



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**SNOWMOBILE ACT REVISIONS**

**House Bill 4445 (Substitute H-1)  
Revised First Analysis (12-7-93)**

**Sponsor: Rep. Tom Alley  
First Committee: Conservation,  
Environment & Great Lakes Affairs  
Second Committee: Tourism & Recreation**

***THE APPARENT PROBLEM:***

Public Act 74 of 1968 provides for the registration of snowmobiles and regulates those who operate them. The act currently provides very minimal regulation of drinking while snowmobiling by merely prohibiting someone from operating a snowmobile while under the influence of intoxicating liquor or illegal drugs and allowing a police officer to arrest without a warrant someone suspected of doing so whose vehicle was involved in an accident. These provisions were added to the act in 1980 to make it consistent with similar provisions in the Michigan Vehicle Code at that time. The vehicle code's drunk driving provisions have been overhauled twice since then, most recently in 1991, to ensure consistency in penalties imposed for violations involving driving while "impaired" (OWI) and driving while under the influence (OUIL), to provide for quicker and harsher sentence imposition on violators, and to update the act to reflect modern law enforcement techniques used to spot and test for drunk driving as well as procedures used by the secretary of state in denying violators their driving privileges. (The Marine Safety Act was amended in 1992 to adopt drunk boating standards reflecting the 1991 vehicle code changes.) Although Michigan has had problems with drinking and snowmobiling every winter season, last year was particularly bad. According to preliminary data from the Department of State Police for the 1992-93 snowmobile season (which ended March 31), 32 people were killed and hundreds more injured in accidents involving snowmobiles, making it the worst year ever for snowmobile-related deaths; tragically, alcohol played a role in 80 percent of the fatal accidents. Many people feel provisions governing drunk snowmobiling must be strengthened, not only to be consistent with other drunk driving laws but, more importantly, to help reduce the number of deaths and serious injuries caused each year when people drink and/or use drugs while operating snowmobiles. Amendments have also been

requested to require different operating procedures to be used by snowmobilers in order to promote safety (such as mandating that head- and taillights be lit all the time rather than just during darkness).

Michigan currently has about 5,200 miles of snowmobile trails (on both public and private lands) that receive funding from the Recreational Snowmobile Trail Improvement Fund for grooming, maintenance, and signing purposes. Snowmobiling generates millions of dollars annually in tourism business for communities in the Upper Peninsula and northern lower Michigan, and contributes significantly to state and local tax revenues. (Reportedly, some business owners in the U.P. say they earn more in winter months than they do during summer simply because people--often, snowmobilers--who come in winter spend more for lodging than summer tourists, who usually camp at state parks or other places for less.) Many who snowmobile here, of course, are Michigan residents from populous southern areas of the state, but a significant number of nonresidents travel here from surrounding states to see just why Michigan is called the "Winter Wonderland."

Officials with the Department of Natural Resources (DNR) and others from state snowmobile groups, however, contend that more money is needed to maintain existing snowmobile trails and develop new ones if the state is to continue drawing snowmobilers from the state and elsewhere so their tourist dollars will be spent here. Over the last three years, public meetings have been held to determine what might be the best way to generate more revenue for trail improvement needs. Parties to these meetings, including active snowmobile groups and persons representing the interests of northern communities, have agreed to a plan to require a special trails decal to be purchased and for a person to attach it to his or her snowmobile so

House Bill 4445 (12-7-93)

it could be operated on one of Michigan's publicly-funded snowmobile trails or a public roadway. Thus, not only state residents but anyone who used the state's snowmobile trail system would contribute both to its continued maintenance as well as to any improvements made to it. (Currently, a nonresident pays nothing to operate a snowmobile here.) Also, to ensure Michigan's snowmobile trail system remains one of the best in the nation, it has been suggested that other fees be raised and the current system used to allocate money for snowmobile-related purposes be changed.

### ***THE CONTENT OF THE BILL:***

The bill would amend Public Act 74 of 1968, which provides for the registration and regulation of snowmobiles, to make it consistent with the 1991 drunk driving reforms contained in the Michigan Vehicle Code, and to provide new registration requirements. Currently, the act specifies that a snowmobile owner must file a registration application, along with a \$15 fee, with the Department of State. The bill, instead, would require an initial snowmobile registration application to be made with the dealer at the point of sale. Under the bill, a retail dealer would issue a temporary registration permit that would be valid for 15 days after the date of sale, and each dealer would submit registrations and fees to the department at least once per week. The bill also would require snowmobile users to purchase an annual \$10 permit sticker; increase fees for replacement certificates of registration, from \$2 to \$5; reallocate the use of money raised from the various fees; create a Snowmobile Trails Advisory Board within the Department of Natural Resources (DNR); and establish penalties for violations of the act.

Allocation of funds. Under current law, \$6 of each \$15 snowmobile registration fee is deposited into the Recreational Snowmobile Trail Improvement Fund to be used by the DNR solely for projects open to the public. The balance of revenue received from registration receipts is divided into two parts, at least 50 percent of which is allotted to the DNR for planning, construction, maintenance and acquisition of snowmobile trails and facilities. (Of this allotment, between 40 and 80 percent must be allocated to local units of government and nonprofit snowmobile organizations for use on trails.) The remainder of the registration receipts is used to make appropriations to the Department

of State for administering the act's registration provisions and to the DNR for enforcement and safety education and training programs and disbursements for parallel county programs. (The act provides for the legislature to make an annual appropriation to both departments from revenues received under the act as well as revenues collected under sections 2 and 18b of Public Act 150 of 1927, which provides for the levy of gasoline and diesel motor fuel taxes and for revenue raised from them to be deposited into the Michigan Transportation Fund to be used for "specific transportation purposes.")

The bill would establish a different method of allocating funds. Of the revenues received from snowmobile registration fees and from motor fuel tax revenue in the Michigan Transportation Fund, up to \$3 from each registration fee would have to be appropriated to the Department of State to administer snowmobile registrations. In addition, at least \$7 from each registration fee would be appropriated to the Department of Natural Resources (DNR). Of the \$7 appropriated to the DNR, \$5 would have to be used by the DNR for law enforcement and snowmobile safety education and training program purposes, while the bill specifically would require \$2 to be used for parallel county snowmobile programs. Any money not required to administer snowmobile registrations would be credited each year to the fund. Also, at least \$5 of the registration receipts (rather than, at present, at least 50 percent of remaining registration receipts--that is, anywhere from \$4.50 up to \$9); \$9 from the sale of annual permit stickers; and at least 80 percent of the revenue collected from the sale of duplicate registration fees and certificates would have to be deposited into the fund to be used by the DNR for the planning, construction, maintenance and acquisition of trails.

Use of funds. Currently, the DNR may not build recreational trail facilities on private land unless it has a three-year agreement to do so with the owner of the land. The bill would require the DNR to have a five-year agreement with landowners, and would include "major improvements" under this provision. A written agreement in the form of an easement, lease or permit for a public trail right-of-way would have to be made between the land owner and the DNR. (Currently, the act specifies merely that a written agreement must be made between them.)

The bill also would delete the present \$30,000 limit placed on appropriations for a cooperative sign program for public snowmobile trails. Under the bill, signs would not be provided unless the trails met minimum state snowmobile trail construction standards and were funded for snowmobile season maintenance.

**Snowmobile Trails Advisory Board.** The board would meet twice per year, and would consist of seven members, appointed by the director of the DNR, to include representatives of trail sponsors, the business community, large trail users, and from each region of the Michigan Snowmobile Association. The board would be created within the DNR to assist in developing safety education and training program criteria; advise on Recreational Snowmobile Trail Improvement Fund allocations; assist in promulgating rules and in updating the comprehensive plan for a statewide recreational and snowmobile trails system; advise the DNR regarding snowmobile users' recommendations for trails; and, in consultation with the DNR and appropriate House and Senate committees, assist the DNR in developing a comprehensive plan for snowmobile use by October 1, 1995.

**Snowmobile trail permit stickers.** In addition to registration of a snowmobile (including registration in another state or province), a snowmobile owner would be required to purchase a \$10 annual Michigan snowmobile trail permit sticker each October. Fifty cents of the fee would be used by the Department of State for administrative costs, fifty cents would be retained by the agent who sold the permit, and \$9 would be credited to the trail improvement fund. The Department of State could contract either with the DNR or an outside person to act as an agent. The bill would also delete current requirements in the act regarding the painting of identification numbers on snowmobiles. Instead, an owner would have to "permanently affix" the registration decal to the forward half of his or her snowmobile.

**Regulation of snowmobile operations.** Currently, a snowmobile may be operated on the extreme right portion of a right-of-way on a public highway, going in the direction of the traffic. Under the bill, a snowmobile could be operated on the right-of-way of a public highway against the flow of traffic if the right-of-way was a designated snowmobile trail approved by the Department of Transportation and

the DNR. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right-of-way of a public highway would be limited to the posted speed limit. The bill specifically would prohibit someone from altering, defacing, damaging or removing a snowmobile trail sign or control device.

The act currently prohibits operating a snowmobile within 100 feet of a slide, ski, or skating area, except for medical emergencies. The bill would exempt from this provision snowmobiles operated on the right-of-way of a public highway or on a DNR-designated and funded snowmobile trail, and would specifically permit them to be operated on a railroad or railroad right-of-way rendered inoperable by the removal or partial removal of tracks.

In addition, the bill would require a person operating or riding on a snowmobile to wear a U.S. Department of Transportation-approved crash helmet, and would prohibit the operation of a snowmobile without both headlights and taillights being lit. (The act currently only requires head- and taillights to be lit during hours of darkness.)

**Violations and fines.** The bill would impose the following penalties and fines for violations of the act:

- \* An agent who used, or allowed anyone other than the owner of a snowmobile to use, another person's snowmobile trail permit would be guilty of a misdemeanor, punishable by a fine of \$50 for each instance of such use or allowed use.
- \* The Department of State could suspend a certificate of registration if the required fee were not paid.
- \* A \$10 penalty would be assessed for a bad check or draft.
- \* Failure to secure a permit would be a civil infraction, subject to a \$50 fine, plus court costs.

**Penalties for operating while under the influence of alcohol, drugs.** The bill would clarify current regulations that prohibit either the operation of a snowmobile while under the influence of intoxicating liquor, a controlled substance, or both to be consistent with the drunk driving provisions of the Motor Vehicle Code. Under the bill, operating

a snowmobile with a blood alcohol content of .10 percent or more, or operating while under the influence of alcohol or drugs, would be prohibited. In general, a violation of the act would be a misdemeanor, punishable by suspension of one's right to operate a snowmobile, and one or more of the following:

- \* Community service for up to 45 days.
- \* Imprisonment for up to 90 days.
- \* A fine of between \$100 to \$500.

A person arrested on a misdemeanor charge for a violation of this provision of the bill would have to be arraigned within 14 days.

If a violation occurred within seven years of a prior conviction (the prosecutor would have to list each conviction on the complaint filed with the court), the person would be sentenced to a fine of \$200 to \$1,000, and either community service for 10 to 90 days and possible imprisonment for up to one year; or imprisonment for 48 hours to one year and possible community service for at least 90 days. A violation that occurred within 10 years of two or more prior convictions would be considered a felony, subject to a sentence of imprisonment for one to five years, or a fine of \$500 to \$5,000, or both.

In addition, the bill would provide specific penalties for each violation, including the following:

- \* Allowing another person to operate your snowmobile if that person's blood alcohol level was .10 percent or more would be a misdemeanor, punishable by imprisonment for up to 90 days or a fine of \$100 to \$500, or both.
- \* A person who operated a snowmobile while his or her ability was visibly impaired would be guilty of a violation of the act.
- \* A person who operated a snowmobile while under the influence of intoxicating liquor or a controlled substance, or both, or who had a blood alcohol content of .10 percent or more, and who then caused the death of another person, would be guilty of a felony punishable by imprisonment for up to 15 years, or a fine of \$2,500 to \$10,000, or both.

\* A person who operated a snowmobile while under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of .10 percent or more, and who then caused a long-term incapacitating injury to another person would be guilty of a felony punishable by imprisonment for up to 5 years, or a fine of \$1,000 to \$5,000, or both.

A person who operated a snowmobile would be considered to have given consent to chemical testing of his or her blood, breath, or urine for alcohol or presence of a controlled substance if the person were arrested for a violation of the above provisions of the bill, or of a local ordinance that contained similar prohibitions. If a person refused to submit to a chemical test, and did not request a hearing within 14 days, then the secretary of state would have to issue an order prohibiting the person from operating a snowmobile for six months, or--for a second or subsequent refusal within 7 years--for one year. The hearing would be conducted in accordance with the bill's provisions.

In addition to the above sanctions, the court could, under the Code of Criminal Procedure, order a violator to pay prosecution costs. The court could also order the defendant to undergo screening and assessment to determine whether or not the person was likely to benefit from rehabilitative services, including alcohol or drug education or treatment programs; the defendant would be required to pay for the costs of the screening, assessment, and rehabilitative services.

The court would consider all prior convictions in sentencing the individual. A person who failed to answer a citation or failed to comply with a court order would be given notice to appear within seven days and to pay required fines and costs. Otherwise, the secretary of state would be required to issue an order, with no expiration date, stating that the person could not operate a snowmobile. Failure to comply with the secretary of state's order would incur imprisonment for up to 90 days, a fine of \$500, or both. Second or subsequent violations would be punishable by imprisonment for up to one year, a fine of up to \$1,000, or both. In addition, the snowmobile belonging to the convicted person would be impounded. An order not to operate a snowmobile would not expire until the person subject to the order paid an administrative order processing fee of \$125 to the secretary of state. The secretary of state and the court would be required

to treat a conviction of an attempted violation of the bill's provisions the same as if the offense had been completed.

**Accidents.** A police agency receiving notice of an accident would be required to send a report to the Department of State Police (DSP) within 30 days; the DSP would forward copies of accident reports to the DNR within 30 days after receipt of a report. The operator of a snowmobile involved in an accident could be arrested by a peace officer without a warrant, or could be subjected to a preliminary chemical breath analysis if the officer had reasonable cause to believe the person was the operator of the snowmobile. The bill contains specific instructions with respect to the rights of a person who submits to a chemical test and analysis of his or her blood, urine, or breath, other than a preliminary chemical breath analysis; how to evaluate the results of chemical tests; and the use of chemical testing for evidence.

**Repeal.** The bill would repeal a provision that authorizes a police officer to arrest without a warrant someone operating a snowmobile involved in an accident who was suspected of doing so under the influence of intoxicating alcohol, a controlled substance, or both.

MCL 257.1501 et al.

### **FISCAL IMPLICATIONS:**

The Department of Natural Resources says the bill would have fiscal implications both to it and the Department of State. Under the bill, state revenues would be increased a total of about \$2.86 million annually from new and increased fees proposed. Of this amount, the DNR would receive about \$2.6 million--to be used for law enforcement purposes related to snowmobile use and for developing and maintaining snowmobile trails-- and the Department of State would receive about \$260,000 annually. (11-19-93) According to a Department of State spokesman, this additional revenue would be used to cover the department's increased administrative duties both to process snowmobile registrations and provide for snowmobile license suspensions, revocations, reinstatements and other sanctions that would have to be imposed for violations of the bill's drunk-driving provisions. (11-18-93)

### **ARGUMENTS:**

#### **For:**

According to data provided by the Department of State Police, more deaths occurred in snowmobile-related accidents last winter than in any previous season, and in most (80 percent) of these fatal accidents, alcohol or controlled substances, or both, were present either in the victims or others involved in the crashes. Current provisions in the state's snowmobile law regulating drunk driving of snowmobiles are woefully inadequate and do little to deter people from driving snowmobiles while drunk or drugged. Changes proposed in the bill would significantly improve the ability of law enforcement officers to arrest, and prosecutors to convict, drunk or drugged snowmobilers. Authorizing breathalyzer tests "in the field" would help officers identify when a snowmobiler was drunk, while other provisions would enable the courts and the secretary of state to ensure violators were swiftly tried and punished. On the other hand, the bill would protect alleged violators by requiring a specific judicial process to be followed when they were tried for driving a snowmobile while drunk. Also, by increasing penalties for convictions and adding new criminal penalties for violations resulting in death or serious injury, the bill should both encourage snowmobilers to take these crimes more seriously and prod the court system to punish them more severely. As most of these provisions now exist within both the Michigan Vehicle Code and the Marine Safety Act, the bill simply would incorporate them into the law governing snowmobiles and their users. And finally, the bill would include other provisions governing the operation of snowmobiles in order to promote safety for their operators and the general public. For instance, head- and taillights would have to be lit at all times rather than just when it was dark (most snowmobiles made today, in fact, operate only with their lights on), and the bill explicitly would require all snowmobilers to wear crash helmets approved by the U.S. Department of Transportation. The proposed changes should help to reduce the number of deaths and injuries caused annually from snowmobile-related accidents in Michigan and make snowmobiling safer and more enjoyable.

#### **Response:**

The bill should be amended to include provisions contained in the other acts that require, among other things, the secretary of state to maintain a central file of violators of drunk-driving laws; that

make a person stopped for a possible snowmobile violation who falsely identifies him or herself subject to a misdemeanor; and that specify various procedures for law enforcement officers, prosecutors, courts, attorneys and the Department of State to follow for snowmobile drunk driving arrests. Thus, drunk driving provisions in all of the acts would essentially agree.

#### ***For:***

According to DNR officials and representatives of snowmobile groups, even though Michigan currently has thousands of miles of fairly well-maintained public and private snowmobile trails throughout most of the state, needs for the trail system are growing faster than there are available funds to pay for them. A spokesman for the DNR says that if nothing is done to increase funding levels for trail maintenance and improvements, the trail system will simply begin to deteriorate. Not only will the state be unable to expand the current trail system; it probably will have to reduce maintenance levels to what they were four or five years ago. The bill would solve this problem by providing a means to generate more revenue--most of which would go into the Recreational Snowmobile Trail Improvement Fund and could only be used for trail purposes--by raising existing fees and creating a new "trail sticker" fee. Under the bill, a trail decal would have to be purchased and used with a snowmobile that was operated on any public roadway or any portion of the publicly-funded snowmobile trail system. In essence, snowmobilers--whether state residents or not--would pay a "user" fee to help both maintain and, if all goes as planned by state officials, upgrade the existing system. Nonresidents currently are not required to pay anything to operate a snowmobile in public areas in Michigan, which allows them to use the state's resources without contributing anything to their upkeep or improvement. And according to a spokesman for the Michigan Snowmobile Association, snowmobilers from both Michigan and other states have said they are willing to pay a little more to sustain what many agree is one of the best snowmobile trail systems in North America. The bill also would provide for a portion of fees to go to the DNR for law enforcement purposes; would direct a small percentage of fees to the Department of State for increased administrative duties related to snowmobile registration and license revocation, etc. when a person was convicted of violating the bill's drunk-driving provisions; and would provide for those who sold snowmobile registrations to

receive a portion of the proposed \$10 sticker fee, just as dealers of hunting and fishing licenses are paid for selling them.

#### ***Response:***

The bill fails to specify that the special trail permit sticker would only have to be purchased and used by persons who planned to operate their snowmobiles solely on publicly-funded trails or public roadways. The bill thus could be read to require someone who operated a snowmobile only on private lands that do not receive money from the trail improvement fund to purchase the trail sticker, too.

#### ***SUGGESTED AMENDMENTS:***

The Department of State suggests adding language that would make the drunk-driving provisions in the bill parallel more closely similar provisions governing drunk boating that were added to the Marine Safety Act in 1992.

#### ***POSITIONS:***

The Department of Natural Resources supports the bill. (11-19-93)

The Michigan Snowmobile Association supports the bill. (11-22-93)

The Michigan Sheriffs Association supports the bill. (11-22-93)

The Department of State would support the bill with its suggested amendment (see SUGGESTED AMENDMENTS). (11-18-93)