

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Denis E. Guyer

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 Relative to the Operation of Snow and Recreation Vehicles.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Denis E. Guyer	2nd Berkshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE OPERATION OF SNOW 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 20 of Chapter 90B is hereby amended as follows:-

2 Strike the existing definition of "Law enforcement officer," and insert in place thereof, the following new
3 definition:-

4 "Law enforcement officer", the director, deputy directors of enforcement, chiefs of enforcement,
5 deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of
6 the office of environmental law enforcement, executive office of energy and environmental affairs,
7 police officers, members of the state police, and city and town police officers or employees of the
8 commonwealth having police powers on public lands.

9

10 Strike the existing definition of "Recreation Vehicle," and insert in place thereof, the following new
11 definition:-

12 “Recreation Vehicle”, any motor vehicle designed or modified for use over unimproved terrain if used
13 for recreation or pleasure off a public way as defined in chapter ninety, including but not limited to, all
14 terrain vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles, and all
15 legally registered motor vehicles when used off a way, as defined in chapter ninety, including
16 motorcycles; said recreation vehicles are also referred to as “off-highway vehicles” or “off-road
17 vehicles;” provided, however, that vehicles used solely for agriculture, forestry, lumbering or
18 construction purposes shall be excluded from this definition when used exclusively for such purpose and
19 when a declaration of exemption has been filed with the director in accordance with section 22 of
20 chapter ninety B,; provided, further, that in any complaint brought under this chapter the burden shall
21 be upon the defendant to prove such use. Any motor vehicle legally registered under chapter ninety will
22 not be subject to registration under this chapter but registration numbers shall be displayed as required
23 by said chapter ninety.

24

25 Insert the following new definitions:-

26 “All Terrain Vehicle (ATV)”, a motorized recreational vehicle designed to travel on four low pressure tires
27 having a seat designed to be straddled by the operator and handlebars for steering control.

28 “Recreation Utility Vehicle/Utility Vehicle,” a motorized flotation-tire vehicle with not less than four and
29 not more than six low-pressure tires that is limited in engine displacement to less than 1,500 cubic
30 centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bench
31 design, not intended to be straddled by the operator, and a steering wheel for control.

32

33 **SECTION 2.** Section 21 of Chapter 90B is hereby amended by striking the language in the first paragraph
34 and inserting in place thereof the following new language:

35 No person shall operate a snow vehicle or a recreation vehicle unless the owner of such vehicle has
36 registered, or if applicable, filed a certificate of exemption, in accordance with the provisions of this
37 chapter, except that a snow vehicle or a recreation vehicle purchased in Massachusetts but operated
38 exclusively outside of the state is not required to be registered, provided the owner has filed a
39 certificate of exemption in accordance with the provisions of section 22 of this chapter. A law
40 enforcement officer may seize any snow vehicle or recreation vehicle that is unregistered or for which a
41 certificate of exemption has not been filed, and may hold such vehicle until the owner has registered or
42 filed a certificate of exemption for the vehicle in accordance with this chapter. In such cases, the owner
43 of such vehicle shall be responsible for all costs associated with the seizure and storage of the vehicle.

44

45 **SECTION 3.** Section 22 of Chapter 90B is hereby amended by striking the language in the first paragraph
46 and inserting in place thereof the following new language:

47 At the time of purchase or transfer of ownership of a snow vehicle or a recreation vehicle, the owner of
48 said vehicle shall apply to register the vehicle to the director or his agent. The application for
49 registration shall be made on forms prescribed by the director and include the name and address of the
50 owner of the vehicle. Upon receipt of the application and the appropriate fee, as hereinafter provided,
51 such vehicle shall be registered and a registration number assigned which shall be affixed to said vehicle
52 in such manner as the director shall prescribe. In the case of a recreation vehicle to be used exclusively
53 outside of Massachusetts or used exclusively for agriculture, forestry, lumbering or construction
54 purposes, at the time of purchase or transfer of ownership of such vehicle, the owner shall file a
55 declaration of exemption with the director or his agent. The declaration of exemption shall be made on

56 forms prescribed by the director and include a certification by the owner, as applicable, that vehicle will
57 be used exclusively outside of Massachusetts or used exclusively for agriculture, forestry, lumbering or
58 construction purposes. Upon receipt of the declaration of exemption, for which no fee will be charged,
59 such vehicle will be exempt from the requirements of chapter ninety B, provided the vehicle is used for
60 said purposes. The director shall maintain a record of the declaration of exemptions filed pursuant to
61 this section, and may, by regulation, establish further requirements for identifying such vehicles.

62 In the fourth sentence in paragraph 2, insert after the words "certificate of registration" the words "or
63 declaration of exemption".

64 **SECTION 4.** Section 24 of Chapter 90B is hereby amended as follows:-

65 In paragraph 1, add the following phrase at the beginning of the first sentence: "Except for snow
66 vehicles manufactured prior to July the first, nineteen hundred and seventy-two, "
67

67 In paragraph 1, line 2, after the phrase ", a red rear light", insert the phrase ", a rear brake light,".

68

69 Strike the existing language in paragraph 2 and inserting in place thereof the following new language:-

70 Every person operating or riding in or on a recreation vehicle or a snow vehicle or a sled attached
71 thereto shall wear protective headgear conforming with such minimum standards for construction and
72 performance as the registrar of motor vehicles may prescribe.

73

74 Strike the language in the third paragraph and inserting in place thereof the following new language:-

75 No snow vehicle and no recreation vehicle shall be operated which emits obnoxious fumes or which
76 makes an unusual or excessive noise. No snow vehicle or recreation vehicle manufactured after January
77 the first, nineteen hundred and ninety eight shall be sold, offered for sale, or operated that produces a
78 sound pressure level of more than ninety six dbA when measured from a distance of 20 inches using test
79 procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or with
80 such other test procedure for measurement of sound pressure levels as the registrar of motor vehicles
81 may adopt. No snow vehicle or recreation vehicle manufactured prior to January 1, 1998 shall be
82 offered for sale or operated that produces a sound pressure level of more than one hundred and one
83 dbA when measured from a distance of 20 inches using test procedures established by the Society of
84 Automotive Engineers under Standard J1287 JUL98 or with such other test procedure for measurement
85 of sound pressure levels as the registrar of motor vehicles may adopt. These requirements do not apply
86 to vintage snowmobiles, which are defined to be snow vehicles 25 years or older. Vintage snowmobiles
87 must meet the sound and emission specifications in place at the time of their manufacture.

88

89

90 Insert after paragraph 3 the following new paragraph:-

91 No person shall operate a snow vehicle or a recreation vehicle with more than one rider unless the
92 vehicle is designed and equipped by the manufacturer to carry more than one person.

93

94 **SECTION 5.** Section 25 of Chapter 90B is hereby amended as follows:-

95 Strike the first sentence in paragraph 3 and insert in place thereof the following new sentence:-

96 After coming to a full stop a snow vehicle or a recreation vehicle may cross, as directly as possible, a
97 public way, except a controlled access highway, provided, however, that in the case of recreation
98 vehicles, such public way crossing must be marked and approved for use by said vehicles by the
99 applicable state or local authorities as part of a public or privately authorized recreation vehicle trail
100 system, and provided further that such crossing can be made in a safe manner and it does not interfere
101 with the free movement of vehicular traffic.

102

103 Insert the following new sentence at the end of paragraph 3:-

104 No person under sixteen and one half years of age shall operate a snow vehicle or a recreation vehicle
105 across or on a public way unless said operator has a motor vehicle driver's license or a learner's permit
106 or is directly supervised, as defined in section twenty-six D of chapter 90B, by an adult that is eighteen
107 years of age or older.

108

109 Insert at the end of paragraph 6 the phrase “, provided that in the case of a recreation vehicle said way
110 is marked and approved for use by recreation vehicles as part of an public or privately authorized
111 recreation vehicle trail system.”

112

113 **SECTION 6.** Section 26 of Chapter 90B is hereby amended by striking the existing language and inserting
114 in place thereof the following new language:-

115 Section 26. (a) (1) No person shall operate a snow vehicle or a recreation vehicle with a percentage, by
116 weight, of alcohol in their blood of eight one-hundreths or greater, or while under the influence of

117 intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in
118 section one of chapter ninety-four C, or the vapors of glue.

119 Whoever so operates a snow vehicle or a recreation vehicle shall be punished by a fine of not less than
120 two hundred fifty dollars nor more than one thousand dollars or by imprisonment for not more than
121 two and one-half years or by both fine and imprisonment.

122 If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation
123 program by a court of the commonwealth because of a like offense within ten years preceding the date
124 of the commission of the offense for which he has been convicted, the defendant shall be punished by a
125 fine of not less than five hundred nor more than five thousand dollars or by imprisonment for not less
126 than sixty days nor more than two and one-half years or by both fine and imprisonment.

127 (b) (1) In any prosecution for a violation of subsection (a), evidence of the percentage, by weight, of
128 alcohol in the defendant's blood at the time of the alleged offense, as shown by chemical test or analysis
129 of his blood or as indicated by chemical test or analysis of his breath, shall be admissible, and such
130 failure or refusal shall be admissible in any action by the registrar under this section or in any
131 proceedings provided for in section 24n of Chapter 90, and deemed relevant to the determination of the
132 question of whether the defendant was at such time under the influence of intoxicating liquor;
133 provided, however, that if such test or analysis was made by or at the direction of a law enforcement
134 officer, it was made with the consent of the defendant, the results thereof were made available to the
135 defendant upon his request and the defendant was afforded a reasonable opportunity, at his request
136 and at his expense, to have another such test or analysis made by a person or physician selected by him;
137 and provided, further, that blood shall not be withdrawn from any person for the purpose of such test
138 or analysis except by a physician, registered or certified medical technician; and, provided further, that a
139 chemical test or analysis of the defendant's breath shall be by means of equipment which has been

140 calibrated within thirty days of its use.

141 Evidence that the defendant failed or refused to consent to such test or analysis shall not be admissible
142 against him in a civil or criminal process but any failure of the law enforcement officer to attempt to
143 administer or have administered such test or analysis, shall be so admissible. If such evidence is that
144 such percentage was five one-hundredths or less, there shall be a presumption that such defendant was
145 not under the influence of intoxicating liquor, and he shall be released from custody forthwith, but the
146 officer who placed him under arrest shall not be liable for false arrest, if such law enforcement officer
147 had reasonable grounds to believe that the person arrested had been operating a snow vehicle or a
148 recreation vehicle while under the influence of intoxicating liquor; if such evidence is that such
149 percentage was more than five one-hundredths but less than eight one-hundredths, there shall be no
150 presumption. A certificate, signed and sworn to, by a chemist of the department of state police or by a
151 chemist of a laboratory certified by the department of public health, or a reading from a device certified
152 by said department as providing accurate readings of the percentage of alcohol in blood, and signed and
153 sworn to by the law enforcement officer who administered such test which contains the results of an
154 analysis of the percentage of alcohol in such blood shall be prima facie evidence of the percentage of
155 alcohol in such blood.

156 Whoever operates a snow vehicle or a recreation vehicle in the commonwealth shall be deemed to have
157 consented to submit to a chemical test or analysis of his breath or blood in the event that he is arrested
158 for operating while under the influence of intoxicating liquor; provided, however, that no person shall
159 be deemed to have consented to a blood test unless such person has been brought for treatment to a
160 medical facility licensed under the provisions of section 51 of Chapter 111; and provided, further, that
161 no person who is afflicted with hemophilia, diabetes or any other condition requiring the use of
162 anticoagulants shall be deemed to have consented to a withdrawal of blood. Such test shall be
163 administered at the direction of a law enforcement officer, having reasonable grounds to believe that

164 the person arrested has been operating a vessel under the influence of intoxicating liquor.

165 (A) If a person arrested for operating a snow vehicle or a recreation vehicle while under the influence of
166 intoxicating liquor refuses to submit to such test or analysis, after having been informed that his license,
167 permit or right to operate motor vehicles shall be suspended and any registration numbers may be
168 revoked for a period of one hundred and twenty days for such refusal, no such test or analysis shall be
169 made, but the officer before whom such refusal was made shall immediately prepare a written report of
170 such refusal. Each such report shall be made on a form approved by the registrar, and shall be sworn to
171 under the penalties of perjury by the officer before whom such refusal was made. Each such report shall
172 set forth the grounds for the officer's belief that the person arrested had been operating a snow vehicle
173 or a recreation vehicle while under the influence of intoxicating liquor, and shall state that such person
174 had refused to submit to such chemical test or analysis when requested by such officer to do so such
175 refusal having been witnessed by another person other than the defendant. Each such report shall
176 identify which police officer requested said chemical test or analysis, and the other person witnessing
177 said refusal. Each such report shall be sent forthwith to the registrar and to the director along with a
178 copy of the notice of intent to suspend in any form, including electronic or otherwise, that the registrar
179 deems appropriate. Upon receipt of such report, the registrar shall suspend any license or permit to
180 operate motor vehicles issued to such person under chapter ninety or the right of such person to
181 operate motor vehicles in the commonwealth under Section 10 for a period of one hundred and twenty
182 days, and the director may revoke any and all registration numbers of any snow vehicles or recreation
183 vehicles of such person and may refuse to issue any registration numbers to such vehicles for a period of
184 one hundred and twenty days. Said report shall constitute prima facie evidence of the facts set forth
185 therein at any administrative hearing regarding any suspension specified in this section.

186 (B) Any person whose license, permit or right to operate motor vehicles has been suspended or whose
187 registration number has been revoked under subsection (b) shall be entitled to a hearing before the

188 registrar which shall be limited to the following issues: (i) did the officer have reasonable grounds to
189 believe that such person had been operating a snow vehicle or a recreation vehicle while under the
190 influence of intoxicating liquor within the commonwealth, (ii) was such person placed under arrest and
191 (iii) did such person refuse to submit to such test or analysis. If, after such hearing, the registrar finds on
192 any one of the said issues in the negative, the registrar shall reinstate such license, permit or right to
193 operate motor vehicles of such person and shall notify the director of such reinstatement. Upon receipt
194 of such notification, the director shall reinstate such registration number to the snow vehicle or the
195 recreation vehicle of such person.

196 Notwithstanding any of the foregoing, any person whose registration number has been revoked under
197 subsection (b) may at any time apply for and shall, within fifteen days, be granted a hearing before the
198 director for the purpose of requesting the issuance of a certificate of number on the grounds of hardship
199 and the director may, in his discretion, issue such certificate of number under such terms and conditions
200 as he deems appropriate and necessary.

201 If a person fails to pay a civil administrative penalty assessed pursuant to this section within ninety days
202 of the time it becomes final, such person shall be liable to the commonwealth for up to three times the
203 amount of such penalty, together with the costs, plus interest from the time the civil administrative
204 penalty became final, including all costs and attorney's fees incurred directly in the collection thereof.

205 The rate of interest shall be the rate set forth in Section 6c of Chapter 236. The director shall refuse to
206 issue an original registration number or to renew the registration number for any snow vehicle or
207 recreation vehicle owned by a person who fails to pay such civil administrative penalty and any related
208 penalties or costs, until such payment is made in full.

209 (c) (1) A conviction of a violation of subsection (a) shall revoke the license or right to operate motor
210 vehicles and may, in the discretion of the director, revoke the registration number of the person so
211 convicted, and no appeal, motion for new trial or exceptions shall operate to stay the revocation of the

212 license, right to operate, or registration number. Such revoked license and registration number shall
213 immediately be surrendered to the prosecuting officer who shall forward the license to the registrar and
214 the certificate of number to the director. The court shall report immediately any revocation, under this
215 paragraph, of a license or right to operate to the registrar and to the police department of the
216 municipality in which the defendant is domiciled and any revocation, under this paragraph, of a
217 registration number to the director.

218 (2) Where the license, right to operate, or registration number has been revoked under this subsection,
219 and such person has not been convicted of a like offense or has not been assigned to an alcohol
220 education or rehabilitation program because of a like offense by a court of the commonwealth within a
221 period of ten years preceding the date of the commission of the offense for which he has been
222 convicted, the registrar shall not restore the license or reinstate the right to operate to such person and
223 the director may refuse to issue a registration number to the snow vehicle or the recreation vehicle of
224 such person unless the prosecution of such person has terminated in favor of the defendant, until one
225 year after the date of conviction; provided, however, that if such person has been placed under
226 probation as provided by subsection (c) and has successfully completed all terms of such probation, the
227 registrar shall not restore the license or reinstate the right to operate to such person and the director
228 may refuse to issue a registration number to the snow vehicle or the recreation vehicle of such person
229 until forty-five days after the date of conviction.

230 Where the license, right to operate or registration number of a person has been revoked under this
231 subsection, and such person has been previously convicted of or assigned to an alcohol education or
232 rehabilitation program by a court of the commonwealth because of a like offense within a period of ten
233 years preceding the date of the commission of the offense for which such person has been convicted,
234 the registrar shall not restore the license or reinstate the right to operate and the director may refuse to
235 issue a registration number to the snow vehicle or the recreation vehicle of such person unless the

236 prosecution of such person has terminated in favor of the defendant, until two years after the date of
237 the conviction; provided, however, that such person may, after the expiration of one year from the date
238 of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting
239 the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person
240 that the causes of the present and past like offenses have been dealt with or brought under control and
241 the registrar may, in his discretion, issue such a license under such terms and conditions as he deems
242 appropriate and necessary.

243 Notwithstanding the foregoing, no new license shall be issued or right to operate be reinstated by the
244 registrar to any person convicted of a violation of subsection (a) until ten years after the date of
245 conviction in case the registrar determines upon investigation and after hearing that the action of the
246 person so convicted in committing such offense caused an accident resulting in the death of another,
247 nor at any time after a subsequent conviction of such an offense, whenever committed, in case the
248 registrar determines in the manner aforesaid that the action of such person, in committing the offense
249 of which he was so subsequently convicted, caused an accident resulting in the death of another.

250 Notwithstanding any of the foregoing, any person whose registration number has been revoked under
251 this subsection may at any time apply for and shall within fifteen days be granted a hearing for the
252 purpose of requesting the issuance of a registration number on the grounds of hardship and the director
253 may, in his discretion, issue such certificate of number under such terms and conditions as he deems
254 appropriate and necessary.

255 For the purposes of this subsection, a person shall be deemed to have been convicted if he pleaded
256 guilty or nolo contendere or was found or adjudged guilty by a court of competent jurisdiction, whether
257 or not he was placed on probation without sentence or under a suspended sentence or the case was
258 placed on file, and a license may be revoked under this subsection notwithstanding the pendency of a
259 prosecution upon appeal or otherwise after such a conviction. Where there has been more than one

260 conviction in the same prosecution, the date of the first conviction shall be deemed to be the date of
261 conviction under this paragraph.

262 (d) (1) No person shall operate a snow vehicle or a recreation vehicle recklessly or negligently so as to
263 endanger the lives or safety of the public. Whoever operates a snow vehicle or a recreation vehicle
264 recklessly, or operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the
265 public might be endangered, or upon a bet or wager or in a race, or whoever operates a snow vehicle or
266 a recreation vehicle for the purpose of making a record and thereby violates any speed regulation, or
267 whoever without stopping and making known his name, residence and the registration number of his
268 snow vehicle or recreation vehicle goes away after knowingly colliding with or otherwise causing injury
269 to any other snow vehicle or recreation vehicle or property, or whoever knowingly makes any false
270 statement in an application for a registration number of a snow vehicle or recreation vehicle shall be
271 punished by a fine of not less than two hundred and fifty dollars nor more than one thousand dollars or
272 by imprisonment for not more than two and one-half years, or both fine and imprisonment. For a
273 subsequent offense, by a fine of not less than five hundred dollars nor more than five thousand dollars
274 or by imprisonment for not less than sixty days nor more than two and one-half years or by both fine
275 and imprisonment.

276 Whoever uses a snow vehicle or a recreation vehicle without authority knowing that such use is
277 unauthorized shall, for the first offense be punished by a fine of not less than fifty dollars nor more than
278 five hundred dollars or by imprisonment for not more than two years, or by both fine and
279 imprisonment, and for a subsequent offense by a fine of not less than five hundred dollars nor more
280 than one thousand dollars or by imprisonment for not more than two and one-half years.

281 Whoever operates a snow vehicle or a recreation vehicle and, without stopping and making known his
282 name, residence and the registration number of his snow vehicle or recreation vehicle, goes away after
283 knowingly colliding with or otherwise causing injury to any person shall be punished by imprisonment

284 for not less than two months nor more than two and one-half years.

285 A summons may be issued instead of a warrant for arrest upon a complaint for a violation of any
286 provision of this subsection if in the judgment of the court or justice receiving the complaint there is
287 reason to believe that the defendant will appear upon a summons.

288

289 (e) **(1)** Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the
290 lives or safety of the public might be endangered, and by any such operation so described causes serious
291 bodily injury, shall be punished by imprisonment in the state prison for not less than two and one-half
292 years nor more than ten years and by a fine of not more than five thousand dollars, or by imprisonment
293 in a jail or house of correction for not less than six months nor more than two and one-half years and by
294 a fine of not more than five thousand dollars.

295 The sentence imposed upon such person shall not be reduced to less than six months, nor suspended,
296 nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or
297 receive any deduction from his sentence until such person has served at least six months of such
298 sentence; provided, however, that the commissioner of correction may, on the recommendation of the
299 warden, superintendent, or other person in charge of a correctional institution, grant to an offender
300 committed under this subsection a temporary release in the custody of an officer of such institution for
301 the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
302 emergency medical or psychiatric services unavailable at said institution; or to engage in employment
303 pursuant to a work release program. Prosecutions commenced under this subsection shall neither be
304 continued without a finding nor placed on file.

305 The provisions of Section 87 of Chapter 276 shall not apply to any person charged with a violation of this
306 section.

307 (2) For the purposes of this subsection "serious bodily injury" shall mean bodily injury which creates a

308 substantial risk of death or which involves either total disability or the less or substantial impairment of
309 some bodily function for a substantial period of time.

310 (3) The registrar shall revoke the license or right to operate and the director shall revoke the registration
311 number of a person convicted of a violation of this subsection for a period of two years after the date of
312 conviction. No appeal, motion for new trial or exception shall operate to stay the revocation of said
313 license, right to operate or certificate of number provided, however, that such license, right to operate
314 and certificate of number shall be restored if the prosecution of such person ultimately terminates in
315 favor of the defendant.

316 Notwithstanding the foregoing, any person whose registration number has been revoked under this
317 section may at any time apply for and shall within fifteen days be granted a hearing for the purpose of
318 requesting the issuance of a registration number on the grounds of hardship and the director may, in his
319 discretion, issue such certificate of number under such terms and conditions as he deems appropriate
320 and necessary.

321 (f) (1) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives
322 or safety of the public might be endangered, and by any such operation so described causes the death of
323 another person, shall be punished by imprisonment in the state prison for not less than two and one-
324 half years nor more than fifteen years and a fine of not more than five thousand dollars, or by
325 imprisonment in a jail or house of correction for not less than one year nor more than two and one-half
326 years and a fine of not more than five thousand dollars. The sentence imposed upon such person shall
327 not be reduced to less than one year, nor suspended, nor shall any person convicted under this
328 subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence until
329 such person has served at least one year of such sentence; provided, however, that the commissioner of
330 correction may, on the recommendation of the warden, superintendent, or other person in charge of a
331 correctional institution, or the administrator of a county correctional institution, grant to an offender

332 committed under this paragraph a temporary release in the custody of an officer of such institution for
333 the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
334 emergency medical or psychiatric services unavailable at said institution; or to engage in employment
335 pursuant to a work release program. Prosecutions commenced under this subsection shall neither be
336 continued without a finding nor placed on file. The provisions of Section 87 of Chapter 276, shall not
337 apply to any person charged with a violation of this section.

338 (2) The registrar shall revoke the license or right to operate and the director shall revoke the
339 registration number of a person convicted of a violation of this subsection for a period of ten years after
340 the date of conviction for a first offense. The registrar shall revoke the license or the right to operate
341 and the director shall revoke the registration number of a person convicted for a subsequent violation of
342 this subsection for the life of such person. No appeal, motion for a new trial or exceptions shall operate
343 to stay the revocation of the license, right to operate, or registration number provided, however, such
344 license, right to operate and registration number shall be restored if the prosecution of such person
345 ultimately terminates in favor of the defendant.

346 Notwithstanding the foregoing, any person whose registration number has been revoked under this
347 subsection may at any time apply for and shall within fifteen days be granted a hearing for the purpose
348 of requesting the issuance of a certificate of number on the grounds of hardship and the director may, in
349 his discretion, issue such certificate of number under such terms and conditions as he deems
350 appropriate and necessary.

351 (g) Any snow or recreation vehicle used in violation of section twenty-six may be seized, libeled and
352 forfeited to the commonwealth in accordance with the provisions of chapter two hundred and fifty-
353 seven.

354 **SECTION 7.** Chapter 90B is hereby amended by adding the following new section:-

355 Section 26A. No one shall operate a snow vehicle or a recreation vehicle in a manner that harasses or
356 otherwise harms deer or other wildlife or domestic animals. No one shall operate a snow vehicle or a
357 recreation vehicle in a reforested or planted area in a manner that causes damage to growing stock. No
358 one shall operate a snow vehicle or a recreation vehicle in a manner that causes damage to public or
359 private property, including but not limited to, lands owned or managed by the department of
360 conservation and recreation or the division of fisheries and wildlife or other conservation lands,
361 wetlands or other waters of the commonwealth, priority habitats delineated by the division of fisheries
362 and wildlife pursuant to chapter one hundred and thirty-one A, lands used for public water supply
363 purposes or historic or archaeological sites.

364 **SECTION 8.** Chapter 90B is hereby amended by adding the following new section:-

365 Section 26B. (a) No person shall operate a snow vehicle or a recreation vehicle on privately owned
366 property, except in cases of emergency, unless: (a) the operator is the owner or lessee or immediate
367 family member of the owner or lessee of such property; (b) the operator has in his possession either a
368 document, signed by the owner or lessee of such property or his agent, authorizing the operation of a
369 said vehicle on such property by the operator or valid proof of current membership in a club, association
370 or other organization to which express authorization for the operation of said vehicles on such property
371 has been granted; provided, however, that such operation shall be consistent with the express
372 authorization so granted and any restrictions imposed therewith; or (c) the owner or lessee of such
373 property has designated the area for use by said vehicles by posting reasonable notice of such
374 designation in a manner approved by the director.

375 (b) No person shall operate a snow vehicle or a recreation vehicle on publicly owned property without
376 the permission of the owner. In the case of a recreation vehicle, the operation of such vehicle shall be
377 on an authorized recreation vehicle trail system, unless otherwise approved by the owner.

378 (c) Any snow vehicle or recreation vehicle used in violation of section 26B may be impounded by a law
379 enforcement officer for a period of not less than thirty days nor more than one year from and after the
380 date the owner or operator of the vehicle is convicted of such violation.

381 **SECTION 9.** Chapter 90B is hereby amended by adding the following new section:-

382 Section 26C. No one shall carry a firearm, rifle or shotgun in or on a snow vehicle or a recreation vehicle
383 or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is unloaded and in an
384 enclosed case, unless he is a law enforcement officer or other person authorized to carry arms as
385 specifically described in section thirty-two, or a paraplegic as provided in section sixty-five of chapter
386 one hundred and thirty-one.

387

388 **SECTION 10.** Chapter 90B is hereby amended by adding the following new section:-

389 Section 26D. (a) No person under sixteen and one half years of age shall operate a snow vehicle or a
390 recreation vehicle across or on a public highway. No person under fourteen years of age shall operate a
391 snow vehicle or a recreation vehicle unless directly supervised by an adult that is eighteen years of age
392 or older. For the purposes of this section, direct supervision shall mean that the supervising adult shall
393 be at all times sufficiently close to the supervised person , such that a reasonable person under the
394 totality of the circumstances including, but not limited to, vehicle and ambient noise, the landscape and
395 geography of the location, and the operator's wearing of protective headgear, with or without the use
396 of an operator communications system associated with the headgear, would believe that he is
397 maintaining visual contact and is able to communicate visually or orally with the operator at all times.

398 (b) The director may, after consultation with the state off-highway advisory committee and a public
399 hearing, promulgate regulations that further limit or otherwise address the age at which persons may

400 operate a snow vehicle or a recreation vehicle in the commonwealth or that regulates the size and
401 speed capabilities of said vehicles or other safety related limitations based on the age of the operator.

402

403 **SECTION 11.** Chapter 90B is hereby amended by adding the following new section:-

404 Section 26E. A motor vehicle operator's license or learner's permit shall not be required for the
405 operation of a snow vehicle or a recreation vehicle, except as otherwise provided in section 25 of
406 chapter ninety B.

407

408 **SECTION 11.** Chapter 90B is hereby amended by adding the following new section:-

409 Section 26F. All operators of recreation vehicles born after January 1, 1990 shall successfully complete a
410 recreation vehicle safety and responsibility course approved by the director of the office of
411 environmental law enforcement. A parent or the legal guardian of an operator of recreation vehicles
412 under sixteen years of age shall participate in at least one session of the safety and responsibility course
413 or as required by the director in his approval of said course. Proof of the successful completion of the
414 recreation vehicle safety and responsibility course shall be carried on the person of the operator while
415 operating a recreation vehicle. Proof of an operator's successful completion of another state's
416 equivalent recreation vehicle safety and responsibility course, as determined by the director, shall be
417 valid in the commonwealth.

418

419 **SECTION 13.** Chapter 90B is hereby amended by adding the following new section:-

420 Section 26G. (a) No owner of a snow vehicle or a recreation vehicle or other person shall authorize a
421 person under eighteen years of age to operate said vehicle in violation of the age restrictions in chapter
422 ninety B or in regulations promulgated thereunder.

423

424 (b) Any owner of a snow vehicle or a recreation vehicle or other person who authorizes a person under
425 eighteen years of age to operate a snow vehicle or a recreation vehicle shall be held liable, jointly and
426 severally, with the operator for any violation of applicable laws and regulations, or damage or injuries
427 caused by said minor's operation of the vehicle and for any fines, penalties or restitution resulting
428 therefrom.

429 (c) Any owner of a snow vehicle or a recreation vehicle or other person who authorizes a person
430 eighteen years of age or older to operate a snow vehicle or a recreation vehicle shall be held liable,
431 jointly and severally, with the operator, for any violation of applicable laws and regulations, or damage
432 or injuries caused by said person's operation of the vehicle and for any fines, penalties or restitution
433 resulting therefrom, provided, however, that the owner or other person authorizing the use of the snow
434 vehicle or recreation vehicle knew or had reason to know that the operator of the vehicle had or would
435 commit the offense or offenses resulting from said operation..

436

437 **SECTION 14.** Section 32 of Chapter 90B is hereby amended as follows:-

438 Strike paragraph 1, and insert in place thereof, the following two new paragraphs:-

439 The provisions of sections twenty-one to thirty-four, inclusive, and all the rules and regulations made
440 under the authority thereof shall be enforced by the director, deputy directors of enforcement, chiefs of
441 enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental

442 police officers of the office of environmental law enforcement, executive office of energy and
443 environmental affairs, police officers, members of the state police, and city and town police officers or
444 employees of the commonwealth having police powers on public lands. Whoever while operating or in
445 charge of any snow or recreation vehicle, other than on property owned by him, refuses to stop such
446 vehicle after being requested or signaled to do so by any such officer, or whoever refuses to give his true
447 and correct name and address or refuses to display the certificate of number of such vehicle or refuses
448 to provide or display other required vehicle identification information and surrender to such officer for
449 examination shall be punished by a fine of not less than one hundred dollars nor more than two
450 hundred and fifty dollars. Such officers may, in the performance of their duty, enter upon and pass
451 through or over private lands or property.

452 Any officer authorized to make arrests may arrest without a warrant and keep in custody for not more
453 than twenty-four hours, unless a Saturday, Sunday or a legal holiday intervenes, any person who violates
454 the provisions of this section. Any arrest made pursuant to this section shall be deemed an arrest for
455 the criminal offense or offenses involved and not for any civil infraction arising out of the same incident.

456

457 **SECTION 15.** Section 34 of Chapter 90B is hereby amended by striking the existing language and
458 inserting in place thereof the following:-

459 Section 34. Whoever violates any provision of sections twenty-one to twenty-four, inclusive, or any rule
460 or regulation made thereunder, shall be punished by a fine of not less than one hundred dollars nor
461 more than two hundred and fifty dollars.

462 Whoever violates any provision of sections twenty-one to twenty-four, inclusive, or any rule or
463 regulation made thereunder more than once within twenty four months shall be punished by a fine of

464 not less than two hundred and fifty dollars nor more than five hundred dollars or imprisonment for not
465 less than thirty days nor more than one year, or both such fine and imprisonment.

466 Whoever violates any provision of section twenty-five or section twenty six A to twenty six G or section
467 27, inclusive, or of any rule or regulation made thereunder, shall be punished by a fine of not less than
468 two hundred and fifty dollars nor more than five hundred dollars, or by a fine of not less than two
469 hundred fifty dollars nor more than one thousand dollars or imprisonment for not less than 60 days nor
470 more than one year or both such fine and imprisonment.

471

472 **SECTION 16.** Section 10H of Chapter 21A is hereby amended by inserting the following two new
473 paragraph after paragraph three:-

474 A person notified to appear before the clerk of a district court as provided in section 10G for violation of
475 section 21 to section 24, section 25, sections 26C through 26G, or twenty seven of said chapter 90B, may
476 so appear within the time specified and pay a fine of \$150 dollars.

477

478 A person notified to appear before the clerk of a district court as provided in section 10G for violation of
479 subsection (e) of section 26, sections 26A and 26B, or section 121A of chapter 266 may so appear within
480 the time specified and pay a fine of \$250 dollars.

481

482 **SECTION 17.** Section 121A of Chapter 266 is hereby amended as follows:

483 Insert at the end of paragraph 1 the following phrase:

484 “, except as otherwise provided in this section.”

485 Insert after paragraph 1 the following 2 new paragraphs:-

486 Whoever, without right, enters upon the land of another, whether said land is publicly or privately
487 owned and whether or not such land is posted against trespass, and in so entering makes use of or has
488 in his immediate possession or control any motor vehicle, as defined in chapter ninety, shall be punished
489 by a fine of not less than two hundred and fifty dollars nor more than five hundred dollars, or by a fine
490 of not less than two hundred fifty dollars nor more than one thousand dollars or imprisonment for not
491 less than 60 days nor more than one year or both such fine and imprisonment, and restitution to the
492 property owner for any damages resulting from the trespass. If the property is not posted against
493 trespass or is not posted with ownership information, no fine or penalty shall be imposed for a trespass
494 by a snow vehicle on said property or on trails located therein, provided trespass is unintentional.

495

496 Before the final disposition of a complaint filed pursuant to this section, the court shall hold a hearing to
497 assess damages resulting from the trespass and it shall order the defendant to pay restitution for all
498 damages incident to the trespass, including but not limited to, environmental damages such as erosion
499 and compaction of soils, damage to wetland areas, disturbance of habitat, harassment or destruction of
500 wildlife, and damage to crops, planted areas, forests, and fields.

501

502 **SECTION 18.** Chapter 21A is hereby amended by inserting the following new section:-

503 Section 18B. There is hereby established within the executive office of energy and environmental affairs
504 a state off-highway vehicle advisory committee. The committee shall advise the secretary and the
505 department of conservation and recreation, the department of fish and game, the department of

506 environmental protection, and the office of environmental law enforcement within said executive office
507 on matters involving the commonwealth's regulation of off-highway vehicles, including the development
508 and enforcement of state regulations and policies, safety and training programs, and the distribution of
509 available state funding. The secretary shall appoint the members of the committee, which shall consist
510 of 12 members. Of the committee members, 3 shall be representatives of off-highway vehicle users,
511 one of which shall be a representative of the New England Trail Riders Association; 1 shall be a
512 representative of the off-highway vehicle manufacturers and dealers; 1 shall be a representative of the
513 department of public health and child advocates associated with the safe use of off-highway vehicles; 1
514 shall be a representative of snowmobile association of Massachusetts; 3 shall be representatives of a
515 non-profit organization that owns and manages land open to the public; 1 shall be a representative of an
516 association or organization of large private land owners; and 2 shall be representatives of state or local
517 law enforcement authorities. Members shall be appointed for terms of 3 years, except that, initially, 4
518 members shall be appointed for 1 year and 4 members shall be appointed for 2 years. The committee
519 shall select a chairperson annually by a majority vote of the members. The committee shall meet at
520 least twice each year, and shall also meet at the request of the secretary or committee chairperson.

521

522 **SECTION 19.** Chapter 21A is hereby amended by inserting the following new section:-

523 Section 18C.

524 (1) There is hereby established and set up on the books of the commonwealth a separate fund to be
525 known as the Off Highway Vehicle Program Fund. There shall be credited to the fund all fees collected
526 by the commonwealth pursuant to sections twenty-one to thirty-two, inclusive, of chapter 90B, and all
527 fines, costs, expenses, and interest imposed by the commonwealth pursuant to its authority under
528 sections 26 and 34 of chapter 90B, section 10H of chapter 21A, or section 121A of chapter 266, any

529 revenue from appropriations or other monies authorized by the general court and specifically
530 designated to be credited to the fund, any appropriation or grant explicitly made to the fund, and any
531 income derived from the investment of amounts credited to the fund.

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

536 (a) the enforcement of statutes, regulations, and policies applicable to off-highway vehicles;

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

540 (c) for grants made by the department of conservation and recreation to municipalities and other public
541 entities for the purposes of subsection (2)(a)-(b);

542 (d) the development and administration of safety, training and education programs; and

543 (e) for all direct and indirect costs of administering the activities in subsection (2)(a)-(d), including the
544 direct and indirect costs of personnel or contractors of the said executive office and its office of
545 environmental law enforcement and departments.

546 (3) Not less than twenty-five percent of the monies deposited in the fund shall be expended on a fiscal
547 year basis for the activities identified in subsection (2)(b) or for grants made pursuant to subsection
548 (2)(c) to fund the activities identified in subsection (2)(b). Monies that are deposited in the fund that are
549 unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for
550 expenditure in the subsequent fiscal year.

551 **SECTION 20.** Section 35 of Chapter 90B is hereby amended by striking the existing language and
552 inserting in place thereof the following new language:-

553 Section 35. All fees collected by the commonwealth pursuant to sections twenty-one to thirty-two,
554 inclusive, shall be credited to the Off Highway Program Fund established pursuant to section 18C of
555 chapter 21A.

556

557 **SECTION 21.** Section 11 of Chapter 21A is hereby amended by striking the existing language and
558 inserting in place thereof the following new language:-

559 There is hereby established within the office of law enforcement an advisory board to be designated as
560 the boating safety advisory board. The board shall consist of five members to be appointed by the
561 governor, two of whom shall be representative of the boating public each of whom shall hold a
562 certificate of number issued pursuant to section three of chapter ninety B, one of whom may represent
563 the harbormaster's association and two members shall represent the recreational boating business, one
564 of whom shall operate a boat dealership. Each member shall serve for a term of three years. The
565 chairman of the board shall be appointed, from the five members, annually by the governor, and in the
566 absence of same shall be designated by the director. Board members shall be appointed or reappointed
567 for terms of three years.

568 The boating safety advisory board shall meet at least quarterly and three members in attendance shall
569 constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the inland
570 enforcement bureau established under section six of chapter twenty-one, or their designees, shall
571 attend all meetings of said board and shall provide such information as said board shall request.
572 Said board shall review the budgetary recommendations of the director and the secretary of the
573 executive office of environmental affairs concerning the expenditure of federal funds allocated to the

574 division for recreational boating safety each fiscal year prior to the submission of such
575 recommendations to the secretary or the governor, as the case may be. In the event said board
576 disapproves of any such recommendation it may file a report noting its objection and such report shall
577 be transmitted to the governor and to the house and senate committees on ways and means.

578

579 SECTION 22. The requirement in Section 2 that a snow vehicle or a recreation vehicle must be
580 registered in accordance with chapter ninety B even if such vehicles are operated exclusively on land
581 owned by the owner of such vehicle shall take effect as of May 1, 2009; provided, however, that no
582 penalty shall be assessed for such violation of section 21 of chapter ninety B on or before September 1,
583 2009. The requirements in Sections 2 and 3 that the owner of a snow vehicle or a recreation vehicle
584 purchased in Massachusetts but used exclusively outside of the state or used exclusively for agriculture,
585 forestry, lumbering or construction purposes must file a certificate of exemption in accordance with
586 chapter ninety B shall take effect as of May 1, 2009; provided, however, that no penalty shall be
587 assessed for such violation of sections 21 and 22 of chapter ninety B on or before September 1, 2009.
588 Section 11 shall take effect as of May 1, 2009; provided, however, that no penalty shall be assessed for
589 such violation of section 26F of chapter ninety B on or before September 1, 2009.

590

591