

HOUSE No. 3886

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act regulating recreation and all terrain 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. Chapter 21 of the General Laws, as so appearing is hereby amended by
2 inserting after section 18A, the following new sections:-

3 Section 18B. There is hereby established within the executive office of energy and
4 environmental affairs a state off highway vehicle advisory committee. The committee shall
5 advise the secretary and the department of conservation and recreation, the department of fish
6 and game, the department of environmental protection, and the office of environmental law
7 enforcement within said executive office on matters involving the commonwealth’s regulation of
8 off highway vehicles, including the development and enforcement of state regulations and
9 policies, safety and training programs, and the distribution of available state funding. The
10 secretary shall appoint the members of the committee, which shall consist of 12 members. Of the
11 committee members, 3 shall be representatives off highway vehicle users; 1 shall be a
12 representative of the off highway vehicle manufacturers and dealers; 1 shall be a representative
13 of the Specialty Vehicle Institute of America (SVIA); 1 shall be a representative of child safety
14 advocates associated with the use of off highway vehicles; 1 shall be a representative of The

15 Snowmobile Association of Massachusetts; 1 shall be representatives of a nonprofit organization
16 that owns and manages land open to the public for non-motorized use; 1 shall be representatives
17 of an organization that owns and/or manages land opened to motorized use; 1 shall be a
18 representative of an association or organization of large private land owners; and 2 shall be
19 representatives of state and local law enforcement authorities. Each appointee shall serve without
20 compensation for a term of 3 years. The committee shall select a chairperson annually by a
21 majority vote of the members. The committee shall meet at least twice each year, and shall also
22 meet at the request of the secretary or committee chairperson. The minutes of each meeting shall
23 be transmitted in a timely fashion to the joint committee on environment, natural resources and
24 agriculture.

25 Section 18C. (1) There is hereby established and set up on the books of the
26 commonwealth a separate fund to be known as the Off Highway Vehicle Program Fund. There
27 shall be credited to the fund all fees, fines, costs, expenses and interest imposed pursuant to
28 sections 21 to 32, inclusive, of chapter 90B and any revenue from appropriations or other monies
29 authorized by the general court and specifically designated to be credited to the fund, any
30 appropriation or grant explicitly made to the fund, and any income derived from the investment
31 of amounts credited to the fund.

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

36 (a) the enforcement of statutes, regulations, and policies applicable to off-highway
37 vehicles; A maximum of 25%, unless by 2/3 vote or greater the state off highway vehicle
38 advisory committee authorizes expenditures above such level.

39 (b) the acquisition of land for use as commonwealth-approved trails and facilities for off-
40 highway vehicles or for the development, maintenance, repair or restoration of said
41 commonwealth-approved trails and facilities; A minimum of 40%, unless by 2/3 vote or greater
42 the state off highway vehicle advisory committee authorizes expenditures below such level.

43 (c) for grants made by the department of conservation and recreation to municipalities
44 and other public entities for the purposes of subsection (a) and (b);

45 (d) the development and administration of safety and training programs; A maximum of
46 35%, unless by 2/3 vote or greater the state off highway vehicle advisory committee authorizes
47 expenditures above such level.

48 (3) Monies that are deposited in the fund that are unexpended at the end of the fiscal year
49 shall not revert to the General Fund and shall be available for expenditure in subsequent fiscal
50 years

51 SECTION 2. Chapter 21A of the General Laws is hereby amended by striking out
52 section 11 and 12 appearing in the 2006 Official Edition, and inserting in place thereof the
53 following section:-

54 There is hereby established within the office of law enforcement an advisory board to be
55 designated as the boating and recreational vehicle safety advisory board. The board shall consist
56 of 7 members to be appointed by the governor, 2 of whom shall be representative of the boating

57 public each of whom shall hold a certificate of number issued pursuant to section 3 of chapter
58 90B, 1 of whom may represent the harbormaster's association; 2 members shall represent the
59 recreational boating business, 1 of whom shall operate a boat dealership; 1 member shall
60 represent a snowmobile or all-terrain vehicle dealership; 1 member shall represent the
61 snowmobile users; and 1 member may represent the all-terrain vehicle users. Each member shall
62 serve for a term of 3 years. The chairman of the board shall be appointed, from the 7 members,
63 annually by the governor, and in the absence of same shall be designated by the director. Board
64 members shall be appointed or reappointed for terms of 3 years. The boating and recreational
65 vehicle safety advisory board shall meet at least quarterly and 4 members in attendance shall
66 constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the inland
67 enforcement bureau established under section 6 of chapter 21, or their designees, shall attend all
68 meetings of said board and shall provide such information as said board shall request. Said board
69 shall review the budgetary recommendations of the director and the secretary of the executive
70 office of environmental affairs concerning the expenditure of federal funds allocated to the
71 division for recreational boating safety each fiscal year prior to the submission of such
72 recommendations to the secretary or the governor, as the case may be. In the event said board
73 disapproves of any such recommendation it may file a report noting its objection and such report
74 shall be transmitted to the governor and to the house and senate committees on ways and means.

75 SECTION 3. Chapter 20 of chapter 90B of the General Laws, as appearing in the 2006
76 Official Edition, is hereby amended by striking out the definition of "recreational vehicle" and
77 inserting 4 definitions:-

78 "Recreation Vehicle", "off-highway vehicle", "off-road vehicle", any motor vehicle
79 designed or modified for use over unimproved terrain if used for recreation or pleasure off a

80 public way as defined in chapter 90, including but not limited to, all terrain vehicles, off highway
81 motorcycles, dirt bikes, recreation utility vehicles, utility vehicles, and all legally registered
82 motor vehicles while not being operated on a public way as defined in chapter 90, but recreation
83 vehicles, off highway vehicles and off road vehicles that are being operated for agricultural,
84 forestry, snow removal, lumbering or construction purposes shall not be subject to this chapter
85 and it shall be an affirmative defense that such vehicle was being operated for such use at the
86 time of an alleged violation.

87 “Recreation utility vehicle” or “utility vehicle”, a motorized flotation tire vehicle with
88 not less than 4 and not more than 6 low pressure tires that is limited in engine displacement to
89 less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that
90 has a seat that is of bench design, not intended to be straddled by the operator, and a steering
91 wheel for control. “All Terrain Vehicle (ATV), a motorized recreational vehicle designed to
92 travel on four low pressure tires having a seat designed to be straddled by the operator and
93 handlebars for steering control. “Snow vehicle”, a motor vehicle designed to travel over ice or
94 snow, having a curb weight of not more than 453 kilograms or 1,000 pounds, driven by track or
95 tracks in contact with the snow or ice and steered by a ski or skis in contact with the snow or ice.

96 SECTION 4. Said chapter 90B of said General Laws, is further amended by striking out
97 section 21, as appearing in the 2006 Official Edition, and inserting in place thereof the following
98 section:-

99 Section 21. No person born after January 1, 1990 shall operate a recreation vehicle
100 unless he has successfully completed a recreation vehicle safety and responsibility course

101 approved by the director of the office of environmental law enforcement. Such course
102 shall include, but not be limited to, notification of the potential criminal penalties for certain
103 violations of law relative to the safe operation of snow vehicles and recreation vehicles. A parent
104 or the legal guardian of an operator of recreation vehicles under 16 years of age shall also
105 participate in the safety and responsibility course. Proof of the successful completion of the
106 recreation vehicle safety and responsibility course shall be carried on the person of the operator
107 while operating a recreation vehicle. Proof of an operator's successful completion of another
108 state's equivalent recreation vehicle safety and responsibility course shall be valid in the
109 commonwealth.

110 SECTION 5. Said chapter 90B of said General Laws, is further amended by striking out
111 section 22, as appearing in the 2006 Official Edition, and inserting in place thereof the following
112 section:-

113 Section 22. No person shall operate a snow vehicle or a recreation vehicle unless such
114 vehicle has been registered in accordance with this chapter and such registration number is
115 displayed on such vehicle. Application for registration of a snow vehicle or a recreation vehicle
116 shall be made by the owner to the director or his agent on such forms as the director shall
117 prescribe and shall state the name and address of the owner of such vehicle. It shall be illegal to
118 knowingly make any false statement in an application for registration of a snow vehicle or
119 recreation vehicle. Upon receipt of the application and the appropriate fee, as hereinafter,
120 provided such vehicle shall be registered and a registration number assigned which shall be
121 affixed to said vehicle in such manner as the director shall prescribe. Such registration shall be
122 valid for a period ending two years from the date of issuance, unless surrendered, suspended or
123 revoked. The director shall issue a certificate of registration to each such owner on such form as

124 he shall prescribe. Each such owner shall notify the director in writing within 30 days after any
125 change has occurred in the name and address appearing on said registration certificate. No
126 registration issued for any such vehicle may be loaned by any person to another, nor may such
127 registration be transferred except upon application to the director upon such forms as he shall
128 prescribe. Every person operating a snow vehicle or a recreational vehicle shall have the
129 certificate of registration therefore upon his person or in the vehicle, in some easily accessible
130 place, and upon demand shall show the same to a law enforcement officer or to the owner of any
131 land on which he is operating said vehicle. Any person authorized to issue registration
132 certificates for snow vehicles, recreational vehicles, and vessels who is not employed by the
133 commonwealth, may charge the applicant an administrative fee in addition to the required
134 registration fee. Said administrative fee shall not exceed \$1.50 per registration issued. The fee for
135 initial registration of each such vehicle and for each renewal thereof, other than vehicles for
136 which application is made by a manufacturer or dealer as hereinafter provided, shall be
137 determined annually by the commissioner of administration under section 3B of chapter 7,
138 except that no fee shall be collected for the registration of any such vehicle which is owned by
139 the commonwealth or any political subdivision thereof, or used exclusively for: agricultural,
140 forestry, snow-removal, lumbering, construction purposes, or on private property in a manner
141 consistent with section 25E.

142 Application for a manufacturer's or dealer's registration shall be made to the director in
143 such form as the director shall prescribe and shall state the name and address of the manufacturer
144 or dealer. Upon receipt of the application and the appropriate fee as hereinafter provided, the
145 director shall forward to the manufacturer or dealer a certificate of registration and such
146 registration numbers as the director may approve, one of which shall be affixed to each snow

147 vehicle or recreation vehicle being operated by or with the express or implied consent of said
148 manufacturer or dealer. The fee for initial registration of recreation vehicles or snow vehicles
149 owned by or under the control of a manufacturer or dealer and for each renewal thereof shall be
150 determined annually by the commissioner of administration under the provision of section 3B of
151 chapter 7. The fee for the registration of each snow vehicle or recreational vehicle of a
152 nonresident shall also be determined by the commissioner of administration. Such registration
153 and each renewal thereof shall be valid for a period ending 1 year from the date of issuance or
154 renewal, unless surrendered, suspended or revoked.

155 SECTION 6. Said chapter 90B is hereby further amended by striking out section 24, as
156 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

157 Section 24. . Except for snow vehicles manufactured prior to July 1, 1972 each snow
158 vehicle and each recreation vehicle shall be equipped with one or more headlights, a red rear
159 light, a rear brake light, a red rear reflector, and adequate muffler, and such safety equipment as
160 may be required by the director. Each such vehicle shall be capable of decelerating in a
161 reasonable manner. Any sled or trailer attached to any such vehicle shall also be equipped with a
162 red rear reflector. All such equipment shall conform to such specifications as the registrar of
163 motor vehicles shall prescribe; provided, however, that the requirements for lighting, as set forth
164 in this paragraph, shall not apply to category Y - all terrain vehicles, so-called; and provided,
165 further, that said registrar in such specifications shall define said category Y - all terrain vehicles
166 in a manner which shall be consistent with the American National Standards Institute Standard
167 ANSI/SVIA I - 1990. No snow vehicle or recreation vehicle manufactured after January 1, 1998
168 shall be sold, offered for sale, or operated that produces a sound pressure level of more than 96
169 dba when measured from a distance of 20 inches using test procedures established by the Society

170 of Automotive Engineers under Standard J1287 JUL98 or with such other test procedure for
171 measurement of sound pressure levels as the registrar of motor vehicles may adopt.. No owner or
172 operator of a snow vehicle or a recreation vehicle involved in a collision, accident or other such
173 casualty resulting in death or injury to a person or damage to property in excess of \$250 shall fail
174 to notify a law enforcement officer immediately and file a report of the incident with the division
175 within 48 hours, on forms prescribed by the director.

176 SECTION 7. Section 25 of said chapter 90B, as so appearing, is hereby amended by
177 striking out the third and fourth paragraphs and inserting in place thereof the following
178 paragraphs:- No person under the age of 18 shall operate a snow vehicle or a recreation vehicle
179 across or on a public way unless the operator holds a valid license or right to operate a motor
180 vehicle or is directly supervised as defined in section 25B. An operator of a snow vehicle or a
181 recreation vehicle that meets the requirements of the preceding paragraph may, after coming to a
182 full stop, cross, as directly as possible, a public way, except a controlled access highway,
183 providing that the snow vehicle or recreation vehicle operator shall make the crossing safely and
184 without interfering with the free movement of vehicular traffic. The operator of a snow vehicle
185 or a recreation vehicle shall yield the right of way to all other vehicular traffic when making such
186 crossing.

187 Whenever it is otherwise impractical to gain immediate access to an area adjacent to a
188 public way where a snow vehicle or a recreational vehicle is to be operated, said snow vehicle or
189 a recreational vehicle may be operated adjacent and parallel to the travelled portion of such
190 public way for the purpose of gaining access to the area of operation. Except as herein provided,
191 no snow vehicle or a recreational vehicle shall be operated on the main traveled portion of a way,

192 or on that portion of a way that has been plowed or on a snow bank immediately adjacent to the
193 plowed portion of the way.

194 SECTION 8. Said chapter 90B of the General Laws is hereby amended by inserting, after
195 section 25, the following sections:-

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

200 Section 25B. Operation of an all terrain vehicle or recreational vehicle by persons under
201 the age 16 shall be regulated in a manner which shall be consistent with the American National
202 Standards Institute Standard ANSI/SVIA guidelines. No person under the age of 16 years of age
203 shall operate an all terrain vehicle or recreation utility vehicle unless directly supervised by an
204 adult that is 18 years of age or older. For the purposes of this section, “direct supervision” shall
205 mean that the supervising adult shall be sufficiently close to an operator at all times that the
206 vehicle is in operation, such that a reasonable person under the totality of the circumstances
207 including, but not limited to, vehicle and ambient noise, the landscape and geography of the
208 location, and the operator’s wearing of protective headgear, would believe that he is maintaining
209 visual contact and verbal or visual communication with the operator.

210 Section 25C. No owner of a snow vehicle or a recreation vehicle or other person shall
211 knowingly permit a person under 18 years of age to operate a snow vehicle or a recreation vehicle
212 in violation of this chapter.

213 Section 25D. Whoever violates section 25 to 25C, inclusive, or section 26B shall be
214 punished, for a first offense, by a fine of \$100 and for a second or subsequent offense by a fine of
215 not less than \$250 nor more than \$500.

216 Section 25E. No person shall operate a snow vehicle or a recreation vehicle on privately
217 owned property, unless: (a) the operator is the owner or lessee or immediate family member of
218 the owner or lessee of such property; (b) the operator has in his possession either a document,
219 signed by the owner or lessee of such property or his agent, authorizing the operation of a said
220 vehicle on such property by the operator, or valid proof of current membership in a club,
221 association or other organization to which express authorization for the operation of said vehicles
222 on such property has been granted; or (c) the owner or lessee of such property has designated the
223 area for use by said vehicles by posting reasonable notice of such designation.

224 Section 25F. No person shall operate a snow vehicle or a recreation vehicle in a manner
225 that harasses or otherwise harms wildlife. No person shall operate a snow vehicle or a recreation
226 vehicle in a manner that causes damage to public or private property.

227 Section 25G. No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or a
228 recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is
229 unloaded and in an enclosed case. This subsection shall not apply to a law enforcement officer or
230 other person authorized to carry arms as specifically described in section 32, or a paraplegic as
231 provided in section 65 of chapter 131.

232 Section 25H. No person shall collide with or otherwise cause injury to any other snow
233 vehicle or recreation vehicle or property of another.

234 Section 25I. No person shall use a snow vehicle or a recreation vehicle without authority
235 knowing that such use is unauthorized.

236 Section 25J. Whoever violates sections 25E to 25I, inclusive, shall be punished by a fine
237 of not less than \$150 nor more than \$1,000, or by imprisonment in the house of correction for
238 not less than 30 days nor more than 6 months, or by both such fine and imprisonment.

239 SECTION 9. Said chapter 90B, as so appearing, is hereby further amended by striking
240 out section 26, and inserting the following new section:-

241 Section 26A. Whoever operates a snow vehicle or a recreation vehicle and, without
242 stopping and making known his name, residence and the registration number of his snow vehicle
243 or recreation vehicle, goes away after knowingly colliding with or otherwise causing injury to
244 any other snow vehicle or recreation vehicle or property; provided that the injury to property
245 exceeds \$500 in damage, shall be punished by a fine of not less than \$250 nor more than \$1,000
246 or by imprisonment for not less than 60 days nor more than 6 months, or by both such fine and
247 imprisonment.

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

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

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

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

269 Section 26F.

270 Whoever operates a snow vehicle or a recreation vehicle recklessly, or negligently so that
271 the lives or safety of the public might be endangered, and by any such operation causes the death
272 of another person, shall be punished by imprisonment in a the house of correction for not less
273 than 30days nor more than 2 ½ years or by a fine of not less than \$300 not more than \$5,000 or
274 imprisonment in the state prison for not less than 5 years not more that 10 years and a fine of
275 \$5,000, or by both such fine and imprisonment.

276 Section 26G. Notwithstanding section 28, upon conviction of a violation of sections 26D
277 to 26F inclusive, the registrar shall immediately suspend the operator's license or right to operate
278 a motor vehicle and the director shall revoke the registration of any snow vehicle or recreation
279 vehicle issued to such person. The registrar may after an investigation or upon hearing, issue a
280 new license or reinstate the right to operate and the director may issue a new snow vehicle or
281 recreation vehicle registration number to a person so convicted of said sections 26D to 26F
282 inclusive; provided, that no such license, right to operate or registration shall be issued or
283 reinstated by the registrar or director to any person so convicted delinquent by reason of said
284 sections 26D or 26E until 1 year after the date of suspension or revocation following his original
285 conviction if for a first offense or until 2 years after the date of suspension or revocation
286 following any subsequent conviction, or to any person convicted of delinquent by reason of
287 section 26F until 5 years after the date of suspension or revocation following his original
288 conviction if for a first offense or until 15 years after the date of suspension or revocation
289 following any subsequent conviction; provided, however, that a person who's license or right to
290 operate was suspended due to a conviction of 26D may, after the expiration of 3 months from the
291 date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of
292 requesting the issuance of a new license for employment or educational purposes, which license
293 shall be effective for not more than an identical 12 hour period every day on the grounds of
294 hardship and a showing by the person that the causes of the present and past violations have been
295 dealt with or brought under control, and the registrar may, in his discretion, issue such license
296 under such terms and conditions as he deems appropriate and necessary; and provided, further,
297 that such person may, after the expiration of 6 months from the date of conviction, apply for and
298 shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new

299 license on a limited basis on the grounds of hardship and a showing by the person that the causes
300 of the present and past violations have been dealt with or brought under control and the registrar
301 may, in his discretion, issue such a license under such terms and conditions as he deems
302 appropriate and necessary. If the person so convicted is under 17 at the time of such conviction
303 and has not been issued a license or right to operate or a snow vehicle or recreation vehicle
304 registration number, neither the registrar nor director shall issue such license or right to operate a
305 motor vehicle or a snow or recreation vehicle registration until the time periods provided in the
306 previous paragraph have passed and such time period shall not commence to run until such
307 person reaches 16 years of age for purposes of issuance of a right to operate a motor vehicle and
308 16 ½ for purposes of issuance of a license to operate a motor vehicle.

309 SECTION 10. Chapter 30B, as so appearing, is further amended by striking out section
310 29 and inserting the following section:-

311 Section 29. The director of the division of law enforcement in the executive office of
312 energy and environmental affairs shall, within 180 days of the effective date of this act amend
313 regulations of such division that are inconsistent with this act. The director of the division of law
314 enforcement in the executive office of energy and environmental affairs shall, after consultation
315 with the state off highway advisory committee and a public hearing, promulgate regulations
316 consistent with this chapter.

317 SECTION 11. Section 32 of said chapter 90, as so appearing, is hereby amended by
318 striking out the first paragraph and inserting in place thereof the following paragraph:-

319 The provisions of sections 21 to 34, inclusive, and all the rules and regulations made
320 under the authority thereof shall be enforced by the director, deputy directors of enforcement,

321 chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy
322 environmental police officers of the office of environmental law enforcement, executive office of
323 energy and environmental affairs, registrar or his authorized agents, police officers, fish and
324 game wardens as defined in section 1 of chapter 131, members of the state police, and city and
325 town police officers or employees of the commonwealth having police powers on public lands;
326 provided that any investigation, arrest or decision to seek application for complaint relative to a
327 violation of sections 26B to 26F, inclusive, shall be executed by a law enforcement officer who
328 has successfully completed minimum training requirements for the enforcement of such sections
329 as determined by the secretary of public safety and security. Such officers may, in the
330 performance of their duty, enter upon and pass through or over private lands or property.

331 SECTION 12. Chapter 90B of the General Laws is further amended by striking out
332 sections 34 and 35 and inserting in place thereof the following sections:-

333 Section 34. Whoever violates any provision of sections 21 to 24, inclusive, or any rule or
334 regulation made thereunder, shall be punished by a fine of not less than \$50 nor more than \$250.
335 Whoever violates any provision of sections twenty-one to twenty-four, inclusive, or any rule or
336 regulation made thereunder more than once within twenty four months shall be punished by a
337 fine of not less than \$250 nor more than \$500 or imprisonment for not less than thirty days nor
338 more than one year, or both such fine and imprisonment.

339 Section 35. All fees collected by the commonwealth pursuant to the fourth paragraph of
340 section 10H of chapter 21A and sections 21 to 32, inclusive shall be deposited into the Off
341 Highway Vehicle Program Fund, established by section 18C of said chapter 21A.