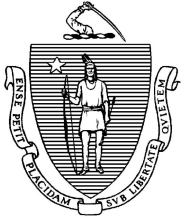


Senate, No. 2257

[Senate, January 28, 2010 – Text of Senate, No. 2251, printed as amended]



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. Notwithstanding the provisions relative to the
57 distribution of fines, penalties and forfeitures in section 10G of chapter 21 to the contrary, there
58 shall be credited to the fund all of the fees collected pursuant to section 22 of chapter 90B, 75 per
59 cent of all fines, costs, forfeitures, expenses and interest imposed pursuant to section 21 and
60 sections 24 to 32, inclusive, of said chapter 90B and pursuant to the fourth paragraph of section
61 10H of chapter 21A, any revenue from appropriations or other monies authorized by the general
62 court and specifically designated to be credited to the fund, any appropriation or grant explicitly
63 made to the fund and any income derived from the investment of amounts credited to the fund.
64 The remaining 25 per cent of the fines, costs, forfeitures, expenses and interest imposed pursuant
65 to said section 21 and said sections 24 to 32, inclusive of said chapter 90B and pursuant to the
66 fourth paragraph of section 10H of chapter 21A shall be distributed equally among the division,
67 departments or offices involved or to the division, department or office if a single law
68 enforcement agency was involved.

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

76 conservation and recreation to municipalities and other public entities for the purposes of clauses
77 (i) and (ii); (d) the development and administration of safety, training and education programs;
78 and (e) for other off highway program activities, including all direct and indirect costs of
79 personnel or contractors of the office of environmental law enforcement, the department of
80 conservation and recreation, the department of fish and game, and the department of
81 environmental protection; provided, however, that said departments shall annually report to the house
82 and senate committees on ways and means and the joint committees on environment, natural resources
83 and agriculture, transportation and public safety and homeland security relative to the source and amount
84 of funds deposited and the purpose and recipient of expenditures from the fund.

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

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

91 "All terrain vehicle", a motorized recreational vehicle designed or modified for travel on
92 4 low pressure tires and having a seat designed to be straddled by the operator and handlebars for
93 steering control.

94 "Law enforcement officer", the director, a deputy director of enforcement, a chief of
95 enforcement, a deputy chief of enforcement, an environmental police officer and a deputy
96 environmental police officer of the office of environmental law enforcement, the registrar or an
97 authorized agent thereof, a police officer, a member of the state police, a city or town police
98 officer or an employee of the commonwealth having police powers on public lands.

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

102 “Recreation utility vehicle” or “utility vehicle,” a motorized flotation tire vehicle with not
103 less than 4 and not more than 6 low pressure tires that is limited in engine displacement to less
104 than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a
105 seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for
106 control.

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

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

118 Section 21. No person born after January 1, 1991 shall operate a recreation vehicle unless
119 he has successfully completed a recreation vehicle safety and responsibility course approved by
120 the director of environmental law enforcement. Such course shall include, but not be limited to,
121 notification of the potential criminal penalties and forfeiture process for certain violations of law

122 relative to the safe operation of snow vehicles and recreation vehicles. A parent or legal guardian
123 of an operator of a recreation vehicle under 16 years of age shall participate in at least 1 session
124 of the recreation vehicle safety and responsibility course or as required by the director. Proof of
125 the successful completion of the course shall be carried on the person of the operator while
126 operating a recreation vehicle. Proof of an operator's successful completion of another state's
127 equivalent recreation vehicle safety and responsibility course, as determined by the director, shall
128 be valid in the commonwealth.

129 SECTION 7. Section 22 of said chapter 90B, as so appearing, is hereby amended by
130 striking out the first paragraph and inserting in place thereof the following 2 paragraphs:-

131 No person shall operate a snow vehicle or a recreation vehicle unless the vehicle has been
132 registered in accordance with this chapter and a registration number assigned by the director is
133 displayed on the vehicle. A motor vehicle license or learner's permit shall not be required for the
134 operation of a snow vehicle or a recreation vehicle; provided, however, that a person between 14
135 and 16 years of age shall not operate an all terrain vehicle or recreation utility vehicle with an
136 engine capacity greater than 90 cubic centimeters; provided, further, that a person between 14
137 and 16 years of age may operate an all terrain vehicle or recreation utility vehicle with an engine
138 capacity equal to or less than 90 cubic centimeters if directly supervised by an adult 18 years of
139 age or older as provided under section 25C.

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

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

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

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

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

170 No snow vehicle or recreation vehicle shall be operated which emits noxious fumes or
171 makes unusual or excessive noise. No snow vehicle or recreation vehicle manufactured after
172 January 1, 1998, shall be sold, offered for sale or operated that produces a sound pressure level
173 of more than 96 dbA when measured from a distance of 20 inches using test procedures
174 established by the Society of Automotive Engineers under Standard J1287 JUL98 or with such
175 other test procedures for measurement of sound pressure levels as the registrar may adopt. No
176 snow vehicle or recreation vehicle manufactured prior to January 1, 1998, shall be offered for
177 sale or operated that produces a sound pressure level of more than 101 dbA when measured from
178 a distance of 20 inches using test procedures established by the Society of Automotive Engineers
179 under Standard J1287 JUL98 or with such other test procedures for measurement of sound
180 pressure levels as the registrar may adopt. A snowmobile that was manufactured prior to January 28,
181 1985 and that is substantially maintained in its original or restored condition shall meet the sound and
182 emission specifications in place at the time of its manufacture.

183 An owner or operator of a snow vehicle or a recreation vehicle involved in a collision,
184 accident or other such casualty resulting in death or injury to a person or damage to property in
185 excess of \$250 shall notify a law enforcement officer immediately and file a report of the incident
186 with the division within 48 hours, on a form prescribed by the director.

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

189 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule
190 or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than
191 \$500.

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

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

197 An operator of a snow vehicle or a recreation vehicle that meets the requirements of the
198 preceding sentence shall, after coming to a full stop, cross, as directly as possible, a public way,
199 except when crossing a controlled access highway; provided, however, that for recreation
200 vehicles, the public way and the crossing shall be marked and approved for use by recreation
201 vehicles by the applicable state or local authorities as part of a publicly or privately authorized
202 recreation vehicle trail system. The costs necessary to establish and maintain proper markings for
203 said trail system shall be incurred by the applicable state or local authorities; provided, however,
204 that these authorities shall be reimbursed from the Off Highway Vehicle Program Fund. Properly
205 submitted additions to said trail system shall be deemed approved if not acted upon within 30
206 days of submission to the applicable state or local authority. Decisions to disapprove trail
207 systems and trail system additions by state or local authorities may be appealed to the director of
208 the office of environmental law enforcement a recreation vehicle operator shall make the
209 crossing safely and without interfering with the free movement of vehicular traffic. An operator
210 of a snow vehicle or a recreation vehicle shall yield the right of way to all other vehicular traffic
211 when making such crossing.

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

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

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

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

224 Section 25B. No person under 14 years of age shall operate an all terrain vehicle or
225 recreation utility vehicle. This section shall not apply to a person operating a recreation vehicle
226 or snow vehicle in preparation for, or while a participant in, a sanctioned race, rally or organized
227 event which is supervised by a person aged 18 or older and which has been authorized or
228 approved by a municipal permitting authority. It shall be an affirmative defense in a delinquency
229 proceeding for a violation of this section that a juvenile was supervised by a person aged 18 or
230 older while operating such a vehicle within 21 days before such sanctioned race, rally or
231 organized event or while a participant in such a sanctioned race, rally or organized event.

232 Section 25C. No person between 14 and 16 years of age shall operate an all terrain
233 vehicle or recreation utility vehicle with an engine capacity greater than 90 cubic centimeters. A
234 person between 14 and 16 years of age shall be directly supervised by a person aged 18 or older.

235 For the purposes of this section, “directly supervised” shall mean that the supervising adult shall
236 be sufficiently close to the operator at all times that the operator’s vehicle is in operation, such
237 that a reasonable person acting as supervisor under the totality of the circumstances including,
238 but not limited to, vehicle and ambient noise, the landscape, topography and geography of the
239 location, and the operator’s wearing of protective headgear, would reasonably believe that he is
240 maintaining visual contact and verbal communication with the operator.

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

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

247 Section 25F. Whoever violates any provision of section 25 to 25D, inclusive, or of
248 section 26B shall be punished for a first offense, by a fine of \$250, and for a second or
249 subsequent offense by a fine of not less than \$500 nor more than \$2,500 and the snow vehicle or
250 recreation vehicle in use at the time of such second or subsequent offense shall be subject to
251 forfeiture under section 26L.

252 Section 25G. No person shall operate a snow vehicle or a recreation vehicle on privately-
253 owned property unless: (a) the operator is the owner or lessee or an immediate family member of
254 the owner or lessee of the property; (b) the operator has in his possession either a document,
255 signed by the owner or lessee of such property or his agent, authorizing the operation of a such
256 vehicle on the property by the operator or valid proof of current membership in a club,
257 association or other organization to which express authorization for the operation of such

258 vehicles on the property has been granted; provided, however, that such operation shall be
259 consistent with the express authorization granted and any restrictions imposed therewith; or (c)
260 the owner or lessee of the property has designated the area for use by such vehicles by posting
261 reasonable notice of such designation in a manner approved by the director.

262 Section 25H. No person shall operate a snow vehicle or a recreation vehicle in a manner
263 that harasses or otherwise harms deer or other wildlife. No person shall operate a snow vehicle or
264 recreation vehicle in a reforested or planted area in a manner that causes damage to growing
265 stock. No person shall operate a snow vehicle or a recreation vehicle in a manner that causes
266 damage to public or private property including, but not limited to, lands owned or managed by
267 the department of conservation and recreation or the division of fisheries and wildlife, wetlands
268 or other waters of the commonwealth, priority habitats delineated as such by the division of
269 fisheries and wildlife pursuant to chapter 131A, lands used for public water supply purposes or
270 historic or archaeological sites.

271 Section 25I. No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or
272 recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is
273 unloaded and in an enclosed case. This section shall not apply to a law enforcement officer or
274 other person with enforcement powers authorized in section 32, or to a paraplegic as provided in
275 section 65 of chapter 131.

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

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

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

282 **SECTION 14.** Said chapter 90B is hereby further amended by striking out section 26 and
283 27, as appearing in the 2008 Official Edition, and inserting in place thereof the following 14
284 sections:-

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

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

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

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

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

307 Section 26E. Whoever operates a snow vehicle or a recreation vehicle recklessly or
308 negligently so that the lives or safety of the public might be endangered and, by such operation,
309 causes serious bodily injury, shall be punished by imprisonment in a house of correction for not
310 less than 30 days nor more than 2 ½ years or by a fine of not less than \$300 nor more than
311 \$5,000, or by both such fine and imprisonment. For the purposes of this section “serious bodily
312 injury” shall mean bodily injury which creates a substantial risk of death or which involves either
313 total disability or the loss or substantial impairment of some bodily function for a substantial
314 period of time.

315 Section 26F. Whoever operates a snow vehicle or a recreation vehicle recklessly or
316 negligently so that the lives or safety of the public might be endangered, and by any such
317 operation causes the death of another person, shall be punished by imprisonment in the house of
318 correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine
319 of not more than \$5,000, or by both such fine and imprisonment.

320 Section 26G. Notwithstanding section 28, upon conviction of, or adjudication of
321 delinquency by reason of a violation of sections 26D to 26F, inclusive, the registrar shall
322 immediately suspend the operator’s license or right to operate a motor vehicle and the director
323 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The
324 registrar, after having suspended or revoked the license or right to operate of a person pursuant to
325 this section, shall issue a new license or reinstate the right to operate of such person if the

326 prosecution or adjudication of such person is terminated in favor of the defendant or juvenile and
327 the director shall issue a new registration number if a vehicle was registered to such person. The
328 registrar may, after an investigation or upon a hearing, issue a new license or reinstate the right
329 to operate and the director may issue a new snow vehicle or recreation vehicle registration
330 number to a person convicted or adjudicated delinquent for a violation of said section 26D to
331 26F, inclusive; provided, however, that no such license, right to operate or registration shall be
332 reinstated by the registrar or issued by the director to any person so convicted or adjudicated
333 delinquent by reason of said sections 26D or 26E until 1 year after the date of suspension or
334 revocation following his original conviction or adjudication of delinquency if for a first offense
335 or until 2 years after the date of suspension or revocation if for a subsequent conviction or
336 adjudication of delinquency, or to any person convicted of or adjudicated delinquent by reason of
337 section 26F until 5 years after the date of suspension or revocation following his original
338 conviction or adjudication if for a first offense, or until 15 years after the date of suspension or
339 revocation if for a subsequent conviction or adjudication.

340 If the person so convicted or adjudicated is under age 17 at the time of a conviction or
341 adjudication of delinquency under said sections 26D to 26F, inclusive, and he has not been
342 issued a license or right to operate or has not been issued a snow vehicle or recreation vehicle
343 registration number, neither the registrar nor the director shall issue such license or right to
344 operate a motor vehicle or a snow vehicle or recreation vehicle registration until the time periods
345 provided in the previous paragraph have passed and calculation of such time period shall not
346 commence to run until such person reaches age 16 for purposes of issuance of a right to operate
347 a motor vehicle and 16 ½ for purposes of issuance of a license to operate a motor vehicle and for
348 issuance of a snow vehicle or recreation vehicle registration number.

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

356 Section 26I. Whoever being under 21 years of age operates a snow vehicle or recreation
357 vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined
358 by a chemical test or analysis of his blood or as indicated by a chemical test or analysis of his
359 breath pursuant to section 24 of chapter 90; or (2) while under the influence of intoxicating
360 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section
361 1 of chapter 94C, or the vapors of glue shall, be punished by a fine of not less than \$500 nor
362 more than \$5,000.

363 Section 26J. No prosecution or delinquency proceeding commenced pursuant to sections
364 26D to 26H, inclusive, shall be placed on file or continued without a finding.

365 Section 26K. Notwithstanding section 28, upon conviction of or adjudication of
366 delinquency by reason of a violation of section 26H or section 26I, the registrar shall
367 immediately suspend the operator's license or right to operate a motor vehicle and the director
368 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The
369 registrar, after having suspended or revoked the license or right to operate of any person under
370 this section, shall issue a new license or reinstate the right to operate and the director shall issue a
371 new registration number, if the prosecution or adjudication of delinquency of such person is

372 terminated in favor of the defendant or juvenile. The registrar may, after an investigation or upon
373 hearing, issue a new license or reinstate the right to operate and the director may issue a new
374 snow vehicle or recreation vehicle registration number to a person so convicted of or adjudicated
375 delinquent by means of a violation of said sections 26H or 26I; provided, however, that no such
376 license or right to operate shall be issued by the registrar nor shall a registration number be
377 issued by the director to a person convicted of a violation of said section 26H, for a first offense,
378 until 1 year after the date of suspension or revocation following his original conviction, or from
379 the date of his original conviction if the person is unlicensed or has not been issued the right to
380 operate or, for a subsequent offense, until 2 years after the date of such suspension, revocation or
381 conviction , or to any person convicted of or adjudicated delinquent for a violation of said
382 section 26I , for a first offense, until 2 years after the date of suspension or revocation or, if the
383 person is unlicensed or has not been issued a right to operate, until 2 years after the date of his
384 original conviction or adjudication or, for a subsequent offense, until 3 years after the date of
385 such suspension, revocation, conviction or adjudication; provided, however, that a person whose
386 license or right to operate was suspended due to a conviction of section 26H may, after the
387 expiration of 3 months from the date of conviction, apply for and shall be granted a hearing
388 before the registrar for the purpose of requesting the issuance of a new license for employment or
389 educational purposes, which license shall be effective for not more than an identical 12-hour
390 period every day on the grounds of hardship and a showing by the person that the causes of the
391 present and past violations have been dealt with or brought under control, and the registrar may,
392 in his discretion, issue such license or right to operate under such terms and conditions as he
393 deems appropriate and necessary; and provided further, that such person may, after the
394 expiration of 6 months from the date of conviction, apply for and shall be granted a hearing

395 before the registrar for the purpose of requesting the issuance of a new license or right to operate
396 on a limited basis on the grounds of hardship and a showing by the person that the causes of the
397 present and past violations have been dealt with or brought under control and the registrar may,
398 in his discretion, issue such a license or right to operate under such terms and conditions as he
399 deems appropriate and necessary.

400 If the person so convicted or adjudicated is under age 17 at the time of such conviction or
401 adjudication and has not been issued a license or right to operate or a snow vehicle or recreation
402 vehicle registration number, the registrar shall not issue such license or right to operate a motor
403 vehicle and the director shall not issue a snow or recreation vehicle registration until the time
404 periods provided in the previous paragraph have passed but the calculation of such time period
405 shall not commence until such person reaches age 16 for purposes of issuance of a right to
406 operate a motor vehicle and 16 ½ for purposes of issuance of a license to operate a motor vehicle
407 and for issuance of a snow vehicle or recreation vehicle registration number.

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

413 (b) A district attorney or the attorney general may petition the superior or district court in
414 the name of the commonwealth in the nature of a proceeding in rem to order forfeiture of such
415 snow vehicle or recreation vehicle. The petition shall be filed in the court having jurisdiction
416 over the criminal proceeding brought under this section. The proceeding shall be deemed a civil
417 suit in equity. In all such actions in which the snow vehicle or recreation vehicle is jointly owned

418 before the date of the violation committed by the defendant by either a parent, spouse, child,
419 grandparent, brother, sister or parent of the spouse living in the defendant's household, the
420 commonwealth shall have the burden of proving to the court the existence of probable cause to
421 institute the action.

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

433 (d) At a hearing under this section, the court shall hear evidence and make findings of
434 fact and conclusions of law and shall thereon issue a final order from which the parties shall have
435 such right of appeal as from a decree in equity. No forfeiture under this section shall extinguish a
436 perfected security interest held by a creditor in the property at the time of the filing of the
437 forfeiture action. In all actions where a final order results in forfeiture, the final order shall
438 provide for disposition of the property by the commonwealth or any subdivision thereof in any
439 manner not prohibited by law, including official use by an authorized law enforcement or other

440 agency, or at sale at public auction or by competitive bidding, with such sale being conducted by
441 the office of the district attorney or the attorney general that obtained the final order of forfeiture.

442 (e) The final order of the court shall provide that the proceeds of any such sale shall be
443 used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance
444 of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be
445 deposited into the Off Highway Vehicle Program Fund, established in section 18C of chapter
446 21A and the remaining 25 per cent shall be distributed equally by the court among the division,
447 departments or offices involved in the seizure or to the division, department or office if a single
448 law enforcement agency was involved.

449 (f) Any moneys and proceeds received by a division, department or office pursuant to this
450 section may be expended without further appropriation to defray the costs of investigations, to
451 provide additional technical equipment or expertise, to provide matching funds to obtain federal
452 grants or to accomplish such other law enforcement, environmental or public recreational
453 purposes as the head of such division, department or office deems appropriate, but such funds
454 shall not be considered a source of revenue to meet the operating needs of such division,
455 department or office.

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

461 (b) An owner of a snow vehicle or recreation vehicle or other person who knowingly
462 permits a person 18 years of age or older to operate a snow vehicle or a recreation vehicle in

463 violation of this chapter shall be held liable, jointly and severally, with the operator, for any
464 damage or injuries caused by such operator's negligent operation and for any fines, penalties or
465 restitution resulting therefrom.

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

468 SECTION 15. The first paragraph of section 32 of said chapter 90B, as so appearing, is
469 hereby amended by striking out the first 2 sentences and inserting in place thereof the following
470 sentence:- Sections 21 to 34, inclusive, and the rules and regulations promulgated thereunder
471 shall be enforced by law enforcement officers; provided, however, that any investigation, arrest
472 or decision to seek application for complaint relative to a violation of sections 26B to 26F,
473 inclusive, shall be executed by a law enforcement officer who has successfully completed
474 minimum training requirements for the enforcement of such sections as determined by the
475 secretary of public safety and security.

476 SECTION 16. Said chapter 90B is hereby further amended by striking out section 34, as
477 so appearing and inserting in place thereof the following section:-

478 Section 34. Notwithstanding the provisions relative to the distribution of fines, penalties
479 and forfeitures in section 10G of chapter 21 to the contrary, of the fines collected by the
480 commonwealth pursuant to a violation of the fourth paragraph of section 10H of chapter 21A and
481 section 21 and 24 to 32, inclusive, 75 per cent shall be deposited into the Off Highway Vehicle
482 Program Fund, established in section 18C of said chapter 21A, and the remaining 25 per cent
483 shall be distributed equally among the divisions, departments or offices involved in the
484 enforcement of the laws which resulted in the assessment of such fines.

485 SECTION 17. Section 35 of said chapter 90B is hereby repealed.

486 SECTION 17A. The definition of “Police chief” in section 1 of chapter 90C of the
487 General Laws, as appearing in section 86 of chapter 35 of the acts of 2009, is hereby amended by
488 inserting after the words “the chairman of the Massachusetts Department of Transportation,” the
489 following words:- , or the director of environmental law enforcement within the executive office
490 of energy and environmental affairs.

491 SECTION 18. Section 121A of chapter 266 of the General Laws, as appearing in the
492 2008 Official Edition, is hereby amended by striking out the words “two hundred and fifty
493 dollars” and inserting in place thereof the following figure:- \$500.

494 SECTION 19. Within 180 days after the effective date of this act, the director of law
495 enforcement in the executive office of energy and environmental affairs shall amend the
496 regulations of the division that are inconsistent with this act.

497 SECTION 20. Within 90 days after the effective date of this act, the director of law
498 enforcement in the executive office of energy and environmental affairs shall prescribe forms for
499 application for registration fee exemption for vehicles used exclusively for agricultural, forestry,
500 lumbering or construction purposes under section 22 of chapter 90B of the General Laws.

501 SECTION 21. The director of law enforcement in the executive office of energy and
502 environmental affairs may, after consultation with the off highway vehicle advisory committee
503 and a public hearing, promulgate regulations consistent with this act including, but not limited to,
504 increasing the age at which persons may operate all terrain vehicles or regulating the engine size
505 and speed capabilities of such vehicles, based on the age of the operator.

506 SECTION 22. Within 90 days of the effective date of this act, the director of law
507 enforcement in the executive office of energy and environmental affairs shall adopt minimum
508 training requirements for law enforcement officers, except state and municipal police officers, as
509 required by section 32 of chapter 90B of the General Laws.

510 SECTION 23. Section 7 shall take effect 6 months after the effective date of this act;
511 provided, however, that no operator of a snow vehicle or recreation vehicle shall be assessed a
512 penalty for violation of section 22 of chapter 90B of the General Laws until 9 months after the
513 effective date of this act.

514 SECTION 24. The provisions of sections 26A and 26D of chapter 90B of the General
515 Laws prohibiting an operator of a snow vehicle or recreation vehicle from leaving the scene after
516 causing injury to property or to a person without making known his registration number shall
517 take effect 6 months after the effective date of this act. Nothing in this section shall affect the
518 prohibition in said sections 26A and 26D of said chapter 90B against an operator leaving the
519 scene after causing injury to property or to a person without leaving and making known his name
520 and residence on and after the effective date of this act.

521 SECTION 25. The applicable state or local authorities authorized to submit public ways
522 and crossings for use by recreation vehicles as part of a publicly or privately authorized
523 recreation vehicle trail system under section 25 of chapter 90B of the General Laws shall submit
524 all existing public ways and crossings in use by recreation vehicles as part of any publicly or
525 privately authorized recreation vehicle trail systems not less than 30 days after the effective date
526 of this act.