

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

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 REGULATION OF SNOW AND RECREATION VEHICLES.

PETITION OF:

NAME: _____ | DISTRICT/ADDRESS: _____

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT RELATIVE TO THE REGULATION 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 10H of Chapter 21A of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by inserting, after the third paragraph, the following:-

3 A person notified to appear before the clerk of a district court as provided in section 10G for violation of
4 section 21 to section 24, section 25, sections 26C through 26G, or 27 of said chapter 90B, may so appear
5 within the time specified and pay a fine of \$150 dollars.

6

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

10

11 **SECTION 2.** Section 11 of Chapter 21A is hereby amended by striking the section in its entirety and
12 inserting in place thereof the following new section:-

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

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

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

31

32 **SECTION 3.** Chapter 21A is hereby further amended by inserting the following new sections:-

33 Section 18B. There is hereby established within the executive office of energy and environmental affairs
34 a state off-highway vehicle advisory committee. The committee shall advise the secretary and the
35 department of conservation and recreation, the department of fish and game, the department of
36 environmental protection, and the office of environmental law enforcement within said executive office
37 on matters involving the commonwealth's regulation of off-highway vehicles, including the development
38 and enforcement of state regulations and policies, safety and training programs, and the distribution of
39 available state funding. The secretary shall appoint the members of the committee, which shall consist
40 of 12 members. Of the committee members, 3 shall be representatives of off-highway vehicle users,
41 one of which shall be a representative of the New England Trail Riders Association; 1 shall be a
42 representative of the off-highway vehicle manufacturers and dealers; 1 shall be a representative of the
43 department of public health and child advocates associated with the safe use of off-highway vehicles; 1
44 shall be a representative of snowmobile association of Massachusetts; 3 shall be representatives of a
45 non-profit organization that owns and manages land open to the public; 1 shall be a representative of an
46 association or organization of large private land owners; and 2 shall be representatives of state or local
47 law enforcement authorities. Members shall be appointed for terms of 3 years, except that, initially, 4
48 members shall be appointed for 1 year and 4 members shall be appointed for 2 years. The committee
49 shall select a chairperson annually by a majority vote of the members. The committee shall meet at
50 least twice each year, and shall also meet at the request of the secretary or committee chairperson.

51 Section 18C.

52 (1) There is hereby established and set up on the books of the commonwealth a separate fund to be
53 known as the Off Highway Vehicle Program Fund. There shall be credited to the fund all fees collected
54 by the commonwealth pursuant to sections 21 to 32, inclusive, of chapter 90B, and all fines, costs,
55 expenses, and interest imposed by the commonwealth pursuant to its authority under sections 26 and

56 34 of chapter 90B, section 10H of chapter 21A, or section 121A of chapter 266, any revenue from
57 appropriations or other monies authorized by the general court and specifically designated to be
58 credited to the fund, any appropriation or grant explicitly made to the fund, and any income derived
59 from the investment of amounts credited to the fund.

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

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

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

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

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

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

74 (3) Not less than twenty-five percent of the monies deposited in the fund shall be expended on a fiscal
75 year basis for the activities identified in subsection (2)(b) or for grants made pursuant to subsection
76 (2)(c) to fund the activities identified in subsection (2)(b). Monies that are deposited in the fund that are

77 unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for
78 expenditure in the subsequent fiscal year.

79 **SECTION 4.** Section 20 of chapter 90B of the General Laws, as appearing in the 2006 Official Edition, is
80 hereby amended by inserting, in line 3 after the word “meanings” the following definition:-

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

83 **SECTION 5.** Said section 20 of said chapter 90B, as so appearing, is hereby further amended by
84 by striking the definition of “Law enforcement officer”, and insert in place thereof the following
85 definition:-

86 “Law enforcement officer”, the director, deputy directors of enforcement, chiefs of enforcement,
87 deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of
88 the office of environmental law enforcement, executive office of energy and environmental affairs,
89 police officers, members of the state police, and city and town police officers or employees of the
90 commonwealth having police powers on public lands.

91 **SECTION 6.** Said section 20 of said chapter 90B, as so appearing, is hereby further amended by inserting,
92 after the definition of “Owner” the following definition:-

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

97 **SECTION 7.** Said section 20 of said chapter 90B, as so appearing, is hereby further amended by striking
98 the definition of “Recreational Vehicle” and inserting in place thereof, the following definition:-

99 “Recreation Vehicle”, any motor vehicle designed or modified for use over unimproved terrain if used
100 for recreation or pleasure off a public way as defined in chapter ninety, including but not limited to, all
101 terrain vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles, and all
102 legally registered motor vehicles when used off a way, as defined in chapter 90, including motorcycles;
103 said recreation vehicles are also referred to as “off-highway vehicles” or “off-road vehicles;” provided,
104 however, that vehicles used solely for agriculture, forestry, lumbering or construction purposes shall be
105 excluded from this definition when used exclusively for such purpose and when a declaration of
106 exemption has been filed with the director in accordance with section 22 of chapter 90B; provided,
107 further, that in any complaint brought under this chapter the burden shall be upon the defendant to
108 prove such use. Any motor vehicle legally registered under chapter ninety will not be subject to
109 registration under this chapter but registration numbers shall be displayed as required by said chapter
110 90.

111

112 **SECTION 8.** Section 21 of said chapter 90B, as appearing in the 2006 Official Edition, is hereby amended
113 by striking the language in the first paragraph and inserting in place thereof the following new
114 language:-

115 No person shall operate a snow vehicle or a recreation vehicle unless the owner of such vehicle has
116 registered, or if applicable, filed a certificate of exemption, in accordance with the provisions of this
117 chapter, except that a snow vehicle or a recreation vehicle purchased in Massachusetts but operated
118 exclusively outside of the state is not required to be registered, provided the owner has filed a
119 certificate of exemption in accordance with the provisions of section 22 of this chapter. A law

120 enforcement officer may seize any snow vehicle or recreation vehicle that is unregistered or for which a
121 certificate of exemption has not been filed, and may hold such vehicle until the owner has registered or
122 filed a certificate of exemption for the vehicle in accordance with this chapter. In such cases, the owner
123 of such vehicle shall be responsible for all costs associated with the seizure and storage of the vehicle.

124

125 **SECTION 9.** Section 22 of said chapter 90B, as appearing in the 2006 Official Edition, is hereby further
126 amended by striking the first paragraph and inserting in place thereof the following sentences:-

127 At the time of purchase or transfer of ownership of a snow vehicle or a recreation vehicle, the owner of
128 said vehicle shall apply to register the vehicle to the director or his agent. The application for
129 registration shall be made on forms prescribed by the director and include the name and address of the
130 owner of the vehicle. Upon receipt of the application and the appropriate fee, as hereinafter provided,
131 such vehicle shall be registered and a registration number assigned which shall be affixed to said vehicle
132 in such manner as the director shall prescribe. In the case of a recreation vehicle to be used exclusively
133 outside of Massachusetts or used exclusively for agriculture, forestry, lumbering or construction
134 purposes, at the time of purchase or transfer of ownership of such vehicle, the owner shall file a
135 declaration of exemption with the director or his agent. The declaration of exemption shall be made on
136 forms prescribed by the director and include a certification by the owner, as applicable, that vehicle will
137 be used exclusively outside of Massachusetts or used exclusively for agriculture, forestry, lumbering or
138 construction purposes. Upon receipt of the declaration of exemption, for which no fee will be charged,
139 such vehicle will be exempt from the requirements of chapter ninety B, provided the vehicle is used for
140 said purposes. The director shall maintain a record of the declaration of exemptions filed pursuant to
141 this section, and may, by regulation, establish further requirements for identifying such vehicles.

142 **SECTION 10.** Section 22 of said chapter 90B is further amended by inserting, in line 10, after the word
143 “registration” the following words:- “or declaration of exemption”.

144 **SECTION 11.** Section 24 of said chapter 90B is hereby amended by striking the first sentence and
145 inserting in place thereof the following sentence:- “Except for snow vehicles manufactured prior to July
146 1, 1972, each snow vehicle and each registration vehicle shall be equipped with one or more headlights,
147 a red rear light, a red rear reflector, and adequate muffler, and such safety equipment as may be
148 required by the director.”

149 **SECTION 12.** Section 24 of said chapter 90B is hereby amended by inserting, in line 2, after the word
150 “light,” the following words:-

151 “, a rear brake light,”.

152 **SECTION 13.** Section 24 of said chapter 90B is hereby amended by striking the sentence in lines 14 and
153 15 and inserting in place thereof the following paragraph:-

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

157 **SECTION 14.** Section 24 of said chapter 90B is hereby further amended by striking the third paragraph
158 and inserting in place thereof the following paragraph:-

159 No snow vehicle and no recreation vehicle shall be operated which emits obnoxious fumes or which
160 makes an unusual or excessive noise. No snow vehicle or recreation vehicle manufactured after January
161 the first, nineteen hundred and ninety eight shall be sold, offered for sale, or operated that produces a
162 sound pressure level of more than ninety six dbA when measured from a distance of 20 inches using test

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

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

172 **SECTION 15.** Section 25 of said chapter 90B is hereby further amended by striking the first sentence of
173 the third paragraph and inserting in place thereof the following sentence:-

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

180 **SECTION 16.** Section 25 of said chapter 90B is hereby further amended by inserting at the end of the
181 third paragraph, the following sentence:- No person under 16 ½ years of age shall operate a snow
182 vehicle or a recreation vehicle across or on a public way unless said operator has a motor vehicle driver's
183 license or a learner's permit or is directly supervised, as defined in section 26D of chapter 90B, by an
184 adult that is 18 years of age or older.

185 **SECTION 17.** Section 25 of said chapter 90B is hereby further amended by inserting, in line 47, after the
186 word “vehicles” the following words:- provided that in the case of a recreation vehicle said way is
187 marked and approved for use by recreation vehicles as part of an public or privately authorized
188 recreation vehicle trail system.

189

190 **SECTION 18.** Section 26 of said chapter 90B is hereby amended by striking the section in its entirety and
191 inserting in place thereof the following sentences:-

192 Section 26. (a) (1) No person shall operate a snow vehicle or a recreation vehicle with a percentage, by
193 weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of
194 intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in
195 section one of chapter 94C, or the vapors of glue.

196 Whoever so operates a snow vehicle or a recreation vehicle shall be punished by a fine of not less than
197 \$250 nor more than \$1,000 or by imprisonment for not more than 2 ½ or by both fine and
198 imprisonment.

199 If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation
200 program by a court of the commonwealth because of a like offense within ten years preceding the date
201 of the commission of the offense for which he has been convicted, the defendant shall be punished by a
202 fine of not less than \$500 nor more than \$5,000 or by imprisonment for not less than 60days nor more
203 than 2 ½ years or by both fine and imprisonment.

204 (b) (1) In any prosecution for a violation of subsection (a), evidence of the percentage, by weight, of
205 alcohol in the defendant's blood at the time of the alleged offense, as shown by chemical test or analysis
206 of his blood or as indicated by chemical test or analysis of his breath, shall be admissible, and such

207 failure or refusal shall be admissible in any action by the registrar under this section or in any
208 proceedings provided for in 24N of chapter 90, and deemed relevant to the determination of the
209 question of whether the defendant was at such time under the influence of intoxicating liquor;
210 provided, however, that if such test or analysis was made by or at the direction of a law enforcement
211 officer, it was made with the consent of the defendant, the results thereof were made available to the
212 defendant upon his request and the defendant was afforded a reasonable opportunity, at his request
213 and at his expense, to have another such test or analysis made by a person or physician selected by him;
214 and provided, further, that blood shall not be withdrawn from any person for the purpose of such test
215 or analysis except by a physician, registered or certified medical technician; and, provided further, that a
216 chemical test or analysis of the defendant's breath shall be by means of equipment which has been
217 calibrated within 30 days of its use.

218 Evidence that the defendant failed or refused to consent to such test or analysis shall not be admissible
219 against him in a civil or criminal process but any failure of the law enforcement officer to attempt to
220 administer or have administered such test or analysis, shall be so admissible. If such evidence is that
221 such percentage was five one-hundredths or less, there shall be a presumption that such defendant was
222 not under the influence of intoxicating liquor, and he shall be released from custody forthwith, but the
223 officer who placed him under arrest shall not be liable for false arrest, if such law enforcement officer
224 had reasonable grounds to believe that the person arrested had been operating a snow vehicle or a
225 recreation vehicle while under the influence of intoxicating liquor; if such evidence is that such
226 percentage was more than five one-hundredths but less than eight one-hundredths, there shall be no
227 presumption. A certificate, signed and sworn to, by a chemist of the department of state police or by a
228 chemist of a laboratory certified by the department of public health, or a reading from a device certified
229 by said department as providing accurate readings of the percentage of alcohol in blood, and signed and
230 sworn to by the law enforcement officer who administered such test which contains the results of an

231 analysis of the percentage of alcohol in such blood shall be prima facie evidence of the percentage of
232 alcohol in such blood.

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

242 (A) If a person arrested for operating a snow vehicle or a recreation vehicle while under the influence of
243 intoxicating liquor refuses to submit to such test or analysis, after having been informed that his license,
244 permit or right to operate motor vehicles shall be suspended and any registration numbers may be
245 revoked for a period of one hundred and twenty days for such refusal, no such test or analysis shall be
246 made, but the officer before whom such refusal was made shall immediately prepare a written report of
247 such refusal. Each such report shall be made on a form approved by the registrar, and shall be sworn to
248 under the penalties of perjury by the officer before whom such refusal was made. Each such report shall
249 set forth the grounds for the officer's belief that the person arrested had been operating a snow vehicle
250 or a recreation vehicle while under the influence of intoxicating liquor, and shall state that such person
251 had refused to submit to such chemical test or analysis when requested by such officer to do so such
252 refusal having been witnessed by another person other than the defendant. Each such report shall
253 identify which police officer requested said chemical test or analysis, and the other person witnessing
254 said refusal. Each such report shall be sent forthwith to the registrar and to the director along with a

255 copy of the notice of intent to suspend in any form, including electronic or otherwise, that the registrar
256 deems appropriate. Upon receipt of such report, the registrar shall suspend any license or permit to
257 operate motor vehicles issued to such person under chapter 90 or the right of such person to operate
258 motor vehicles in the commonwealth under section 10 for a period of one hundred and twenty days,
259 and the director may revoke any and all registration numbers of any snow vehicles or recreation vehicles
260 of such person and may refuse to issue any registration numbers to such vehicles for a period of 120
261 days. Said report shall constitute prima facie evidence of the facts set forth therein at any administrative
262 hearing regarding any suspension specified in this section.

263 (B) Any person whose license, permit or right to operate motor vehicles has been suspended or whose
264 registration number has been revoked under subsection (b) shall be entitled to a hearing before the
265 registrar which shall be limited to the following issues: (i) did the officer have reasonable grounds to
266 believe that such person had been operating a snow vehicle or a recreation vehicle while under the
267 influence of intoxicating liquor within the commonwealth, (ii) was such person placed under arrest and
268 (iii) did such person refuse to submit to such test or analysis. If, after such hearing, the registrar finds on
269 any one of the said issues in the negative, the registrar shall reinstate such license, permit or right to
270 operate motor vehicles of such person and shall notify the director of such reinstatement. Upon receipt
271 of such notification, the director shall reinstate such registration number to the snow vehicle or the
272 recreation vehicle of such person.

273 Notwithstanding any of the foregoing, any person whose registration number has been revoked under
274 subsection (b) may at any time apply for and shall, within 15 days, be granted a hearing before the
275 director for the purpose of requesting the issuance of a certificate of number on the grounds of hardship
276 and the director may, in his discretion, issue such certificate of number under such terms and conditions
277 as he deems appropriate and necessary.

278 If a person fails to pay a civil administrative penalty assessed pursuant to this section within ninety days

279 of the time it becomes final, such person shall be liable to the commonwealth for up to 3 times the
280 amount of such penalty, together with the costs, plus interest from the time the civil administrative
281 penalty became final, including all costs and attorney's fees incurred directly in the collection thereof.
282 The rate of interest shall be the rate set forth in section 6C of chapter 231. The director shall refuse to
283 issue an original registration number or to renew the registration number for any snow vehicle or
284 recreation vehicle owned by a person who fails to pay such civil administrative penalty and any related
285 penalties or costs, until such payment is made in full.

286 (c) (1) A conviction of a violation of subsection (a) shall revoke the license or right to operate motor
287 vehicles and may, in the discretion of the director, revoke the registration number of the person so
288 convicted, and no appeal, motion for new trial or exceptions shall operate to stay the revocation of the
289 license, right to operate, or registration number. Such revoked license and registration number shall
290 immediately be surrendered to the prosecuting officer who shall forward the license to the registrar and
291 the certificate of number to the director. The court shall report immediately any revocation, under this
292 paragraph, of a license or right to operate to the registrar and to the police department of the
293 municipality in which the defendant is domiciled and any revocation, under this paragraph, of a
294 registration number to the director.

295 (2) Where the license, right to operate, or registration number has been revoked under this subsection,
296 and such person has not been convicted of a like offense or has not been assigned to an alcohol
297 education or rehabilitation program because of a like offense by a court of the commonwealth within a
298 period of ten years preceding the date of the commission of the offense for which he has been
299 convicted, the registrar shall not restore the license or reinstate the right to operate to such person and
300 the director may refuse to issue a registration number to the snow vehicle or the recreation vehicle of
301 such person unless the prosecution of such person has terminated in favor of the defendant, until one
302 year after the date of conviction; provided, however, that if such person has been placed under

303 probation as provided by subsection (c) and has successfully completed all terms of such probation, the
304 registrar shall not restore the license or reinstate the right to operate to such person and the director
305 may refuse to issue a registration number to the snow vehicle or the recreation vehicle of such person
306 until 45 days after the date of conviction.

307 Where the license, right to operate or registration number of a person has been revoked under this
308 subsection, and such person has been previously convicted of or assigned to an alcohol education or
309 rehabilitation program by a court of the commonwealth because of a like offense within a period of ten
310 years preceding the date of the commission of the offense for which such person has been convicted,
311 the registrar shall not restore the license or reinstate the right to operate and the director may refuse to
312 issue a registration number to the snow vehicle or the recreation vehicle of such person unless the
313 prosecution of such person has terminated in favor of the defendant, until two years after the date of
314 the conviction; provided, however, that such person may, after the expiration of one year from the date
315 of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting
316 the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person
317 that the causes of the present and past like offenses have been dealt with or brought under control and
318 the registrar may, in his discretion, issue such a license under such terms and conditions as he deems
319 appropriate and necessary.

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

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

332 For the purposes of this subsection, a person shall be deemed to have been convicted if he pleaded
333 guilty or nolo contendere or was found or adjudged guilty by a court of competent jurisdiction, whether
334 or not he was placed on probation without sentence or under a suspended sentence or the case was
335 placed on file, and a license may be revoked under this subsection notwithstanding the pendency of a
336 prosecution upon appeal or otherwise after such a conviction. Where there has been more than one
337 conviction in the same prosecution, the date of the first conviction shall be deemed to be the date of
338 conviction under this paragraph.

339 (d) (1) No person shall operate a snow vehicle or a recreation vehicle recklessly or negligently so as to
340 endanger the lives or safety of the public. Whoever operates a snow vehicle or a recreation vehicle
341 recklessly, or operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the
342 public might be endangered, or upon a bet or wager or in a race, or whoever operates a snow vehicle or
343 a recreation vehicle for the purpose of making a record and thereby violates any speed regulation, or
344 whoever without stopping and making known his name, residence and the registration number of his
345 snow vehicle or recreation vehicle goes away after knowingly colliding with or otherwise causing injury
346 to any other snow vehicle or recreation vehicle or property, or whoever knowingly makes any false
347 statement in an application for a registration number of a snow vehicle or recreation vehicle shall be
348 punished by a fine of not less than \$250 dollars nor more than \$1,000 dollars or by imprisonment for not
349 more than two and one-half years, or both fine and imprisonment. For a subsequent offense, by a fine

350 of not less than five hundred dollars nor more than five thousand dollars or by imprisonment for not less
351 than 60 days nor more than 2 ½ years or by both fine and imprisonment.

352 Whoever uses a snow vehicle or a recreation vehicle without authority knowing that such use is
353 unauthorized shall, for the first offense be punished by a fine of not less than \$50 nor more than \$500 or
354 by imprisonment for not more than 2 years, or by both fine and imprisonment, and for a subsequent
355 offense by a fine of not less than \$500 dollars nor more than \$1,000 or by imprisonment for not more
356 than 2 ½ years.

357 Whoever operates a snow vehicle or a recreation vehicle and, without stopping and making known his
358 name, residence and the registration number of his snow vehicle or recreation vehicle, goes away after
359 knowingly colliding with or otherwise causing injury to any person shall be punished by imprisonment
360 for not less than 2 months nor more than 2 ½ years.

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

364

365 (e) (1) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives
366 or safety of the public might be endangered, and by any such operation so described causes serious
367 bodily injury, shall be punished by imprisonment in the state prison for not less than 2 ½ years nor more
368 than 10 years and by a fine of not more than \$5,000, or by imprisonment in a jail or house of correction
369 for not less than 6 months nor more than 2 ½ years and by a fine of not more than \$5,000.

370 The sentence imposed upon such person shall not be reduced to less than 6 months, nor suspended, nor
371 shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive
372 any deduction from his sentence until such person has served at least 6 months of such sentence;

373 provided, however, that the commissioner of correction may, on the recommendation of the warden,
374 superintendent, or other person in charge of a correctional institution, grant to an offender committed
375 under this subsection a temporary release in the custody of an officer of such institution for the
376 following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
377 emergency medical or psychiatric services unavailable at said institution; or to engage in employment
378 pursuant to a work release program. Prosecutions commenced under this subsection shall neither be
379 continued without a finding nor placed on file.

380 The provisions of section 87 of chapter 276 shall not apply to any person charged with a violation of this
381 section.

382 (2) For the purposes of this subsection "serious bodily injury" shall mean bodily injury which creates a
383 substantial risk of death or which involves either total disability or the less or substantial impairment of
384 some bodily function for a substantial period of time.

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

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

396 (f) (1) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives
397 or safety of the public might be endangered, and by any such operation so described causes the death of
398 another person, shall be punished by imprisonment in the state prison for not less than 2 ½ years nor
399 more than 15 years and a fine of not more than \$5,000 dollars, or by imprisonment in a jail or house of
400 correction for not less than 1 year nor more than 2 ½ years and a fine of not more than \$5,000. The
401 sentence imposed upon such person shall not be reduced to less than 1 year, nor suspended, nor shall
402 any person convicted under this subsection be eligible for probation, parole, or furlough or receive any
403 deduction from his sentence until such person has served at least 1 year of such sentence; provided,
404 however, that the commissioner of correction may, on the recommendation of the warden,
405 superintendent, or other person in charge of a correctional institution, or the administrator of a county
406 correctional institution, grant to an offender committed under this paragraph a temporary release in the
407 custody of an officer of such institution for the following purposes only: to attend the funeral of a
408 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at
409 said institution; or to engage in employment pursuant to a work release program. Prosecutions
410 commenced under this subsection shall neither be continued without a finding nor placed on file. The
411 provisions of section 87 of chapter 276, shall not apply to any person charged with a violation of this
412 section.

413 (2) The registrar shall revoke the license or right to operate and the director shall revoke the
414 registration number of a person convicted of a violation of this subsection for a period of ten years after
415 the date of conviction for a first offense. The registrar shall revoke the license or the right to operate
416 and the director shall revoke the registration number of a person convicted for a subsequent violation of
417 this subsection for the life of such person. No appeal, motion for a new trial or exceptions shall operate
418 to stay the revocation of the license, right to operate, or registration number provided, however, such
419 license, right to operate and registration number shall be restored if the prosecution of such person

420 ultimately terminates in favor of the defendant.

421 Notwithstanding the foregoing, any person whose registration number has been revoked under this
422 subsection may at any time apply for and shall within 15 days be granted a hearing for the purpose of
423 requesting the issuance of a certificate of number on the grounds of hardship and the director may, in
424 his discretion, issue such certificate of number under such terms and conditions as he deems
425 appropriate and necessary.

426 (g) Any snow or recreation vehicle used in violation of section twenty-six may be seized, libeled and
427 forfeited to the commonwealth in accordance with the provisions of chapter 257.

428 **SECTION 19.** Said chapter 90B is hereby further amended by adding, after section 26, the following
429 sections:-

430 Section 26A. No person shall operate a snow vehicle or a recreation vehicle in a manner that harasses
431 or otherwise harms deer or other wildlife or domestic animals. No person shall operate a snow vehicle
432 or a recreation vehicle in a reforested or planted area in a manner that causes damage to growing stock.
433 No person shall operate a snow vehicle or a recreation vehicle in a manner that causes damage to public
434 or private property, including but not limited to, lands owned or managed by the department of
435 conservation and recreation or the division of fisheries and wildlife or other conservation lands,
436 wetlands or other waters of the commonwealth, priority habitats delineated by the division of fisheries
437 and wildlife pursuant to chapter 131A, lands used for public water supply purposes or historic or
438 archaeological sites.

439 Section 26B. (a) No person shall operate a snow vehicle or a recreation vehicle on privately owned
440 property, except in cases of emergency, unless: (a) the operator is the owner or lessee or immediate
441 family member of the owner or lessee of such property; (b) the operator has in his possession either a

442 document, signed by the owner or lessee of such property or his agent, authorizing the operation of a
443 said vehicle on such property by the operator or valid proof of current membership in a club, association
444 or other organization to which express authorization for the operation of said vehicles on such property
445 has been granted; provided, however, that such operation shall be consistent with the express
446 authorization so granted and any restrictions imposed therewith; or (c) the owner or lessee of such
447 property has designated the area for use by said vehicles by posting reasonable notice of such
448 designation in a manner approved by the director.

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

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

455 Section 26C. No one shall carry a firearm, rifle or shotgun in or on a snow vehicle or a recreation vehicle
456 or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is unloaded and in an
457 enclosed case, unless he is a law enforcement officer or other person authorized to carry arms as
458 specifically described in section 32, or a paraplegic as provided in section 65 of chapter 131.

459 Section 26D. (a) No person under 16 ½ years of age shall operate a snow vehicle or a recreation vehicle
460 across or on a public highway. No person under 14 years of age shall operate a snow vehicle or a
461 recreation vehicle unless directly supervised by an adult that is 18 years of age or older. For the
462 purposes of this section, direct supervision shall mean that the supervising adult shall be at all times
463 sufficiently close to the supervised person, such that a reasonable person under the totality of the

464 circumstances including, but not limited to, vehicle and ambient noise, the landscape and geography of
465 the location, and the operator's wearing of protective headgear, with or without the use of an operator
466 communications system associated with the headgear, would believe that he is maintaining visual
467 contact and is able to communicate visually or orally with the operator at all times.

468 (b) The director may, after consultation with the state off-highway advisory committee and a public
469 hearing, promulgate regulations that further limit or otherwise address the age at which persons may
470 operate a snow vehicle or a recreation vehicle in the commonwealth or that regulates the size and
471 speed capabilities of said vehicles or other safety related limitations based on the age of the operator.

472 Section 26E. A motor vehicle operator's license or learner's permit shall not be required for the
473 operation of a snow vehicle or a recreation vehicle, except as otherwise provided in section 25 of
474 chapter 90B.

475 Section 26F. All operators of recreation vehicles born after January 1, 1990 shall successfully complete a
476 recreation vehicle safety and responsibility course approved by the director of the office of
477 environmental law enforcement. A parent or the legal guardian of an operator of recreation vehicles
478 under sixteen years of age shall participate in at least 1 session of the safety and responsibility course or
479 as required by the director in his approval of said course. Proof of the successful completion of the
480 recreation vehicle safety and responsibility course shall be carried on the person of the operator while
481 operating a recreation vehicle. Proof of an operator's successful completion of another state's
482 equivalent recreation vehicle safety and responsibility course, as determined by the director, shall be
483 valid in the commonwealth.

484 Section 26G. (a) No owner of a snow vehicle or a recreation vehicle or other person shall authorize a
485 person under 18 years of age to operate said vehicle in violation of the age restrictions in chapter 90B or
486 in regulations promulgated thereunder.

487

488 (b) Any owner of a snow vehicle or a recreation vehicle or other person who authorizes a person under
489 18 years of age to operate a snow vehicle or a recreation vehicle shall be held liable, jointly and
490 severally, with the operator for any violation of applicable laws and regulations, or damage or injuries
491 caused by said minor's operation of the vehicle and for any fines, penalties or restitution resulting
492 therefrom.

493 (c) Any owner of a snow vehicle or a recreation vehicle or other person who authorizes a person 18
494 years of age or older to operate a snow vehicle or a recreation vehicle shall be held liable, jointly and
495 severally, with the operator, for any violation of applicable laws and regulations, or damage or injuries
496 caused by said person's operation of the vehicle and for any fines, penalties or restitution resulting
497 therefrom, provided, however, that the owner or other person authorizing the use of the snow vehicle
498 or recreation vehicle knew or had reason to know that the operator of the vehicle had or would commit
499 the offense or offenses resulting from said operation.

500

501 **SECTION 20.** Section 32 of said chapter 90B is hereby amended by striking the first paragraph and
502 inserting in place thereof the following paragraphs

503 :-

504 The provisions of sections 21 to 34, inclusive, and all the rules and regulations made under the authority
505 thereof shall be enforced by the director, deputy directors of enforcement, chiefs of enforcement,
506 deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of
507 the office of environmental law enforcement, executive office of energy and environmental affairs,
508 police officers, members of the state police, and city and town police officers or employees of the

509 commonwealth having police powers on public lands. Whoever while operating or in charge of any
510 snow or recreation vehicle, other than on property owned by him, refuses to stop such vehicle after
511 being requested or signaled to do so by any such officer, or whoever refuses to give his true and correct
512 name and address or refuses to display the certificate of number of such vehicle or refuses to provide or
513 display other required vehicle identification information and surrender to such officer for examination
514 shall be punished by a fine of not less than \$100 nor more than \$250. Such officers may, in the
515 performance of their duty, enter upon and pass through or over private lands or property.

516 Any officer authorized to make arrests may arrest without a warrant and keep in custody for not more
517 than 24 hours, unless a Saturday, Sunday or a legal holiday intervenes, any person who violates the
518 provisions of this section. Any arrest made pursuant to this section shall be deemed an arrest for the
519 criminal offense or offenses involved and not for any civil infraction arising out of the same incident.

520

521 **SECTION 21.** Section 34 of Chapter 90B is hereby amended by striking the section in its entirety and
522 inserting in place thereof the following:-

523 Section 34. Whoever violates any provision of sections 21 to 24, inclusive, or any rule or regulation
524 made thereunder, shall be punished by a fine of not less than \$100 nor more than \$250.

525 Whoever violates any provision of sections 21 to 24, inclusive, or any rule or regulation made
526 thereunder more than once within 24 months shall be punished by a fine of not less than \$250 dollars
527 nor more than \$500 or imprisonment for not less than 30 days nor more than 1 year, or both such fine
528 and imprisonment.

529 Whoever violates any provision of section 25 or section 26 A to 26G or section 27, inclusive, or of any
530 rule or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than

531 \$250, or by a fine of not less than \$250 nor more than \$1,000 or imprisonment for not less than 60 days
532 nor more than 1 year or both such fine and imprisonment.

533

534 **SECTION 22.** Section 35 of Chapter 90B is hereby amended by striking the section in its entirety and
535 inserting in place thereof the following section:-

536 Section 35. All fees collected by the commonwealth pursuant to sections 21 to 32, inclusive, shall be
537 credited to the Off Highway Program Fund established pursuant to section 18C of chapter 21A.

538

539

540 **SECTION 23.** Section 121A of chapter 266 of the General Laws, as appearing in the 2006 Official Edition,
541 is hereby amended by inserting, in line 6, after the word “dollars” the following words:-

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

543 **SECTION 24.** Section 121A of said chapter 266 is hereby further amended by inserting, after the first
544 paragraph, the following sentences:-

545 Whoever, without right, enters upon the land of another, whether said land is publicly or privately
546 owned and whether or not such land is posted against trespass, and in so entering makes use of or has
547 in his immediate possession or control any motor vehicle, as defined in chapter 90, shall be punished by
548 a fine of not less \$250 nor more than \$500, or by a fine of not less than \$250 nor more than \$1,000 or
549 imprisonment for not less than 60 days nor more than one year or both such fine and imprisonment,
550 and restitution to the property owner for any damages resulting from the trespass. If the property is not
551 posted against trespass or is not posted with ownership information, no fine or penalty shall be imposed

552 for a trespass by a snow vehicle on said property or on trails located therein, provided trespass is
553 unintentional.

554

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

560

561 **SECTION 25.** The requirement in Section 7 that a snow vehicle or a recreation vehicle must be
562 registered in accordance with chapter 90B even if such vehicles are operated exclusively on land owned
563 by the owner of such vehicle shall take effect as of May 1, 2009; provided, however, that no penalty
564 shall be assessed for such violation of section 21 of chapter 90B on or before September 1, 2009.

565 **SECTION 26.** The requirement in sections 7 and 8 that the owner of a snow vehicle or a recreation
566 vehicle purchased in Massachusetts but used exclusively outside of the state or used exclusively for
567 agriculture, forestry, lumbering or construction purposes must file a certificate of exemption in
568 accordance with chapter 90B shall take effect as of May 1, 2009; provided, however, that no penalty
569 shall be assessed for such violation of sections 21 and 22 of chapter 90B on or before September 1,
570 2009.

571

572 **SECTION 27.** Section 26F of chapter 90B shall take effect on May 1, 2009; provided, however, that no
573 penalty shall be assessed for such violation of section 26F of chapter 90B on or before September 1,
574 2009.