

**SENATE . . . . . No. 2235**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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 1 Laws, as appearing in the  
2 2008 Official Edition, is hereby amended by inserting after the third paragraph the  
3 following paragraph:-

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

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

9 Section 11. There is hereby established within the office of law enforcement an advisory  
10 board to be designated as the boating safety advisory board. The board shall consist of 5  
11 members to be appointed by the governor, 2 of whom shall be representative of the boating  
12 public each of whom shall hold a certificate of number issued pursuant to section 3 of chapter  
13 90B, 1 of whom may represent the harbormaster's association and 2 members shall represent the

14 recreational boating business, 1 of whom shall operate a boat dealership. Each member shall  
15 serve for a term of 3 years. The chairman of the board shall be appointed, from the 5 members,  
16 annually by the governor, and in the absence of same shall be designated by the director. Board  
17 members shall be appointed or reappointed for terms of 3 years.

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

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

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

32         Section 18B. There is hereby established within the executive office of energy and  
33 environmental affairs a state off highway vehicle advisory committee. The committee  
34 shall advise the secretary and the department of conservation and recreation, the department of

35 fish and game, the department of environmental protection, and the office of environmental law  
36 enforcement within said executive office of energy and environmental affairs on matters  
37 involving the commonwealth's regulation of off highway vehicles, including the development  
38 and enforcement of state regulations and policies, safety and training programs, and the  
39 distribution of available state funding. The secretary shall appoint the members of the committee,  
40 which shall consist of 13 members. Of the committee members, 3 shall be representatives of off  
41 highway vehicle users, 1 of which shall be a representative of the New England Trail Riders  
42 Association; 1 shall be a representative of the off highway vehicle manufacturers and dealers; 1  
43 shall be a representative of the department of public health; 1 shall be a representative of child  
44 safety advocates associated with the safe use of off highway vehicles; 1 shall be a representative  
45 of The Snowmobile Association of Massachusetts; 2 shall be representatives of a nonprofit  
46 organization that owns and manages land open to the public; 1 shall be a representative of an  
47 association or organization of large private land owners; 1 shall be a member of a Massachusetts  
48 Forest and Parks Friends group; and 2 shall be representatives of state or local law enforcement  
49 authorities. Members shall serve without compensation. Members shall be appointed for a term  
50 of 3 years, except that initially 4 members shall be appointed for 1 year and 4 members shall be  
51 appointed for 2 years.

52           The committee shall select a chairperson annually by a majority vote of the members.  
53 The committee shall meet at least twice each year and shall also meet at the request of the  
54 secretary or committee chairperson. The minutes of each meeting shall be transmitted in a timely  
55 fashion to the joint committee on environment, natural resources and agriculture, the joint  
56 committee on public safety and homeland security and the joint committee on public health.

57 Section 18C. (1) There is hereby established and set up on the books of the  
58 commonwealth a separate fund to be known as the Off Highway Vehicle Program Fund. There  
59 shall be credited to the fund 75 per cent of all fines, costs, expenses and interest imposed  
60 pursuant to sections 21 to 32, inclusive, of chapter 90B and the fourth paragraph of section 10H  
61 of chapter 21A and 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 (2) All amounts credited to the fund may be expended, without further appropriation, by  
65 the executive office of energy and environmental affairs and its office of environmental law  
66 enforcement, the department of conservation and recreation, the department of fish and game,  
67 and the department of environmental protection for any of the following purposes: (a) the  
68 enforcement of statutes, regulations and policies applicable to off highway vehicles; (b) the  
69 acquisition of land for use as commonwealth approved trails and facilities for off highway  
70 vehicles or for the development, maintenance, repair or restoration of commonwealth approved  
71 trails and facilities; (c) for grants made by the department of conservation and recreation to  
72 municipalities and other public entities for the purposes of clauses (a) and (b); (d) the  
73 development and administration of safety, training and education programs; and (e) for other off  
74 highway program activities, including all direct and indirect costs of personnel or contractors of  
75 the executive office and its office of environmental law enforcement and departments. (3)  
76 Monies deposited into the fund that are unexpended at the end of the fiscal year shall not revert  
77 to the General Fund and shall be available for expenditure in the subsequent fiscal year.

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

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

84 “Law enforcement officer”, the director, a deputy director of enforcement, a chief of  
85 enforcement, a deputy chief of enforcement, an environmental police officer and a deputy,  
86 environmental police officer of the office of environmental law enforcement within the executive  
87 office of energy and environmental affairs, the registrar or an authorized agent thereof, a police  
88 officer, a member of the state police, a city or town police officer or an employee of the  
89 commonwealth having police powers on public lands.

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

93 “Recreation vehicle”, “off highway vehicle” or “off road vehicle”, any motor vehicle  
94 designed or modified for use over unimproved terrain for recreation or pleasure while not being  
95 operated on a public way as defined in chapter 90, including but not limited to, all terrain  
96 vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles and all  
97 legally registered motor vehicles while not being operated on a public way as defined in said  
98 chapter 90. Recreation vehicles, off highway vehicles and off road vehicles that are being

99 operated exclusively for agricultural, forestry, lumbering or construction purposes shall not be  
100 subject to this chapter and it shall be an affirmative defense that such vehicle was being operated  
101 for such use at the time of an alleged violation of this chapter.

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

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

120 SECTION 7. Section 22 of said chapter 90B, as so appearing, is hereby amended by  
121 striking out the first sentence and inserting in place thereof the following words:- No person  
122 shall operate a snow vehicle or a recreation vehicle unless such vehicle has been registered in  
123 accordance with this chapter and such registration number is displayed on such vehicle. A motor  
124 vehicle license or learner's permit shall not be required for the operation of a snow vehicle or a  
125 recreation vehicle, except as provided under section 25.

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

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

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

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

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

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

157 No snow vehicle and no recreation vehicle shall be operated which emits obnoxious  
158 fumes or which makes an unusual or excessive noise. No snow vehicle or recreation vehicle  
159 manufactured after January 1, 1998 shall be sold, offered for sale, or operated that produces a  
160 sound pressure level of more than 96 dbA when measured from a distance of 20 inches using test  
161 procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or  
162 with such other test procedure for measurement of sound pressure levels as the registrar of motor  
163 vehicles may adopt. No snow vehicle or recreation vehicle manufactured prior to January 1,  
164 1998 shall be offered for sale or operated that produces a sound pressure level of more than 101



165 dbA when measured from a distance of 20 inches using test procedures established by the  
166 Society of Automotive Engineers under Standard J1287 JUL98 or with such other test procedure  
167 for measurement of sound pressure levels as the registrar of motor vehicles may adopt.

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

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

174 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule  
175 or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than  
176 \$500.

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

179 (a) No person under 16 1/2 years of age shall operate a snow vehicle or a recreation  
180 vehicle across or on a public way unless the operator holds a valid license or right to operate a  
181 motor vehicle or is directly supervised, as defined in section 26D, by a person 18 years of age or  
182 older. An operator of a snow vehicle or a recreation vehicle that meets the requirements of the  
183 preceding paragraph may, after coming to a full stop, cross, as directly as possible, a public way,  
184 except a controlled access highway; provided, however, that for recreation vehicles, the public  
185 way and the crossing must be marked and approved for use by recreation vehicles by the

186 applicable state or local authorities as part of a publicly or privately authorized recreation vehicle  
187 trail system and a recreation vehicle operator shall make the crossing safely and without  
188 interfering with the free movement of vehicular traffic. An operator of a snow vehicle or a  
189 recreation vehicle shall yield the right of way to all other vehicular traffic when making such  
190 crossing.

191 (b) No person shall operate a snow or recreation vehicle on publicly owned property,  
192 except on trails marked and designated for use by such vehicles, or without the express  
193 permission of the owner.

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

197 SECTION 13. Said chapter 90B is hereby further amended by inserting after section 25  
198 the following 14 sections:-

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

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

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

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

219           Section 25E. No prosecution commenced pursuant to said sections 25 to 27E, inclusive  
220 shall be continued without a finding.

221           Section 25F. Whoever violates any provision of sections 25 to 25E, inclusive, or of  
222 section 26B shall be punished, for a first offense, by a fine of \$250 and for a second or  
223 subsequent offense by a fine of not less than \$500 nor more than \$2,500 and the snow vehicle or  
224 recreation vehicle in use at the time of such second or subsequent offense shall be subject to  
225 forfeiture under section 26J.

226           Section 25G. No person shall operate a snow vehicle or a recreation vehicle on privately  
227 owned property unless: (a) the operator is the owner or lessee or immediate family member of

228 the owner or lessee of such property; (b) the operator has in his possession either a document,  
229 signed by the owner or lessee of such property or his agent, authorizing the operation of a said  
230 vehicle on such property by the operator or valid proof of current membership in a club,  
231 association or other organization to which express authorization for the operation of such  
232 vehicles on such property has been granted; provided, however, that such operation shall be  
233 consistent with the express authorization so granted and any restrictions imposed therewith; or  
234 (c) the owner or lessee of such property has designated the area for use by such vehicles by  
235 posting reasonable notice of such designation in a manner approved by the director.

236 Section 25H. No person shall operate a snow vehicle or a recreation vehicle in a manner  
237 that harasses or otherwise harms deer or other wildlife. No person shall operate a snow vehicle or  
238 a recreation vehicle in a reforested or planted area in a manner that causes damage to growing  
239 stock. No person shall operate a snow vehicle or a recreation vehicle in a manner that causes  
240 damage to public or private property including, but not limited to, lands owned or managed by  
241 the department of conservation and recreation or the division of fisheries and wildlife, wetlands  
242 or other waters of the commonwealth, priority habitats delineated as such by the division of  
243 fisheries and wildlife pursuant to chapter 131A, lands used for public water supply purposes or  
244 historic or archaeological sites.

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

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

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

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

256 Section 25N. Whoever violates sections 25F to 25L, inclusive, shall be punished by a fine  
257 of not less than \$250 nor more than \$1,000.

258 SECTION 14. Said chapter 90B, as so appearing, is hereby amended by striking out  
259 section 26 and inserting in place thereof the following 13 sections:-

260 Section 26. Whoever operates a snow vehicle or a recreation vehicle recklessly, or  
261 operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the public  
262 might be endangered, shall be punished by imprisonment in the house of correction or a by a fine  
263 of not less than \$250 nor more than \$1,000.

264 Section 26A. Whoever operates a snow vehicle or a recreation vehicle and, without  
265 stopping and making known his name, residence and the registration number of his snow vehicle  
266 or recreation vehicle, goes away after knowingly colliding with or otherwise causing injury to  
267 any other snow vehicle or recreation vehicle or property; provided, however, that the injury to  
268 property exceeds \$500 in damage, shall be punished by a fine of not less than \$250 nor more  
269 than \$1,000.

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

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

277           Section 26D. Whoever operates a snow vehicle or a recreation vehicle and, without  
278 stopping and making known his name, residence and the registration number of his snow vehicle  
279 or recreation vehicle, goes away after knowingly colliding with or otherwise causing injury to  
280 any person shall be punished by a fine of not less than \$500 but not more than \$1,000

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

289           Section 26F. Whoever operates a snow vehicle or a recreation vehicle recklessly or  
290 negligently so that the lives or safety of the public might be endangered, and by any such  
291 operation causes the death of another person, shall be punished by imprisonment in a the house

292 of correction a the house of correction for not less than 30days nor more than 2 ½ years or by a  
293 fine of not less than \$300 not more than \$5,000, or by both such fine and imprisonment.

294 Section 26G. Notwithstanding section 28, upon conviction of, or adjudication of  
295 delinquency by reason of a violation of sections 26D to 26F, inclusive, the registrar shall  
296 immediately suspend the operator’s license or right to operate a motor vehicle and the director  
297 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The  
298 registrar, after having suspended or revoked the license or right to operate of a person pursuant to  
299 this section, shall issue a new license or reinstate the right to operate of such person if the  
300 prosecution or adjudication of such person is terminated in favor of the defendant or juvenile and  
301 the director shall issue a new registration number if a vehicle was registered to such person. The  
302 registrar may, after an investigation or upon hearing, issue a new license or reinstate the right to  
303 operate and the director may issue a new snow vehicle or recreation vehicle registration number  
304 to a person convicted or adjudicated of said sections 26D to 26F, inclusive; provided, however,  
305 that no such license, right to operate or registration shall be reinstated by the registrar or issued  
306 by the director to any person so convicted or adjudicated delinquent by reason of said sections  
307 26D or 26E until 1 year after the date of suspension or revocation following his original  
308 conviction or adjudication if for a first offense, or until 2 years after the date of suspension or  
309 revocation following any subsequent conviction or adjudication, or to any person convicted of or  
310 adjudicated delinquent by reason of section 26F until 5 years after the date of suspension or  
311 revocation following his original conviction or adjudication if for a first offense, or until 15 years  
312 after the date of suspension or revocation following any subsequent conviction or adjudication;  
313 provided further, that a person whose license or right to operate was suspended by reason of an  
314 adjudication or conviction of section 26D may, after the expiration of 3 months from the date of

315 conviction, apply for and shall be granted a hearing before the registrar for the purpose of  
316 requesting the issuance of a new license for employment or educational purposes, which license  
317 shall be effective for not more than an identical 12- hour period every day on the grounds of  
318 hardship and a showing by the person that the causes of the present and past violations have been  
319 dealt with or brought under control, and the registrar may, in his discretion, issue such license  
320 under such terms and conditions as he deems appropriate and necessary; and provided further,  
321 that such person may, after the expiration of 6 months from the date of conviction, apply for and  
322 shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new  
323 license on a limited basis on the grounds of hardship and a showing by the person that the causes  
324 of the present and past violations have been dealt with or brought under control and the registrar  
325 may, in his discretion, issue such a license under such terms and conditions as he deems  
326 appropriate and necessary.

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

335         Section 26H. (a) Whoever, being 21 years of age or older, operates a snow vehicle or  
336 recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .08 or greater, as  
337 determined in accordance with section 24 of chapter 90; or (2) while under the influence of



338 intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as  
339 defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less  
340 than \$500 and not more than \$5,000.

341           Section 26I. Whoever, being under 21 years of age, operates a snow vehicle or recreation  
342 vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined  
343 in accordance with section 24 of chapter 90; or (2) or while under the influence of intoxicating  
344 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section  
345 1 of chapter 94C, or the vapors of glue shall, for a first offense, be punished by a fine of not less  
346 than \$500 and not more than \$5,000.

347           Section 26J. No prosecution or delinquency proceeding commenced pursuant to sections  
348 26D to 26H, inclusive, shall be placed on file or continued without a finding.

349           Section 26K. Notwithstanding section 28, upon conviction of or adjudication of  
350 delinquency by reason of a violation of section 26H or 26I, the registrar shall immediately  
351 suspend the operator's license or right to operate a motor vehicle and the director shall revoke  
352 the registration of any snow vehicle or recreation vehicle issued to such person. The registrar,  
353 after having suspended or revoked the license or right to operate of any person under this section,  
354 shall issue a new license or reinstate the right to operate and the director shall issue a new  
355 registration number, if the prosecution or adjudication of such person is terminated in favor of  
356 the defendant or juvenile. The registrar may, after an investigation or upon hearing, issue a new  
357 license or reinstate the right to operate and the director may issue a new snow vehicle or  
358 recreation vehicle registration number to a person so convicted or adjudicated of said sections  
359 26H or 26I; provided, however, that no such license, right to operate shall be issued by the

360 registrar or registration number be issued by the director to any person so convicted or  
361 adjudicated delinquent by reason of said section 26H until 1 year after the date of suspension or  
362 revocation following his original conviction or adjudication if for a first offense, or until 2 years  
363 after the date of suspension or revocation following any subsequent conviction or adjudication,  
364 or to any person convicted of or adjudicated delinquent by reason of said section 26I until 2  
365 years after the date of suspension or revocation following his original conviction or adjudication  
366 if for a first offense or until 3 years after the date of revocation following any subsequent  
367 conviction or adjudication; provided, however, that a person whose license or right to operate  
368 was suspended due to an adjudication or conviction of said section 26H may, after the expiration  
369 of 3 months from the date of conviction or adjudication, apply for and shall be granted a hearing  
370 before the registrar for the purpose of requesting the issuance of a new license for employment or  
371 educational purposes, which license shall be effective for not more than an identical 12-hour  
372 period every day on the grounds of hardship and a showing by the person that the causes of the  
373 present and past violations have been dealt with or brought under control, and the registrar may,  
374 in his discretion, issue such license or right to operate under such terms and conditions as he  
375 deems appropriate and necessary; and provided further, that such person may, after the  
376 expiration of 6 months from the date of conviction or adjudication, apply for and shall be granted  
377 a hearing before the registrar for the purpose of requesting the issuance of a new license or right  
378 to operate on a limited basis on the grounds of hardship and a showing by the person that the  
379 causes of the present and past violations have been dealt with or brought under control and the  
380 registrar may, in his discretion, issue such a license or right to operate under such terms and  
381 conditions as he deems appropriate and necessary.

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

390           Section 26L. (a) Upon a conviction or adjudication by reason of a violation of section 25  
391 or sections 26B to 26F, inclusive, or upon a second or subsequent conviction or adjudication by  
392 reason of a violation of section 25 to 25D, inclusive, or any combination thereof, a snow vehicle  
393 or recreation vehicle used in the commission of such violation or violations shall be subject to  
394 forfeiture.

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

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

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

424 (e) The final order of the court shall provide that the proceeds of any such sale shall be  
425 used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance  
426 of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be

427 deposited into the Off Highway Vehicle Program Fund, established by section 18C of chapter  
428 21A and the remaining 25 per cent shall be distributed equally among the division, departments  
429 or offices involved in the seizure or to the division, department or office if a single law  
430 enforcement entity was involved. If more than 1 division, department or office was substantially  
431 involved in the seizure, the court having jurisdiction over the forfeiture proceeding shall  
432 distribute the 25 per cent equitably among them.

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

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

442 Section 27. (a) Any person, age 18 or older with custody or control of a snow vehicle or a  
443 recreation vehicle, who knowingly permits another, who is under the age of 18, to operate such  
444 vehicle shall be held liable, jointly and severally with the operator, for any damage or injuries  
445 caused by such operator's operation of the vehicle and for any fines, penalties or restitution  
446 resulting therefrom. Lack of ownership of the vehicle nor mistake as to the age of the operator  
447 shall not be available defenses in an action filed pursuant to this section.

448 (b) Any owner of a snow vehicle or a 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 SECTION 16. The first paragraph of section 32 of said chapter 90B, as so appearing, is  
454 hereby amended by striking out the first 2 sentences and inserting in place thereof, the following  
455 sentence:- The provisions of sections 21 to 34, inclusive, and all the rules and regulations made  
456 under the authority thereof shall be enforced by the director, deputy directors of enforcement,  
457 chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy  
458 environmental police officers of the office of environmental law enforcement, executive office of  
459 energy and environmental affairs, registrar or his authorized agents, police officers, members of  
460 the state police, and city and town police officers or employees of the commonwealth having  
461 police powers on public lands; provided that any investigation, arrest or decision to seek  
462 application for complaint relative to a violation of sections 26B to 26F, inclusive, shall be  
463 executed by a law enforcement officer who has successfully completed minimum training  
464 requirements for the enforcement of such sections as determined by the secretary of public safety  
465 and security.

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

468 Section 34. Of the fees collected by the commonwealth pursuant to a violation of the  
469 fourth paragraph of section 10H of chapter 21A and sections 21 to 32, inclusive, 75 per cent of

470 the fees shall be deposited into the Off Highway Vehicle Program Fund, established by section  
471 18C of said chapter 21A and the remaining 25 per cent shall be distributed equally among the  
472 divisions, departments or offices involved in the enforcements of the statutes which resulted in  
473 the assessment of such fees or penalties.

474 SECTION 18. Said chapter 90B, as so appearing, is hereby amended by striking out  
475 section 35.

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

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

482 SECTION 21. The director of the division of law enforcement in the executive office of  
483 energy and environmental affairs shall, within 90 days of the effective date of this act, prescribe  
484 forms for application for registration fee exemption for vehicles used exclusively for agricultural,  
485 forestry, lumbering or construction purposes under section 22 of chapter 90B of the General  
486 Laws.

487 SECTION 22. The director of the division of law enforcement in the executive office of  
488 energy and environmental affairs may, after consultation with the state off highway advisory  
489 committee and a public hearing, promulgate regulations consistent with this chapter including,  
490 but not limited to, increasing the age at which persons may operate an all terrain vehicle or

491 regulating the engine size and speed capabilities of such vehicles, based on the age of the  
492 operator.

493 SECTION 23. The secretary of public safety and security shall, within 90 days of the  
494 effective date of this act, adopt minimum training requirements for a law enforcement officer, as  
495 required by section 32 of chapter 90B of the General Laws.

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

500 SECTION 25. The prohibition in sections 26A and 26D of chapter 90B of the General  
501 Laws, that an operator of a snow vehicle or recreation vehicle not leave the scene after causing  
502 injury to property or to a person without making known his registration number shall take effect  
503 6 months after the effective date of this act. Nothing in this section shall effect the prohibition, in  
504 said sections 26A and 26D of said chapter 90B, against an operator leaving the scene after  
505 causing injury to property or to a person without leaving and making known his name and  
506 residence, on and after the effective date of this act.