

# SENATE, No. 2735

## The Commonwealth of Massachusetts



IN THE YEAR OF TWO THOUSAND AND SEVEN

### AN ACT RELATIVE TO THE REGULATION OF SNOW AND RECREATION VEHICLES

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

1   **SECTION 1.** Section 20 of Chapter 90B is hereby amended as follows:-  
2   Strike the existing definition of “Law enforcement officer, “ and insert in place thereof, the  
3   following new definition:-  
4   “Law enforcement officer”, the director, deputy directors of enforcement, chiefs of  
5   enforcement, deputy chiefs of enforcement, environmental police officers and deputy  
6   environmental police officers of the office of environmental law enforcement, executive office  
7   of energy and environmental affairs, suitably-trained park rangers of the department of  
8   conservation and recreation, registrar or his authorized agents, police officers, fish and game  
9   wardens as defined in section one of chapter one hundred and thirty-one, members of the state  
10   police, and city and town police officers or employees of the commonwealth having police  
11   powers on public lands.

12 Strike the existing definition of “Recreation Vehicle,” and insert in place thereof, the following  
13 new definition:-  
14 “Recreation Vehicle”, any motor vehicle designed or modified for use over unimproved terrain  
15 if used for recreation or pleasure off a public way as defined in chapter ninety, including but not  
16 limited to, all terrain vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles,  
17 utility vehicles, and all legally registered motor vehicles when used off a way, as defined in  
18 chapter ninety, including motorcycles; said recreation vehicles are also referred to as “off-  
19 highway vehicles” or “off-road vehicles;” provided, however, that vehicles used for agriculture,  
20 forestry, lumbering or construction purposes shall be excluded from this definition when used  
21 for such purpose; provided, further, that in any complaint brought under this chapter the burden  
22 shall be upon the defendant to prove such use. Any motor vehicle legally registered under  
23 chapter ninety will not be subject to registration under this chapter but registration numbers  
24 shall be displayed as required by said chapter ninety.

25 Insert the following new definitions:-

26 “All Terrain Vehicle (ATV)”, a motorized recreational vehicle designed to travel on four low  
27 pressure tires having a seat designed to be straddled by the operator and handlebars for steering  
28 control.

29 “Recreation Utility Vehicle/Utility Vehicle,” a motorized flotation-tire vehicle with not less  
30 than four and not more than six low-pressure tires that is limited in engine displacement to less  
31 than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has  
32 a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel  
33 for control.

34 **SECTION 2:** Section 21 of Chapter 90B is hereby stricken and the following new paragraph  
35 inserted thereof:-

36 Section 21. No person shall operate a snow vehicle or a recreation vehicle unless such vehicle  
37 has been registered in accordance with the provisions of this chapter.

38 **SECTION 3.** Section 24 of Chapter 90B is hereby amended as follows:-

39 In paragraph 1, line 2, after the phrase “, a red rear light”, insert the phrase “, a rear break  
40 light,”.

41 Strike the existing language in paragraph 2 and inserting in place thereof the following new  
42 language:-

43 Every person operating or riding in or on a recreation vehicle or a snow vehicle or a sled  
44 attached thereto shall wear protective headgear conforming with such minimum standards for  
45 construction and performance as the registrar of motor vehicles may prescribe.

46 Strike the language in the third paragraph and inserting in place thereof the following new  
47 language:-

48 No snow vehicle and no recreation vehicle shall be operated which emits obnoxious fumes or  
49 which makes an unusual or excessive noise. No snow vehicle or recreation vehicle  
50 manufactured after January the first, nineteen hundred and ninety eight shall be sold, offered for  
51 sale, or operated that produces a sound pressure level of more than ninety six dbA when  
52 measured from a distance of 20 inches using test procedures established by the Society of  
53 Automotive Engineers under Standard J1287 JUL98 or with such other test procedure for  
54 measurement of sound pressure levels as the registrar of motor vehicles may adopt. No snow  
55 vehicle or recreation vehicle manufactured prior to January 1, 1998 shall be offered for sale or

56 operated that produces a sound pressure level of more than one hundred and one dbA when  
57 measured from a distance of 20 inches using test procedures established by the Society of  
58 Automotive Engineers under Standard J1287 JUL98 or with such other test procedure for  
59 measurement of sound pressure levels as the registrar of motor vehicles may adopt.

60 **SECTION 4.** Section 25 of Chapter 90B is hereby amended as follows:-

61 Strike the first sentence in paragraph 3 and insert in place thereof the following new sentence:-

62 After coming to a full stop a snow vehicle or a recreation vehicle may cross, as directly as  
63 possible, a public way, except a controlled access highway, provided, however, that in the case  
64 of recreation vehicles, such public way and crossing must be marked and approved for use by  
65 said vehicles as part of an authorized recreation vehicle trail system, and provided further that  
66 such crossing can be made in a safe manner and it does not interfere with the free movement of  
67 vehicular traffic.

68 Insert the following new sentence at the end of paragraph 3:-

69 No person under sixteen and one half years of age shall operate a snow vehicle or a recreation  
70 vehicle across or on a public way unless said operator has a motor vehicle driver's license or a  
71 learner's permit or is directly supervised, as defined in section twenty-six D of chapter 90B, by  
72 an adult that is eighteen years of age or older.

73 Amend paragraph 4 to insert after each reference therein to "a snow vehicle," the words " or a  
74 recreation vehicle".

75 **SECTION 5.** Section 26 of Chapter 90B is hereby amended by striking the existing language  
76 and inserting in place thereof the following new language:-

77 (a) (1) No person shall operate a snow vehicle or a recreation vehicle recklessly or negligently  
78 so as to endanger the lives or safety of the public. Whoever operates a snow vehicle or a

79 recreation vehicle recklessly, or operates a snow vehicle or a recreation vehicle negligently so  
80 that the lives or safety of the public might be endangered, or upon a bet or wager or in a race, or  
81 whoever operates a snow vehicle or a recreation vehicle for the purpose of making a record and  
82 thereby violates any speed regulation, or whoever without stopping and making known his  
83 name, residence and the registration number of his snow vehicle or recreation vehicle goes away  
84 after knowingly colliding with or otherwise causing injury to any other snow vehicle or  
85 recreation vehicle or property, or whoever knowingly makes any false statement in an  
86 application for a registration number of a snow vehicle or recreation vehicle shall for a first  
87 offense be punished by a fine of not less than two hundred and fifty dollars nor more than one  
88 thousand dollars or by imprisonment for not less than thirty days nor more than two years, or  
89 both, for a second offense by a fine of not less than six hundred dollars nor more than ten  
90 thousand dollars and by imprisonment for not less than sixty days nor more than two and one  
91 half years, for a third offense by a fine of not less than one thousand nor more than fifteen  
92 thousand dollars and by imprisonment for not less than two and one half years nor more than  
93 five years, and for a fourth or subsequent offense by a fine of not less than fifteen hundred  
94 dollars nor more than twenty-five thousand dollars and by imprisonment for not less than two  
95 and one half years nor more than five years.

96 Whoever uses a snow vehicle or a recreation vehicle without authority knowing that such use is  
97 unauthorized shall, for the first offense be punished by a fine of not less than fifty dollars nor  
98 more than five hundred dollars or by imprisonment for not less than thirty days nor more than  
99 two years, or both, and for a second offense by imprisonment in the state prison for not more  
100 than five years or in a house of correction for not less than thirty days nor more than two and  
101 one-half years, or by a fine of not more than one thousand dollars, or by both such fine and

102 imprisonment; and whoever is found guilty of a third or subsequent offense of such use without  
103 authority committed within five years of the earliest of his two most recent prior offenses shall  
104 be punished by a fine of not less than two hundred dollars nor more than one thousand dollars or  
105 by imprisonment for not less than six months nor more than two and one-half years in a house  
106 of correction or for not less than two and one-half years nor more than five years in the state  
107 prison or by both fine and imprisonment.

108 Whoever operates a snow vehicle or a recreation vehicle and, without stopping and making  
109 known his name, residence and the registration number of his snow vehicle or recreation  
110 vehicle, goes away after knowingly colliding with or otherwise causing injury to any person  
111 shall be punished by imprisonment for not less than two months nor more than two years.

112 A summons may be issued instead of a warrant for arrest upon a complaint for a violation of  
113 any provision of this subsection if in the judgment of the court or justice receiving the complaint  
114 there is reason to believe that the defendant will appear upon a summons.

115 A conviction of a violation of this subsection shall be reported forthwith by the court or  
116 magistrate to the registrar of motor vehicles, who may in any event, and shall unless the court or  
117 magistrate recommends otherwise, revoke immediately the license or right to operate and to the  
118 director, who may immediately revoke the registration number of the person so convicted, and  
119 no appeal, motion for new trial or exceptions shall operate to stay the revocation of such license,  
120 right to operate or registration number. If it appears by the records of the director that the person  
121 so convicted is the owner of a snow vehicle or a recreation vehicle or has exclusive control of  
122 any snow vehicle or recreation vehicle as a manufacturer or dealer or otherwise, the director  
123 may revoke the registration of numbers of any or all snow vehicles or recreation vehicles so  
124 owned or exclusively controlled.

125 The registrar, after having revoked the license or right to operate of any person under this  
126 subsection, in his discretion, may issue a new license or reinstate the right to operate and the  
127 director may issue a new registration number, if the prosecution of such person in the superior  
128 court has terminated in favor of the defendant or after an investigation or upon hearing, the  
129 registrar may issue a new license or reinstate the right to operate and the director may issue a  
130 new registration number to a person convicted in any court of the violation of any provision of  
131 this subsection; provided, that no license shall be issued by the registrar to any person convicted  
132 of going away without stopping and making known his name, residence and the registration  
133 number of his snow vehicle or recreation vehicle after having, while operating such snow  
134 vehicle or recreation vehicle knowingly collided with or otherwise caused injury to any person,  
135 or to any person adjudged a delinquent child by reason thereof under the provisions of section  
136 fifty-eight B of chapter one hundred and nineteen, until one year after the date of revocation  
137 following his original conviction or adjudication if for a first offense or until two years after the  
138 date of revocation following any subsequent conviction or adjudication, or to any person  
139 convicted of using a snow vehicle or recreation vehicle knowing that such use is unauthorized,  
140 until one year after the date of revocation following his original conviction or adjudication if for  
141 a first offense or until three years after the date of revocation following any subsequent  
142 conviction or adjudication, or to any person convicted of violating any other provision of this  
143 subsection until sixty days after the date of revocation following his original conviction if for a  
144 first offense, or one year after the date of revocation following any subsequent conviction within  
145 a period of three years. But the registrar, after investigation, may at any time rescind the  
146 revocation of a license or right to operate revoked because of a conviction of operating a snow  
147 vehicle or a recreation vehicle negligently so that the lives or safety of the public might be

148 endangered and the director, after investigation, may at any time rescind the revocation of a  
149 registration number revoked because of a conviction of operating a snow vehicle or a recreation  
150 vehicle negligently so that the lives or safety of the public might be endangered.

151 Notwithstanding any of the foregoing, any person whose registration number has been revoked  
152 under this subsection may at any time and shall within fifteen days be granted a hearing for the  
153 purpose of requesting the issuance of a registration number on the grounds of hardship and the  
154 director may, in his discretion, issue such registration number under such terms and conditions  
155 as he deems appropriate and necessary.

156 The prosecution of any person for the violation of any provision of this subsection, if a  
157 subsequent offense, shall not, unless the interests of justice require such disposition, be placed  
158 on file or otherwise disposed of except by trial, judgment and sentence according to the regular  
159 course of criminal proceedings; and such a prosecution shall be otherwise disposed of only on  
160 motion in writing stating specifically the reasons therefore and verified by affidavits if facts are  
161 relied upon. If the court or magistrate certifies in writing that it is satisfied that the reasons  
162 relied upon are sufficient and that the interests of justice require the allowance of the motion,  
163 the motion shall be allowed and the certificate shall be filed in the case. A copy of the motion  
164 and certificate shall be sent by the court or magistrate forthwith to the director.

165 In any prosecution commenced pursuant to this subsection, introduction into evidence of a prior  
166 conviction or prior finding of sufficient facts by either original court papers or certified attested  
167 copy of original court papers, accompanied by a certified attested copy of the biographical and  
168 informational data from official probation office records, shall be prima facie evidence that a  
169 defendant has been convicted previously or assigned to an alcohol education or rehabilitation  
170 program because of a like offense by a court of the commonwealth one or more times within a

171 period of six years preceding the date of commission of the offense for which said defendant is  
172 being prosecuted.

173 (b) (1) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so  
174 that the lives or safety of the public might be endangered, and by any such operation so  
175 described causes serious bodily injury, shall be punished by imprisonment in the state prison for  
176 not less than two and one-half years nor more than ten years and by a fine of not more than five  
177 thousand dollars, or by imprisonment in a jail or house of correction for not less than six months  
178 nor more than two and one-half years and by a fine of not more than five thousand dollars.

179 The sentence imposed upon such person shall not be reduced to less than six months, nor  
180 suspended, nor shall any person convicted under this subsection be eligible for probation,  
181 parole, or furlough or receive any deduction from his sentence until such person has served at  
182 least six months of such sentence; provided, however, that the commissioner of correction may,  
183 on the recommendation of the warden, superintendent, or other person in charge of a  
184 correctional institution, grant to an offender committed under this subsection a temporary  
185 release in the custody of an officer of such institution for the following purposes only: to attend  
186 the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or  
187 psychiatric services unavailable at said institution; or to engage in employment pursuant to a  
188 work release program. Prosecutions commenced under this subsection shall neither be  
189 continued without a finding nor placed on file.

190 The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply  
191 to any person charged with a violation of this section.

192 (2) For the purposes of this subsection "serious bodily injury" shall mean bodily injury which  
193 creates a substantial risk of death or which involves either total disability or the loss or

194 substantial impairment of some bodily function for a substantial period of time.

195 (3) The registrar of motor vehicles shall revoke the license or right to operate and the director  
196 shall revoke the registration number of a person convicted of a violation of this subsection for a  
197 period of two years after the date of conviction. No appeal, motion for new trial or exception  
198 shall operate to stay the revocation of said license, right to operate or certificate of number  
199 provided, however, that such license, right to operate and certificate of number shall be restored  
200 if the prosecution of such person ultimately terminates in favor of the defendant.

201 Notwithstanding the foregoing, any person whose registration number has been revoked under  
202 this section may at any time apply for and shall within fifteen days be granted a hearing for the  
203 purpose of requesting the issuance of a registration number on the grounds of hardship and the  
204 director may, in his discretion, issue such certificate of number under such terms and conditions  
205 as he deems appropriate and necessary.

206 (c) (1) Whoever operates a snow vehicle or a recreation vehicle and so operates said snow  
207 vehicle or recreation vehicle recklessly or negligently so that the lives or safety of the public  
208 might be endangered, and by any such operation so described causes the death of another  
209 person, shall be guilty of vehicular homicide, and shall be punished by imprisonment in the state  
210 prison for not less than two and one-half years nor more than fifteen years and a fine of not  
211 more than five thousand dollars, or by imprisonment in a jail or house of correction for not less  
212 than one year nor more than two and one-half years and a fine of not more than five thousand  
213 dollars. The sentence imposed upon such person shall not be reduced to less than one year, nor  
214 suspended, nor shall any person convicted under this subsection be eligible for probation,  
215 parole, or furlough or receive any deduction from his sentence until such person has served at  
216 least one year of such sentence; provided, however, that the commissioner of correction may, on

217 the recommendation of the warden, superintendent, or other person in charge of a correctional  
218 institution, or the administrator of a county correctional institution, grant to an offender  
219 committed under this paragraph a temporary release in the custody of an officer of such  
220 institution for the following purposes only: to attend the funeral of a relative; to visit a critically  
221 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution;  
222 or to engage in employment pursuant to a work release program. Prosecutions commenced  
223 under this subsection shall neither be continued without a finding nor placed on file.

224 The provisions of section eighty-seven of chapter two hundred and seventy-six, shall not apply  
225 to any person charged with a violation of this section.

226 (2) The registrar shall revoke the license or right to operate and the director shall revoke the  
227 registration number of a person convicted of a violation of this subsection for a period of ten  
228 years after the date of conviction for a first offense. The registrar shall revoke the license or the  
229 right to operate and the director shall revoke the registration number of a person convicted for a  
230 subsequent violation of this subsection for the life of such person. No appeal, motion for a new  
231 trial or exceptions shall operate to stay the revocation of the license, right to operate, or  
232 registration number provided, however, such license, right to operate and registration number  
233 shall be restored if the prosecution of such person ultimately terminates in favor of the  
234 defendant.

235 Notwithstanding the foregoing, any person whose registration number has been revoked under  
236 this subsection may at any time apply for and shall within fifteen days be granted a hearing for  
237 the purpose of requesting the issuance of a certificate of number on the grounds of hardship and  
238 the director may, in his discretion, issue such certificate of number under such terms and  
239 conditions as he deems appropriate and necessary.

240 **SECTION 6.** Chapter 90B is hereby amended by adding the following new section:-

241 Section 26A. No one shall operate a snow vehicle or a recreation vehicle in a manner that  
242 harasses or otherwise harms deer or other wildlife. No one shall operate a snow vehicle or a  
243 recreation vehicle in a reforested or planted area in a manner that causes damage to growing  
244 stock. No one shall operate a snow vehicle or a recreation vehicle in a manner that causes  
245 damage to public or private property, including but not limited to, lands owned or managed by  
246 the department of conservation and recreation or the division of fisheries and wildlife, wetlands  
247 or other waters of the commonwealth, priority habitats delineated by the division of fisheries  
248 and wildlife pursuant to chapter one hundred and thirty-one A, lands used for public water  
249 supply purposes or historic or archaeological sites.

250 **SECTION 7.** Chapter 90B is hereby amended by adding the following new section:-

251 Section 26B. No person shall operate a snow vehicle or a recreation vehicle on privately owned  
252 property, except in cases of emergency, unless: (a) the operator is the owner or lessee or  
253 immediate family member of the owner or lessee of such property; (b) the operator has in his  
254 possession either a document, signed by the owner or lessee of such property or his agent,  
255 authorizing the operation of a said vehicle on such property by the operator or valid proof of  
256 current membership in a club, association or other organization to which express authorization  
257 for the operation of said vehicles on such property has been granted; provided, however, that  
258 such operation shall be consistent with the express authorization so granted and any restrictions  
259 imposed therewith; or (c) the owner or lessee of such property has designated the area for use by  
260 said vehicles by posting reasonable notice of such designation in a manner approved by the  
261 director.

262 **SECTION 8.** Chapter 90B is hereby amended by adding the following new section:-

263 Section 26C. No one shall carry a firearm, rifle or shotgun in or on a snow vehicle or a  
264 recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is  
265 unloaded and in an enclosed case, unless he is a law enforcement officer or other person  
266 authorized to carry arms as specifically described in section thirty-two, or a paraplegic as  
267 provided in section sixty-five of chapter one hundred and thirty-one.

268 **SECTION 9.** Chapter 90B is hereby amended by adding the following new section:-

269 Section 26D. (a) No person under fourteen years of age shall operate a snow vehicle or  
270 recreation vehicle. No person under sixteen and one half years of age shall operate a snow  
271 vehicle or a recreation vehicle across a public highway. No person between the age of fourteen  
272 years of age and sixteen years of age shall operate a recreation vehicle with an engine capacity  
273 greater than 90 cubic centimeters and unless directly supervised by an adult that is eighteen  
274 years of age or older . For the purposes of this section, direct supervision shall mean that the  
275 supervising adult shall be sufficiently close to an operator at all times that the vehicle is in  
276 operation, such that a reasonable person under the totality of the circumstances including, but  
277 not limited to, vehicle and ambient noise, the landscape and geography of the location, and the  
278 operator's wearing of protective headgear, would believe that he is maintaining visual contact  
279 and verbal communication with the operator.

280 (b) The director may, after consultation with the state off-highway advisory committee and a  
281 public hearing, promulgate regulations consistent with this chapter, including but not limited to  
282 increasing age at which persons may operate a snow vehicle or recreation vehicle in the  
283 commonwealth or regulating the engine size and speed capabilities of such based on the age of  
284 the operator.

285 (c) The Director shall, within 180 days of passage of this act, amend any CMRs such that they  
286 are consistent with this act.

287 **SECTION 10.** Chapter 90B is hereby amended by adding the following new section:-

288 Section 26E. A motor vehicle operator's license or learner's permit shall not be required for the  
289 operation of a snow vehicle or a recreation vehicle, except as otherwise provided in section 25  
290 of chapter ninety B.

291 **SECTION 11.** Chapter 90B is hereby amended by adding the following section:-

292 Section 26F. All operators of recreation vehicles born after January 1, 1990 shall successfully  
293 complete a recreation vehicle safety and responsibility course approved by the director of the  
294 office of environmental law enforcement. A parent or the legal guardian of an operator of  
295 recreation vehicles under sixteen years of age shall participate in at least one session of the  
296 safety and responsibility course or as required by the director in his approval of said course.  
297 Proof of the successful completion of the recreation vehicle safety and responsibility course  
298 shall be carried on the person of the operator while transporting or operating a recreation  
299 vehicle. Proof of an operator's successful completion of another state's equivalent recreation  
300 vehicle safety and responsibility course, as determined by the director, shall be valid in the  
301 commonwealth.

302 **SECTION 12.** Chapter 90B is hereby amended by adding the following new section:-

303 Section 26G. (a) Any owner of a snow vehicle or a recreation vehicle or other person who  
304 authorizes a person under eighteen years of age to operate a snow vehicle or a recreation vehicle  
305 shall be held liable, jointly and severally, with the operator for any damage or injuries caused by

306 said minor's operation of the vehicle and for any fines, penalties or restitution resulting  
307 therefrom.

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

313 **SECTION 13.** Section 32 of Chapter 90B is hereby amended as follows:-

314 Strike the first sentence in paragraph 1, and insert in place thereof, the following new sentence:-

315 The provisions of sections twenty-one to thirty-four, inclusive, and all the rules and regulations  
316 made under the authority thereof shall be enforced by the director, deputy directors of  
317 enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police  
318 officers and deputy environmental police officers of the office of environmental law  
319 enforcement, executive office of energy and environmental affairs, suitably-trained park rangers  
320 of the department of conservation and recreation, registrar or his authorized agents, police  
321 officers, fish and game wardens as defined in section one of chapter one hundred and thirty-one,  
322 members of the state police, and city and town police officers or employees of the  
323 commonwealth having police powers on public lands.

324 **SECTION 14.** Section 34 of Chapter 90B is hereby amended by striking the existing language  
325 and inserting in place thereof the following:-

326 Section 34. Whoever violates any provision of sections twenty-one to twenty-four, inclusive, or  
327 any rule or regulation made thereunder, shall be punished by a fine of not less than one hundred  
328 dollars nor more than two hundred and fifty dollars.

329 Whoever violates any provision of sections twenty-one to twenty-four, inclusive, or any rule or  
330 regulation made thereunder more than once within twenty four months shall be punished by a  
331 fine of not less than two hundred and fifty dollars nor more than five hundred dollars or  
332 imprisonment for not less than thirty days nor more than one year, or both such fine and  
333 imprisonment.

334 Whoever violates any provision of section twenty-five or section twenty six A to twenty six G ,  
335 inclusive, or section 27, inclusive, or of any rule or regulation made thereunder, shall be  
336 punished by a fine of not less than two hundred and fifty dollars nor more than five hundred  
337 dollars, or by a fine of not less than two hundred fifty dollars nor more than one thousand  
338 dollars or imprisonment for not less than 60 days nor more than one year or both such fine and  
339 imprisonment.

340 **SECTION 15.** Section 10H of Chapter 21A is hereby amended by inserting the following two  
341 new paragraph after paragraph three:-

342 A person notified to appear before the clerk of a district court as provided in section 10G for  
343 violation of section 24, section 25, sections 26B through 26G, or twenty seven of said chapter  
344 90B may so appear within the time specified and pay a fine of \$150 dollars.

345 A person notified to appear before the clerk of a district court as provided in section 10G for  
346 violation of subsection (e) of section 26 and section 26A may so appear within the time  
347 specified and pay a fine of \$250 dollars.

348 **SECTION 16.** Section 121A of Chapter 266 is hereby amended by striking the existing  
349 language in paragraph one and inserting in place thereof the following:-

350 Whoever, without right, enters upon the private land of another, whether or not such land be  
351 posted against trespass, and in so entering makes use of or has in his immediate possession or

352 control any vehicle, machine, or device which includes an internal combustion engine or other  
353 source of mechanical power, shall be punished by a fine of not less than two hundred and fifty  
354 dollars nor more than five hundred dollars, or by a fine of not less than two hundred fifty dollars  
355 nor more than one thousand dollars or imprisonment for not less than 60 days nor more than one  
356 year or both such fine and imprisonment.

357 **SECTION 17.** Chapter 21A is hereby amended by inserting the following new section:-

358 Section 18B. There is hereby established within the executive office of energy and  
359 environmental affairs a state off-highway vehicle advisory committee. The committee shall  
360 advise the secretary and the department of conservation and recreation, the department of fish  
361 and game, the department of environmental protection, and the office of environmental law  
362 enforcement within said executive office on matters involving the commonwealth's regulation  
363 of off-highway vehicles, including the development and enforcement of state regulations and  
364 policies, safety and training programs, and the distribution of available state funding. The  
365 secretary shall appoint the members of the committee, which shall consist of 12 members. Of  
366 the committee members, 3 shall be representatives of off-highway vehicle users; 1 shall be a  
367 representative of the off-highway vehicle manufacturers and dealers; 1 shall be a representative  
368 of the department of public health; 1 shall be a representative of child safety advocates  
369 associated with the use of off-highway vehicles; 1 shall be a representative of snowmobile  
370 association of Massachusetts; 2 shall be representatives of a non-profit organization that owns  
371 and manages land open to the public; 1 shall be a representative of an association or  
372 organization of large private land owners; and 2 shall be representatives of state and local law  
373 enforcement authorities. Each appointee shall serve without compensation for a term of 3 years.  
374 The committee shall select a chairperson annually by a majority vote of the members. The

375 committee shall meet at least twice each year, and shall also meet at the request of the secretary  
376 or committee chairperson. The minutes of each meeting shall be transmitted in a timely fashion  
377 to the Joint Committee on Environment, Natural Resources and Agriculture.

378 **SECTION 18.** Chapter 21A is hereby amended by inserting the following new section:-

379 Section 18C.

380 (1) There is hereby established and set up on the books of the commonwealth a separate fund to  
381 be known as the Off Highway Vehicle Program Fund. There shall be credited to the fund all  
382 fees collected by the commonwealth pursuant to sections twenty-one to thirty-two, inclusive, of  
383 chapter 90B, and all fines, costs, expenses, and interest imposed by the commonwealth pursuant  
384 to its authority under sections 26 and 34 of chapter 90B, section 10H of chapter 21A, or section  
385 121A of chapter 266, any revenue from appropriations or other monies authorized by the  
386 general court and specifically designated to be credited to the fund, any appropriation or grant  
387 explicitly made to the fund, and any income derived from the investment of amounts credited to  
388 the fund.

389 (2) All amounts credited to the fund may be expended without further appropriation by the  
390 executive office of energy and environmental affairs and its office of environmental law  
391 enforcement, department of conservation and recreation, department of fish and game, and  
392 department of environmental protection for the following purposes:

393 (a) the enforcement of statutes, regulations, and policies applicable to off-highway vehicles;

394 (b) the acquisition of land for use as commonwealth-approved trails and facilities for off-  
395 highway vehicles or for the development, maintenance, repair or restoration of said  
396 commonwealth-approved trails and facilities;

397 (c) for grants made by the department of conservation and recreation to municipalities and  
398 other public entities for the purposes of subsection (2)(a)-(c);  
399 (d) the development and administration of safety and training programs; and  
400 (e) for other off-highway program activities, including all direct and indirect costs of personnel  
401 or contactors of the said executive office and its office of environmental law enforcement and  
402 departments.

403 (3) Monies that are deposited in the fund that are unexpended at the end of the fiscal year shall  
404 not revert to the General Fund and shall be available for expenditure in the subsequent fiscal  
405 year.

406 **SECTION 19.** Section 35 of Chapter 90B is hereby amended by striking the existing language  
407 and inserting in place thereof the following new language:-

408 Section 35. All fees collected by the commonwealth pursuant to sections twenty-one to thirty-  
409 two, inclusive, shall be credited to the Off Highway Program Fund established pursuant to  
410 section 18C of chapter 21A.

411 **SECTION 20.** Section 11 of Chapter 21A is hereby amended by striking the existing language  
412 and inserting in place thereof the following new language:-

413 There is hereby established within the office of law enforcement an advisory board to be  
414 designated as the boating safety advisory board. The board shall consist of five members to be  
415 appointed by the governor, two of whom shall be representative of the boating public each of  
416 whom shall hold a certificate of number issued pursuant to section three of chapter ninety B,  
417 one of whom may represent the harbormaster's association and two members shall represent the  
418 recreational boating business, one of whom shall operate a boat dealership. Each member shall  
419 serve for a term of three years. The chairman of the board shall be appointed, from the five

420 members, annually by the governor, and in the absence of same shall be designated by the  
421 director. Board members shall be appointed or reappointed for terms of three years.

422 The boating safety advisory board shall meet at least quarterly and three members in attendance  
423 shall constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the  
424 inland enforcement bureau established under section six of chapter twenty-one, or their  
425 designees, shall attend all meetings of said board and shall provide such information as said  
426 board shall request.

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

434 **SECTION 21.** Section 2 shall take effect as of May 1, 2009; provided however, that no penalty  
435 shall be assessed for violation of section 21 of chapter 90B of the General Laws on or before  
436 September 1, 2008.