based on the defendant allegedly having
17 a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or
18 delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he
19 or she proves by a preponderance of the evidence that at the time of the incident or
20 occurrence he or she had a valid prescription for methamphetamine or one of its
21 metabolic precursors, gamma-hydroxybutyric acid, or
22 delta-9-tetrahydrocannabinol.

23 (c) *Implied consent.* Any person who engages in the operation of an
24 off-highway motorcycle upon the public highways of this state, or in those areas
25 enumerated in par. (d), is considered to have given consent to provide one or more

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1 samples of his or her breath, blood, or urine for the purpose of authorized analysis
2 as required under pars. (f) and (g). Any person who engages in the operation of an
3 off-highway motorcycle within this state is considered to have given consent to
4 submit to one or more chemical tests of his or her breath, blood, or urine for the
5 purpose of authorized analysis as required under pars. (f) and (g).

6 (d) *Applicability of law.* The intoxicated operation of an off-highway
7 motorcycle law applies to all of the following:

8 1. The operation of an off-highway motorcycle on any off-highway motorcycle
9 corridor or any off-highway motorcycle route.

10 2. The operation of any off-highway motorcycle on other premises or areas
11 located off the highways that are held out to the public for the recreational use of
12 off-highway motorcycles whether such premises or areas are publicly or privately
13 owned and whether or not a fee is charged for the use of an off-highway motorcycle.

14 3. The operation of a limited use off-highway motorcycle on a highway as
15 authorized under sub. (10).

16 4. The operation of an off-highway motorcycle adjacent to a highway as
17 authorized under sub. (11).

18 (e) *Preliminary breath screening.* 1. A person shall provide a sample of his or
19 her breath for a preliminary breath screening test if a law enforcement officer has
20 probable cause to believe that the person is violating or has violated the intoxicated
21 operation of an off-highway motorcycle law and if, prior to an arrest, the law
22 enforcement officer requested the person to provide this sample.

23 2. A law enforcement officer may use the results of a preliminary breath
24 screening test for the purpose of deciding whether or not to arrest a person for a
25 violation of the intoxicated operation of an off-highway motorcycle law or for the

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1 purpose of deciding whether or not to request a chemical test under par. (f).
2 Following the preliminary breath screening test, chemical tests may be required of
3 the person under par. (f).

4 3. The result of a preliminary breath screening test is not admissible in any
5 action or proceeding except to show probable cause for an arrest, if the arrest is
6 challenged, or to show that a chemical test was properly required of a person under
7 par. (f).

8 4. There is no penalty for a violation of subd. 1. Subsection (23) (a) and the
9 general penalty provision under s. 939.61 do not apply to the violation.

10 (f) *Chemical tests; requirement.* 1. A person shall provide one or more samples
11 of his or her breath, blood, or urine for the purpose of authorized analysis if he or she
12 is arrested for a violation of the intoxicated operation of an off-highway motorcycle
13 law and if he or she is requested to provide the sample by a law enforcement officer.
14 A person shall submit to one or more chemical tests of his or her breath, blood, or
15 urine for the purpose of authorized analysis if he or she is arrested for a violation of
16 the intoxicated operation of an off-highway motorcycle law and if he or she is
17 requested to submit to the test by a law enforcement officer.

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

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

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

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

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

9 (g) *Chemical tests; procedures.* 1. Upon the request of a law enforcement officer,
10 a test facility shall administer a chemical test of breath, blood, or urine for the
11 purpose of authorized analysis. A test facility shall be prepared to administer 2 out
12 of 3 of these tests for the purpose of authorized analysis. The department may enter
13 into agreements for the cooperative use of test facilities.

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

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

20 4. If a person is arrested for a violation of the intoxicated operation of an
21 off-highway motorcycle law or is the operator of an off-highway motorcycle involved
22 in an accident resulting in great bodily harm to or the death of someone and if the
23 person is requested to provide a sample or to submit to a test under par. (f) 1., the
24 person may request the test facility to administer the additional chemical test
25 specified under subd. 3.. or, at his or her own expense, reasonable opportunity to have

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1 any qualified person administer a chemical test of his or her breath, blood, or urine
2 for the purpose of authorized analysis.

3 5. If a person is arrested for a violation of the intoxicated operation of an
4 off-highway motorcycle law and if the person is not requested to provide a sample
5 or to submit to a test under par. (f) 1., the person may request the test facility to
6 administer a chemical test of his or her breath or may request, at his or her own
7 expense, a reasonable opportunity to have any qualified person administer a
8 chemical test of his or her breath, blood, or urine for the purpose of authorized
9 analysis. If a test facility is unable to perform a chemical test of breath, the person
10 may request the test facility to administer the chemical test designated under subd.
11 2. or the additional chemical test designated under subd. 3.

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

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

17 8. A chemical test of blood or urine conducted for the purpose of authorized
18 analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of
19 the laboratory of hygiene, department of health services, and department of
20 transportation under s. 343.305 (6) apply to a chemical test of blood or urine
21 conducted for the purpose of authorized analysis under this paragraph and par. (f).
22 Blood may be withdrawn from a person arrested for a violation of the intoxicated
23 operation of an off-highway motorcycle law only by a physician, registered nurse,
24 medical technologist, physician assistant, phlebotomist, or other medical
25 professional who is authorized to draw blood, or person acting under the direction

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1 of a physician, and the person who withdraws the blood, the employer of that person,
2 and any hospital where blood is withdrawn have immunity from civil or criminal
3 liability as provided under s. 895.53.

4 9. A test facility which administers a chemical test of breath, blood, or urine
5 for the purpose of authorized analysis under this paragraph and par. (f) shall prepare
6 a written report which shall include the findings of the chemical test, the
7 identification of the law enforcement officer or the person who requested a chemical
8 test, and the identification of the person who provided the sample or submitted to the
9 chemical test. The test facility shall transmit a copy of the report to the law
10 enforcement officer and the person who provided the sample or submitted to the
11 chemical test.

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

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

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

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

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

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

15 (j) *Report of arrest to department.* If a law enforcement officer arrests a person
16 for a violation of the intoxicated operation of an off-highway motorcycle law or the
17 refusal law, the law enforcement officer shall notify the department of the arrest as
18 soon as practicable.

19 (k) *Release of persons arrested.* 1. A person arrested for a violation of the
20 intoxicated operation of the off-highway motorcycle law may not be released until
21 12 hours have elapsed from the time of his or her arrest or unless a chemical test
22 administered under par. (a) 1. or 2. shows that the person has an alcohol
23 concentration of 0.05 or less, except as provided in subd 2.

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

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

6 a. Inform off-highway motorcycle operators of the prohibitions and penalties
7 included in the intoxicated operation of an off-highway motorcycle law.

8 b. Provide for the development of signs briefly explaining the intoxicated
9 operation of an off-highway motorcycle law.

10 2. The department shall develop and issue an educational pamphlet on the
11 intoxicated operation of an off-highway motorcycle law to be distributed to persons
12 issued off-highway motorcycle registration certificates under sub. (3).

13 **(13) AGE RESTRICTIONS; SAFETY CERTIFICATE REQUIREMENTS.** (a) *Under 12 years*
14 *of age.* A person who is under 12 years of age may not operate an off-highway
15 motorcycle on a roadway under any circumstances and may not operate an
16 off-highway motorcycle off a roadway unless he or she is accompanied by a parent
17 or guardian or by a person who is at least 18 years of age who has been designated
18 by the parent or guardian.

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

23 (c) *Exemptions.* 1. The restrictions under pars. (a) and (b) do not apply to the
24 operation of an off-highway motorcycle on private property if the owner of the

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1 property has given consent for the operation and does not hold the property out to
2 the public for use of off-highway motorcycles.

3 2. The restriction under par. (a) does not apply to a person who is operating a
4 limited use off-highway motorcycle at an off-highway motorcycle event sponsored
5 by a local governmental unit, by an off-highway motorcycle association, or by a
6 similar organization that is approved by a local governmental unit, who is wearing
7 protective headgear in compliance with sub. (8) (a) or (b), and who is accompanied
8 by a person who is at least 18 years of age or a parent or guardian.

9 **(14) SAFETY CERTIFICATION PROGRAM.** The department shall establish or
10 supervise the establishment of a program of instruction on laws related to the
11 operation of off-highway motorcycles for recreational purposes off the highways.
12 The program shall include instruction on the intoxicated operation of an off-highway
13 motorcycle law, safety, and related subjects. The department shall establish by rule
14 an instruction fee for this program. All or part of this program may be conducted by
15 means of online instruction. The department shall issue certificates to persons
16 successfully completing the program. An instructor conducting the program of
17 instruction under this subsection shall collect the fee from each person who receives
18 instruction. The department may determine the portion of this fee, which may not
19 exceed 50 percent, that the instructor may retain to defray expenses incurred by the
20 instructor in conducting the program. The instructor shall remit the remainder of
21 the fee or, if nothing is retained, the entire fee to the department. The department
22 shall issue a duplicate certificate of accomplishment to a person who is entitled to a
23 duplicate certificate of accomplishment and who pays a fee of \$2.75.

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

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

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

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

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

10 4. The interest of the organization is limited to the recreational operation of
11 off-highway motorcycles on off-highway motorcycle trails, off-highway motorcycle
12 routes, and other areas that are off the highways.

13 5. The organization provides support to off-highway motorcycle clubs.

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

17 1. Collecting data on the recreational off-highway operation of off-highway
18 motorcycles.

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

21 3. Attempting to increase participation by current and future off-highway
22 motorcycle operators and owners in the safety certification program established
23 under sub. (14).

24 4. Assisting the department of natural resources and the department of
25 tourism in creating an outreach program to inform local communities of appropriate

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1 recreational off-highway use of off-highway motorcycles in their communities and
2 of the economic benefits that may be gained from promoting tourism to attract
3 persons who will participate in the recreational off-highway use of off-highway
4 motorcycles.

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

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

8 b. Off-highway motorcycle dealers and manufacturers of off-highway
9 motorcycles.

10 c. All-terrain vehicle dealers, as defined in s. 23.33 (1) (bd), and all-terrain
11 vehicle manufacturers, as defined in s. 23.33 (1) (bp).

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

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

19 7. Assist the department in publishing a manual that will be used to train
20 volunteers in monitoring the recreational off-highway operation of off-highway
21 motorcycles for safety issues and other issues that relate to responsible operation.

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

24 **(17) EQUIPMENT REQUIREMENTS.** (a) No person may operate a limited use
25 off-highway motorcycle during hours of darkness unless it is equipped with a lighted

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1 headlamp and a lighted tail lamp. The headlamp is required to display a white light
2 of sufficient illuminating power to reveal any person, vehicle, or substantial object
3 at a distance of at least 200 feet ahead of the off-highway motorcycle. The tail lamp
4 is required to display a red light plainly visible from a distance of 500 feet to the rear.

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

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

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

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

10 4. A functioning muffler unless the off-highway motorcycle is propelled by
11 electric power.

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

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

21 (e) Paragraphs (b) 3. and (c) do not apply to the operation of a limited use
22 off-highway motorcycle that is operated in racing on a public raceway facility or as
23 part of a special public off-highway motorcycle event as authorized under sub. (10)
24 (b).

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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 on public land that requires treatment by a physician, the
4 operator of each off-highway motorcycle involved in the accident shall give notice of
5 the accident to a conservation warden or local law enforcement officer as soon as
6 possible. Each operator shall also file a written report of the accident with the
7 department on the 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 trails 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

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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 motorcycles 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:

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- 1 1. Acquisition of an easement or land in fee simple.
- 2 2. An off-highway motorcycle facility such as a parking area, riding area,
3 shelter, toilets, or other improvement.
- 4 3. Development of off-highway motorcycle routes or off-highway motorcycle
5 trails.
- 6 4. Development or maintenance of an all-terrain vehicle trail, all-terrain
7 vehicle route, or all-terrain vehicle facility or a snowmobile trail, snowmobile route,
8 or snowmobile facility, if the trail, route, or facility is open for use by off-highway
9 motorcycles.
- 10 5. Maintenance of off-highway motorcycle trails and off-highway motorcycle
11 routes, including routes on roadways that are not maintained or only minimally
12 maintained for motor vehicle traffic on a seasonal basis.
- 13 6. Purchase of liability insurance.
- 14 (c) *Priorities*. In providing funding for the types of projects listed in par. (b), the
15 department shall give higher overall priority to projects for facilities and trails that
16 are open only for use by off-highway motorcycles. In determining which off-highway
17 motorcycle projects will be provided funding, the department shall consider all of the
18 following:
 - 19 1. The distance of a proposed off-highway project from a comparable existing
20 project.
 - 21 2. The amount of interest demonstrated by a community in developing or
22 maintaining an off-highway motorcycle project.
 - 23 3. The amount of support demonstrated by a local governmental unit in which
24 the project will be located.

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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 that is in strict conformity with this section and rules promulgated by the
11 department under this section, if the ordinance encompasses all aspects
12 encompassed by this section.

13 (am) A county, city, village, or town may enact an ordinance to authorize the
14 operation of limited use off-highway motorcycles on a highway bridge that is not part
15 of the national system of interstate and defense highways, that is 1,000 feet in length
16 or less, and that is located within the territorial boundaries of the county, city, village,
17 or town regardless of whether the county, city, village, or town has jurisdiction over
18 the highway. Any such ordinance shall require a person crossing a bridge to do all
19 of the following:

20 1. Cross the bridge in the most direct manner practicable and at a place where
21 no obstruction prevents a quick and safe crossing.

22 2. Stay as far to the right of the roadway or shoulder as practicable.

23 3. Stop the vehicle prior to the crossing.

24 4. Yield the right-of-way to other vehicles, pedestrians, and electric personal
25 assistive mobility devices using the roadway or shoulder.

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1 5. Exit the highway as quickly and safely as practicable after crossing the
2 bridge.

3 (b) If a local governmental unit enacts an ordinance regulating off-highway
4 motorcycles, its clerk shall immediately send a copy of the ordinance to the
5 department, to the state traffic patrol, and to the office of any law enforcement
6 agency of each local governmental unit having jurisdiction over any of the highways
7 to which the ordinance applies.

8 **(22) ENFORCEMENT.** (a) A law enforcement officer has the authority and
9 jurisdiction to enforce this section and ordinances enacted in accordance with this
10 section.

11 (b) No operator of an off-highway motorcycle may refuse to stop after being
12 requested or signaled to do so by a law enforcement officer.

13 **(23) PENALTIES.** (a) *Generally.* Except as provided in pars. (b) to (f), any person
14 who violates this section shall forfeit not more than \$250.

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

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

20 2. Except as provided under subds. 3. and 4., a person who violates sub. (12)
21 (a) 1., 2., or 2m. or (h) and who, within 5 years prior to the arrest for the current
22 violation, was convicted previously under the intoxicated operation of an
23 off-highway motorcycle law shall be fined not less than \$300 nor more than \$1,100
24 and shall be imprisoned not less than 5 days nor more than 6 months.

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1 3. Except as provided in subd. 4., a person who violates sub. (12) (a) 1., 2., or
2 2m. or (h) and who, within 5 years prior to the arrest for the current violation, was
3 convicted 2 or more times previously under the intoxicated operation of an
4 off-highway motorcycle law shall be fined not less than \$600 nor more than \$2,000
5 and shall be imprisoned not less than 30 days nor more than one year in the county
6 jail.

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

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

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

16 (f) *Penalties related to causing death or injury; interference with signs and*
17 *standards.* A person who violates sub. (19) (f) 1. is guilty of a Class H felony if the
18 violation causes the death or injury, as defined in s. 30.67 (3) (b), of another person.

19 (g) *Calculation of previous convictions.* In determining the number of previous
20 convictions under pars. (c) 2. and 3. and (e), convictions arising out of the same
21 incident or occurrence shall be counted as one previous conviction.

22 (h) *Reporting convictions to the department.* Whenever a person is convicted
23 of a violation of the intoxicated operation of an off-highway motorcycle law, the clerk
24 of the court in which the conviction occurred, or the justice, judge, or magistrate of
25 a court not having a clerk, shall forward to the department the record of such

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1 conviction. The record of conviction forwarded to the department shall state whether
2 the offender was involved in an accident at the time of the offense.

3 (i) *Intoxicants; assessment.* In addition to any other penalty or order, a person
4 who violates sub. (12) (a), (b), or (h) shall be ordered by the court to submit to and
5 comply with an assessment by an approved public treatment facility for an
6 examination of the person's use of an intoxicant. The assessment order shall comply
7 with s. 343.30 (1q) (c) 1. Intentional failure to comply with an assessment ordered
8 under this paragraph constitutes contempt of court, punishable under ch. 785.

9 (j) *Restoration or replacement of signs and standards.* In addition to any other
10 penalty, the court may order the defendant to restore or replace any uniform
11 off-highway motorcycle route sign or standard, or any uniform off-highway
12 motorcycle trail sign or standard, that the defendant removed, damaged, defaced,
13 moved, or obstructed.

14 **SECTION 11.** 23.35 (1) (intro.) of the statutes is amended to read:

15 23.35 (1) (intro.) The secretary shall enter into a reciprocal agreement with a
16 federally recognized American Indian tribe or band in this state to exempt, from the
17 registration and certification requirements of this state, boats, snowmobiles,
18 all-terrain vehicles, and utility terrain vehicles, and off-highway motorcycles that
19 are owned by tribal or band members and registered under a registration program
20 established by the tribe or band if the tribe or band requests the agreement and if
21 the registration program does all of the following:

22 **SECTION 12.** 23.35 (1) (a) of the statutes is amended to read:

23 23.35 (1) (a) Requires that boats, snowmobiles, all-terrain vehicles, and utility
24 terrain vehicles, and off-highway motorcycles display decals or identification
25 numbers showing valid registration by the tribe or band.

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1 **SECTION 13.** 23.35 (1) (b) of the statutes is amended to read:

2 23.35 (1) (b) Employs registration decals and certificates of number that are
3 substantially similar to those employed by the registration or certification programs
4 of this state with regard to size, legibility, information content and placement on the
5 boat, snowmobile, all-terrain vehicle, ~~or utility terrain vehicle,~~ or off-highway
6 motorcycle.

7 **SECTION 14.** 23.35 (1) (e) of the statutes is amended to read:

8 23.35 (1) (e) Provides reciprocal exemptions, from the tribe's or band's
9 registration requirements, for boats, snowmobiles, all-terrain vehicles, ~~and utility~~
10 ~~terrain vehicles,~~ and off-highway motorcycles that are registered or certified by this
11 state that are substantially as favorable as the exemptions enjoyed by the tribe or
12 the band under the agreement. In this paragraph, "reciprocal exemption" means an
13 exemption under the agreement that exempts from a tribe's or band's registration
14 requirements, for operation within the boundaries of the tribe's or band's
15 reservation, a boat, snowmobile, all-terrain vehicle, ~~or utility terrain vehicle,~~ or
16 off-highway motorcycle that is owned by a person who is not a member of the tribe
17 or band and that is registered or certified by this state to the same extent that the
18 agreement exempts from state registration and certification requirements, for the
19 operation outside the boundaries of the tribe's or band's reservation, a boat,
20 snowmobile, all-terrain vehicle, ~~or utility terrain vehicle,~~ or off-highway motorcycle
21 that is registered by the tribe or band.

22 **SECTION 15.** 23.35 (2) of the statutes is amended to read:

23 23.35 (2) An agreement entered into under sub. (1) may cover a registration
24 program for boats, snowmobiles, all-terrain vehicles, ~~or utility terrain vehicles,~~ or
25 off-highway motorcycles, or any combination thereof.

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1 **SECTION 16.** 23.45 (1) (d) of the statutes is amended to read:

2 23.45 (1) (d) “Registration” means any registration documentation, as defined
3 in s. 23.33 (1) (jn), 23.335 (1) (zg), or s. 350.01 (10t), or certification or registration
4 documentation, as defined in s. 30.50 (3b), issued by the department or its agents.

5 **SECTION 17.** 23.50 (1) of the statutes is amended to read:

6 23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit
7 court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814,
8 for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5),
9 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81, and 299.64 (2),
10 subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any
11 administrative rules promulgated thereunder, violations specified under s. 280.98
12 (2) or 285.86, violations of s. 281.36 if the department chooses to proceed under s.
13 281.36 (14) (f), violations of ch. 951 if the animal involved is a captive wild animal,
14 violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k),
15 violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances
16 enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a),
17 or 30.77.

18 **SECTION 18.** 23.50 (3) of the statutes is amended to read:

19 23.50 (3) All actions in municipal court to recover forfeitures, plus costs, fees,
20 and surcharges imposed under ch. 814, for violations of local ordinances enacted by
21 any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77
22 shall utilize the procedure in ch. 800. The actions shall be brought before the
23 municipal court having jurisdiction. Provisions relating to citations, arrests,
24 questioning, releases, searches, deposits, and stipulations of no contest in ss. 23.51

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1 (1m), (3), and (8), 23.53, 23.54, 23.56 to 23.64, 23.66, and 23.67 shall apply to
2 violations of such ordinances.

3 **SECTION 19.** 23.53 (1) of the statutes is amended to read:

4 23.53 (1) The citation created under this section shall, in all actions to recover
5 forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of
6 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
7 thereunder, and any rule of the Kickapoo reserve management board under s. 41.41
8 (7) (k) be used by any law enforcement officer with authority to enforce those laws,
9 except that the uniform traffic citation created under s. 345.11 may be used by a
10 traffic officer employed under s. 110.07 in enforcing s. 167.31 or by an officer of a law
11 enforcement agency of a municipality or county or a traffic officer employed under
12 s. 110.07 in enforcing s. 287.81. In accordance with s. 345.11 (1m), the citation shall
13 not be used for violations of ch. 350 relating to highway use. The citation may be used
14 for violations of local ordinances enacted by any local authority in accordance with
15 s. 23.33 (11) (am), 23.335 (21) (a), or 30.77.

16 **SECTION 20.** 23.56 (1) of the statutes is amended to read:

17 23.56 (1) A person may be arrested for a violation of those statutes enumerated
18 in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the
19 Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances
20 enacted by any local authority in accordance with s. 23.33 (11) (am), 23.335 (21) (a),
21 or 30.77, after a warrant that substantially complies with s. 968.04 has been issued.
22 Except as provided in sub. (2), the person arrested shall be brought without
23 unreasonable delay before a court having jurisdiction to try the action.

24 **SECTION 21.** 23.57 (1) (intro.) of the statutes is amended to read:

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

7 **SECTION 22.** 23.58 of the statutes is amended to read:

8 **23.58 Temporary questioning without arrest.** After having identified
9 himself or herself as an enforcing officer, an enforcing officer may stop a person in
10 a public place for a reasonable period of time when the officer reasonably suspects
11 that such person is committing, is about to commit or has committed a violation of
12 those statutes enumerated in s. 23.50 (1), any administrative rules promulgated
13 thereunder, any rule of the Kickapoo reserve management board under s. 41.41 (7)
14 (k), or any local ordinances enacted by any local authority in accordance with s. 23.33
15 (11) (am), 23.335 (21) (a), or 30.77. Such a stop may be made only where the enforcing
16 officer has proper authority to make an arrest for such a violation. The officer may
17 demand the name and address of the person and an explanation of the person's
18 conduct. Such detention and temporary questioning shall be conducted in the
19 vicinity where the person was stopped.

20 **SECTION 23.** 23.62 (1) (intro.) of the statutes is amended to read:

21 23.62 (1) (intro.) Whenever an enforcing officer has probable cause to believe
22 that a person subject to his or her authority is committing or has committed a
23 violation of those statutes enumerated in s. 23.50 (1), any administrative rules
24 promulgated thereunder, any rule of the Kickapoo reserve management board under
25 s. 41.41 (7) (k), or any local ordinances enacted by any local authority in accordance

SENATE BILL 395**SECTION 23**

1 with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77, the officer may proceed in the
2 following manner:

3 **SECTION 24.** 25.29 (1) (a) of the statutes is amended to read:

4 25.29 (1) (a) Except as provided in ss. 25.293 and 25.295, all moneys accruing
5 to the state for or in behalf of the department under chs. 26, 27, 28, 29, 169, and 350,
6 subchs. I and VI of ch. 77 and ss. 23.09 to 23.31, 23.325, 23.33, 23.335, except as
7 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
8 (5), 71.30 (10), and 90.21, including grants received from the federal government or
9 any of its agencies except as otherwise provided by law.

10 **SECTION 25.** 25.40 (1) (bt) of the statutes is created to read:

11 25.40 (1) (bt) Moneys received by the department of natural resources under
12 s. 23.335 (4) (d), (e), and (h) 2. and (5) (e).

13 **SECTION 26.** 30.26 (4) (title) of the statutes is amended to read:

14 30.26 (4) (title) SNOWMOBILES, ALL-TERRAIN VEHICLES, AND UTILITY TERRAIN
15 VEHICLES, AND OFF-HIGHWAY MOTORCYCLES.

16 **SECTION 27.** 30.26 (4) (a) (intro.) of the statutes is amended to read:

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

23 **SECTION 28.** 30.26 (4) (b) of the statutes is amended to read:

24 30.26 (4) (b) The state shall permit all-terrain vehicles, utility terrain vehicles,
25 off-highway motorcycles, and snowmobiles to travel in a corridor across any state

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1 land that separates an all-terrain vehicle trail, an off-highway motorcycle trail, or
2 a snowmobile trail and the bridges constructed at the locations listed under par. (a).

3 **SECTION 29.** 30.29 (1) (b) of the statutes is amended to read:

4 30.29 (1) (b) "Motor vehicle" includes a utility terrain vehicle, as defined in s.
5 23.33 (1) (ng), ~~and an all-terrain vehicle, as defined in s. 340.01 (2g), and an~~
6 off-highway motorcycle, as defined in s. 23.335 (1) (q).

7 **SECTION 30.** 46.03 (18) (f) of the statutes is amended to read:

8 46.03 (18) (f) Notwithstanding par. (a), any person who submits to an
9 assessment or airman or driver safety plan under s. 23.33 (13) (e), 23.335 (23) (i),
10 30.80 (6) (d), 114.09 (2) (bm), 343.16 (5) (a), 343.30 (1q), 343.305 (10) or 350.11 (3) (d)
11 shall pay a reasonable fee therefor to the appropriate county department under s.
12 51.42, approved tribal treatment facility, as defined in s. 51.01 (2c), or traffic safety
13 school under s. 345.60. A county may allow the person to pay the assessment fee in
14 1, 2, 3 or 4 equal installments. The fee for the airman or driver safety plan may be
15 reduced or waived if the person is unable to pay the complete fee, but no fee for
16 assessment or attendance at a traffic safety school under s. 345.60 may be reduced
17 or waived. Nonpayment of the assessment fee is noncompliance with the court order
18 that required completion of an assessment and airman or driver safety plan. Upon
19 a finding that the person has the ability to pay, nonpayment of the airman or driver
20 safety plan fee is noncompliance with the court order that required completion of an
21 assessment and airman or driver safety plan.

22 **SECTION 31.** 59.54 (14) (g) of the statutes is amended to read:

23 59.54 (14) (g) A county may establish extensions of the jail, which need not be
24 at the county seat, to serve as places of temporary confinement. No person may be
25 detained in such an extension for more than 24 consecutive hours, except that a court

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1 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c),
2 23.335 (23) (c) 2. or 3. or (d), or 350.11 (3) (a) 2. or 3. or (b) be imprisoned for more than
3 24 consecutive hours in such an extension. Jail extensions shall be subject to plans
4 and specifications approval by the department of corrections and shall conform to
5 other requirements imposed by law on jails, except that cells may be designed and
6 used for multiple occupancy.

7 **SECTION 32.** 70.11 (45m) of the statutes is amended to read:

8 70.11 **(45m)** SNOWMOBILE, ALL-TERRAIN VEHICLE, AND UTILITY TERRAIN VEHICLE
9 CLUBS. Trail groomers owned by a snowmobile club, an all-terrain vehicle club, ~~or~~
10 a utility terrain vehicle club, or an off-highway motorcycle club that is exempt from
11 taxation under section 501 (c) (3), (4), or (7) of the Internal Revenue Code.

12 **SECTION 33.** 77.51 (13s) of the statutes is amended to read:

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

17 **SECTION 34.** 77.61 (1) (a) of the statutes is amended to read:

18 77.61 **(1)** (a) No motor vehicle, boat, snowmobile, recreational vehicle, as
19 defined in s. 340.01 (48r), trailer, semitrailer, all-terrain vehicle, utility terrain
20 vehicle, off-highway motorcycle, or aircraft shall be registered or titled in this state
21 unless the registrant presents proof that the sales or use taxes imposed by this
22 subchapter have been paid.

23 **SECTION 35.** 77.61 (1) (b) of the statutes is amended to read:

24 77.61 **(1)** (b) In the case of motor vehicles, boats, snowmobiles, recreational
25 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles,

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

3 **SECTION 36.** 77.61 (1) (c) of the statutes is amended to read:

4 77.61 (1) (c) In the case of motor vehicles, boats, snowmobiles, recreational
5 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles,
6 utility terrain vehicles, off-highway motorcycles, or aircraft registered or titled, or
7 required to be registered or titled, in this state purchased from persons who are not
8 retailers, the purchaser shall file a sales tax return and pay the tax prior to
9 registering or titling the motor vehicle, boat, snowmobile, recreational vehicle, as
10 defined in s. 340.01 (48r), semitrailer, all-terrain vehicle, utility terrain vehicle, or
11 aircraft in this state.

12 **SECTION 37.** 77.73 (2) of the statutes is amended to read:

13 77.73 (2) Counties and special districts do not have jurisdiction to impose the
14 tax under s. 77.71 (2) in regard to items, property, and goods under s. 77.52 (1) (b),
15 (c), and (d), and tangible personal property, except snowmobiles, trailers,
16 semitrailers, limited use off-highway motorcycles, as defined in s. 23.335 (1) (o),
17 all-terrain vehicles, and utility terrain vehicles, purchased in a sale that is
18 consummated in another county or special district in this state that does not have
19 in effect an ordinance or resolution imposing the taxes under this subchapter and
20 later brought by the buyer into the county or special district that has imposed a tax
21 under s. 77.71 (2).

22 **SECTION 38.** 78.01 (2) (e) of the statutes is amended to read:

23 78.01 (2) (e) Gasoline sold for nonhighway use in mobile machinery and
24 equipment; other than use in a snowmobile, a limited use off-highway motorcycle
25 that is not registered for private use under s. 23.335 (3) (a), an all-terrain vehicle or

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1 utility terrain vehicle that is not registered for private use under s. 23.33 (2) (d), or
2 a recreational motorboat; and delivered directly into the consumer's storage tank in
3 an amount of not less than 100 gallons.

4 **SECTION 39.** 78.01 (2m) (f) of the statutes is amended to read:

5 78.01 (2m) (f) It is dyed diesel fuel and is sold for off-highway use other than
6 use in a snowmobile, in a limited use off-highway motorcycle that is not registered
7 for private use under s. 23.335 (3) (a), in an all-terrain vehicle or utility terrain
8 vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g), or in a
9 recreational motorboat or if no claim for a refund for the tax on the diesel fuel may
10 be made under s. 78.75 (1m) (a) 3.

11 **SECTION 40.** 78.40 (1) of the statutes is amended to read:

12 78.40 (1) IMPOSITION OF TAX AND BY WHOM PAID. An excise tax at the rate
13 determined under ss. 78.405 and 78.407 is imposed on the use of alternate fuels. The
14 tax, with respect to all alternate fuel delivered by an alternate fuel dealer into supply
15 tanks of motor vehicles in this state, attaches at the time of delivery and shall be
16 collected by the dealer from the alternate fuels user and shall be paid to the
17 department. The tax, with respect to alternate fuels acquired by any alternate fuels
18 user other than by delivery by an alternate fuel dealer into a fuel supply tank of a
19 motor vehicle, ~~or~~ of a snowmobile, of a limited use off-highway motorcycle that is not
20 registered for private use under s. 23.335 (3) (a), of an all-terrain vehicle or utility
21 terrain vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g), or
22 of a recreational motorboat, attaches at the time of the use of the fuel and shall be
23 paid to the department by the user. The department may permit any supplier of
24 alternate fuels to report and pay to the department the tax on alternate fuels

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1 delivered into the storage facility of an alternate fuels user or retailer which will be
2 consumed for alternate fuels tax purposes or sold at retail.

3 **SECTION 41.** 78.75 (1m) (a) 2m. of the statutes is amended to read:

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

15 **SECTION 42.** 78.75 (1m) (a) 3. of the statutes is amended to read:

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

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

9 **SECTION 43.** 100.48 (1) (bg) of the statutes is created to read:

10 100.48 (1) (bg) "Off-highway motorcycle" has the meaning given in s. 23.335
11 (1) (q).

12 **SECTION 44.** 100.48 (2) of the statutes is amended to read:

13 100.48 (2) No person may, either personally or through an agent, remove,
14 replace, disconnect, reset, tamper with, alter, or fail to connect, an hour meter
15 attached to farm equipment, a snowmobile, an all-terrain vehicle, a utility terrain
16 vehicle, an off-highway motorcycle, or a boat with the intent to defraud by changing
17 or affecting the number of hours of operation indicated on the hour meter.

18 **SECTION 45.** 100.48 (3) (a) of the statutes is amended to read:

19 100.48 (3) (a) Nothing in this section shall prevent the service, repair or
20 replacement of an hour meter if the number of hours of operation indicated on the
21 hour meter remains the same as before the service, repair or replacement. If an hour
22 meter attached to farm equipment, a snowmobile, an all-terrain vehicle, a utility
23 terrain vehicle, an off-highway motorcycle, or a boat is incapable of registering the
24 same number of hours of operation as before its service, repair or replacement, the
25 hour meter shall be adjusted to read zero, and a sticker shall be affixed by the owner

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1 of the vehicle or device to which the hour meter is attached or an agent, in proximity
2 to the hour meter, specifying the number of hours of operation recorded on the hour
3 meter prior to its service, repair or replacement and the date on which it was
4 serviced, repaired or replaced. No person who services, repairs or replaces an hour
5 meter attached to farm equipment, a snowmobile, an all-terrain vehicle, a utility
6 terrain vehicle, an off-highway motorcycle, or a boat that is incapable of registering
7 the same number of hours of operation as before such service, repair or replacement
8 may fail to adjust the hour meter to read zero or fail to affix the sticker required by
9 this paragraph.

10 **SECTION 46.** 100.48 (4) (c) of the statutes is amended to read:

11 100.48 (4) (c) Any person who violates sub. (2) or (3) with respect to an hour
12 meter attached to a snowmobile, an all-terrain vehicle, a utility terrain vehicle, an
13 off-highway motorcycle, or a boat may be fined not more than \$5,000 or imprisoned
14 for not more than one year in the county jail, or both, for each violation.

15 **SECTION 47.** 110.07 (1) (a) 1. of the statutes is amended to read:

16 110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and
17 chs. 194, 218, 341 to 349 and 351, and ss. 23.33, 23.335, 125.07 (4) (b), 125.085 (3)
18 (b), 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or
19 orders or rules issued pursuant thereto.

20 **SECTION 48.** 110.07 (3) of the statutes is amended to read:

21 110.07 (3) The secretary may employ inspectors who may not wear the uniform
22 of the state patrol, whose duties shall be to enforce and assist in administering s. ss.
23 23.33, 23.335, and 346.63, this chapter and chs. 194, 218, 340 to 345 and 347 to 351,
24 s. ~~23.33~~, the inspection requirements of s. 121.555 (2) (b) and the requirements under
25 s. 346.45 (4) for vehicles being used to transport hazardous materials. Such

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

6 **SECTION 49.** 322.111 of the statutes is amended to read:

7 **322.111 Article 111 — Drunken or reckless operation of an all-terrain**
8 **vehiele, utility terrain vehiele, vehiele, snowmobile, aircraft, or vessel**
9 **certain vehicles, vessels, and aircraft.** Any person who violates s. 23.33 (3) (a)
10 or (4c), 23.335 (9) (a) 1. or (12) (a) or (b), 30.68, 30.681, 114.09, 346.62, 346.63 (1) or
11 (2), 350.10 (1) (b), 350.101, 940.25, or 940.09 where the offense involved the operation
12 or physical control of an aircraft, all-terrain vehicle, utility terrain vehicle,
13 snowmobile, vehicle, off-highway motorcycle, or vessel on or off a highway shall be
14 punished as the court-martial may direct.

15 **SECTION 50.** 341.059 of the statutes is created to read:

16 **341.059 Off-highway motorcycles.** All motorcycles that are only being
17 operated off the highways, as defined in s. 23.335 (1) (y), are not required to be
18 registered under this chapter but shall be registered as required under s. 23.335 (3).

19 **SECTION 51.** 343.05 (4) (b) 1m. of the statutes is created to read:

20 343.05 (4) (b) 1m. A person who operates a limited use off-highway motorcycle,
21 as defined in s. 23.335 (1) (o), only as authorized under s. 23.335.

22 **SECTION 52.** 344.61 (1) of the statutes is amended to read:

23 344.61 (1) Notwithstanding s. 344.01 (2) (b), “motor vehicle” does not include
24 trailers, semitrailers, all-terrain vehicles, and utility terrain vehicles, or limited use
25 off-highway motorcycles, as defined in s. 23.335 (1) (o).

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1 **SECTION 53.** 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~~ a 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 54.** 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 55.** 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

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

8 **SECTION 56.** 346.71 (2) of the statutes is amended to read:

9 346.71 (2) In cases of death involving a motor vehicle in which the decedent was
10 the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or
11 electric personal assistive mobility device operator 14 years of age or older and who
12 died within 6 hours of the time of the accident, the coroner or medical examiner of
13 the county where the death occurred shall require that a blood specimen of at least
14 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her
15 death, by the coroner or medical examiner or by a physician so designated by the
16 coroner or medical examiner or by a qualified person at the direction of the physician.
17 All funeral directors shall obtain a release from the coroner or medical examiner of
18 the county where the accident occurred as provided in s. 979.01 (4) prior to
19 proceeding with embalming any body coming under the scope of this section. The
20 blood so drawn shall be forwarded to a laboratory approved by the department of
21 health services for analysis of the alcoholic content of the blood specimen. The
22 coroner or medical examiner causing the blood to be withdrawn shall be notified of
23 the results of each analysis made and shall forward the results of each such analysis
24 to the department of health services. If the death involved a motor vehicle, the
25 department shall keep a record of all such examinations to be used for statistical

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

9 **SECTION 57.** 346.94 (1) of the statutes is amended to read:

10 346.94 (1) DRIVING ON SIDEWALK. Except as authorized in s. 23.33 (4) (f) or when
11 the sidewalk is an all-terrain vehicle route, as defined in s. 23.33 (1) (c) or an
12 off-highway motorcycle route, as defined in s. 23.335 (1) (u), the operator of a vehicle
13 shall may not drive upon any sidewalk area except at a permanent or temporarily
14 established driveway unless permitted to do so by the local authorities.

15 **SECTION 58.** 347.24 (1) (d) of the statutes is created to read:

16 347.24 (1) (d) An off-highway motorcycle, as defined in s. 23.335 (1) (q), that
17 is being operated as an implement of husbandry off a highway need only comply with
18 the lamp requirements established under s. 23.335 (17) (a).

19 **SECTION 59.** 800.02 (2) (b) of the statutes is amended to read:

20 800.02 (2) (b) Except for parking violations, in traffic regulation actions in
21 municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu
22 of the citation form specified in par. (ag). In actions for violations of local ordinances
23 enacted in accordance with s. 23.33 (11) (am), 23.335 (21) (a), or 30.77, the citation
24 form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (ag).

SENATE BILL 395**SECTION 60**

1 **SECTION 60.** 814.63 (3m) (a) of the statutes, as affected by 2015 Wisconsin Act
2 55, is amended to read:

3 814.63 **(3m)** (a) Except as provided in par. (d), if a defendant is required to
4 appear in court, in addition to any forfeiture, costs, fees, or surcharges it imposes, the
5 court shall impose and collect from the defendant any costs charged to or paid by a
6 law enforcement agency for the withdrawal of the defendant's blood if the court finds
7 that the defendant violated s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681, 114.09, 346.63,
8 or 350.101, or a local ordinance in conformity therewith.

9 **SECTION 61.** 814.65 (4m) (a) of the statutes, as affected by 2015 Wisconsin Act
10 55, is amended to read:

11 814.65 **(4m)** (a) Except as provided in par. (d), if a defendant is required to
12 appear in municipal court, in addition to any forfeiture, costs, fees, or surcharges it
13 imposes, the municipal court shall impose and collect from the defendant any costs
14 charged to or paid by a law enforcement agency for the withdrawal of the defendant's
15 blood if the court finds that the defendant violated a local ordinance in conformity
16 with s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681, 114.09, 346.63, or 350.101.

17 **SECTION 62.** 885.235 (1m) of the statutes is amended to read:

18 885.235 **(1m)** In any action under s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681
19 (1) (bn), 346.63 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the
20 person's blood at the time in question, as shown by chemical analysis of a sample of
21 the person's blood or urine or evidence of the amount of alcohol in the person's breath,
22 is admissible on the issue of whether he or she had an alcohol concentration in the
23 range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63 (2m),
24 or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the
25 sample was taken within 3 hours after the event to be proved. The fact that the

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1 analysis shows that the person had an alcohol concentration of more than 0.0 but not
2 more than 0.08 is prima facie evidence that the person had an alcohol concentration
3 in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63
4 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

5 **SECTION 63.** 885.235 (4) of the statutes is amended to read:

6 885.235 (4) The provisions of this section relating to the admissibility of
7 chemical tests for alcohol concentration or intoxication or for determining whether
8 a person had a detectable amount of a restricted controlled substance in his or her
9 blood shall not be construed as limiting the introduction of any other competent
10 evidence bearing on the question of whether or not a person was under the influence
11 of an intoxicant, had a detectable amount of a restricted controlled substance in his
12 or her blood, had a specified alcohol concentration, or had an alcohol concentration
13 in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn), 346.63
14 (2m), or 350.101 (1) (c).

15 **SECTION 64.** 895.043 (6) of the statutes is amended to read:

16 895.043 (6) LIMITATION ON DAMAGES. Punitive damages received by the plaintiff
17 may not exceed twice the amount of any compensatory damages recovered by the
18 plaintiff or \$200,000, whichever is greater. This subsection does not apply to a
19 plaintiff seeking punitive damages from a defendant whose actions under sub. (3)
20 included the operation of a vehicle, including a motor vehicle as defined under s.
21 340.01 (35), an off-highway motorcycle, as defined in s. 23.335 (1) (q), a snowmobile
22 as defined under s. 340.01 (58a), an all-terrain vehicle as defined under s. 340.01
23 (2g), a utility terrain vehicle as defined under s. 23.33 (1) (ng), and a boat as defined
24 under s. 30.50 (2), while under the influence of an intoxicant to a degree that

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1 rendered the defendant incapable of safe operation of the vehicle. In this subsection,
2 “intoxicant” has the meaning given in s. 30.50 (4e).

3 **SECTION 65.** 895.049 of the statutes is amended to read:

4 **895.049 Recovery by a person who fails to use protective headgear**
5 **while operating certain motor vehicles.** Notwithstanding s. 895.045, failure by
6 a person who operates or is a passenger on a utility terrain vehicle, as defined in s.
7 23.33 (1) (ng), a motorcycle, as defined in s. 340.01 (32), an all-terrain vehicle, as
8 defined in s. 340.01 (2g), or a snowmobile, as defined in s. 340.01 (58a), on or off a
9 highway, to use protective headgear shall not reduce recovery for injuries or damages
10 by the person or the person’s legal representative in any civil action. This section
11 does not apply to any person required to wear protective headgear under s. 23.33 (3g),
12 23.335 (8) (a) or (b), or 347.485 (1).

13 **SECTION 66.** 901.053 of the statutes is amended to read:

14 **901.053 Admissibility of evidence relating to use of protective**
15 **headgear while operating certain motor vehicles.** Evidence of use or nonuse
16 of protective headgear by a person, other than a person required to wear protective
17 headgear under s. 23.33 (3g), 23.335 (8) (a) or (b), or 347.485 (1), who operates or is
18 a passenger on a utility terrain vehicle, as defined in s. 23.33 (1) (ng), a motorcycle,
19 as defined in s. 340.01 (32), an all-terrain vehicle, as defined in s. 340.01 (2g), or a
20 snowmobile, as defined in s. 340.01 (58a), on or off a highway, is not admissible in any
21 civil action for personal injury or property damage. This section does not apply to
22 the introduction of such evidence in a civil action against the manufacturer or
23 producer of the protective headgear arising out of any alleged deficiency or defect in
24 the design or manufacture of the protective headgear or, with respect to such use of
25 protective headgear, in a civil action on the sole issue of whether the protective

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1 headgear contributed to the personal injury or property damage incurred by another
2 person.

3 **SECTION 67.** 938.17 (1) (intro.) of the statutes is amended to read:

4 938.17 (1) TRAFFIC, BOATING, SNOWMOBILE, ALL-TERRAIN VEHICLE, ~~AND UTILITY~~
5 TERRAIN VEHICLE, AND LIMITED USE OFF-HIGHWAY MOTORCYCLE VIOLATIONS. (intro.)
6 Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1)
7 and 346.67 (1) when death or injury occurs, courts of criminal and civil jurisdiction
8 have exclusive jurisdiction in proceedings against juveniles 16 years of age or older
9 for violations of ~~s. ss.~~ 23.33 and 23.335, of ss. 30.50 to 30.80, of chs. 341 to 351, and
10 of traffic regulations, as defined in s. 345.20, and nonmoving traffic violations, as
11 defined in s. 345.28 (1). A juvenile charged with a traffic, boating, snowmobile,
12 all-terrain vehicle, ~~or utility terrain vehicle, or limited use off-highway motorcycle~~
13 offense in a court of criminal or civil jurisdiction shall be treated as an adult before
14 the trial of the proceeding except that the juvenile may be held in secure custody only
15 in a juvenile detention facility. A juvenile convicted of a traffic, boating, snowmobile,
16 all-terrain vehicle, ~~or utility terrain vehicle, or limited use off-highway motorcycle~~
17 offense in a court of criminal or civil jurisdiction shall be treated as an adult for
18 sentencing purposes except as follows:

19 **SECTION 68.** 938.343 (9m) of the statutes is created to read:

20 938.343 (9m) OFF-HIGHWAY MOTORCYCLE SAFETY CERTIFICATION PROGRAM. If the
21 violation is one under s. 23.335 or under an ordinance enacted in accordance with s.
22 23.335 concerning the use of off-highway motorcycles, as defined in s. 23.335 (1) (q),
23 order the juvenile to attend the off-highway motorcycle safety certification program
24 under s. 23.335 (14).

25 **SECTION 69.** 940.09 (1m) (b) of the statutes is amended to read:

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1 940.09 (1m) (b) If a person is charged in an information with any of the
2 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
3 971.12. If the person is found guilty of more than one of the crimes so charged for
4 acts arising out of the same incident or occurrence, there shall be a single conviction
5 for purposes of sentencing and for purposes of counting convictions under s. 23.33
6 (13) (b) 2. and 3., under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under
7 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm),
8 (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not
9 require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for
10 conviction which the others do not require.

11 **SECTION 70.** 940.09 (3) of the statutes is amended to read:

12 940.09 (3) An officer who makes an arrest for a violation of this section shall
13 make a report as required under s. 23.33 (4t), 23.335 (12) (j), 30.686, 346.635 or
14 350.106.

15 **SECTION 71.** 940.25 (1m) (b) of the statutes is amended to read:

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

25 **SECTION 72.** 940.25 (3) of the statutes is amended to read:

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1 940.25 (3) An officer who makes an arrest for a violation of this section shall
2 make a report as required under s. 23.33 (4t), 23.335 (12) (j), 30.686, 346.635 or
3 350.106.

4 **SECTION 73.** 973.06 (1) (j) of the statutes, as affected by 2015 Wisconsin Act 55,
5 is amended to read:

6 973.06 (1) (j) If the defendant violated s. 23.33 (4c), 23.335 (12) (a) or (b), 30.681,
7 114.09, 346.63, 350.101, 940.09 (1), or 940.25, any costs charged to or paid by a law
8 enforcement agency for the withdrawal of the defendant's blood, except that the court
9 may not impose on the defendant any cost for an alternative test provided free of
10 charge as described in s. 343.305 (4). If at the time the court finds that the defendant
11 committed the violation, the law enforcement agency has not paid or been charged
12 with the costs of withdrawing the person's blood, the court shall impose and collect
13 the costs the law enforcement agency reasonably expects to be charged for the
14 withdrawal, based on the current charges for this procedure. Notwithstanding sub.
15 (2), the court may not remit these costs.

16 **SECTION 74.** 973.09 (2) (a) 1. d. of the statutes is amended to read:

17 973.09 (2) (a) 1. d. A misdemeanor under s. 23.33 (4c) or (4p) (e), 23.335 (12)
18 (a), (b), or (h), 30.681, 30.684 (5), 350.101, 350.104 (5), or 350.17 or a misdemeanor
19 under s. 346.63 to which s. 973.09 (1) (d) applies.

20 **SECTION 75. Nonstatutory provisions.**

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

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SECTION 75

1 (a) One member appointed under section 15.347 (10) of the statutes, as created
2 by this act, for a term expiring on March 1, 2018.

3 (b) Two members appointed under section 15.347 (10) of the statutes, as created
4 by this act, for terms expiring on March 1, 2019.

5 (c) Two members appointed under section 15.347 (10) of the statutes, as created
6 by this act, for terms expiring on March 1, 2020.

7 **SECTION 76. Effective date.**

8 (1) This act takes effect on the first day of the 7th month beginning after
9 publication, or on the 2nd day after publication of the 2015-17 biennial budget act,
10 whichever is later.

11 (END)