

**SENATE . . . . . No. 366**

**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
William N. Brownsberger	24th Middlesex
Michael O. Moore	Second Worcester
Paul J. Donato	35th Middlesex
Michael A. Costello	1st Essex
James H. Fagan	3rd Bristol
John V. Fernandes	10th Worcester
Kay Khan	11th Middlesex
Barbara A. L'Italien	18th Essex
Sarah K. Peake	4th Barnstable
Denise Provost	27th Middlesex
Hasan B. Alam, MD	State Chair, Massachusetts Chapter of the Committee on Trauma of the American College of Surgeons
Charles Cassidy, MD	President,

	Massachusetts Orthopedic Association
Stuart Weinstein, MD	Past President, American Association of Orthopaedic Surgeons
Carole E. Allen, MD., FAAP	President, Massachusetts Chapter, American Academy of Pediatrics
Barry R. Jacobs, MD	President, Massachusetts Society of Otolaryngology - Head and Neck Surgery, Inc.
Mariann Manno, MD	Co-Director Injury Free Coalition of Kids of Worcester
Micahel P. Hirsh, MD	Chief - Division of Pediatric Surgery Level 1 Pediatric Trauma Center at the University of Massachusetts Memorial Childrens' Medical Center
Desmond H. Birkett, MD, FACS	President, Massachusetts Chapter of the American College of Surgeons
Garrett J. Bradley	3rd Plymouth
Michael F. Rush	10th Suffolk
Jay R. Kaufman	15th Middlesex
Thomas P. Conroy	13th Middlesex
Geraldine Creedon	11th Plymouth
John H. Rogers	12th Norfolk
Cory Atkins	14th Middlesex

# 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 the  
2 2006 Official Edition, is hereby amended by inserting after the third paragraph the following  
3 paragraph:-

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

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

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

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

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

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

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

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

49 except that initially 4 members shall be appointed for 1 year and 4 members shall be appointed  
50 for 2 years.

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

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

63 (2) All amounts credited to the fund may be expended, without further appropriation, by  
64 the executive office of energy and environmental affairs and its office of environmental law  
65 enforcement, the department of conservation and recreation, the department of fish and game,  
66 and the department of environmental protection for any of the following purposes: (a) the  
67 enforcement of statutes, regulations and policies applicable to off highway vehicles; (b) the  
68 acquisition of land for use as commonwealth approved trails and facilities for off highway  
69 vehicles or for the development, maintenance, repair or restoration of commonwealth approved  
70 trails and facilities; (c) for grants made by the department of conservation and recreation to  
71 municipalities and other public entities for the purposes of clauses (a) and (b); (d) the  
72 development and administration of safety, training, and education programs; and (e) for other off  
73 highway program activities, including all direct and indirect costs of personnel or contractors of  
74 the executive office and its office of environmental law enforcement and departments.

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

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

81 “All terrain vehicle”, a motorized recreational vehicle designed or modified for travel on  
82 4 low pressure tires having a seat designed to be straddled by the operator and handlebars for  
83 steering control.

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

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

93 “Recreation vehicle”, “off highway vehicle” or “off road vehicle”, any motor vehicle  
94 designed or modified for use over unimproved terrain for recreation or pleasure while not being  
95 operated on a public way as defined in chapter 90, including but not limited to, all terrain  
96 vehicles, off highway motorcycles, dirt bikes, recreation utility vehicles, utility vehicles and all  
97 legally registered motor vehicles while not being operated on a public way as defined in said  
98 chapter 90, but recreation vehicles, off highway vehicles and off road vehicles that are being  
99 operated exclusively for agricultural, forestry, lumbering or construction purposes shall not be  
100 subject to this chapter and it shall be an affirmative defense that such vehicle was being operated  
101 for such use at the time of an alleged violation.

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

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

109 Section 21. No person born after January 1, 1990 shall operate a recreation vehicle unless  
110 he has successfully completed a recreation vehicle safety and responsibility course approved by  
111 the director of the office of environmental law enforcement. Such course shall include, but not be  
112 limited to, notification of the potential criminal penalties and forfeiture process for certain  
113 violations of law relative to the safe operation of snow vehicles and recreation vehicles. A parent  
114 or the legal guardian of an operator of recreation vehicles under 16 years of age shall participate  
115 in at least 1 session of the safety and responsibility course or as required by the director. Proof of  
116 the successful completion of the recreation vehicle safety and responsibility course shall be  
117 carried on the person of the operator while operating a recreation vehicle. Proof of an operator's  
118 successful completion of another state's equivalent recreation vehicle safety and responsibility  
119 course, as determined by the director, shall be valid in the commonwealth.

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

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

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

133 The fee for initial registration of each such vehicle and for each renewal thereof, other  
134 than vehicles for which application is made by a manufacturer or dealer as hereinafter provided,  
135 shall be determined annually by the commissioner of administration under section 3B of chapter  
136 7, except that no fee shall be collected for the registration of any such vehicle owned by the

137 commonwealth or any political subdivision thereof or a vehicle used exclusively for agricultural,  
138 forestry, lumbering or construction purposes.

139         In the case of a vehicle to be used exclusively for agricultural, forestry, lumbering or  
140 construction purposes, the owner of such vehicle may apply for an exemption from the  
141 registration fee. The application for exemption shall be on a form prescribed by the director of  
142 the division of law enforcement in the executive office of energy and environmental affairs. If  
143 the director is satisfied that the vehicle for which a fee exemption is sought is to be used  
144 exclusively for agricultural, forestry, lumbering or construction purposes, he shall grant the  
145 application and the owner of such vehicle shall be exempt from the registration fee for such  
146 vehicle. If the vehicle ceases to be used exclusively for agricultural, forestry, lumbering or  
147 construction purposes, the owner thereof shall no longer be exempt from paying such registration  
148 fee and may be required to pay a portion thereof. A new application for a fee exemption shall be  
149 required for further fee exemption upon registration renewal. An application for fee exemption  
150 granted pursuant to this section shall not be admissible nor relevant at trial on the question of  
151 whether such vehicle was being operated for agricultural, forestry, lumbering or construction  
152 purposes at the time of an alleged violation of this chapter.

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

156         No snow vehicle and no recreation vehicle shall be operated which emits obnoxious  
157 fumes or which makes an unusual or excessive noise. No snow vehicle or recreation vehicle  
158 manufactured after January 1, 1998 shall be sold, offered for sale, or operated that produces a  
159 sound pressure level of more than 96 dbA when measured from a distance of 20 inches using test  
160 procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or  
161 with such other test procedure for measurement of sound pressure levels as the registrar of motor  
162 vehicles may adopt. No snow vehicle or recreation vehicle manufactured prior to January 1,  
163 1998 shall be offered for sale or operated that produces a sound pressure level of more than 101  
164 dbA when measured from a distance of 20 inches using test procedures established by the  
165 Society of Automotive Engineers under Standard J1287 JUL98 or with such other test procedure  
166 for measurement of sound pressure levels as the registrar of motor vehicles may adopt.



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

171 SECTION 9. Said chapter 90B is hereby further amended by inserting after section 24  
172 the following section:-

173 Section 24A. Whoever violates any provision of sections 21 to 24, inclusive, or any rule  
174 or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than  
175 \$500.

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

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

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

192 SECTION 12. Said chapter 90B is hereby further amended by inserting after section 25  
193 the following 14 sections:-

194 Section 25A. No person shall operate or ride in or on a recreation vehicle or a snow  
195 vehicle, or a sled attached thereto, without wearing protective headgear. Such headgear shall

196 conform to such minimum standards for construction and performance as the registrar of motor  
197 vehicles may prescribe.

198 Section 25B. No person under 14 years of age shall operate an all terrain vehicle or  
199 recreation utility vehicle. This section shall not apply to any person under 14 years of age  
200 operating a recreation vehicle or snow vehicle in a sanctioned race, rally or organized event  
201 which is supervised by a person aged 18 or older and has been authorized or approved by a  
202 municipal permitting authority. It shall be an affirmative defense to this paragraph that such  
203 person was operating such vehicle in preparation for such a sanctioned event if: such person was  
204 so operating such a vehicle while under direct supervision, as defined by section 25C, by a  
205 person aged 18 or older; the operation occurred 14 days before such sanctioned event; and the  
206 operator was a registered participant therein or did in fact participate therein.

207 Section 25C. No person between the age of 14 years of age and 16 years of age shall  
208 operate an all terrain vehicle or recreation utility vehicle with an engine capacity greater than 90  
209 cubic centimeters unless directly supervised by an adult that is 18 years of age or older. For the  
210 purposes of this section, “direct supervision” shall mean that the supervising adult shall be  
211 sufficiently close to an operator at all times that the vehicle is in operation, such that a reasonable  
212 person under the totality of the circumstances including, but not limited to, vehicle and ambient  
213 noise, the landscape, topography and geography of the location, and the operator’s wearing of  
214 protective headgear, would reasonably believe that he is maintaining visual contact and verbal  
215 communication with the operator.

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

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

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

225 Section 25G. No person shall operate a snow vehicle or a recreation 235 vehicle on  
226 privately owned property unless: (a) the operator is the owner or lessee or immediate family

227 member of the owner or lessee of such property; (b) the operator has in his possession either a  
228 document, signed by the owner or lessee of such property or his agent, authorizing the operation  
229 of a said vehicle on such property by the operator or valid proof of current membership in a club,  
230 association or other organization to which express authorization for the operation of such  
231 vehicles on such property has been granted; provided, however, that such operation shall be  
232 consistent with the express authorization so granted and any restrictions imposed therewith; or  
233 (c) the owner or lessee of such property has designated the area for use by such vehicles by  
234 posting reasonable notice of such designation in a manner approved by the director.

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

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

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

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

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

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

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

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

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

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

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

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

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

285           Section 26E. Whoever operates a snow vehicle or a recreation vehicle recklessly or  
286 negligently so that the lives or safety of the public might be endangered, and by any such  
287 operation causes serious bodily injury, shall be punished by imprisonment in the house of  
288 correction or in the state prison and by a fine of not more than \$5,000, or by both such fine and

289 imprisonment. For the purposes of this section “serious bodily injury” shall mean bodily injury  
290 which creates a substantial risk of death or which involves either total disability or the loss or  
291 substantial impairment of some bodily function for a substantial period of time.

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

297 Section 26G. Notwithstanding section 28, upon conviction of, or adjudication of  
298 delinquency by reason of a violation of sections 26D to 26F, inclusive, the registrar shall  
299 immediately suspend the operator’s license or right to operate a motor vehicle and the director  
300 shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The  
301 registrar, after having suspended or revoked the license or right to operate of any person pursuant  
302 to this section, shall issue a new license or reinstate the right to operate and the director shall  
303 issue a new registration number, if the prosecution or adjudication of such person is terminated  
304 in favor of the defendant or juvenile. The registrar may, after an investigation or upon hearing,  
305 issue a new license or reinstate the right to operate and the director may issue a new snow  
306 vehicle or recreation vehicle registration number to a person so convicted or adjudicated of said  
307 sections 26D to 26F, inclusive; provided, that no such license, right to operate or registration  
308 shall be issued or reinstated by the registrar or director to any person so convicted or adjudicated  
309 delinquent by reason of said sections 26D or 26E until 1 year after the date of suspension or  
310 revocation following his original conviction or adjudication if for a first offense or until 2 years  
311 after the date of suspension or revocation following any subsequent conviction or adjudication,  
312 or to any person convicted of or adjudicated delinquent by reason of section 26F until 5 years  
313 after the date of suspension or revocation following his original conviction or adjudication if for  
314 a first offense or until 15 years after the date of suspension or revocation following any  
315 subsequent conviction or adjudication; provided, however, that a person whose license or right to  
316 operate was suspended due to an adjudication or conviction of 26D may, after the expiration of 3  
317 months from the date of conviction, apply for and shall be granted a hearing before the registrar  
318 for the purpose of requesting the issuance of a new license for employment or educational  
319 purposes, which license shall be effective for not more than an identical 12- hour period every

320 day on the grounds of hardship and a showing by the person that the causes of the present and  
321 past violations have been dealt with or brought under control, and the registrar may, in his  
322 discretion, issue such license under such terms and conditions as he deems appropriate and  
323 necessary; and provided, further, that such person may, after the expiration of 6 months from the  
324 date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of  
325 requesting the issuance of a new license on a limited basis on the grounds of hardship and a  
326 showing by the person that the causes of the present and past violations have been dealt with or  
327 brought under control and the registrar may, in his discretion, issue such a license under such  
328 terms and conditions as he deems appropriate and necessary.

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

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

343 Section 26I. Whoever, being under 21 years of age, operates a snow vehicle or recreation  
344 vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined  
345 in accordance with section 24 of chapter 90; or (2) or while under the influence of intoxicating  
346 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section  
347 1 of chapter 94C, or the vapors of glue shall, for a first offense, be punished by a fine of not less  
348 than \$500 and not more than \$5,000 or by imprisonment in the house of correction, or by both  
349 such fine and imprisonment.

350 Section 26J. No prosecution or delinquency proceeding commenced pursuant to sections  
351 26D to 26H, inclusive, shall be placed on file or continued without a finding.

352 Section 26K. Notwithstanding section 28, upon conviction of or adjudication of  
353 delinquency by reason of a violation of section 26H or 26I, the registrar shall immediately  
354 suspend the operator's license or right to operate a motor vehicle and the director shall revoke  
355 the registration of any snow vehicle or recreation vehicle issued to such person. The registrar,  
356 after having suspended or revoked the license or right to operate of any person under this section,  
357 shall issue a new license or reinstate the right to operate and the director shall issue a new  
358 registration number, if the prosecution or adjudication of such person is terminated in favor of  
359 the defendant or juvenile. The registrar may, after an investigation or upon hearing, issue a new  
360 license or reinstate the right to operate and the director may issue a new snow vehicle or  
361 recreation vehicle registration number to a person so convicted or adjudicated of said sections  
362 26H or 26I; provided, that no such license, right to operate or registration shall be issued by the  
363 registrar or director to any person so convicted or adjudicated delinquent by reason of said  
364 section 26H until 1 year after the date of suspension or revocation following his original  
365 conviction or adjudication if for a first offense or until 2 years after the date of revocation  
366 following any subsequent conviction or adjudication, or to any person convicted of or  
367 adjudicated delinquent by reason of said section 26I until 2 years after the date of revocation  
368 following his original conviction or adjudication if for a first offense or until 3 years after the  
369 date of revocation following any subsequent conviction or adjudication; provided, however, that  
370 a person whose license or right to operate was suspended due to an adjudication or conviction of  
371 26H may, after the expiration of 3 months from the date of conviction, apply for and shall be  
372 granted a hearing before the registrar for the purpose of requesting the issuance of a new license  
373 for employment or educational purposes, which license shall be effective for not more than an  
374 identical 12-hour period every day on the grounds of hardship and a showing by the person that  
375 the causes of the present and past violations have been dealt with or brought under control, and  
376 the registrar may, in his discretion, issue such license under such terms and conditions as he  
377 deems appropriate and necessary; and provided further, that such person may, after the  
378 expiration of 6 months from the date of conviction, apply for and shall be granted a hearing  
379 before the registrar for the purpose of requesting the issuance of a new license on a limited basis  
380 on the grounds of hardship and a showing by the person that the causes of the present and past

381 violations have been dealt with or brought under control and the registrar may, in his discretion,  
382 issue such a license under such terms and conditions as he deems appropriate and necessary.

383

384 If the person so convicted or adjudicated is under 17 at the time of such conviction or  
385 adjudication and has not been issued a license or right to operate or a snow vehicle or recreation  
386 vehicle registration number, the registrar nor director shall issue such license or right to operate a  
387 motor vehicle or a snow or recreation vehicle registration until the time periods provided in the  
388 previous paragraph have passed but such time period shall not commence to run until such  
389 person reaches 16 years of age for purposes of issuance of a right to operate a motor vehicle and  
390 16 ½ for purposes of issuance of a license to operate a motor vehicle.

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

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

404 (c) The court shall order the commonwealth to give notice by certified or registered mail  
405 to the owners of the a snow vehicle or recreation vehicle and to such other persons or entities  
406 who appear to have an interest therein, and the court shall promptly, but not less than 2 weeks  
407 after notice, hold a hearing on the petition. Upon the motion of an owner of the snow vehicle or  
408 recreation vehicle, the court may continue the hearing on the petition pending the outcome of a  
409 criminal trial related to the violation. During the pendency of the proceedings, the court may  
410 issue at the request of the commonwealth ex parte any preliminary order or process as is  
411 necessary to seize or secure the property for which forfeiture is sought and to provide for its



412 custody. Process for seizure of the property shall issue only upon a showing of probable cause,  
413 and the application therefore and the issuance, execution and return thereof shall be subject to  
414 chapter 276, as applicable.

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

424 (e) The final order of the court shall provide that the proceeds of any such sale shall be  
425 used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance  
426 of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be  
427 deposited into the Off Highway Vehicle Program Fund, established by section 18C of chapter  
428 21A and the remaining 25 per cent shall be distributed equally among the division, departments  
429 or offices involved in the seizure or to the division, department or office if a single law  
430 enforcement entity was involved. If more than 1 division, department or office was substantially  
431 involved in the seizure, the court having jurisdiction over the forfeiture proceeding shall  
432 distribute the 25 per cent equitably among them.

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

440 SECTION 14. Said chapter 90B is hereby further amended by striking out section 27 and  
441 inserting in place thereof the following section:-

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

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

451 SECTION 15. The first paragraph of section 32 of said chapter 90B, as so appearing, is  
452 hereby amended by striking out the first 2 sentences and inserting in place thereof, the following  
453 sentence:- The provisions of sections 21 to 34, inclusive, and all the rules and regulations made  
454 under the authority thereof shall be enforced by the director, deputy directors of enforcement,  
455 chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy  
456 environmental police officers of the office of environmental law enforcement, executive office of  
457 energy and environmental affairs, park rangers of the department of conservation and recreation,  
458 registrar or his authorized agents, police officers, members of the state police, and city and town  
459 police officers or employees of the commonwealth having police powers on public lands;  
460 provided that any investigation, arrest or decision to seek application for complaint relative to a  
461 violation of sections 26B to 26F, inclusive, shall be executed by a law enforcement officer who  
462 has successfully completed minimum training requirements for the enforcement of such sections  
463 as determined by the secretary of public safety and security.

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

466 Section 34. Of the fees collected by the commonwealth pursuant to the violation of the  
467 fourth paragraph of section 10H of chapter 21A and sections 21 to 32, inclusive, 75 per cent of  
468 the fees shall be deposited into the Off Highway Vehicle Program Fund, established by section  
469 18C of said chapter 21A and the remaining 25 per cent shall be distributed equally among the  
470 divisions, departments or offices involved in the enforcements of the statutes which resulted in  
471 the assessment of such fees or penalties.

472 SECTION 17. Said chapter 90B, as so appearing, is hereby amended by striking out  
473 section 35.

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

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

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

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

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

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

496 SECTION 23. The prohibition in section 26A and 26D of chapter 90B of the General  
497 Laws, that an operator of a snow vehicle or recreation vehicle not leave the scene after causing  
498 injury to property or to a person without making known his registration number shall apply on or  
499 after 6 months after the effective date of this act. Nothing in this section shall effect the

500 prohibition, in said sections 26A and 26D of said chapter 90B, against an operator leaving the  
501 scene after causing injury to property or to a person without leaving and making known his name  
502 and residence, on and after the effective date of this act.