

[Senate, June 24, 2008 - Substituted by amendment by the Senate (Baddour) for Senate, No. 2771, printed as amended.]



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 10H of chapter 21A of the General Laws, as appearing in the
2 2006 Official Edition, is hereby amended by inserting after the third paragraph the following
3 paragraph:-

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

7 **SECTION 2.** Said chapter 21A is hereby further amended by striking out section 11, as
8 so appearing, and inserting in place thereof the following section:-

9 Section 11. There is hereby established within the office of law enforcement an advisory
10 board to be designated as the boating safety advisory board. The board shall consist of 5
11 members to be appointed by the governor, 2 of whom shall be representative of the boating
12 public each of whom shall hold a certificate of number issued pursuant to section 3 of chapter
13 90B, 1 of whom may represent the harbormaster's association and 2 members shall represent the
14 recreational boating business, 1 of whom shall operate a boat dealership. Each member shall
15 serve for a term of 3 years. The chairman of the board shall be appointed, from the 5 members,
16 annually by the governor, and in the absence of same shall be designated by the director. Board
17 members shall be appointed or reappointed for terms of 3 years.

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

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

30 **SECTION 3.** Said chapter 21A, as so appearing, is hereby further amended by inserting
31 after section 18A, the following 2 sections:-

32 Section 18B. There is hereby established within the executive office of energy and
33 environmental affairs a state off-highway vehicle advisory committee. The committee shall
34 advise the secretary and the department of conservation and recreation, the department of fish
35 and game, the department of environmental protection, and the office of environmental law
36 enforcement within said executive office on matters involving the commonwealth's regulation
37 of off-highway vehicles, including the development and enforcement of state regulations and
38 policies, safety and training programs, and the distribution of available state funding. The
39 secretary shall appoint the members of the committee, which shall consist of 12 members. Of
40 the committee members, 3 shall be representatives of off-highway vehicle users; 1 shall be a
41 representative of the off-highway vehicle manufacturers and dealers; 1 shall be a representative
42 of the department of public health; 1 shall be a representative of child safety advocates
43 associated with the use of off-highway vehicles; 1 shall be a representative of The Snowmobile
44 Association of Massachusetts; 2 shall be representatives of a non-profit organization that owns
45 and manages land open to the public; 1 shall be a representative of an association or
46 organization of large private land owners; and 2 shall be representatives of state and local law
47 enforcement authorities. Each appointee shall serve without compensation for a term of 3 years.
48 The committee shall select a chairperson annually by a majority vote of the members. The
49 committee shall meet at least twice each year, and shall also meet at the request of the secretary
50 or committee chairperson. The minutes of each meeting shall be transmitted in a timely fashion
51 to the joint committee on environment, natural resources and agriculture.

52
53 Section 18C. (1) There is hereby established and set up on the books of the
54 commonwealth a separate fund to be known as the Off-Highway Vehicle Program Fund. There

55 shall be credited to the fund 75 per cent of all fees, fines, costs, expenses and interest imposed
56 pursuant to sections 21 to 32, inclusive, of chapter 90B and the fourth paragraph of section 10H
57 of chapter 21A and any revenue from appropriations or other monies authorized by the general
58 court and specifically designated to be credited to the fund, any appropriation or grant explicitly
59 made to the fund, and any income derived from the investment of amounts credited to the fund.

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

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

66 (b) the acquisition of land for use as commonwealth-approved trails and facilities for
67 off-highway vehicles or for the development, maintenance, repair or restoration of
68 commonwealth-approved trails and facilities;

69 (c) for grants made by the department of conservation and recreation to municipalities
70 and other public entities for the purposes of clauses (a) and (b);

71 (d) the development and administration of safety and training programs; and

72 (e) for other off-highway program activities, including all direct and indirect costs of
73 personnel or contactors of the executive office and its office of environmental law enforcement
74 and departments.

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

78

79 **SECTION 4.** Section 20 of chapter 90B of the General Laws, as so appearing, is hereby
80 amended by striking out the definition of “Law enforcement officer” and inserting in place
81 thereof the following 2 definitions:-

82 “**All terrain vehicle**”, a motorized recreational vehicle designed or modified for travel on
83 4 low pressure tires having a seat designed to be straddled by the operator and handlebars for
84 steering control.

85 “**Law enforcement officer**”, the director, a deputy director of enforcement, a chief of
86 enforcement, a deputy chief of enforcement, an environmental police officer and a deputy
87 environmental police officer of the office of environmental law enforcement within the
88 executive office of energy and environmental affairs, park rangers of the department of
89 conservation and recreation, the registrar or an authorized agent thereof , a police officer, a fish
90 and game warden as defined in section 1 of chapter 131, a member of the state police, and a city
91 or town police officer or an employee of the commonwealth having police powers on public
92 lands.

93

94 **SECTION 5** Said section 20 of said chapter 90B, as so appearing, is hereby further
95 amended by striking out the definition of “Recreation vehicle” and inserting in place thereof,
96 the following 2 definitions:-

97 “**Recreation vehicle**”, “**off-highway vehicle**” or “**off-road vehicle**”, any motor vehicle
98 designed or modified for use over unimproved terrain for recreation or pleasure while not being
99 operated on a public way as defined in chapter 90, including but not limited to, all terrain
100 vehicles, off-highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles and all

101 legally registered motor vehicles while not being operated on a public way as defined in said
102 chapter 90, but recreation vehicles, off-highway vehicles and off-road vehicles that are being
103 operated for agricultural, forestry, lumbering or construction purposes shall not be subject to
104 this chapter and it shall be an affirmative defense that such vehicle was being operated for such
105 use at the time of an alleged violation. "Recreation utility vehicle" or "utility vehicle," a
106 motorized flotation-tire vehicle with not less than 4 and not more than 6 low-pressure tires that
107 is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to
108 not more than 1,800 pounds and that has a seat that is of bench design, not intended to be
109 straddled by the operator, and a steering wheel for control.

110 **SECTION 6.** Said chapter 90B is hereby further amended by striking out section 21, as
111 so appearing, and inserting in place thereof the following section:-

112 Section 21. No person born after January 1, 1990 shall operate a recreation vehicle
113 unless he has successfully completed a recreation vehicle safety and responsibility course
114 approved by the director of the office of environmental law enforcement. Such course shall
115 include, but not be limited to, notification of the potential criminal penalties and forfeiture
116 process for certain violations of law relative to the safe operation of snow vehicles and
117 recreation vehicles. A parent or the legal guardian of an operator of recreation vehicles under
118 16 years of age shall participate in at least 1 session of the safety and responsibility course or as
119 required by the director. Proof of the successful completion of the recreation vehicle safety and
120 responsibility course shall be carried on the person of the operator while transporting or
121 operating a recreation vehicle. Proof of an operator's successful completion of another state's
122 equivalent recreation vehicle safety and responsibility course, as determined by the director,
123 shall be valid in the commonwealth.

124 **SECTION 7.** Section 22 of said chapter 90B, as so appearing, is hereby amended by
125 striking out the first sentence and inserting in place thereof the following words:- No person
126 shall operate a snow vehicle or a recreation vehicle unless such vehicle has been registered in
127 accordance with this chapter and such registration number is displayed on such vehicle. A
128 motor vehicle license or learner's permit shall not be required for the operation of a snow
129 vehicle or a recreation vehicle.

130 Application for registration of a snow vehicle or a recreation vehicle shall be made by
131 the owner to the director or his agent on such forms as the director shall prescribe and shall state
132 the name and address of the owner of such vehicle. It shall be illegal to knowingly make any
133 false statement in an application for registration of a snow vehicle or recreation vehicle.

134 **SECTION 7A.** Said section 22 of said chapter 90B, as so appearing, is hereby further amended
135 by striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

136 The fee for initial registration of each such vehicle and for each renewal thereof, other
137 than vehicles for which application is made by a manufacturer or dealer as hereinafter provided,
138 shall be determined annually by the commissioner of administration under section 3B of chapter
139 7, except that no fee shall be collected for the registration of any such vehicle owned by the
140 commonwealth or any political subdivision thereof or a vehicle used exclusively for
141 agricultural, forestry, lumbering or construction purposes.

142 In the case of a vehicle to be used exclusively for agricultural, forestry, lumbering or
143 construction purposes, the owner of such vehicle may apply for an exemption from the
144 registration fee. The application for exemption shall be on a form prescribed by the director of

145 the division of law enforcement in the executive office of energy and environmental affairs. If
146 the director is satisfied that the vehicle for which a fee exemption is sought is to be used
147 exclusively for agricultural, forestry, lumbering or construction purposes, he shall grant the
148 application and the owner of such vehicle shall be exempt from the registration fee for such
149 vehicle. If the vehicle ceases to be used exclusively for agricultural, forestry, lumbering or
150 construction purposes, the owner thereof shall no longer be exempt from paying such
151 registration fee and may be required to pay a portion thereof. A new application for a fee
152 exemption shall be required for further fee exemption upon registration renewal. An application
153 for fee exemption granted pursuant to this section shall not be admissible nor relevant at trial on
154 the question of whether such vehicle was being operated for agricultural, forestry, lumbering or
155 construction purposes at the time of an alleged violation of this chapter.

156 **SECTION 8.** Section 24 of said chapter 90B, as so appearing, is hereby amended by
157 inserting after the word “light” in line 1, the following words:- , a rear break light.

158 **SECTION 9.** Said section 24 of said chapter 90B, as so appearing, is hereby further
159 amended by striking out the second and third paragraphs and inserting in place thereof the
160 following 2 paragraphs:-

161 No snow vehicle and no recreation vehicle shall be operated which emits obnoxious
162 fumes or which makes an unusual or excessive noise.

163 No snow vehicle or recreation vehicle manufactured after January 1,1998 shall be sold,
164 offered for sale, or operated that produces a sound pressure level of more than 96 dbA when
165 measured from a distance of 20 inches using test procedures established by the Society of
166 Automotive Engineers under Standard J1287 JUL98 or with such other test procedure for

167 measurement of sound pressure levels as the registrar of motor vehicles may adopt. No snow
168 vehicle or recreation vehicle manufactured prior to January 1, 1998 shall be offered for sale or
169 operated that produces a sound pressure level of more than 101 dbA when measured from a
170 distance of 20 inches using test procedures established by the Society of Automotive Engineers
171 under Standard J1287 JUL98 or with such other test procedure for measurement of sound
172 pressure levels as the registrar of motor vehicles may adopt.

173 No owner or operator of a snow vehicle or a recreation vehicle involved in a collision,
174 accident or other such casualty resulting in death or injury to a person or damage to property in
175 excess of \$50 shall fail to notify a law enforcement officer immediately and file a report of the
176 incident with the division within 48 hours, on forms prescribed by the director.

177 **SECTION 10.** Said chapter 90B is hereby further amended by inserting after section 24
178 the following section:-

179 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule
180 or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than
181 \$500.

182 **SECTION 11.** Section 25 of said chapter 90B, as so appearing, is hereby amended by
183 striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

184 No person under 16 1/2 years of age shall operate a snow vehicle or a recreation vehicle
185 across or on a public way unless the operator holds a valid license or right to operate a motor
186 vehicle or is directly supervised, as defined in section 26D, by an person 18 years of age or
187 older.

188 An operator of a snow vehicle or a recreation vehicle that meets the requirements of the
189 preceding paragraph may, after coming to a full stop, cross, as directly as possible, a public

190 way, except a controlled access highway, and except that for recreation vehicles, the public way
191 and crossing must be marked and approved for use by recreation vehicles as part of an
192 authorized recreation vehicle trail system and a recreation vehicle operator shall make the
193 crossing safely and without interfering with the free movement of vehicular traffic. The
194 operator of a snow vehicle or a recreation vehicle shall yield the right-of-way to all other
195 vehicular traffic when making such crossing.

196 **SECTION 12.** Said section 25 of said chapter 90B, as so appearing, is hereby further
197 amended by inserting after the words “snow vehicle”, in lines 29, 29 and 30, 32, 33 and 34, each
198 time they appear, the following words:- or a recreation vehicle.

199 **SECTION 13.** Said chapter 90B is hereby further amended by inserting after section 25
200 the following 7 sections:-

201 Section 25A. No person shall operate or ride in or on a recreation vehicle or a snow
202 vehicle, or a sled attached thereto, without wearing protective headgear that conforms to such
203 minimum standards for construction and performance as the registrar of motor vehicles may
204 prescribe.

205 Section 25B. No person under 14 years of age shall operate all terrain vehicle or
206 recreation utility vehicle.

207 This section shall not apply to any person under 14 years of age operating a recreation
208 vehicle or snow vehicle in a sanctioned race, rally or organized event which is supervised by a
209 person aged 18 or older and has been authorized or approved by any municipal permitting
210 authority. It shall be an affirmative defense to this paragraph that such person was operating
211 such vehicle in preparation for such a sanctioned event, if: such person was so operating such a
212 vehicle while under direct supervision, as defined by section 25C, by a person aged 18 or older;

213 the operation occurred within 21 days of such sanctioned event; and the operator was a
214 registered participant therein or did in fact participate therein.

215

216 Section 25C. No person between the age of 14 years of age and 16 years of age shall
217 operate an all terrain vehicle or recreation utility vehicle with an engine capacity greater than 90
218 cubic centimeters unless directly supervised by an adult that is 18 years of age or older. For the
219 purposes of this section, “direct supervision” shall mean that the supervising adult shall be
220 sufficiently close to an operator at all times that the vehicle is in operation, such that a
221 reasonable person under the totality of the circumstances including, but not limited to, vehicle
222 and ambient noise, the landscape and geography of the location, and the operator’s wearing of
223 protective headgear, would believe that he is maintaining visual contact and verbal
224 communication with the operator.

225 Section 25D. No owner of a snow vehicle or a recreation vehicle or other person who
226 knowingly permits a person under 18 years of age to operate a snow vehicle or a recreation
227 vehicle in violation of this chapter.

228 Section 25E. No prosecution commenced pursuant to said section 25 to 27E, inclusive
229 shall be continued without a finding.

230 Section 25F. Whoever violates section 25 to 25E, inclusive, or section 26B shall be
231 punished, for a first offense, by a fine of \$250 and for a second or subsequent offense by a fine
232 of not less than \$500 nor more than \$2,500 and the snow vehicle or recreation vehicle that the
233 operator was operating at the time of such second or subsequent offense shall be subject to
234 forfeiture under section 26J.

235 Section 25G.No person shall operate a snow vehicle or a recreation vehicle on privately
236 owned property, unless: (a) the operator is the owner or lessee or immediate family member of
237 the owner or lessee of such property; (b) the operator has in his possession either a document,
238 signed by the owner or lessee of such property or his agent, authorizing the operation of a said
239 vehicle on such property by the operator or valid proof of current membership in a club,
240 association or other organization to which express authorization for the operation of said
241 vehicles on such property has been granted; provided, however, that such operation shall be
242 consistent with the express authorization so granted and any restrictions imposed therewith; or
243 (c) the owner or lessee of such property has designated the area for use by said vehicles by
244 posting reasonable notice of such designation in a manner approved by the director.

245 Section 25H. No person shall operate a snow vehicle or a recreation vehicle in a manner
246 that harasses or otherwise harms deer or other wildlife. No person shall operate a snow vehicle
247 or a recreation vehicle in a reforested or planted area in a manner that causes damage to growing
248 stock. No person shall operate a snow vehicle or a recreation vehicle in a manner that causes
249 damage to public or private property, including but not limited to, lands owned or managed by
250 the department of conservation and recreation or the division of fisheries and wildlife, wetlands
251 or other waters of the commonwealth, priority habitats delineated by the division of fisheries
252 and wildlife pursuant to chapter 131A, lands used for public water supply purposes or historic
253 or archaeological sites.

254 Section 25I. No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or
255 a recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun
256 is unloaded and in an enclosed case. This subsection shall not apply to a law enforcement

257 officer or other person authorized to carry arms as specifically described in section 32, or a
258 paraplegic as provided in section 65 of chapter 131.

259 Section 25J. No person shall collide with or otherwise cause injury to any other snow
260 vehicle or recreation vehicle or property of another.

261 Section 25K. No person shall operate a snow vehicle or recreation vehicle after the
262 registration therefore has been suspended or revoked.

263 Section 25L. No person shall use a snow vehicle or a recreation vehicle without
264 authority knowing that such use is unauthorized.

265 Section 25M. A summons may be issued instead of a warrant for arrest upon a
266 complaint for a violation of any provision of this section if in the judgment of the court or
267 justice receiving the complaint there is reason to believe that the defendant will appear upon a
268 summons.

269

270 Section 25N. Whoever violates sections 25F to 25L, inclusive, shall be punished by a
271 fine of not less than \$250 nor more than \$1,000 or by imprisonment in the house of correction
272 for not less than 30 days nor more than 1 year or by both such fine and imprisonment.

273

274 **SECTION 14.** Said chapter 90B, as so appearing, is hereby amended by striking out
275 section 26 and inserting in place thereof the following 11 sections:-

276 Section 26. Whoever operates a snow vehicle or a recreation vehicle recklessly, or
277 operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the
278 public might be endangered shall be punished by imprisonment in the house of correction for
279 not more than 2 years or a by a fine of not more than \$200, or by both such fine and
280 imprisonment.

281 Section 26A. Whoever operates a snow vehicle or a recreation vehicle and, without
282 stopping and making known his name, residence and the registration number of his snow
283 vehicle or recreation vehicle, goes away after knowingly colliding with or otherwise causing
284 injury to any other snow vehicle or recreation vehicle or property; provided that the injury to
285 property exceeds \$500 in damage, shall be punished by a fine of not less than \$250 nor more
286 than \$1,000 or by imprisonment for not less than 60 days nor more than 2 ½ years, or by both
287 such fine and imprisonment.

288 Section 26B. No person operating or in control of a snow vehicle or recreation vehicle
289 shall refuse to stop such vehicle after having been requested or signaled to do so by an law
290 enforcement officer. No such person shall refuse to give his true and correct name, address and
291 registration number to such officer.

292 Section 26C. A summons may be issued instead of a warrant for arrest upon a
293 complaint for a violation of any provision of this section if in the judgment of the court or
294 justice receiving the complaint there is reason to believe that the defendant will appear upon a
295 summons

296
297 Section 26D. Whoever operates a snow vehicle or a recreation vehicle and, without
298 stopping and making known his name, residence and the registration number of his snow
299 vehicle or recreation vehicle, goes away after knowingly colliding with or otherwise causing
300 injury to any person shall be punished by a fine of not less than \$500 but not more than \$1,000
301 and imprisonment for not less than 2 ½ years in the house of correction or imprisonment in the
302 state prison for not less than 5 years.

303

304 Section 26E. Whoever operates a snow vehicle or a recreation vehicle recklessly or
305 negligently so that the lives or safety of the public might be endangered, and by any such
306 operation causes serious bodily injury, shall be punished by imprisonment in the house of
307 correction for not more than 2 ½ years or in the state prison for not than 5 years and by a fine of
308 not more than \$5,000, or by both such fine and imprisonment. For the purposes of this section
309 “serious bodily injury” shall mean bodily injury which creates a substantial risk of death or
310 which involves either total disability or the loss or substantial impairment of some bodily
311 function for a substantial period of time.

312 Section 26F. Whoever operates a snow vehicle or a recreation vehicle recklessly, or
313 negligently so that the lives or safety of the public might be endangered, and by any such
314 operation causes the death of another person, shall be punished by imprisonment in a the house
315 of correction for not less than 30days nor more than 2 ½ years or by a fine of not less than \$300
316 not more than \$5,000 or imprisonment in the state prison for not less than 5 years not more that
317 10 years and a fine of \$5,000, or by both such fine and imprisonment.

318 Section 26G. Notwithstanding section 28, upon conviction of or adjudication by reason
319 of a violation of sections 26D to 26F, inclusive, the registrar shall immediately suspend the
320 operator’s license or right to operate a motor vehicle and the director shall revoke the
321 registration of any snow vehicle or recreation vehicle issued to such person.

322 The registrar, after having suspended or revoked the license or right to operate of any
323 person pursuant to this section, shall issue a new license or reinstate the right to operate and the
324 director shall issue a new registration number, if the prosecution or adjudication of such person
325 has terminated in favor of the defendant or juvenile. The registrar may after an investigation or

326 upon hearing, issue a new license or reinstate the right to operate and the director may issue a
327 new snow vehicle or recreation vehicle registration number to a person so convicted or
328 adjudicated of said sections 26D to 26F, inclusive; provided, that no such license, right to
329 operate or registration shall be issued or reinstated by the registrar or director to any person so
330 convicted or adjudicated delinquent by reason of said sections 26D or 26E until 1 year after the
331 date of suspension or revocation following his original conviction or adjudication if for a first
332 offense or until 2 years after the date of suspension or revocation following any subsequent
333 conviction or adjudication, or to any person convicted of or adjudicated delinquent by reason of
334 section 26F until 5 years after the date of suspension or revocation following his original
335 conviction or adjudication if for a first offense or until 15 years after the date of suspension or
336 revocation following any subsequent conviction or adjudication; provided, however, that a
337 person who's license or right to operate was suspended due to an adjudication or conviction of
338 26D may, after the expiration of 3 months from the date of conviction, apply for and shall be
339 granted a hearing before the registrar for the purpose of requesting the issuance of a new license
340 for employment or educational purposes, which license shall be effective for not more than an
341 identical 12-hour period every day on the grounds of hardship and a showing by the person that
342 the causes of the present and past violations have been dealt with or brought under control, and
343 the registrar may, in his discretion, issue such license under such terms and conditions as he
344 deems appropriate and necessary; and provided, further, that such person may, after the
345 expiration of 6 months from the date of conviction, apply for and shall be granted a hearing
346 before the registrar for the purpose of requesting the issuance of a new license on a limited basis
347 on the grounds of hardship and a showing by the person that the causes of the present and past

348 violations have been dealt with or brought under control and the registrar may, in his discretion,
349 issue such a license under such terms and conditions as he deems appropriate and necessary.

350 If the person so convicted or adjudicated is under 17 at the time of such conviction or
351 adjudication and has not been issued a license or right to operate or a snow vehicle or recreation
352 vehicle registration number, neither the registrar nor director shall issue such license or right to
353 operate a motor vehicle or a snow or recreation vehicle registration until the time periods
354 provided in the previous paragraph have passed and such time period shall not commence to run
355 until such person reaches 16 years of age for purposes of issuance of a right to operate a motor
356 vehicle and 16 ½ for purposes of issuance of a license to operate a motor vehicle.

357 Section 26H. (a) Whoever, being 21 years of age or older, operates a snow vehicle or
358 recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .08 or greater, as
359 determined in accordance with section 24 of chapter 90; or (2) while under the influence of
360 intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as
361 defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less
362 than \$500 not more than \$5,000 or by imprisonment for not more than 2 ½ years in the house of
363 correction, or by both such fine and imprisonment.

364 Section 26I. Whoever, being under 21 years of age, operates a snow vehicle or
365 recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as
366 determined in accordance with section 24 of chapter 90; or (2) or while under the influence of
367 intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as
368 defined in section 1 of chapter 94C, or the vapors of glue shall, for a first offense, be punished
369 by a fine of not less than \$500 not more than \$5,000 or by imprisonment for not more than 2 ½
370 years in the house of correction, or by both such fine and imprisonment .

371 Section 26J. No prosecution or delinquency proceeding commenced pursuant to
372 sections 26D to 26H, inclusive shall be placed on file or continued without a finding.

373 Section 26K. Notwithstanding section 28, upon conviction of or adjudication by reason
374 of a violation of section 26H or 26I, the registrar shall immediately suspend the operator's
375 license or right to operate a motor vehicle and the director shall revoke the registration of any
376 snow vehicle or recreation vehicle issued to such person.

377 The registrar, after having suspended or revoked the license or right to operate of any
378 person under this section, shall issue a new license or reinstate the right to operate and the
379 director shall issue a new registration number, if the prosecution or adjudication of such person
380 has terminated in favor of the defendant or juvenile. The registrar may after an investigation or
381 upon hearing, issue a new license or reinstate the right to operate and the director may issue a
382 new snow vehicle or recreation vehicle registration number to a person so convicted or
383 adjudicated of said sections 26H or 26I; provided, that no such license, right to operate or
384 registration shall be issued by the registrar or director to any person so convicted or adjudicated
385 delinquent by reason of said section 26H until 1 year after the date of suspension or revocation
386 following his original conviction or adjudication if for a first offense or until 2 years after the
387 date of revocation following any subsequent conviction or adjudication, or to any person
388 convicted of or adjudicated delinquent by reason of said section 26I until 2 years after the date
389 of revocation following his original conviction or adjudication if for a first offense or until 3
390 years after the date of revocation following any subsequent conviction or adjudication;
391 provided, however, that a person who's license or right to operate was suspended due to an
392 adjudication or conviction of 26H may, after the expiration of 3 months from the date of
393 conviction, apply for and shall be granted a hearing before the registrar for the purpose of

394 requesting the issuance of a new license for employment or educational purposes, which license
395 shall be effective for not more than an identical 12-hour period every day on the grounds of
396 hardship and a showing by the person that the causes of the present and past violations have
397 been dealt with or brought under control, and the registrar may, in his discretion, issue such
398 license under such terms and conditions as he deems appropriate and necessary; and provided,
399 further, that such person may, after the expiration of 6 months from the date of conviction,
400 apply for and shall be granted a hearing before the registrar for the purpose of requesting the
401 issuance of a new license on a limited basis on the grounds of hardship and a showing by the
402 person that the causes of the present and past violations have been dealt with or brought under
403 control and the registrar may, in his discretion, issue such a license under such terms and
404 conditions as he deems appropriate and necessary.

405 If the person so convicted or adjudicated is under 17 at the time of such conviction or
406 adjudication and has not been issued a license or right to operate or a snow vehicle or recreation
407 vehicle registration number, the registrar nor director shall issue such license or right to operate
408 a motor vehicle or a snow or recreation vehicle registration until the time periods provided in
409 the previous paragraph have passed but such time period shall not commence to run until such
410 person reaches 16 years of age for purposes of issuance of a right to operate a motor vehicle and
411 16 ½ for purposes of issuance of a license to operate a motor vehicle.

412 Section 26L. (a) Upon a conviction for a violation or adjudication of section 25 or
413 sections 26B to 26F, inclusive, or upon a second or subsequent conviction or adjudication of
414 section 25 to 25D, or any combination thereof, a snow vehicle or recreation vehicle used in the
415 commission of such violation or violations shall be subject to forfeiture.

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

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

436 (d) At a hearing under this section, the court shall hear evidence and make findings of
437 fact and conclusions of law, and shall thereon issue a final order from which the parties shall

438 have such right of appeal as from a decree in equity. No forfeiture under this section shall
439 extinguish a perfected security interest held by a creditor in the property at the time of the filing
440 of the forfeiture action. In all actions where a final order results in forfeiture, the final order
441 shall provide for disposition of the property by the commonwealth or any subdivision thereof in
442 any manner not prohibited by law, including official use by an authorized law enforcement or
443 other agency, or at sale at public auction or by competitive bidding, with such sale being
444 conducted by the office of the district attorney or the attorney general that obtained the final
445 order of forfeiture.

446 (e) The final order of the court shall provide that the proceeds of any such sale shall be
447 used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance
448 of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be
449 deposited into the Off-Highway Vehicle Program Fund, established by section 18C of chapter
450 21A and the remaining 25 per cent shall be distributed equally among the division, departments
451 or offices involved in the seizure or to the division, department or office if a single law
452 enforcement entity was involved. If more than 1 division, department or office was
453 substantially involved in the seizure, the court having jurisdiction over the forfeiture proceeding
454 shall distribute the 25 per cent equitably among them.

455 (f) Any moneys and proceeds received by a division, department or office pursuant to
456 this section may be expended without further appropriation to defray the costs of investigations,
457 to provide additional technical equipment or expertise, to provide matching funds to obtain
458 federal grants, or to accomplish such other law enforcement, environmental or public
459 recreational purposes as the head of such division, department or office deems appropriate, but

460 such funds shall not be considered a source of revenue to meet the operating needs of such
461 division, department or office.

462 **SECTION 15.** Said chapter 90B is hereby further amended by striking out section 27
463 and inserting in place thereof the following section:-

464 Section 27. (a) Any owner of a snow vehicle or a recreation vehicle or other person
465 who permits a person under 18 years of age to operate a snow vehicle or a recreation vehicle
466 shall be held liable, jointly and severally, with the operator for any damage or injuries caused by
467 said minor's operation of the vehicle and for any fines, penalties or restitution resulting
468 therefrom.

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

474 **SECTION 16.** The first paragraph of section 32 of said chapter 90B, as so appearing, is
475 hereby amended by striking out the first 2 sentences and inserting in place thereof, the following
476 sentence:-

477 The provisions of sections 21 to 34, inclusive, and all the rules and regulations made
478 under the authority thereof shall be enforced by the director, deputy directors of enforcement,
479 chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy
480 environmental police officers of the office of environmental law enforcement, executive office
481 of energy and environmental affairs, park rangers of the department of conservation and

482 recreation, registrar or his authorized agents, police officers, fish and game wardens as defined
483 in section 1 of chapter 131, members of the state police, and city and town police officers or
484 employees of the commonwealth having police powers on public lands; provided that any
485 investigation, arrest or decision to seek application for complaint relative to a violation of
486 sections 26B to 26F, inclusive, shall be executed by a law enforcement officer who has
487 successfully completed minimum training requirements for the enforcement of such sections as
488 determined by the secretary of public safety and security.

489 **SECTION 17.** Said chapter 90B is hereby further amended by striking out section 34
490 and inserting in place thereof the following section :-

491 Section 34. Of the fees collected by the commonwealth pursuant to the fourth paragraph
492 of section 10H of chapter 21A and sections 21 to 32, inclusive, 75 per cent of the fees shall be
493 deposited into the Off-Highway Vehicle Program Fund, established by section 18C of said
494 chapter 21A and the remaining 25 per cent shall be distributed equally among the divisions,
495 departments or offices involved in the enforcements of the statutes which resulted in the
496 assessment of such fees or penalties.

497 **SECTION 18.** Said chapter 90B, as so appearing, is hereby amended by striking out
498 section 35.

499 **SECTION 19.** The first sentence of section 121A of chapter 266 of the General Laws,
500 as so appearing, is hereby amended by striking out the words “two hundred and fifty dollars
501 inserting in place thereof the following figure:- \$500.

502 **SECTION 20.** The director of the division of law enforcement in the executive office
503 of energy and environmental affairs shall, within 180 days of the effective date of this act
504 amend regulations of such division that are inconsistent with this act.

505 **SECTION 20A.** The director of the division of law enforcement in the executive office
506 of energy and environmental affairs shall, within 90 days of the effective date of this act,
507 prescribe forms for application for registration fee exemption for vehicles used exclusively for
508 agricultural, forestry, lumbering or construction purposes under section 22 of chapter 90B of the
509 General Laws.

510 **SECTION 21.** The director of the division of law enforcement in the executive office
511 of energy and environmental affairs may, after consultation with the state off-highway advisory
512 committee and a public hearing, promulgate regulations consistent with this chapter, including
513 but not limited to, increasing the age at which persons may operate an all terrain vehicle or
514 regulating the engine size and speed capabilities of such based on the age of the operator.

515 **SECTION 22.** The secretary of public safety and security shall, within 90 days of the
516 effective date of this act, adopt minimum training requirements for a law enforcement officer, as
517 required by section 32 of chapter 90B of the General Laws.

518 **SECTION 23 .** Section 7 shall take effect as of May 1, 2009; provided however, that
519 no penalty shall be assessed for violation of section 22 of chapter 90B of the General Laws on
520 or before September 1, 2009.

521 **SECTION 24.** The prohibition in section 26A and 26D of chapter 90B of the General
522 Laws, that an operator of a snow vehicle or recreation vehicle not leave the scene after causing
523 injury to property or to a person without making known his registration number shall apply on
524 and after September 1, 2009. Nothing in this section shall effect the prohibition, in said sections
525 26A and 26D of said chapter 90B, against an operator leaving the scene after causing injury to
526 property or to a person without leaving making known his name and residence, on and after the
527 effective date of this act.