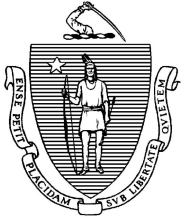


Senate, No. 2251

[Senate, January 19, 2010 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 2235]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT to regulate the use of off highway 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 2008 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.

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 shall be within the office of law enforcement a boating safety advisory
10 board. The board shall consist of 5 members to be appointed by the governor, 2 of whom shall be
11 representatives of the boating public each of whom shall hold a certificate of number issued
12 pursuant to section 3 of chapter 90B, 1 of whom may represent the harbormaster's association
13 and 2 members shall represent the recreational boating business, 1 of whom shall operate a boat
14 dealership. Each member shall serve for a term of 3 years. The chairman of the board shall be
15 appointed from amongst the 5 members, annually by the governor and, in the absence of same,
16 shall be designated by the director. Board members shall be appointed or reappointed for terms
17 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 energy and environmental affairs concerning the expenditure of federal funds allocated to the
25 division for recreational boating safety each fiscal year prior to the submission of such
26 recommendations to the secretary or the governor, as the case may be. In the event said board
27 disapproves of any such recommendation it may file a report noting its objection and such report
28 shall be transmitted to the governor and to the house and senate committees on ways and means.

29 SECTION 3. Said chapter 21A, as so appearing, is hereby further amended by inserting

30 after section 18A, the following 2 sections:-

31 Section 18B. There shall be within the executive office of energy and environmental
32 affairs a state off highway vehicle advisory committee. The committee shall advise the secretary
33 and the department of conservation and recreation, the department of fish and game, the
34 department of environmental protection and the office of environmental law enforcement on
35 matters involving the commonwealth's regulation of off highway vehicles, including the
36 development and enforcement of state regulations and policies, safety and training programs and
37 the distribution of available state funding. The committee shall consist of 13 members to be
38 appointed by the secretary, 3 of whom shall be representatives of off highway vehicle users of
39 which 1 shall be a representative of the New England Trail Rider Association; 1 of whom shall
40 be a representative of off highway vehicle manufacturers and dealers; 1 of whom shall be a
41 representative of the department of public health; 1 of whom shall be a representative of child
42 safety advocates associated with the safe use of off highway vehicles; 1 of whom shall be a
43 representative of the Snowmobile Association of Massachusetts, Inc.; 2 of whom shall be
44 representatives of a nonprofit organization that owns and manages land open to the public; 1 of
45 whom shall be a representative of an association or organization of large private land owners; 1
46 of whom shall be a member of a Massachusetts forest and parks friends group; and 2 of whom
47 shall be representatives of state or local law enforcement authorities. Members shall serve
48 without compensation. Members shall be appointed for terms of 3 years, except that initially 4
49 members shall be appointed for 1-year terms and 4 members shall be appointed for 2 year-terms.

50 The committee shall select a chairperson annually by a majority vote of the members.

51 The committee shall meet at least twice each year and shall also meet at the request of the
52 secretary or the committee chairperson. The minutes of each meeting shall be transmitted in a

53 timely fashion to the joint committee on environment, natural resources and agriculture, the joint
54 committee on public safety and homeland security and the joint committee on public health.

55 Section 18C. (a) There shall be established and set up on the books of the commonwealth
56 an Off Highway Vehicle Program Fund, into which shall be credited all of the fees collected
57 pursuant to section 22 of chapter 90B, 75 per cent of all fines, costs, forfeitures, expenses and
58 interest imposed pursuant to section 21 and sections 24 to 32, inclusive, of said chapter 90B and
59 pursuant to the fourth paragraph of section 10H of chapter 21A, any revenue from appropriations
60 or other monies authorized by the general court and specifically designated to be credited to the
61 fund, any appropriation or grant explicitly made to the fund and any income derived from the
62 investment of amounts credited to the fund. The remaining 25 per cent of the fines, costs,
63 forfeitures, expenses and interest imposed pursuant to said section 21 and said sections 24 20 32,
64 inclusive of said chapter 90B and pursuant to the fourth paragraph of section 10H of chapter 21A
65 shall be distributed equally among the division, departments or offices involved or to the
66 division, department or office if a single law enforcement agency was involved.

67 (b) All amounts credited to the fund may be expended, without further appropriation, by
68 the office of environmental law enforcement, the department of conservation and recreation, the
69 department of fish and game, and the department of environmental protection for the following
70 purposes: (i) the enforcement of statutes, regulations and policies applicable to off highway
71 vehicles; (ii) the acquisition of land for use as commonwealth-approved trails and facilities for
72 off highway vehicles or for the development, maintenance, repair or restoration of
73 commonwealth-approved trails and facilities; (iii) for grants made by the department of
74 conservation and recreation to municipalities and other public entities for the purposes of clauses
75 (i) and (ii); (d) the development and administration of safety, training and education programs;

76 and (e) for other off highway program activities, including all direct and indirect costs of
77 personnel or contractors of the office of environmental law enforcement, the department of
78 conservation and recreation, the department of fish and game, and the department of
79 environmental protection.

80 (c) Monies deposited into the fund that are unexpended at the end of the fiscal year shall
81 not revert to the General Fund and shall be available for expenditure in the subsequent fiscal
82 year.

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

86 “All terrain vehicle”, a motorized recreational vehicle designed or modified for travel on
87 4 low pressure tires and having a seat designed to be straddled by the operator and handlebars for
88 steering control.

89 “Law enforcement officer”, the director, a deputy director of enforcement, a chief of
90 enforcement, a deputy chief of enforcement, an environmental police officer and a deputy
91 environmental police officer of the office of environmental law enforcement, the registrar or an
92 authorized agent thereof, a police officer, a member of the state police, a city or town police
93 officer or an employee of the commonwealth having police powers on public lands.

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, the
96 following 2 definitions:-

97 “Recreation utility vehicle” or “utility vehicle,” a motorized flotation tire vehicle with not
98 less than 4 and not more than 6 low pressure tires that is limited in engine displacement to less

99 than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a
100 seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for
101 control.

102 “Recreation vehicle”, “off highway vehicle” or “off road vehicle”, any motor vehicle
103 designed or modified for use over unimproved terrain for recreation or pleasure while not being
104 operated on a public way as defined in chapter 90 including, but not limited to, all terrain
105 vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles and all
106 registered motor vehicles while not being operated on a public way as defined in said chapter 90;
107 provided, however, that “recreation vehicles, off highway vehicles and off road vehicles operated
108 exclusively for agricultural, forestry, lumbering or construction purposes shall not be subject to
109 this chapter and it shall be an affirmative defense that such vehicle was being operated for such
110 purposes at the time of an alleged violation of this chapter.

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

113 Section 21. No person born after January 1, 1991 shall operate a recreation vehicle unless
114 he has successfully completed a recreation vehicle safety and responsibility course approved by
115 the director of environmental law enforcement. Such course shall include, but not be limited to,
116 notification of the potential criminal penalties and forfeiture process for certain violations of law
117 relative to the safe operation of snow vehicles and recreation vehicles. A parent or legal guardian
118 of an operator of a recreation vehicle under 16 years of age shall participate in at least 1 session
119 of the recreation vehicle safety and responsibility course or as required by the director. Proof of
120 the successful completion of the course shall be carried on the person of the operator while
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, shall
123 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 paragraph and inserting in place thereof the following 2 paragraphs:-

126 No person shall operate a snow vehicle or a recreation vehicle unless such vehicle has
127 been registered in accordance with this chapter and a registration number shall be assigned by
128 the director which shall be displayed on the vehicle. A motor vehicle license or learner's permit
129 shall not be required for the operation of a snow vehicle or a recreation vehicle, except that a
130 person between 14 and 16 years of age shall not operate an all terrain vehicle or recreation utility
131 vehicle with an engine capacity greater than 90 cubic centimeters and shall be directly
132 supervised by an adult that is 18 years of age or older, as provided under section 25C.

133 Application for registration of a snow vehicle or a recreation vehicle shall be made by the
134 owner to the director or his agent on such forms as the director shall prescribe and shall state the
135 name and address of the owner of the vehicle. No person shall knowingly make a false statement
136 in an application for registration of a snow vehicle or recreation vehicle.

137 SECTION 8. Said section 22 of said chapter 90B, as so appearing, is hereby further
138 amended by striking out the third paragraph and inserting in place thereof the following 2
139 paragraphs:-

140 The fee for initial registration of each such vehicle and for each renewal thereof, other
141 than vehicles for which application is made by a manufacturer or dealer as hereinafter provided,
142 shall be determined annually by the commissioner of administration as provided in section 3B of
143 chapter 7, except that no fee shall be collected for the registration of any such vehicle owned by

144 the commonwealth or any political subdivision thereof or a vehicle used exclusively for
145 agricultural, forestry, lumbering or construction purposes.

146 In the case of a recreation vehicle, off highway vehicle or off road vehicle to be operated
147 exclusively for agricultural, forestry, lumbering or construction purposes, the owner of such
148 vehicle may apply for an exemption from the registration fee. The application for exemption
149 shall be on a form prescribed by the director of law enforcement. If the director is satisfied that
150 the vehicle for which a fee exemption is sought is to be operated exclusively for agricultural,
151 forestry, lumbering or construction purposes, he shall grant the application and the owner of such
152 vehicle shall be exempt from the registration fee for such vehicle. If the vehicle ceases to be
153 operated exclusively for agricultural, forestry, lumbering or construction purposes, the owner
154 shall no longer be exempt from paying such registration fee and shall be required to pay a
155 portion of the registration fee for the year in which the exemption no longer applies. A new
156 application for a fee exemption shall be required for further fee exemption with an application
157 for registration renewal. A fee exemption granted pursuant to this section shall not be admissible
158 nor relevant at trial on the question of whether such vehicle was being operated for agricultural,
159 forestry, lumbering or construction purposes at the time of an alleged violation of this chapter.

160 SECTION 9. Section 24 of said chapter 90B, as so appearing, is hereby amended by
161 striking out the second and third paragraphs and inserting in place thereof the following 2
162 paragraphs:-

163 No snow vehicle or recreation vehicle shall be operated which emits noxious fumes or
164 makes unusual or excessive noise. No snow vehicle or recreation vehicle manufactured after
165 January 1, 1998, shall be sold, offered for sale or operated that produces a sound pressure level
166 of more than 96 dbA when measured from a distance of 20 inches using test procedures

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

174 An owner or operator of a snow vehicle or a recreation vehicle involved in a collision,
175 accident or other such casualty resulting in death or injury to a person or damage to property in
176 excess of \$50 shall notify a law enforcement officer immediately and file a report of the incident
177 with the division within 48 hours, on a form prescribed by the director.

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

180 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule
181 or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than
182 \$500.

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

185 No person under 16 1/2 years of age shall operate a snow vehicle or a recreation vehicle
186 across or on a public way unless the operator holds a valid license or right to operate a motor
187 vehicle or is directly supervised, as defined in section 25C, by a person 18 years of age or older.

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

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

197 No person shall operate a snow vehicle or recreation vehicle on publicly-owned property except
198 on trails marked and designated for use by such vehicles, or without the express permission of the owner.

199 **SECTION 12.** Said section 25 of said chapter 90B, as so appearing, is hereby further
200 amended by inserting after the word “vehicle”, in lines 29, 30, 32, 33 and 34, each time it
201 appears, the following words:- or recreation vehicle.

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

204 **Section 25A.** No person shall operate or ride in or on a recreation vehicle or a snow
205 vehicle, or ride in or on a sled, inflated tube or similar article attached to such vehicle and which
206 is pulled by such vehicle, without wearing protective headgear. Such headgear shall conform to
207 such minimum standards for construction and performance as the registrar of motor vehicles may
208 prescribe.

209 **Section 25B.** No person under 14 years of age shall operate an all terrain vehicle or
210 recreation utility vehicle. This section shall not apply to a person operating a recreation vehicle
211 or snow vehicle in preparation for, or while a participant in, a sanctioned race, rally or organized
212 event which is supervised by a person aged 18 or older and which has been authorized or

213 approved by a municipal permitting authority. It shall be an affirmative defense in a delinquency
214 proceeding for a violation of this section that a juvenile was supervised by a person aged 18 or
215 older while operating such a vehicle in preparation for, or while a participant in, such a
216 sanctioned race, rally or organized event.

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

226 Section 25D. No person aged 18 years of age or older shall knowingly permit another,
227 who is under the age of 18, to operate a snow vehicle or recreation vehicle in his custody or
228 under his control in violation of this chapter. Lack of ownership of the vehicle nor mistake as to
229 the age of the operator shall not be available defenses to a violation of this section.

230 Section 25E. No prosecution commenced under sections 25 to 25D, inclusive, shall be
231 continued without a finding.

232 Section 25F. Whoever violates any provision of section 25 to 25D, inclusive, or of
233 section 26B shall be punished for a first offense, by a fine of \$250, and for a second or
234 subsequent offense by a fine of not less than \$500 nor more than \$2,500 and the snow vehicle or

235 recreation vehicle in use at the time of such second or subsequent offense shall be subject to
236 forfeiture under section 26L.

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

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

256 Section 25I. No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or
257 recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is

258 unloaded and in an enclosed case. This section shall not apply to a law enforcement officer or
259 other person with enforcement powers authorized in section 32, or to a paraplegic as provided in
260 section 65 of chapter 131.

261 Section 25J. No person operating a snow vehicle or recreation vehicle shall collide with
262 or otherwise cause injury to any other snow vehicle or recreation vehicle or property of another.

263 Section 25K. No person shall operate a snow vehicle or recreation vehicle after the
264 registration therefor has been suspended or revoked.

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

267 Section 25M. Whoever violates sections 25G to 25L, inclusive, shall be punished by a
268 fine of not less than \$250 nor more than \$1,000.

269 SECTION 14. Said chapter 90B is hereby further amended by striking out section 26 and
270 27, as appearing in the 2008 Official Edition, and inserting in place thereof the following 14
271 sections:-

272 Section 26. Whoever operates a snow vehicle or recreation vehicle recklessly or operates
273 a snow vehicle or a recreation vehicle negligently so that the lives or safety of the public might
274 be endangered shall be punished by a fine of not less than \$250 nor more than \$1,000.

275 Section 26A. Whoever operates a snow vehicle or recreation vehicle and, without
276 stopping and making known his name, residence and the registration number of his snow vehicle
277 or recreation vehicle, leaves the scene after knowingly colliding with or otherwise causing injury
278 to any other snow vehicle or recreation vehicle or property shall be punished by a fine of not less
279 than \$250 nor more than \$1,000; provided, however, that the damage to property shall be greater
280 than \$500.

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

285 Section 26C. A summons may be issued instead of a warrant for arrest upon a complaint
286 for a violation of this chapter if in the judgment of the court or justice receiving the complaint
287 there is reason to believe that the defendant will appear upon a summons. Nothing in this section
288 shall limit a law enforcement officer's power to arrest under any other provisions of the General
289 Laws or at common law.

290 Section 26D. Whoever operates a snow vehicle or a recreation vehicle and, without
291 stopping and making known his name, residence and the registration number of his snow vehicle
292 or recreation vehicle, leaves the scene after knowingly colliding with or otherwise causing bodily
293 injury to another shall be punished by a fine of not less than \$500 but not more than \$1,000.

294 Section 26E. Whoever operates a snow vehicle or a recreation vehicle recklessly or
295 negligently so that the lives or safety of the public might be endangered and, by such operation,
296 causes serious bodily injury, shall be punished by imprisonment in a house of correction for not
297 less than 30 days nor more than 2 ½ years or by a fine of not less than \$300 nor more than
298 \$5,000, or by both such fine and imprisonment. For the purposes of this section "serious bodily
299 injury" shall mean bodily injury which creates a substantial risk of death or which involves either
300 total disability or the loss or substantial impairment of some bodily function for a substantial
301 period of time.

302 Section 26F. Whoever operates a snow vehicle or a recreation vehicle recklessly or
303 negligently so that the lives or safety of the public might be endangered, and by any such

304 operation causes the death of another person, shall be punished by imprisonment in the house of
305 correction for not more than 2 ½ years or in the state prison for not more than 5 years and by a
306 fine of not more than \$5,000, or by both such fine and imprisonment.

307 Section 26G. Notwithstanding section 28, upon conviction of, or adjudication of
308 delinquency by reason of a violation of sections 26D to 26F, inclusive, the registrar shall
309 immediately suspend the operator's license or right to operate a motor vehicle and the director
310 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The
311 registrar, after having suspended or revoked the license or right to operate of a person pursuant to
312 this section, shall issue a new license or reinstate the right to operate of such person if the
313 prosecution or adjudication of such person is terminated in favor of the defendant or juvenile and
314 the director shall issue a new registration number if a vehicle was registered to such person. The
315 registrar may, after an investigation or upon a hearing, issue a new license or reinstate the right
316 to operate and the director may issue a new snow vehicle or recreation vehicle registration
317 number to a person convicted or adjudicated delinquent for a violation of said section 26E to
318 26F, inclusive; provided, however, that no such license, right to operate or registration shall be
319 reinstated by the registrar or issued by the director to any person so convicted or adjudicated
320 delinquent by reason of said sections 26E or 26E until 1 year after the date of suspension or
321 revocation following his original conviction or adjudication of delinquency if for a first offense
322 or until 2 years after the date of suspension or revocation if for a subsequent conviction or
323 adjudication of delinquency, or to any person convicted of or adjudicated delinquent by reason of
324 section 26F until 5 years after the date of suspension or revocation following his original
325 conviction or adjudication if for a first offense, or until 15 years after the date of suspension or
326 revocation if for a subsequent conviction or adjudication.

327 If the person so convicted or adjudicated is under age 17 at the time of a conviction or
328 adjudication of delinquency under said sections 26D to 26F, inclusive and he has not been
329 issued a license or right to operate or has not been issued a snow vehicle or recreation vehicle
330 registration number, neither the registrar nor the director shall issue such license or right to
331 operate a motor vehicle or a snow vehicle or recreation vehicle registration until the time periods
332 provided in the previous paragraph have passed and calculation of such time period shall not
333 commence to run until such person reaches age 16 for purposes of issuance of a right to operate
334 a motor vehicle and 16 ½ for purposes of issuance of a license to operate a motor vehicle and for
335 issuance of a snow vehicle or recreation vehicle registration number.

336 Section 26H. (a) Whoever being 21 years of age or older operates a snow vehicle or
337 recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .08 or greater, as
338 determined by a chemical test or analysis of his blood or as indicated by a chemical test or
339 analysis of his breath pursuant to section 24 of chapter 90; or (2) while under the influence of
340 intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as
341 defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less
342 than \$500 nor more than \$5,000.

343 Section 26I. Whoever being under 21 years of age operates a snow vehicle or recreation
344 vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined
345 by a chemical test or analysis of his blood or as indicated by a chemical test or analysis of his
346 breath pursuant to section 24 of chapter 90; or (2) while under the influence of intoxicating
347 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section
348 1 of chapter 94C, or the vapors of glue shall, be punished by a fine of not less than \$500 nor
349 more than \$5,000.

350 Section 26J. No prosecution or delinquency proceeding commenced pursuant to sections
351 26D to 26H, inclusive, shall be placed on file or continued without a finding.

352 Section 26K. Notwithstanding section 28, upon conviction of or adjudication of
353 delinquency by reason of a violation of section 26H or section 26I, the registrar shall
354 immediately suspend the operator's license or right to operate a motor vehicle and the director
355 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The
356 registrar, after having suspended or revoked the license or right to operate of any person under
357 this section, shall issue a new license or reinstate the right to operate and the director shall issue a
358 new registration number, if the prosecution or adjudication of delinquency of such person is
359 terminated in favor of the defendant or juvenile. The registrar may, after an investigation or upon
360 hearing, issue a new license or reinstate the right to operate and the director may issue a new
361 snow vehicle or recreation vehicle registration number to a person so convicted of or adjudicated
362 delinquent by means of a violation of said sections 26H or 26I; provided, however, that no such
363 license or right to operate shall be issued by the registrar nor shall a registration number be
364 issued by the director to a person convicted of a violation of said section 26H, for a first offense,
365 until 1 year after the date of suspension or revocation following his original conviction, or from
366 the date of his original conviction if the person is unlicensed or has not been issued the right to
367 operate or, for a subsequent offense, until 2 years after the date of such suspension, revocation or
368 conviction, or to any person convicted of or adjudicated delinquent for a violation said section
369 26I, for a first offense, until 2 years after the date of suspension or revocation or if the person is
370 unlicensed or has not been issued a right to operate, until 2 years after the date of his original
371 conviction or adjudication or, for a subsequent offense, until 3 years after the date of such
372 suspension, revocation, conviction or adjudication; provided, however, that a person whose

373 license or right to operate was suspended due to a conviction of section 26H may, after the
374 expiration of 3 months from the date of conviction, apply for and shall be granted a hearing
375 before the registrar for the purpose of requesting the issuance of a new license for employment or
376 educational purposes, which license shall be effective for not more than an identical 12-hour
377 period every day on the grounds of hardship and a showing by the person that the causes of the
378 present and past violations have been dealt with or brought under control, and the registrar may,
379 in his discretion, issue such license or right to operate under such terms and conditions as he
380 deems appropriate and necessary; and provided further, that such person may, after the
381 expiration of 6 months from the date of conviction, apply for and shall be granted a hearing
382 before the registrar for the purpose of requesting the issuance of a new license or right to operate
383 on a limited basis on the grounds of hardship and a showing by the person that the causes of the
384 present and past violations have been dealt with or brought under control and the registrar may,
385 in his discretion, issue such a license or right to operate under such terms and conditions as he
386 deems appropriate and necessary.

387 If the person so convicted or adjudicated is under age 17 at the time of such conviction or
388 adjudication and has not been issued a license or right to operate or a snow vehicle or recreation
389 vehicle registration number, the registrar shall not issue such license or right to operate a motor
390 vehicle and the director shall not issue a snow or recreation vehicle registration until the time
391 periods provided in the previous paragraph have passed but the calculation of such time period
392 shall not commence until such person reaches age 16 for purposes of issuance of a right to
393 operate a motor vehicle and 16 ½ for purposes of issuance of a license to operate a motor vehicle
394 and for issuance of a snow vehicle or recreation vehicle registration number.

395 Section 26L. (a) Upon a conviction or adjudication by reason of a violation of section 25
396 or sections 26B to 26F, inclusive, or upon a second or subsequent conviction or adjudication of
397 delinquency for violation of section 25 to 25D, inclusive, or any combination thereof, a snow
398 vehicle or recreation vehicle used in the commission of such violation or violations shall be
399 subject to forfeiture.

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

409 (c) The court shall order the commonwealth to give notice by certified or registered mail
410 to the owners of the snow vehicle or recreation vehicle and to such other persons or entities who
411 appear to have an interest therein, and the court shall promptly, but not less than 2 weeks after
412 notice, hold a hearing on the petition. Upon the motion of an owner of the snow vehicle or
413 recreation vehicle, the court may continue the hearing on the petition pending the outcome of a
414 criminal trial related to the violation. During the pendency of the proceedings, the court may
415 issue at the request of the commonwealth ex parte any preliminary order or process as is
416 necessary to seize or secure the property for which forfeiture is sought and to provide for its
417 custody. Process for seizure of the property shall issue only upon a showing of probable cause,

418 and the application therefor and the issuance, execution and return thereof shall be subject to
419 chapter 276, as applicable.

420 (d) At a hearing under this section, the court shall hear evidence and make findings of
421 fact and conclusions of law and shall thereon issue a final order from which the parties shall have
422 such right of appeal as from a decree in equity. No forfeiture under this section shall extinguish a
423 perfected security interest held by a creditor in the property at the time of the filing of the
424 forfeiture action. In all actions where a final order results in forfeiture, the final order shall
425 provide for disposition of the property by the commonwealth or any subdivision thereof in any
426 manner not prohibited by law, including official use by an authorized law enforcement or other
427 agency, or at sale at public auction or by competitive bidding, with such sale being conducted by
428 the office of the district attorney or the attorney general that obtained the final order of forfeiture.

429 (e) The final order of the court shall provide that the proceeds of any such sale shall be
430 used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance
431 of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be
432 deposited into the Off Highway Vehicle Program Fund, established in section 18C of chapter
433 21A and the remaining 25 per cent shall be distributed equally by the court among the division,
434 departments or offices involved in the seizure or to the division, department or office if a single
435 law enforcement agency was involved.

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

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

443 Section 27. (a) Any person age 18 or older with custody or control of a snow vehicle or
444 recreation vehicle, who knowingly permits another, who is under the age of 18, to operate such
445 vehicle shall be held liable, jointly and severally with the operator, for any damage or injuries
446 caused by such operator's operation of the vehicle and for any fines, penalties or restitution
447 resulting therefrom.

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

453 (c) Lack of ownership of the vehicle or mistake as to the age of the operator shall not be
454 defenses in an action filed pursuant to this section.

455 SECTION 16. The first paragraph of section 32 of said chapter 90B, as so appearing, is
456 hereby amended by striking out the first 2 sentences and inserting in place thereof the following
457 sentence:- Sections 21 to 34, inclusive, and the rules and regulations promulgated thereunder
458 shall be enforced by law enforcement officers; provided, however, that any investigation, arrest
459 or decision to seek application for complaint relative to a violation of sections 26B to 26F,
460 inclusive, shall be executed by a law enforcement officer who has successfully completed
461 minimum training requirements for the enforcement of such sections as determined by the
462 secretary of public safety and security.

463 SECTION 17. Said chapter 90B is hereby further amended by striking out section 34, as
464 so appearing and inserting in place thereof the following section:-

465 Section 34. Of the fines collected by the commonwealth pursuant to a violation of the
466 fourth paragraph of section 10H of chapter 21A and section 21 and 24 to 32, inclusive, of this
467 chapter, 75 per cent shall be deposited into the Off Highway Vehicle Program Fund, established
468 in section 18C of said chapter 21A, and the remaining 25 per cent shall be distributed equally
469 among the divisions, departments or offices involved in the enforcement of the laws which
470 resulted in the assessment of such fines.

471 SECTION 18. Section 35 of said chapter 90B is hereby repealed.

472 SECTION 19. Section 121A of chapter 266 of the General Laws, as appearing in the
473 2008 Official Edition, is hereby amended by striking out the words “two hundred and fifty
474 dollars” and inserting in place thereof the following figure:- \$500.

475 SECTION 20. Within 180 days after the effective date of this act, the director of law
476 enforcement in the executive office of energy and environmental affairs shall amend the
477 regulations of the division that are inconsistent with this act.

478 SECTION 21. Within 90 days after the effective date of this act, the director of law
479 enforcement in the executive office of energy and environmental affairs shall prescribe forms for
480 application for registration fee exemption for vehicles used exclusively for agricultural, forestry,
481 lumbering or construction purposes under section 22 of chapter 90B of the General Laws.

482 SECTION 22. The director of law enforcement in the executive office of energy and
483 environmental affairs may, after consultation with the off highway vehicle advisory committee

484 and a public hearing, promulgate regulations consistent with this act including, but not limited to,
485 increasing the age at which persons may operate all terrain vehicles or regulating the engine size
486 and speed capabilities of such vehicles, based on the age of the operator.

487 SECTION 23. Within 90 days of the effective date of this act, the director of law
488 enforcement in the executive office of energy and environmental affairs shall adopt minimum
489 training requirements for law enforcement officers, except state and municipal police officers, as
490 required by section 32 of chapter 90B of the General Laws.

491 SECTION 24. Section 7 shall take effect 6 months after the effective date of this act;
492 provided, however, that no operator of a snow vehicle or recreation vehicle shall be assessed a
493 penalty for violation of section 22 of chapter 90B of the General Laws until 9 months after the
494 effective date of this act.

495 SECTION 25. The provisions of sections 26A and 26D of chapter 90B of the General
496 Laws prohibiting an operator of a snow vehicle or recreation vehicle from leaving the scene after
497 causing injury to property or to a person without making known his registration number shall
498 take effect 6 months after the effective date of this act. Nothing in this section shall affect the
499 prohibition in said sections 26A and 26D of said chapter 90B against an operator leaving the
500 scene after causing injury to property or to a person without leaving and making known his name
501 and residence on and after the effective date of this act.