

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Baddour

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

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

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Steven A. Baddour	First Essex
Viriato Manuel deMacedo	1st Plymouth
Matthew C. Patrick	3rd Barnstable
Thomas J. Calter	12th Plymouth
Thomas P. Kennedy	Second Plymouth and Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO REGULATE THE USE OF OFF HIGHWAY AND RECREATION VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** Section 10H of chapter 21A of the General 1 Laws, as appearing in
2 the
3 2006 Official Edition, is hereby amended by inserting after the third paragraph the
4 following paragraph:-

5 A person notified to appear before the clerk of a district court as provided in
6 section 10G for a violation of sections 21 to 24, inclusive, of said chapter 90B may so
7 appear within the time specified and pay a fine of \$250 dollars.
8

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

12 Section 11. There is hereby established within the office of law enforcement an
13 advisory board to be designated as the boating safety advisory board. The board shall
14 consist of 5 members to be appointed by the governor, 2 of whom shall be
15 representative of the boating public each of whom shall hold a certificate of number
16 issued pursuant to section 3 of chapter 90B, 1 of whom may represent the
17 harbormaster's association and 2 members shall represent the recreational boating
18 business, 1 of whom shall operate a boat dealership. Each member shall serve for a
19 term of 3 years. The chairman of the board shall be appointed, from the 5 members,
20 annually by the governor, and in the absence of same shall be designated by the
21 director. Board members shall be appointed or reappointed for terms of 3 years.
22

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

28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73

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

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

Section 18B. There is hereby established within the executive office of energy and environmental affairs a state off highway vehicle advisory committee. The committee shall advise the secretary and the department of conservation and recreation, the department of fish and game, the department of environmental protection, and the office of environmental law enforcement within said executive office on matters involving the commonwealth's regulation of off highway vehicles, including the development and enforcement of state regulations and policies, safety and training programs, and the distribution of available state funding. The secretary shall appoint the members of the committee, which shall consist of 13 members. Of the committee members, 3 shall be representatives of off highway vehicle users, 1 of which shall be a representative of the New England Trail Riders Association; 1 shall be a representative of the off highway vehicle manufacturers and dealers; 1 shall be a representative of the department of public health; 1 shall be a representative of child safety advocates associated with the safe use of off highway vehicles; 1 shall be a representative of The Snowmobile Association of Massachusetts; 2 shall be representatives of a nonprofit organization that owns and manages land open to the public; 1 shall be a representative of an association or organization of large private land owners; and 2 shall be representatives of state or local law enforcement authorities. Members shall serve without compensation. Members shall be appointed for a term of 3 years, except that initially 4 members shall be appointed for 1 year and 4 members shall be appointed for 2 years.

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

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

74 monies authorized by the general court and specifically designated to be credited to the
75 fund, any appropriation or grant explicitly made to the fund, and any income derived
76 from the investment of amounts credited to the fund.

77
78 (2) All amounts credited to the fund may be expended, without further appropriation, by
79 the executive office of energy and environmental affairs and its office of environmental
80 law enforcement, the department of conservation and recreation, the department of fish
81 and game, and the department of environmental protection for any of the following
82 purposes: (a) the enforcement of statutes, regulations and policies applicable to off
83 highway vehicles; (b) the acquisition of land for use as commonwealth approved trails
84 and facilities for off highway vehicles or for the development, maintenance, repair or
85 restoration of commonwealth approved trails and facilities;
86 (c) for grants made by the department of conservation and recreation to municipalities
87 and other public entities for the purposes of clauses (a) and (b); (d) the development
88 and administration of safety, training, and education programs; and (e) for other off
89 highway program activities, including all direct and indirect costs of personnel or
90 contractors of the executive office and its office of environmental law enforcement
91 and departments.

92
93 (3) Monies deposited into the fund that are unexpended at the end of the fiscal
94 year shall not revert to the General Fund and shall be available for expenditure in the
95 subsequent fiscal year.

96
97 **SECTION 4.** Section 20 of chapter 90B of the General Laws, as so appearing, is hereby
98 amended by striking out the definition of “Law enforcement officer” and inserting in
99 place thereof the following 2 definitions:-

100
101 “All terrain vehicle”, a motorized recreational vehicle designed or modified for travel on
102 4 low pressure tires having a seat designed to be straddled by the operator and
103 handlebars for steering control.

104
105 “Law enforcement officer”, the director, a deputy director of enforcement, a chief of
106 enforcement, a deputy chief of enforcement, an environmental police officer and a
107 deputy, environmental police officer of the office of environmental law enforcement
108 within the executive office of energy and environmental affairs, the registrar or an
109 authorized agent thereof , a police officer, a member of the state police, a city or town
110 police officer or an employee of the commonwealth having police powers on public
111 lands.

112
113 **SECTION 5** Said section 20 of said chapter 90B, as so appearing, is hereby further
114 amended by striking out the definition of “Recreation vehicle” and inserting in place
115 thereof, the following 2 definitions:-

116
117 “Recreation vehicle”, “off highway vehicle” or “off road vehicle”, any motor vehicle
118 designed or modified for use over unimproved terrain for recreation or pleasure while
119 not being operated on a public way as defined in chapter 90, including but not limited to,

120 all terrain vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility
121 vehicles and all legally registered motor vehicles while not being operated on a public
122 way as defined in said chapter 90, but recreation vehicles, off highway vehicles and off
123 road vehicles that are being operated exclusively for agricultural, forestry, lumbering or
124 construction purposes shall not be subject to this chapter and it shall be an affirmative
125 defense that such vehicle was being operated for such use at the time of an alleged
126 violation.

127

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

133

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

136

137 Section 21. No person born after January 1, 1990 shall operate a recreation vehicle
138 unless he has successfully completed a recreation vehicle safety and responsibility
139 course approved by the director of the office of environmental law enforcement. Such
140 course shall include, but not be limited to, notification of the potential criminal penalties
141 and forfeiture process for certain violations of law relative to the safe operation of snow
142 vehicles and recreation vehicles. A parent or the legal guardian of an operator of
143 recreation vehicles under 16 years of age shall participate in at least 1 session of the
144 safety and responsibility course or as required by the director. Proof of the successful
145 completion of the recreation vehicle safety and responsibility course shall be carried on
146 the person of the operator while operating a recreation vehicle. Proof of an operator’s
147 successful completion of another state’s equivalent recreation vehicle safety and
148 responsibility course, as determined by the director, shall be valid in the commonwealth.

149

150 **SECTION 7.** Section 22 of said chapter 90B, as so appearing, is hereby amended by
151 striking out the first sentence and inserting in place thereof the following words:- No
152 person shall operate a snow vehicle or a recreation vehicle unless such vehicle has
153 been registered in accordance with this chapter and such registration number is
154 displayed on such vehicle. A motor vehicle license or learner’s permit shall not be
155 required for the operation of a snow vehicle or a recreation vehicle.

156

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

162

163 **SECTION 7A.** Said section 22 of said chapter 90B, as so appearing, is hereby further
164 amended by striking out the third paragraph and inserting in place thereof the following
165 2 paragraphs:-

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

173
174 In the case of a vehicle to be used exclusively for agricultural, forestry, lumbering
175 or construction purposes, the owner of such vehicle may apply for an exemption from
176 the registration fee. The application for exemption shall be on a form prescribed by the
177 director of the division of law enforcement in the executive office of energy and
178 environmental affairs. If the director is satisfied that the vehicle for which a fee
179 exemption is sought is to be used exclusively for agricultural, forestry, lumbering or
180 construction purposes, he shall grant the application and the owner of such vehicle shall
181 be exempt from the registration fee for such vehicle. If the vehicle ceases to be used
182 exclusively for agricultural, forestry, lumbering or construction purposes, the owner
183 thereof shall no longer be exempt from paying such registration fee and may be
184 required to pay a portion thereof. A new application for a fee exemption shall be
185 required for further fee exemption upon registration renewal. An application
186 for fee exemption granted pursuant to this section shall not be admissible nor relevant
187 at trial on the question of whether such vehicle was being operated for agricultural,
188 forestry, lumbering or construction purposes at the time of an alleged violation of this
189 chapter.

190
191 **SECTION 8.** Section 24 of said chapter 90B, as so appearing, is hereby amended by
192 striking out the second and third paragraphs and inserting in place thereof the following
193 2 paragraphs:-

194
195 No snow vehicle and no recreation vehicle shall be operated which emits obnoxious
196 fumes or which makes an unusual or excessive noise. No snow vehicle or recreation
197 vehicle manufactured after January 1, 1998 shall be sold, offered for sale, or operated
198 that produces a sound pressure level of more than 96 dbA when measured from a
199 distance of 20 inches using test procedures established by the Society of
200 Automotive Engineers under Standard J1287 JUL98 or with such other test procedure
201 for measurement of sound pressure levels as the registrar of motor vehicles may adopt.
202 No snow vehicle or recreation vehicle manufactured prior to January 1, 1998 shall be
203 offered for sale or operated that produces a sound pressure level of more than 101 dbA
204 when measured from a distance of 20 inches using test procedures established by the
205 Society of Automotive Engineers under Standard J1287 JUL98 or with such other test
206 procedure for measurement of sound pressure levels as the registrar of motor vehicles
207 may adopt.

208
209 No owner or operator of a snow vehicle or a recreation vehicle involved in a
210 collision, accident or other such casualty resulting in death or injury to a person or
211 damage to property in excess of \$50 shall fail to notify a law enforcement officer

212 immediately and file a report of the incident with the division within 48 hours, on forms
213 prescribed by the director.

214
215 **SECTION 9.** Said chapter 90B is hereby further amended by inserting after section 24
216 the following section:-

217
218 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule
219 or regulation made thereunder, shall be punished by a fine of not less than \$250 nor
220 more than \$500.

221
222 **SECTION 10.** Section 25 of said chapter 90B, as so appearing, is hereby amended by
223 striking out the third paragraph and inserting in place thereof the following 2
224 paragraphs:-

225
226 No person under 16 1/2 years of age shall operate a snow vehicle or a recreation
227 vehicle across or on a public way unless the operator holds a valid license or right to
228 operate a motor vehicle or is directly supervised, as defined in section 26D, by a person
229 18 years of age or older. An operator of a snow vehicle or a recreation vehicle that
230 meets the requirements of the preceding paragraph may, after coming to a full stop,
231 cross, as directly as possible, a public way, except a controlled access highway, and
232 except that for recreation vehicles, the public way and crossing must be marked and
233 approved for use by recreation vehicles by the applicable state or local authorities as
234 part of a publicly or privately authorized recreation vehicle trail system and a recreation
235 vehicle operator shall make the crossing safely and without interfering with the free
236 movement of vehicular traffic. The operator of a snow vehicle or a recreation vehicle
237 shall yield the right of way to all other vehicular traffic when making such crossing.

238
239 **SECTION 11.** Said section 25 of said chapter 90B, as so appearing, is hereby further
240 amended by inserting after the words "snow vehicle", in lines 29, 29 and 30, 32, 33 and
241 34, each time they appear, the following words:- or a recreation vehicle.

242
243 **SECTION 12.** Said chapter 90B is hereby further amended by inserting after section 25
244 the following 14 sections:-

245
246 Section 25A. No person shall operate or ride in or on a recreation vehicle or a snow
247 vehicle, or a sled attached thereto, without wearing protective headgear. Such
248 headgear shall conform to such minimum standards for construction and performance
249 as the registrar of motor vehicles may prescribe.

250
251 Section 25B. No person under 14 years of age shall operate an all terrain vehicle or
252 recreation utility vehicle. This section shall not apply to any person under 14 years of
253 age operating a recreation vehicle or snow vehicle in a sanctioned race, rally or
254 organized event which is supervised by a person aged 18 or older and has been
255 authorized or approved by a municipal permitting authority. It shall be an affirmative
256 defense to this paragraph that such person was operating such vehicle in preparation

257 for such a sanctioned event if: such person was so operating such a vehicle while under
258 direct supervision, as defined by section 25C, by a person aged 18 or older;
259 the operation occurred 14 days before such sanctioned event; and the operator was a
260 registered participant therein or did in fact participate therein.

261
262 Section 25C. No person between the age of 14 years of age and 16 years of age shall
263 operate an all terrain vehicle or recreation utility vehicle with an engine capacity greater
264 than 90 cubic centimeters unless directly supervised by an adult that is 18 years of age
265 or older. For the purposes of this section, "direct supervision" shall mean that the
266 supervising adult shall be sufficiently close to an operator at all times that the vehicle is
267 in operation, such that a reasonable person under the totality of the circumstances
268 including, but not limited to, vehicle and ambient noise, the landscape, topography and
269 geography of the location, and the operator's wearing of protective headgear, would
270 reasonably believe that he is maintaining visual contact and verbal communication with
271 the operator.

272
273 Section 25D. No owner of a snow vehicle or a recreation vehicle or other person 18
274 years of age or older shall knowingly permit a person under 18 years of age to operate
275 a snow vehicle or a recreation vehicle in violation of this chapter.

276
277 Section 25E. No prosecution commenced pursuant to said section 25 to 27E, inclusive
278 shall be continued without a finding.

279
280 Section 25F. Whoever violates section 25 to 25E, inclusive, or section 26B shall be
281 punished, for a first offense, by a fine of \$250 and for a second or subsequent offense
282 by a fine of not less than \$500 nor more than \$2,500 and the snow vehicle or recreation
283 vehicle in use at the time of such second or subsequent offense shall be subject to
284 forfeiture under section 26J.

285
286 Section 25G. No person shall operate a snow vehicle or a recreation 235 vehicle on
287 privately owned property unless: (a) the operator is the owner or lessee or immediate
288 family member of the owner or lessee of such property; (b) the operator has in his
289 possession either a document, signed by the owner or lessee of such property or his
290 agent, authorizing the operation of a said vehicle on such property by the operator or
291 valid proof of current membership in a club, association or other organization to which
292 express authorization for the operation of such vehicles on such property has been
293 granted; provided, however, that such operation shall be consistent with the express
294 authorization so granted and any restrictions imposed therewith; or (c) the owner or
295 lessee of such property has designated the area for use by such vehicles by posting
296 reasonable notice of such designation in a manner approved by the director.

297
298 Section 25H. No person shall operate a snow vehicle or a recreation vehicle in a
299 manner that harasses or otherwise harms deer or other wildlife. No person shall operate
300 a snow vehicle or a recreation vehicle in a reforested or planted area in a manner that
301 causes damage to growing stock. No person shall operate a snow vehicle or a
302 recreation vehicle in a manner that causes damage to public or private property

303 including, but not limited to, lands owned or managed by the department of
304 conservation and recreation or the division of fisheries and wildlife, wetlands or other
305 waters of the commonwealth, priority habitats delineated as such by the division of
306 fisheries and wildlife pursuant to chapter 131A, lands used for public water supply
307 purposes or historic or archaeological sites.
308

309 Section 25I. No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or
310 a recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or
311 shotgun is unloaded and in an enclosed case. This subsection shall not apply to a law
312 enforcement officer or other person authorized to carry arms as specifically described
313 in section 32, or a paraplegic as provided in section 65 of chapter 131.
314

315 Section 25J. No person shall collide with or otherwise cause injury to any other snow
316 vehicle or recreation vehicle or property of another.
317

318 Section 25K. No person shall operate a snow vehicle or recreation vehicle after the
319 registration therefore has been suspended or revoked.
320

321 Section 25L. No person shall use a snow vehicle or a recreation vehicle without
322 authority, knowing that such use is unauthorized.
323

324 Section 25M. A summons may be issued instead of a warrant for arrest upon a
325 complaint for a violation of any provision of this chapter if, in the judgment of the court or
326 justice receiving the complaint, there is reason to believe that the defendant will appear
327 upon a summons.
328

329 Section 25N. Whoever violates sections 25F to 25L, inclusive, shall be punished by a
330 fine of not less than \$250 nor more than \$1,000 or by imprisonment in the house of
331 correction or by both such fine and imprisonment.
332

333 **SECTION 13.** Said chapter 90B, as so appearing, is hereby amended by striking out
334 section 26 and inserting in place thereof the following 13 sections:-
335

336 Section 26. Whoever operates a snow vehicle or a recreation vehicle recklessly, or
337 operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of
338 the public might be endangered shall be punished by imprisonment in the house of
339 correction or a by a fine of not more than \$200, or by both such fine and imprisonment.
340

341 Section 26A. Whoever operates a snow vehicle or a recreation vehicle and, without
342 stopping and making known his name, residence and the registration number of his
343 snow vehicle or recreation vehicle, goes away after knowingly colliding with or otherwise
344 causing injury to any other snow vehicle or recreation vehicle or property; provided that
345 the injury to property exceeds \$500 in damage, shall be punished by a fine of not less
346 than \$250 nor more than \$1,000 or by imprisonment or by both such fine and
347 imprisonment.
348

349 Section 26B. No person operating or in control of a snow vehicle or recreation vehicle
350 shall refuse to stop such vehicle after having been requested or signaled to do so by a
351 law enforcement officer. No such person shall refuse to give his true and correct name,
352 address and registration number to such officer.
353

354 Section 26C. A summons may be issued instead of a warrant for arrest upon a
355 complaint for a violation of any provision of this section if in the judgment of the court or
356 justice receiving the complaint there is reason to believe that the defendant will appear
357 upon a summons
358

359 Section 26D. Whoever operates a snow vehicle or a recreation vehicle and, without
360 stopping and making known his name, residence and the registration number of his
361 snow vehicle or recreation vehicle, goes away after knowingly colliding with or otherwise
362 causing injury to any person shall be punished by a fine of not less than \$500 but not
363 more than \$1,000 and imprisonment in the house of correction or imprisonment in the
364 state prison.
365

366 Section 26E. Whoever operates a snow vehicle or a recreation vehicle recklessly or
367 negligently so that the lives or safety of the public might be endangered, and by any
368 such operation causes serious bodily injury, shall be punished by imprisonment in the
369 house of correction or in the state prison and by a fine of not more than \$5,000, or by
370 both such fine and imprisonment. For the purposes of this section "serious bodily injury"
371 shall mean bodily injury which creates a substantial risk of death or which involves
372 either total disability or the loss or substantial impairment of some bodily function for a
373 substantial period of time.
374

375 Section 26F. Whoever operates a snow vehicle or a recreation vehicle recklessly, or
376 negligently so that the lives or safety of the public might be endangered, and by any
377 such operation causes the death of another person, shall be punished by imprisonment
378 in a the house of correction or by a fine of not less than \$300 not more than \$5,000 or
379 imprisonment in the state prison and a fine of \$5,000, or by both such fine and
380 imprisonment.
381

382 Section 26G. Notwithstanding section 28, upon conviction of, or adjudication of
383 delinquency by reason of a violation of sections 26D to 26F, inclusive, the registrar shall
384 immediately suspend the operator's license or right to operate a motor vehicle and the
385 director shall revoke the registration of any snow vehicle or recreation vehicle issued to
386 such person. The registrar, after having suspended or revoked the license or right to
387 operate of any person pursuant to this section, shall issue a new license or reinstate the
388 right to operate and the director shall issue a new registration number, if the prosecution
389 or adjudication of such person is terminated in favor of the defendant or juvenile. The
390 registrar may, after an investigation or upon hearing, issue a new license or reinstate
391 the right to operate and the director may issue a new snow vehicle or recreation vehicle
392 registration number to a person so convicted or adjudicated of said sections 26D to 26F,
393 inclusive; provided, that no such license, right to operate or registration shall be issued
394 or reinstated by the registrar or director to any person so convicted or adjudicated

395 delinquent by reason of said sections 26D or 26E until 1 year after the date of
396 suspension or revocation following his original conviction or adjudication if for a first
397 offense or until 2 years after the date of suspension or revocation following any
398 subsequent conviction or adjudication, or to any person convicted of or adjudicated
399 delinquent by reason of section 26F until 5 years after the date of suspension or
400 revocation following his original conviction or adjudication if for a first offense or until 15
401 years after the date of suspension or revocation following any subsequent conviction or
402 adjudication; provided, however, that a person whose license or right to operate was
403 suspended due to an adjudication or conviction of 26D may, after the expiration of 3
404 months from the date of conviction, apply for and shall be granted a hearing before the
405 registrar for the purpose of requesting the issuance of a new license for employment or
406 educational purposes, which license shall be effective for not more than an identical 12-
407 hour period every day on the grounds of hardship and a showing by the person that the
408 causes of the present and past violations have been dealt with or brought under control,
409 and the registrar may, in his discretion, issue such license under such terms and
410 conditions as he deems appropriate and necessary; and provided, further, that such
411 person may, after the expiration of 6 months from the date of conviction, apply for and
412 shall be granted a hearing before the registrar for the purpose of requesting the
413 issuance of a new license on a limited basis on the grounds of hardship and a showing
414 by the person that the causes of the present and past violations have been dealt with or
415 brought under control and the registrar may, in his discretion, issue such a license
416 under such terms and conditions as he deems appropriate and necessary.

417
418 If the person so convicted or adjudicated is under 17 at the time of such conviction or
419 adjudication and has not been issued a license or right to operate or a snow vehicle or
420 recreation vehicle registration number, neither the registrar nor director shall issue such
421 license or right to operate a motor vehicle or a snow or recreation vehicle registration
422 until the time periods provided in the previous paragraph have passed and such time
423 period shall not commence to run until such person reaches 16 years of age for
424 purposes of issuance of a right to operate a motor vehicle and 16 ½ for purposes of
425 issuance of a license to operate a motor vehicle.

426
427 Section 26H. (a) Whoever, being 21 years of age or older, operates a snow vehicle or
428 recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .08 or
429 greater, as determined in accordance with section 24 of chapter 90; or (2) while under
430 the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or
431 stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue, shall
432 be punished by a fine of not less than \$500 and not more than \$5,000 or by
433 imprisonment in the house of correction, or by both such fine and imprisonment.

434
435 Section 26I. Whoever, being under 21 years of age, operates a snow vehicle or
436 recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or
437 greater, as determined in accordance with section 24 of chapter 90; or (2) or while
438 under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or
439 stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue shall,

440 for a first offense, be punished by a fine of not less than \$500 and not more than \$5,000
441 or by imprisonment in the house of correction, or by both such fine and imprisonment .
442

443 Section 26J. No prosecution or delinquency proceeding commenced pursuant to
444 sections 26D to 26H, inclusive, shall be placed on file or continued without a finding.
445

446 Section 26K. Notwithstanding section 28, upon conviction of or adjudication of
447 delinquency by reason of a violation of section 26H or 26I, the registrar shall
448 immediately suspend the operator's license or right to operate a motor vehicle and the
449 director shall revoke the registration of any snow vehicle or recreation vehicle issued to
450 such person. The registrar, after having suspended or revoked the license or right to
451 operate of any person under this section, shall issue a new license or reinstate the right
452 to operate and the director shall issue a new registration number, if the prosecution or
453 adjudication of such person is terminated in favor of the defendant or juvenile. The
454 registrar may, after an investigation or upon hearing, issue a new license or reinstate
455 the right to operate and the director may issue a new snow vehicle or recreation vehicle
456 registration number to a person so convicted or adjudicated of said sections 26H or 26I;
457 provided, that no such license, right to operate or registration shall be issued by the
458 registrar or director to any person so convicted or adjudicated delinquent by reason of
459 said section 26H until 1 year after the date of suspension or revocation following his
460 original conviction or adjudication if for a first offense or until 2 years after the date of
461 revocation following any subsequent conviction or adjudication, or to any person
462 convicted of or adjudicated delinquent by reason of said section 26I until 2 years after
463 the date of revocation following his original conviction or adjudication if for a first offense
464 or until 3 years after the date of revocation following any subsequent conviction or
465 adjudication; provided, however, that a person whose license or right to operate was
466 suspended due to an adjudication or conviction of 26H may, after the expiration of 3
467 months from the date of conviction, apply for and shall be granted a hearing before the
468 registrar for the purpose of requesting the issuance of a new license for employment or
469 educational purposes, which license shall be effective for not more than an identical 12-
470 hour period every day on the grounds of hardship and a showing by the person that the
471 causes of the present and past violations have been dealt with or brought under control,
472 and the registrar may, in his discretion, issue such license under such terms and
473 conditions as he deems appropriate and necessary; and provided further, that such
474 person may, after the expiration of 6 months from the date of conviction,
475 apply for and shall be granted a hearing before the registrar for the purpose of
476 requesting the issuance of a new license on a limited basis on the grounds of hardship
477 and a showing by the person that the causes of the present and past violations have
478 been dealt with or brought under control and the registrar may, in his discretion, issue
479 such a license under such terms and conditions as he deems appropriate and
480 necessary.
481

482 If the person so convicted or adjudicated is under 17 at the time of such conviction or
483 adjudication and has not been issued a license or right to operate or a snow vehicle or
484 recreation vehicle registration number, the registrar nor director shall issue such license
485 or right to operate a motor vehicle or a snow or recreation vehicle registration until the

486 time periods provided in the previous paragraph have passed but such time period shall
487 not commence to run until such person reaches 16 years of age for purposes of
488 issuance of a right to operate a motor vehicle and 16 ½ for purposes of issuance of a
489 license to operate a motor vehicle.

490

491 Section 26L. (a) Upon a conviction for a violation or adjudication of section 25 or
492 sections 26B to 26F, inclusive, or upon a second or subsequent conviction or
493 adjudication of section 25 to 25D, or any combination thereof, a snow vehicle or
494 recreation vehicle used in the commission of such violation or violations shall be subject
495 to forfeiture.

496

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

506

507 (c) The court shall order the commonwealth to give notice by certified or registered
508 mail to the owners of the a snow vehicle or recreation vehicle and to such other persons
509 or entities who appear to have an interest therein, and the court shall promptly, but not
510 less than 2 weeks after notice, hold a hearing on the petition. Upon the motion of an
511 owner of the snow vehicle or recreation vehicle, the court may continue the hearing on
512 the petition pending the outcome of a criminal trial related to the violation. During the
513 pendency of the proceedings, the court may issue at the request of the commonwealth
514 ex parte any preliminary order or process as is necessary to seize or secure the
515 property for which forfeiture is sought and to provide for its custody. Process for seizure
516 of the property shall issue only upon a showing of probable cause, and the application
517 therefore and the issuance, execution and return thereof shall be subject to chapter
518 276, as applicable.

519

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

530

531 (e) The final order of the court shall provide that the proceeds of any such sale shall be
532 used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage,
533 maintenance of custody, advertising and notice, and 75 per cent of the balance of any
534 proceeds shall be deposited into the Off Highway Vehicle Program Fund, established by
535 section 18C of chapter 21A and the remaining 25 per cent shall be distributed equally
536 among the division, departments or offices involved in the seizure or to the division,
537 department or office if a single law enforcement entity was involved. If more than 1
538 division, department or office was substantially involved in the seizure, the court having
539 jurisdiction over the forfeiture proceeding shall distribute the 25 per cent equitably
540 among them.

541
542 (f) Any moneys and proceeds received by a division, department or office pursuant to
543 this section may be expended without further appropriation to defray the costs of
544 investigations, to provide additional technical equipment or expertise, to provide
545 matching funds to obtain federal grants, or to accomplish such other law enforcement,
546 environmental or public recreational purposes as the head of such division, department
547 or office deems appropriate, but such funds shall not be considered a source of revenue
548 to meet the operating needs of such division, department or office.

549
550 **SECTION 14.** Said chapter 90B is hereby further amended by striking out section 27
551 and inserting in place thereof the following section:-
552

553 Section 27. (a) Any owner of a snow vehicle or a recreation vehicle or other person
554 who permits a person under 18 years of age to operate a snow vehicle or a recreation
555 vehicle shall be held liable, jointly and severally, with the operator for any damage or
556 injuries caused by such minor's operation of the vehicle and for any fines, penalties or
557 restitution resulting therefrom.

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

563
564 **SECTION 15.** The first paragraph of section 32 of said chapter 90B, as so appearing, is
565 hereby amended by striking out the first 2 sentences and inserting in place thereof, the
566 following sentence:-

567 The provisions of sections 21 to 34, inclusive, and all the rules and regulations made
568 under the authority thereof shall be enforced by the director, deputy directors of
569 enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police
570 officers and deputy environmental police officers of the office of environmental law
571 enforcement, executive office of energy and environmental affairs, park rangers of the
572 department of conservation and recreation, registrar or his authorized agents, police
573 officers, members of the state police, and city and town police officers or employees of
574 the commonwealth having police powers on public lands; provided that any
575 investigation, arrest or decision to seek application for complaint relative to a violation of
576 sections 26B to 26F, inclusive, shall be executed by a law enforcement officer who has

577 successfully completed minimum training requirements for the enforcement of such
578 sections as determined by the secretary of public safety and security.

579
580 **SECTION 16.** Said chapter 90B is hereby further amended by striking out section 34
581 and inserting in place thereof the following section:

582 Section 34. Of the fees collected by the commonwealth pursuant to the violation
583 of the fourth paragraph of section 10H of chapter 21A and sections 21 to 32, inclusive,
584 75 per cent of the fees shall be deposited into the Off Highway Vehicle Program Fund,
585 established by section 18C of said chapter 21A and the remaining 25 per cent shall be
586 distributed equally among the divisions, departments or offices involved in the
587 enforcements of the statutes which resulted in the assessment of such fees or
588 penalties.

589
590 **SECTION 17.** Said chapter 90B, as so appearing, is hereby amended by striking out
591 section 35.

592
593 **SECTION 18.** The first sentence of section 121A of chapter 266 of the General Laws,
594 as so appearing, is hereby amended by striking out the words “two hundred and fifty
595 dollars” and inserting in place thereof the following figure:- \$ 500.

596
597 **SECTION 19.** The director of the division of law enforcement in the executive office
598 of energy and environmental affairs shall, within 180 days of the effective date of this
599 act amend regulations of such division that are inconsistent with this act.

600
601 **SECTION 19A.** The director of the division of law enforcement in the executive office
602 of energy and environmental affairs shall, within 90 days of the effective date of this act,
603 prescribe forms for application for registration fee exemption for vehicles used
604 exclusively for agricultural, forestry, lumbering or construction purposes under section
605 22 of chapter 90B of the General Laws.

606
607 **SECTION 20.** The director of the division of law enforcement in the executive office
608 of energy and environmental affairs may, after consultation with the state off highway
609 advisory committee and a public hearing, promulgate regulations consistent with this
610 chapter including, but not limited to, increasing the age at which persons may operate
611 an all terrain vehicle or regulating the engine size and speed capabilities of such based
612 on the age of the operator.

613
614 **SECTION 21.** The secretary of public safety and security shall, within 90 days of the
615 effective date of this act, adopt minimum training requirements for a law enforcement
616 officer, as required by section 32 of chapter 90B of the General Laws.

617
618 **SECTION 22 .** Section 7 shall take effect six months after passage of this bill; provided
619 however, that no penalty shall be assessed for violation of section 22 of chapter 90B of
620 the General Laws until 9 months after passage of this bill.

621
622 **SECTION 23.** The prohibition in section 26A and 26D of chapter 90B of the General

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