

SENATE No. 2257

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

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
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.

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
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 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
82 house and senate committees on ways and means and the joint committees on environment,
83 natural resources and agriculture, transportation and public safety and homeland security relative
84 to the source and amount of funds deposited and the purpose and recipient of expenditures from
85 the fund.

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

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

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

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

100 SECTION 5. Said section 20 of said chapter 90B, as so appearing, is hereby further

101 amended by striking out the definition of “Recreation vehicle” and inserting in place
102 thereof, the following 2 definitions:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

190 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule
191 or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than
192 \$500.

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

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

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

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

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

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

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

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

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

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

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

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

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

256 the owner or lessee of the property; (b) the operator has in his possession either a document,
257 signed by the owner or lessee of such property or his agent, authorizing the operation of a such
258 vehicle on the property by the operator or valid proof of current membership in a club,
259 association or other organization to which express authorization for the operation of such
260 vehicles on the property has been granted; provided, however, that such operation shall be
261 consistent with the express authorization granted and any restrictions imposed therewith; or (c)
262 the owner or lessee of the property has designated the area for use by such vehicles by posting
263 reasonable notice of such designation in a manner approved by the director.

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

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

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

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

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

284 SECTION 14. Said chapter 90B is hereby further amended by striking out section 26 and
285 27, as appearing in the 2008 Official Edition, and inserting in place thereof the following 14
286 sections:-

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

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

296 Section 26B. No person operating or in control of a snow vehicle or recreation vehicle
297 shall refuse to stop such vehicle after having been requested or signaled to do so by a law

298 enforcement officer. No such person shall refuse to give his correct name, address and
299 registration number to such officer.

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

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

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

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

320 correction for not more than 2 ½ years or in the state prison for not more than 5 years or by a fine
321 of not more than \$5,000, or by both such fine and imprisonment.

322 Section 26G. Notwithstanding section 28, upon conviction of, or adjudication of
323 delinquency by reason of a violation of sections 26D to 26F, inclusive, the registrar shall
324 immediately suspend the operator’s license or right to operate a motor vehicle and the director
325 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The
326 registrar, after having suspended or revoked the license or right to operate of a person pursuant to
327 this section, shall issue a new license or reinstate the right to operate of such person if the
328 prosecution or adjudication of such person is terminated in favor of the defendant or juvenile and
329 the director shall issue a new registration number if a vehicle was registered to such person. The
330 registrar may, after an investigation or upon a hearing, issue a new license or reinstate the right
331 to operate and the director may issue a new snow vehicle or recreation vehicle registration
332 number to a person convicted or adjudicated delinquent for a violation of said section 26D to
333 26F, inclusive; provided, however, that no such license, right to operate or registration shall be
334 reinstated by the registrar or issued by the director to any person so convicted or adjudicated
335 delinquent by reason of said sections 26D or 26E until 1 year after the date of suspension or
336 revocation following his original conviction or adjudication of delinquency if for a first offense
337 or until 2 years after the date of suspension or revocation if for a subsequent conviction or
338 adjudication of delinquency, or to any person convicted of or adjudicated delinquent by reason of
339 section 26F until 5 years after the date of suspension or revocation following his original
340 conviction or adjudication if for a first offense, or until 15 years after the date of suspension or
341 revocation if for a subsequent conviction or adjudication.

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

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

358 Section 26I. Whoever being under 21 years of age operates a snow vehicle or recreation
359 vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined
360 by a chemical test or analysis of his blood or as indicated by a chemical test or analysis of his
361 breath pursuant to section 24 of chapter 90; or (2) while under the influence of intoxicating
362 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section
363 1 of chapter 94C, or the vapors of glue shall, be punished by a fine of not less than \$500 nor
364 more than \$5,000.

365 Section 26J. No prosecution or delinquency proceeding commenced pursuant to sections
366 26D to 26H, inclusive, shall be placed on file or continued without a finding.

367 Section 26K. Notwithstanding section 28, upon conviction of or adjudication of
368 delinquency by reason of a violation of section 26H or section 26I, the registrar shall
369 immediately suspend the operator's license or right to operate a motor vehicle and the director
370 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The
371 registrar, after having suspended or revoked the license or right to operate of any person under
372 this section, shall issue a new license or reinstate the right to operate and the director shall issue a
373 new registration number, if the prosecution or adjudication of delinquency of such person is
374 terminated in favor of the defendant or juvenile. The registrar may, after an investigation or upon
375 hearing, issue a new license or reinstate the right to operate and the director may issue a new
376 snow vehicle or recreation vehicle registration number to a person so convicted of or adjudicated
377 delinquent by means of a violation of said sections 26H or 26I; provided, however, that no such
378 license or right to operate shall be issued by the registrar nor shall a registration number be
379 issued by the director to a person convicted of a violation of said section 26H, for a first offense,
380 until 1 year after the date of suspension or revocation following his original conviction, or from
381 the date of his original conviction if the person is unlicensed or has not been issued the right to
382 operate or, for a subsequent offense, until 2 years after the date of such suspension, revocation or
383 conviction , or to any person convicted of or adjudicated delinquent for a violation of said
384 section 26I , for a first offense, until 2 years after the date of suspension or revocation or, if the
385 person is unlicensed or has not been issued a right to operate, until 2 years after the date of his
386 original conviction or adjudication or, for a subsequent offense, until 3 years after the date of
387 such suspension, revocation, conviction or adjudication; provided, however, that a person whose

388 license or right to operate was suspended due to a conviction of section 26H may, after the
389 expiration of 3 months from the date of conviction, apply for and shall be granted a hearing
390 before the registrar for the purpose of requesting the issuance of a new license for employment or
391 educational purposes, which license shall be effective for not more than an identical 12-hour
392 period every day on the grounds of hardship and a showing by the person that the causes of the
393 present and past violations have been dealt with or brought under control, and the registrar may,
394 in his discretion, issue such license or right to operate under such terms and conditions as he
395 deems appropriate and necessary; and provided further, that such person may, after the
396 expiration of 6 months from the date of conviction, apply for and shall be granted a hearing
397 before the registrar for the purpose of requesting the issuance of a new license or right to operate
398 on a limited basis on the grounds of hardship and a showing by the person that the causes of the
399 present and past violations have been dealt with or brought under control and the registrar may,
400 in his discretion, issue such a license or right to operate under such terms and conditions as he
401 deems appropriate and necessary.

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

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

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

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

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

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

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

451 (f) Any moneys and proceeds received by a division, department or office pursuant to this
452 section may be expended without further appropriation to defray the costs of investigations, to
453 provide additional technical equipment or expertise, to provide matching funds to obtain federal
454 grants or to accomplish such other law enforcement, environmental or public recreational

455 purposes as the head of such division, department or office deems appropriate, but such funds
456 shall not be considered a source of revenue to meet the operating needs of such division,
457 department or office.

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

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

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

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

476 minimum training requirements for the enforcement of such sections as determined by the
477 secretary of public safety and security.

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

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

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

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

493 SECTION 18. Section 121A of chapter 266 of the General Laws, as appearing in the
494 2008 Official Edition, is hereby amended by striking out the words "two hundred and fifty
495 dollars" and inserting in place thereof the following figure:- \$500.

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

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

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

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

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

516 SECTION 24. The provisions of sections 26A and 26D of chapter 90B of the General
517 Laws prohibiting an operator of a snow vehicle or recreation vehicle from leaving the scene after

518 causing injury to property or to a person without making known his registration number shall
519 take effect 6 months after the effective date of this act. Nothing in this section shall affect the
520 prohibition in said sections 26A and 26D of said chapter 90B against an operator leaving the
521 scene after causing injury to property or to a person without leaving and making known his name
522 and residence on and after the effective date of this act.

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