SENATE DOCKET, NO. FILED ON: 1/15/2009

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

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Steven A. Baddour**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to Regulate the Use of Off Highway and Recreation Vehicles.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Steven A. Baddour | First Essex |
| Viriato Manuel deMacedo | 1st Plymouth |
| Matthew C. Patrick | 3rd Barnstable |
| Thomas J. Calter | 12th Plymouth |
| Thomas P. Kennedy | Second Plymouth and Bristol |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and 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:*

 **SECTION 1.** Section 10H of chapter 21A of the General 1 Laws, as appearing in the

2006 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:-

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

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

Section 11. There is hereby established within the office of law enforcement an advisory board to be designated as the boating safety advisory board. The board shall consist of 5 members to be appointed by the governor, 2 of whom shall be representative of the boating public each of whom shall hold a certificate of number issued pursuant to section 3 of chapter 90B, 1 of whom may represent the harbormaster's association and 2 members shall represent the recreational boating business, 1 of whom shall operate a boat dealership. Each member shall serve for a term of 3 years. The chairman of the board shall be appointed, from the 5 members, annually by the governor, and in the absence of same shall be designated by the director. Board members shall be appointed or reappointed for terms of 3 years.

The boating safety advisory board shall meet at least quarterly and 3 members in

attendance shall constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the inland enforcement bureau established under section 6 of chapter 21, or their designees, shall attend all meetings of said board and shall provide such information as said board shall request.

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

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

after section 18A, the following 2 sections:-

 Section 18B. There is hereby established within the executive office of energy and

environmental affairs a state off highway vehicle advisory committee. The committee shall advise the secretary and the department of conservation and recreation, the department of fish and game, the department of environmental protection, and the office of environmental law enforcement within said executive office on matters involving the commonwealth’s regulation of off highway vehicles, including the development and enforcement of state regulations and policies, safety and training programs, and the distribution of available state funding. The secretary shall appoint the members of the committee, which shall consist of 13 members. Of the committee members, 3 shall be representatives of off highway vehicle users, 1 of which shall be a representative of the New England Trail Riders Association; 1 shall be a representative of the off highway vehicle manufacturers and dealers; 1 shall be a representative of the department of public health; 1 shall be a representative of child safety advocates

associated with the safe use of off highway vehicles; 1 shall be a representative of The Snowmobile Association of Massachusetts; 2 shall be representatives of a nonprofit

organization that owns and manages land open to the public; 1 shall be a representative of an association or organization of large private land owners; and 2 shall be representatives of state or local law enforcement authorities. Members shall serve without compensation. Members shall be appointed for a term of 3 years, except that initially 4 members shall be appointed for 1 year and 4 members shall be appointed for 2 years.

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

Section 18C. (1) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Off Highway Vehicle Program Fund. There shall be credited to the fund 75 per cent of all fines, costs, expenses and interest imposed pursuant to sections 21 to 32, inclusive, of chapter 90B and the fourth paragraph of section 10H of chapter 21A and any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any appropriation or grant explicitly made to the fund, and any income derived from the investment of amounts credited to the fund.

 (2) All amounts credited to the fund may be expended, without further appropriation, by

the executive office of energy and environmental affairs and its office of environmental law enforcement, the department of conservation and recreation, the department of fish and game, and the department of environmental protection for any of the following purposes: (a) the enforcement of statutes, regulations and policies applicable to off

highway vehicles; (b) the acquisition of land for use as commonwealth approved trails and facilities for off highway vehicles or for the development, maintenance, repair or

restoration of commonwealth approved trails and facilities;

(c) for grants made by the department of conservation and recreation to municipalities

and other public entities for the purposes of clauses (a) and (b); (d) the development

and administration of safety, training, and education programs; and (e) for other off

highway program activities, including all direct and indirect costs of personnel or contractors of the executive office and its office of environmental law enforcement

and departments.

 (3) Monies deposited into the fund that are unexpended at the end of the fiscal

year shall not revert to the General Fund and shall be available for expenditure in the

subsequent fiscal year.

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

 “All terrain vehicle”, a motorized recreational vehicle designed or modified for travel on

4 low pressure tires having a seat designed to be straddled by the operator and handlebars for steering control.

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

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

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

 “Recreation vehicle”, “off highway vehicle” or “off road vehicle”, any motor vehicle

designed or modified for use over unimproved terrain for recreation or pleasure while not being operated on a public way as defined in chapter 90, including but not limited to, all terrain vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles and all legally registered motor vehicles while not being operated on a public way as defined in said chapter 90, but recreation vehicles, off highway vehicles and off

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

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

**SECTION 6.** Said chapter 90B is hereby further amended by striking out section 21, as

so appearing, and inserting in place thereof the following section:-

 Section 21. No person born after January 1, 1990 shall operate a recreation vehicle

unless he has successfully completed a recreation vehicle safety and responsibility course approved by the director of the office of environmental law enforcement. Such course shall include, but not be limited to, notification of the potential criminal penalties and forfeiture process for certain violations of law relative to the safe operation of snow vehicles and recreation vehicles. A parent or the legal guardian of an operator of recreation vehicles under 16 years of age shall participate in at least 1 session of the safety and responsibility course or as required by the director. Proof of the successful completion of the recreation vehicle safety and responsibility course shall be carried on the person of the operator while operating a recreation vehicle. Proof of an operator’s successful completion of another state’s equivalent recreation vehicle safety and responsibility course, as determined by the director, shall be valid in the commonwealth.

**SECTION 7.** Section 22 of said chapter 90B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following words:- No

person shall operate a snow vehicle or a recreation vehicle unless such vehicle has been registered in accordance with this chapter and such registration number is displayed on such vehicle. A motor vehicle license or learner’s permit shall not be required for the operation of a snow vehicle or a recreation vehicle.

Application for registration of a snow vehicle or a recreation vehicle shall be made by

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

**SECTION 7A.** Said section 22 of said chapter 90B, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

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

In the case of a vehicle to be used exclusively for agricultural, forestry, lumbering or construction purposes, the owner of such vehicle may apply for an exemption from the registration fee. The application for exemption shall be on a form prescribed by the director of the division of law enforcement in the executive office of energy and environmental affairs. If the director is satisfied that the vehicle for which a fee exemption is sought is to be used exclusively for agricultural, forestry, lumbering or construction purposes, he shall grant the application and the owner of such vehicle shall be exempt from the registration fee for such vehicle. If the vehicle ceases to be used exclusively for agricultural, forestry, lumbering or construction purposes, the owner thereof shall no longer be exempt from paying such registration fee and may be required to pay a portion thereof. A new application for a fee exemption shall be required for further fee exemption upon registration renewal. An application

for fee exemption granted pursuant to this section shall not be admissible nor relevant at trial on the question of whether such vehicle was being operated for agricultural, forestry, lumbering or construction purposes at the time of an alleged violation of this chapter.

**SECTION 8.** Section 24 of said chapter 90B, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

 No snow vehicle and no recreation vehicle shall be operated which emits obnoxious

fumes or which makes an unusual or excessive noise**.** No snow vehicle or recreation vehicle manufactured after January 1,1998 shall be sold,offered for sale, or operated that produces a sound pressure level of more than 96 dbA whenmeasured from a distance of 20 inches using test procedures established by the Society of

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

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

**SECTION 9**. Said chapter 90B is hereby further amended by inserting after section 24

the following section:-

 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule

or regulation made thereunder, shall be punished by a fine of not less than $250 nor more than $500.

**SECTION 10.** Section 25 of said chapter 90B, as so appearing, is hereby amended by

striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

No person under 16 1/2 years of age shall operate a snow vehicle or a recreation vehicle across or on a public way unless the operator holds a valid license or right to operate a motor vehicle or is directly supervised, as defined in section 26D, by a person 18 years of age or older. An operator of a snow vehicle or a recreation vehicle that meets the requirements of the preceding paragraph may, after coming to a full stop, cross, as directly as possible, a public way, except a controlled access highway, and except that for recreation vehicles, the public way and crossing must be marked and approved for use by recreation vehicles by the applicable state or local authorities as part of a publicly or privately authorized recreation vehicle trail system and a recreation vehicle operator shall make the crossing safely and without interfering with the free movement of vehicular traffic. The operator of a snow vehicle or a recreation vehicle shall yield the right of way to all other vehicular traffic when making such crossing.

**SECTION 11.** Said section 25 of said chapter 90B, as so appearing, is hereby further

amended by inserting after the words “snow vehicle”, in lines 29, 29 and 30, 32, 33 and 34, each time they appear, the following words:- or a recreation vehicle.

**SECTION 12.** Said chapter 90B is hereby further amended by inserting after section 25

the following 14 sections:-

 Section 25A. No person shall operate or ride in or on a recreation vehicle or a snow

vehicle, or a sled attached thereto, without wearing protective headgear. Such headgear shall conform to such minimum standards for construction and performance as the registrar of motor vehicles may prescribe.

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

recreation utility vehicle. This section shall not apply to any person under 14 years of age operating a recreation vehicle or snow vehicle in a sanctioned race, rally or organized event which is supervised by a person aged 18 or older and has been authorized or approved by a municipal permitting authority. It shall be an affirmative defense to this paragraph that such person was operating such vehicle in preparation for such a sanctioned event if: such person was so operating such a vehicle while under direct supervision, as defined by section 25C, by a person aged 18 or older;

the operation occurred 14 days before such sanctioned event; and the operator was a registered participant therein or did in fact participate therein.

 Section 25C. No person between the age of 14 years of age and 16 years of age shall

operate an all terrain vehicle or recreation utility vehicle with an engine capacity greater than 90 cubic centimeters unless directly supervised by an adult that is 18 years of age or older. For the purposes of this section, “direct supervision” shall mean that the supervising adult shall be sufficiently close to an operator at all times that the vehicle is in operation, such that a reasonable person under the totality of the circumstances including, but not limited to, vehicle and ambient noise, the landscape, topography and geography of the location, and the operator’s wearing of protective headgear, would reasonably believe that he is maintaining visual contact and verbal communication with the operator.

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

 Section 25E. No prosecution commenced pursuant to said section 25 to 27E, inclusive

shall be continued without a finding.

 Section 25F. Whoever violates section 25 to 25E, inclusive, or section 26B shall be

punished, for a first offense, by a fine of $250 and for a second or subsequent offense by a fine of not less than $500 nor more than $2,500 and the snow vehicle or recreation vehicle in use at the time of such second or subsequent offense shall be subject to forfeiture under section 26J.

 Section 25G. No person shall operate a snow vehicle or a recreation 235 vehicle on privately owned property unless: (a) the operator is the owner or lessee or immediate family member of the owner or lessee of such property; (b) the operator has in his possession either a document, signed by the owner or lessee of such property or his agent, authorizing the operation of a said vehicle on such property by the operator or valid proof of current membership in a club, association or other organization to which express authorization for the operation of such vehicles on such property has been granted; provided, however, that such operation shall be consistent with the express authorization so granted and any restrictions imposed therewith; or (c) the owner or lessee of such property has designated the area for use by such vehicles by posting reasonable notice of such designation in a manner approved by the director.

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

 Section 25I. No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or

a recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is unloaded and in an enclosed case. This subsection shall not apply to a law enforcement officer or other person authorized to carry arms as specifically described in section 32, or a paraplegic as provided in section 65 of chapter 131.

 Section 25J. No person shall collide with or otherwise cause injury to any other snow

vehicle or recreation vehicle or property of another.

 Section 25K. No person shall operate a snow vehicle or recreation vehicle after the

registration therefore has been suspended or revoked.

 Section 25L. No person shall use a snow vehicle or a recreation vehicle without

authority, knowing that such use is unauthorized.

 Section 25M. A summons may be issued instead of a warrant for arrest upon a complaint for a violation of any provision of this chapter if, in the judgment of the court or

justice receiving the complaint, there is reason to believe that the defendant will appear upon a summons.

 Section 25N. Whoever violates sections 25F to 25L, inclusive, shall be punished by a

fine of not less than $250 nor more than $1,000 or by imprisonment in the house of correction or by both such fine and imprisonment.

**SECTION 13**. Said chapter 90B, as so appearing, is hereby amended by striking out

section 26 and inserting in place thereof the following 13 sections:-

 Section 26. Whoever operates a snow vehicle or a recreation vehicle recklessly, or

operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the public might be endangered shall be punished by imprisonment in the house of correction or a by a fine of not more than $200, or by both such fine and imprisonment.

 Section 26A. Whoever operates a snow vehicle or a recreation vehicle and, without

stopping and making known his name, residence and the registration number of his snow vehicle or recreation vehicle, goes away after knowingly colliding with or otherwise causing injury to any other snow vehicle or recreation vehicle or property; provided that the injury to property exceeds $500 in damage, shall be punished by a fine of not less than $250 nor more than $1,000 or by imprisonment or by both such fine and imprisonment.

 Section 26B. No person operating or in control of a snow vehicle or recreation vehicle

shall refuse to stop such vehicle after having been requested or signaled to do so by a law enforcement officer. No such person shall refuse to give his true and correct name, address and registration number to such officer.

 Section 26C. A summons may be issued instead of a warrant for arrest upon a

complaint for a violation of any provision of this section if in the judgment of the court or

justice receiving the complaint there is reason to believe that the defendant will appear upon a summons

 Section 26D. Whoever operates a snow vehicle or a recreation vehicle and, without

stopping and making known his name, residence and the registration number of his snow vehicle or recreation vehicle, goes away after knowingly colliding with or otherwise causing injury to any person shall be punished by a fine of not less than $500 but not more than $1,000 and imprisonment in the house of correction or imprisonment in the state prison.

Section 26E. Whoever operates a snow vehicle or a recreation vehicle recklessly or

negligently so that the lives or safety of the public might be endangered, and by any such operation causes serious bodily injury, shall be punished by imprisonment in the house of correction or in the state prison and by a fine of not more than $5,000, or by both such fine and imprisonment. For the purposes of this section “serious bodily injury” shall mean bodily injury which creates a substantial risk of death or which involves either total disability or the loss or substantial impairment of some bodily function for a substantial period of time.

 Section 26F. Whoever operates a snow vehicle or a recreation vehicle recklessly, or

negligently so that the lives or safety of the public might be endangered, and by any such operation causes the death of another person, shall be punished by imprisonment in a the house of correction or by a fine of not less than $300 not more than $5,000 or imprisonment in the state prison and a fine of $5,000, or by both such fine and imprisonment.

 Section 26G. Notwithstanding section 28, upon conviction of, or adjudication of delinquency by reason of a violation of sections 26D to 26F, inclusive, the registrar shall immediately suspend the operator’s license or right to operate a motor vehicle and the director shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The registrar, after having suspended or revoked the license or right to operate of any person pursuant to this section, shall issue a new license or reinstate the right to operate and the director shall issue a new registration number, if the prosecution or adjudication of such person is terminated in favor of the defendant or juvenile. The registrar may, after an investigation or upon hearing, issue a new license or reinstate the right to operate and the director may issue a new snow vehicle or recreation vehicle registration number to a person so convicted or adjudicated of said sections 26D to 26F, inclusive; provided, that no such license, right to operate or registration shall be issued or reinstated by the registrar or director to any person so convicted or adjudicated delinquent by reason of said sections 26D or 26E until 1 year after the date of suspension or revocation following his original conviction or adjudication if for a first

offense or until 2 years after the date of suspension or revocation following any subsequent conviction or adjudication, or to any person convicted of or adjudicated delinquent by reason of section 26F until 5 years after the date of suspension or revocation following his original conviction or adjudication if for a first offense or until 15 years after the date of suspension or revocation following any subsequent conviction or adjudication; provided, however, that a person whose license or right to operate was suspended due to an adjudication or conviction of 26D may, after the expiration of 3 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or educational purposes, which license shall be effective for not more than an identical 12- hour period every day on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control, and the registrar may, in his discretion, issue such license under such terms and conditions as he deems appropriate and necessary; and provided, further, that such person may, after the expiration of 6 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license

under such terms and conditions as he deems appropriate and necessary.

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

 Section 26H. (a) Whoever, being 21 years of age or older, operates a snow vehicle or

recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .08 or greater, as determined in accordance with section 24 of chapter 90; or (2) while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less than $500 and not more than $5,000 or by imprisonment in the house of correction, or by both such fine and imprisonment.

 Section 26I. Whoever, being under 21 years of age, operates a snow vehicle or

recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined in accordance with section 24 of chapter 90; or (2) or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue shall, for a first offense, be punished by a fine of not less than $500 and not more than $5,000 or by imprisonment in the house of correction, or by both such fine and imprisonment .

 Section 26J. No prosecution or delinquency proceeding commenced pursuant to

sections 26D to 26H, inclusive, shall be placed on file or continued without a finding.

 Section 26K. Notwithstanding section 28, upon conviction of or adjudication of delinquency by reason of a violation of section 26H or 26I, the registrar shall immediately suspend the operator’s license or right to operate a motor vehicle and the director shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The registrar, after having suspended or revoked the license or right to operate of any person under this section, shall issue a new license or reinstate the right to operate and the director shall issue a new registration number, if the prosecution or adjudication of such person is terminated in favor of the defendant or juvenile. The registrar may, after an investigation or upon hearing, issue a new license or reinstate the right to operate and the director may issue a new snow vehicle or recreation vehicle registration number to a person so convicted or adjudicated of said sections 26H or 26I; provided, that no such license, right to operate or registration shall be issued by the registrar or director to any person so convicted or adjudicated delinquent by reason of said section 26H until 1 year after the date of suspension or revocation following his original conviction or adjudication if for a first offense or until 2 years after the date of revocation following any subsequent conviction or adjudication, or to any person convicted of or adjudicated delinquent by reason of said section 26I until 2 years after the date of revocation following his original conviction or adjudication if for a first offense or until 3 years after the date of revocation following any subsequent conviction or adjudication; provided, however, that a person whose license or right to operate was suspended due to an adjudication or conviction of 26H may, after the expiration of 3 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or educational purposes, which license shall be effective for not more than an identical 12-hour period every day on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control, and the registrar may, in his discretion, issue such license under such terms and conditions as he deems appropriate and necessary; and provided further, that such person may, after the expiration of 6 months from the date of conviction,

apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary.

 If the person so convicted or adjudicated is under 17 at the time of such conviction or

adjudication and has not been issued a license or right to operate or a snow vehicle or recreation vehicle registration number, the registrar nor director shall issue such license or right to operate a motor vehicle or a snow or recreation vehicle registration until the time periods provided in the previous paragraph have passed but such time period shall not commence to run until such person reaches 16 years of age for purposes of issuance of a right to operate a motor vehicle and 16 ½ for purposes of issuance of a license to operate a motor vehicle.

 Section 26L. (a) Upon a conviction for a violation or adjudication of section 25 or

sections 26B to 26F, inclusive, or upon a second or subsequent conviction or adjudication of section 25 to 25D, or any combination thereof, a snow vehicle or recreation vehicle used in the commission of such violation or violations shall be subject

to forfeiture.

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

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

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

 (e) The final order of the court shall provide that the proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be deposited into the Off Highway Vehicle Program Fund, established by

section 18C of chapter 21A and the remaining 25 per cent shall be distributed equally among the division, departments or offices involved in the seizure or to the division, department or office if a single law enforcement entity was involved. If more than 1 division, department or office was substantially involved in the seizure, the court having jurisdiction over the forfeiture proceeding shall distribute the 25 per cent equitably among them.

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

**SECTION 14**. Said chapter 90B is hereby further amended by striking out section 27

and inserting in place thereof the following section:-

 Section 27. (a) Any owner of a snow vehicle or a recreation vehicle or other person

who permits a person under 18 years of age to operate a snow vehicle or a recreation vehicle shall be held liable, jointly and severally, with the operator for any damage or injuries caused by such minor’s operation of the vehicle and for any fines, penalties or restitution resulting therefrom.

 (b) Any owner of a snow vehicle or a recreation vehicle or other person who knowingly

permits a person 18 years of age or older to operate a snow vehicle or a recreation vehicle in violation of this chapter shall be held liable, jointly and severally, with the operator, for any damage or injuries caused by such operator’s negligent operation and for any fines, penalties or restitution resulting therefrom.

**SECTION 15.** The first paragraph of section 32 of said chapter 90B, as so appearing, is

hereby amended by striking out the first 2 sentences and inserting in place thereof, the following sentence:-

The provisions of sections 21 to 34, inclusive, and all the rules and regulations made

under the authority thereof shall be enforced by the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the office of environmental law enforcement, executive office of energy and environmental affairs, park rangers of the department of conservation and recreation, registrar or his authorized agents, police officers, members of the state police, and city and town police officers or employees of the commonwealth having police powers on public lands; provided that any investigation, arrest or decision to seek application for complaint relative to a violation of sections 26B to 26F, inclusive, shall be executed by a law enforcement officer who has successfully completed minimum training requirements for the enforcement of such sections as determined by the secretary of public safety and security.

**SECTION 16.** Said chapter 90B is hereby further amended by striking out section 34

and inserting in place thereof the following section:

Section 34. Of the fees collected by the commonwealth pursuant to the violation of the fourth paragraph of section 10H of chapter 21A and sections 21 to 32, inclusive, 75 per cent of the fees shall be deposited into the Off Highway Vehicle Program Fund, established by section 18C of said chapter 21A and the remaining 25 per cent shall be distributed equally among the divisions, departments or offices involved in the enforcements of the statutes which resulted in the assessment of such fees or penalties.

**SECTION 17.** Said chapter 90B, as so appearing, is hereby amended by striking out

section 35.

**SECTION 18.** The first sentence of section 121A of chapter 266 of the General Laws,

as so appearing, is hereby amended by striking out the words “two hundred and fifty dollars” and inserting in place thereof the following figure:- $ 500.

**SECTION 19.** The director of the division of law enforcement in the executive office

of energy and environmental affairs shall, within 180 days of the effective date of this act amend regulations of such division that are inconsistent with this act.

**SECTION 19A.** The director of the division of law enforcement in the executive office

of energy and environmental affairs shall, within 90 days of the effective date of this act,

prescribe forms for application for registration fee exemption for vehicles used exclusively for agricultural, forestry, lumbering or construction purposes under section 22 of chapter 90B of the General Laws.

**SECTION 20**. The director of the division of law enforcement in the executive office

of energy and environmental affairs may, after consultation with the state off highway

advisory committee and a public hearing, promulgate regulations consistent with this chapter including, but not limited to, increasing the age at which persons may operate an all terrain vehicle or regulating the engine size and speed capabilities of such based on the age of the operator.

**SECTION 21**. The secretary of public safety and security shall, within 90 days of the

effective date of this act, adopt minimum training requirements for a law enforcement officer, as required by section 32 of chapter 90B of the General Laws.

**SECTION 22 .** Section 7 shall take effect six months after passage of this bill; provided however, that no penalty shall be assessed for violation of section 22 of chapter 90B of the General Laws until 9 months after passage of this bill.

**SECTION 23**. The prohibition in section 26A and 26D of chapter 90B of the General

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