

Act No. 98
Public Acts of 1994
Approved by the Governor
April 15, 1994
Filed with the Secretary of State
April 18, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators McManus Koivisto Hoffman Dingell Carl Cisky Emmons and Geake

ENROLLED SENATE BILL No. 938

AN ACT to amend the title and sections 1 4b 4c 6 9 12 12a 15 15a and 16 of Act No 74 of the Public Acts of 1968 entitled as amended An act to register and regulate snowmobiles to provide for education and training programs to provide for trails areas and facilities to permit tort immunity for certain governmental agencies under certain circumstances to create a recreational snowmobile trail improvement fund to provide for expenditure of appropriations and to prescribe penalties sections 1 and 12a as amended by Act No 473 of the Public Acts of 1982 section 6 as amended by Act No 334 of the Public Acts of 1984 section 15 as amended by Act No 13 of the Public Acts of 1992 and section 15a as added by Act No 402 of the Public Acts of 1980 being sections 257 1501 257 1504b 257 1504c 257 1506 257 1509 257 1512 257 1512a 257 1515 257 1515a and 257 1516 of the Michigan Compiled Laws to add sections 1a 15b 15c 15d 19 20 21 22 23 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 and 43 and to repeal certain parts of the act

The People of the State of Michigan enact

Section 1 The title and sections 1 4b 4c 6 9 12 12a 15 15a and 16 of Act No 74 of the Public Acts of 1968 sections 1 and 12a as amended by Act No 473 of the Public Acts of 1982 section 6 as amended by Act No 334 of the Public Acts of 1984 section 15 as amended by Act No 13 of the Public Acts of 1992 and section 15a as added by Act No 402 of the Public Acts of 1980 being sections 257 1501 257 1504b 257 1504c 257 1506 257 1509 257 1512 257 1512a 257 1515 257 1515a and 257 1516 of the Michigan Compiled Laws are amended and sections 1a 15b 15c 15d 19 20 21 22 23 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 and 43 are added to read as follows

TITLE

An act to register and regulate snowmobiles to provide for education and training programs to provide for trails areas and facilities to permit tort immunity for certain governmental agencies under certain circumstances to create a recreational snowmobile trail improvement fund to prescribe powers and duties of certain state and local agencies and officials to establish certain rights and remedies for certain persons under certain circumstances to provide for expenditure of appropriations and to prescribe remedies and penalties

Sec 1 As used in this act

- (a) Operator means any person who operates or is in actual physical control of a snowmobile
- (b) Owner means any of the following
- (i) A person who holds the legal title to a snowmobile

(u) A vendee or lessee of a snowmobile which is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee

(uu) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days

(c) Operate means to ride in or on and be in actual physical control of the operation of a snowmobile

(d) Person means an individual partnership corporation the state and any of its agencies or subdivisions and any body of persons whether incorporated or not

(e) Snowmobile means any motor driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled type runners or skis or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated but is not a vehicle which must be registered under the Michigan vehicle code Act No 300 of the Public Acts of 1949 as amended being sections 257 1 to 257 923 of the Michigan Compiled Laws

(f) Dealer means any person engaged in the sale lease or rental of snowmobiles as a regular business

(g) Highway or street means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel

(h) Roadway means that portion of a highway or street improved designated or ordinarily used for vehicular travel If a highway or street includes 2 or more separate roadways the term roadway refers to any such roadway separately but not to all such roadways collectively

(i) Department means the department of state

(j) Right of way means that portion of a highway or street less the roadway and any shoulder

(k) Shoulder means that portion of a highway or street on either side of the roadway which is normally snowplowed for the safety and convenience of vehicular traffic

(l) Zone 1 means all of the upper peninsula

(m) Zone 2 means all of that part of the lower peninsula north of a line beginning at and drawn from a point on the Michigan Wisconsin boundary line due west of the westerly terminus of river road in Muskegon county thence due east to the westerly terminus of river road thence north and east along the center line of the river road to its intersection with highway M 120 thence northeasterly and easterly along the center line of highway M 120 to the junction of highway M 20 thence easterly along the center line of M 20 to its junction with US 10 at the Midland Bay county line thence easterly along the center line of the business route of highway US 10 to the intersection of Garfield road in Bay county thence north along the center line of Garfield road to the intersection of the Pinconning road thence east along the center line of Pinconning road to the intersection of the Seven Mile road thence north along the center of the Seven Mile road to the Bay Arenac county line thence north along the center line of the Lincoln School road (county road 25) in Arenac county to the intersection of highway M 61 thence east along the center line of highway M 61 to the junction of highway US 23 thence northerly and easterly along the center line of highway US 23 to the center line of the Au Gres river thence southerly along the center line of the river to its junction with Saginaw Bay of Lake Huron thence north 78 east to the international boundary line between the United States and the Dominion of Canada

(n) Zone 3 means all that part of the lower peninsula south of the line described in Zone 2

(o) Conviction means a final conviction the payment of a fine a plea of guilty or nolo contendere if accepted by the court or a finding of guilt or probate court disposition on a violation of this act regardless of whether the penalty is rebated or suspended

(p) Law of another state means a law or ordinance enacted by another state or by a local unit of government in another state

(q) Long term incapacitating injury means an injury that causes a person to be in a comatose quadriplegic hemiplegic or paraplegic state which state is likely to continue for 1 year or more

(r) Probate court disposition means the entry of a probate court order of disposition for a child found to be within the provisions of chapter XIIIA of Act No 288 of the Public Acts of 1939 being sections 712A 1 to 712A 28 of the Michigan Compiled Laws

(s) Prosecuting attorney except as the context otherwise requires means the attorney general the prosecuting attorney of a county or the attorney representing a local unit of government

(t) Former section 15a means section 15a as constituted before the 1993 amendatory act that added this subdivision

Sec 1a This act shall be known and may be cited as the Michigan snowmobile act

Sec 4b (1) The annual budget request of the department of natural resources referred to in this section and section 4c as department shall include an amount for enforcement of this act for snowmobile safety education and training programs and for a state financial assistance program provided for under this section

(2) Each county of the state shall be entitled to receive financial assistance from the state as provided in this section. Each county in this state shall be encouraged to develop a snowmobile safety education and training program based on the criteria set forth in section 4c. A county board of commissioners desiring to conduct a snowmobile program shall submit to the department by November 30 of each year an estimate of authorized expenditures for the following calendar year in a form and containing the information which the department requires. The department shall review the entire request and may approve the county request for financial assistance. The department shall annually survey the state financial assistance program to assist in determining the amount of financial assistance to be allocated to a county for its snowmobile program.

(3) The amount of financial assistance from the state to be allocated to a county pursuant to this section shall be determined by the department. The department shall evaluate each request from a county for financial assistance and may give priority to counties where in the determination of the department a greater need for financial assistance exists. The department shall review the county's statement of authorized expenditures actually incurred and if satisfied shall provide financial assistance in an amount not to exceed 75% of the county's estimated authorized expenditures for the past calendar year. If the county's authorized expenditures actually incurred for the past calendar year exceeded the county's estimated authorized expenditures, the department may provide financial assistance in excess of 75% of the county's estimated authorized expenditures but not in excess of 75% of the county's authorized expenditures actually incurred. Financial assistance allocated to a county under this section shall be used exclusively for the conduct of the county snowmobile program as provided by this act and the rules promulgated under this act. Within 90 days after the close of each calendar year a county board of commissioners shall submit to the department a statement of authorized expenditures actually incurred on a form and containing the information the department requires. A county submitting a statement or supplement to the statement which is received subsequent to the 90 day period shall not be eligible for financial assistance.

(4) The department of treasury shall periodically audit the county records pertaining to this program to assure the proper disposition of these moneys in accordance with this section and rules which are promulgated pursuant to this section. If the audit discloses a refund of state aid moneys is due the state, the county treasurer within 30 days of the completion of the audit shall send to the department the amount of the refund due the state which the director shall return to the state treasury.

(5) The department and the county sheriffs shall cooperate in the conduct of the program. The county sheriffs shall maintain records and submit reports in form and containing information as the department may require.

(6) The department may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24 201 to 24 328 of the Michigan Compiled Laws.

Sec. 4c (1) The department shall design by May 1, 1995, the minimum content of a comprehensive snowmobile safety education and training program which shall include the preparation and dissemination of snowmobile information and safety advice to the public and training of operators. The content of the program shall include provision for the training of youthful operators at least 12 but less than 17 years of age and for the issuance of snowmobile safety certificates to those who successfully complete the training provided under the program. A person less than 17 years of age who successfully completes a training program shall carry the safety certificate on his or her person whenever operating a snowmobile in this state. The department and the counties shall encourage persons 17 years of age or over to take the program.

(2) The minimum content of a snowmobile safety education and training program shall include the following:

- (a) Description of the snowmobile and its main parts
- (b) Description of machine controls, safety and operating procedures, and loading and towing procedures
- (c) General content of snowmobile and highway laws and rules
- (d) Safety hazards of operation including possible hearing damage and environmental consequences of snowmobile use
- (e) Performance and written tests
- (f) Familiarization with the snowmobile trail system in this state

The fee charged by a county for a training program shall be not more than \$5.00.

(3) In implementing a program which is established pursuant to this section, the department shall cooperate with private organizations and associations, private and public corporations, schools, and local governmental units. The department shall consult with the department of state police and county sheriffs in regard to subject matter of a training program and performance testing that leads to certification of snowmobile operators. However, a county may expand the course content beyond the minimum requirements established by subsection (2).

(4) The department may designate any person it deems qualified to provide course instruction and to award snowmobile safety certificates.

(5) A person less than 17 years of age who fails to have a safety certificate on his or her person is subject to a fine of not more than \$25 00

(6) A person who has a valid safety certificate from another state or province shall not be required to complete the safety education and training program in this state

Sec 6 (1) The owner of a snowmobile shall notify the department within 15 days if the snowmobile is destroyed or abandoned or is sold or an interest in the snowmobile is transferred either wholly or in part to another person or if the owner's address no longer conforms to the address appearing on the certificate of registration. The notice shall consist of a surrender of the certificate of registration on which the proper information shall be noted on a place to be provided. If the surrender of the certificate of registration is by reason of the snowmobile being destroyed or abandoned, the department shall cancel the certificate of registration and enter that fact in the records of the department and the number may be then reassigned. The department may destroy the record of a surrendered certificate of registration 1 year after its surrender.

(2) If the surrender of the certificate of registration is by reason of a change of address on the part of the owner, the new address shall be recorded by the department and a certificate of registration bearing that information shall be returned to the owner.

(3) The transferee of a snowmobile registered under this act, within 15 days after acquiring the snowmobile, shall apply to the department for issuance of a new certificate of registration for the snowmobile, giving his or her name, address, and the previous registration number of the snowmobile, and pay to the department the fee prescribed in section 4. Upon receipt of the application and fee, the department shall issue a new certificate of registration for the snowmobile to the new owner. Unless the application is made and the fee paid within 15 days of transfer of ownership, the snowmobile is without certificate of registration, and a person shall not operate the snowmobile until a valid certificate of registration is issued.

(4) If a certificate of registration is lost, mutilated, or illegible, the owner of the snowmobile shall obtain a duplicate of the certificate of registration upon application and payment of a fee of \$5 00.

(5) If a valid registration decal is lost, mutilated, or illegible, the owner of the snowmobile may obtain a replacement registration decal upon submission of proof of registration and payment of a fee of \$5 00.

Sec 9 (1) A dealer shall maintain in safe operating condition all snowmobiles rented, leased, or furnished by him or her. The dealer, the dealer's agents or employees shall explain the operation of the snowmobile being rented, leased, or furnished, and if the dealer, the dealer's agent or employee believes the person to whom the snowmobile is to be rented, leased, or furnished is not competent to operate the snowmobile with competency to himself or herself and to the safety of others, the dealer shall refuse to rent, lease, or furnish the same. By October 15, 1994, the department of natural resources shall furnish each dealer with a safety education checklist of not more than 1 page in length which the dealer shall distribute to each person who purchases, rents, or leases a snowmobile from that dealer.

(2) Any dealer renting, leasing, or furnishing any snowmobile shall carry a policy of liability insurance subject to limits exclusive of interests and costs, with respect to such snowmobile, as follows: \$20 000 00 because of bodily injury to or death of 1 person in any 1 accident, and subject to said limit for 1 person, \$40 000 00 because of bodily injury to or death of 2 or more persons in any 1 accident, and \$10 000 00 because of injury to or destruction of property of others in any 1 accident, or, in the alternative, demand, and be shown proof that the person renting, leasing, or being furnished a snowmobile carries liability policy of at least the type and coverage as specified in this subsection.

Sec 12 A person shall not operate a snowmobile upon a public highway, land used as an airport or street, or on a public or private parking lot not specifically designated for the use of snowmobiles except under the following conditions and circumstances:

(a) A snowmobile may be operated on the right of way of a public highway, except a limited access highway, if it is operated at the extreme right of the open portion of the right of way and with the flow of traffic on the highway. However, a snowmobile may be operated on the right of way of a public highway against the flow of traffic if the right of way is a snowmobile trail designated by the director in the plan developed pursuant to section 4a(2) and is approved by the state transportation department and the department of natural resources. Snowmobiles operated on the right of way of a public highway as provided in this subdivision shall travel single file and shall not be operated abreast except when overtaking and passing another snowmobile. In the absence of a posted snowmobile speed limit, a snowmobile operated on the right of way of a public highway as provided in this subdivision shall be limited to the speed limit posted on the public highway.

(b) A snowmobile may be operated on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right of way to an approaching vehicle on the highway.

(c) In a court action in this state where competent evidence demonstrates that a vehicle which is permitted to be operated on a highway pursuant to the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as amended, being

sections 257 1 to 257 923 of the Michigan Compiled Laws is in a collision with a snowmobile on a roadway the driver of the snowmobile involved in the collision shall be considered prima facie negligent

(d) A snowmobile may be operated across a public highway other than a limited access highway at right angles to the highway for the purpose of getting from one area to another when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the same general area. An operator shall bring his or her snowmobile to a complete stop before proceeding across the public highway and shall yield the right of way to all oncoming traffic.

(e) Snowmobiles may be operated on a highway in a county road system which is not normally snowplowed for vehicular traffic and on the plowed right of way or shoulder when no right of way exists on a snowplowed highway in the county road system outside the corporate limits of a city or village which is designated and marked for snowmobile use by the county road commission having jurisdiction. Upon the request of a county road commission which has designated all county roads outside the corporate limits of a city or village for snowmobile use the state transportation department shall erect at county road commission expense and maintain in accordance with the Michigan manual of uniform traffic control devices standards the basic snowmobile sign unit together with a supplemental panel stating permitted on right of way or shoulder of all (county name) roads Act 74 of P A 1968 at the county line on all state trunk line highways and county roads.

(f) A duly constituted law enforcement officer of a city village township county or the state may authorize use of a snowmobile on a public highway or street within his or her jurisdiction when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(g) A snowmobile may be operated on a street or highway for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the department of natural resources.

(h) A city or village by ordinance may designate 1 or more specific public highways or streets within its jurisdiction as egress and ingress routes for the use of snowmobiles. A city or village acting under the authority of this subdivision shall erect and maintain in accordance with the Michigan manual of uniform traffic control devices standards a sign unit giving proper notice thereof.

Sec 12a (1) A parent or legal guardian shall not permit his or her child who is less than 12 years of age to operate a snowmobile without the direct supervision of an adult except on land owned or under the control of the parent or legal guardian.

(2) A person who is at least 12 but less than 17 years of age may operate a snowmobile if 1 of the following conditions exist:

(a) The person is under the direct supervision of a person who is 21 years of age or older.

(b) The person has in his or her immediate possession a snowmobile safety certificate issued pursuant to a program conducted under section 4b.

(c) The person is on land owned or under the control of his or her parent or legal guardian.

(d) The person possesses a snowmobile safety certificate issued to the person under the authority of a law of another state or province of Canada.

(3) A person who is operating a snowmobile pursuant to subsection (2)(b) shall present the snowmobile safety certificate to any peace officer upon demand.

(4) Notwithstanding section 12 an operator who is less than 12 years of age shall not cross a highway or street. An operator who is at least 12 years of age but less than 17 years of age may cross a highway or street only if he or she has a valid snowmobile safety certificate in his or her immediate possession.

(5) The owner of a snowmobile shall not permit the snowmobile to be operated contrary to this section.

(6) When the judge of a juvenile court determines that a person who is less than 17 years of age has violated this act the judge shall immediately report the determination to the department of natural resources. The director of the department of natural resources upon receiving a notice of a determination pursuant to this subsection may suspend the snowmobile safety certificate without a hearing.

Sec 15 (1) A person shall not operate a snowmobile under any of the following circumstances:

(a) At a rate of speed greater than is reasonable and proper having due regard for conditions then existing.

(b) In a forest nursery planting area or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or posted or reasonably identifiable as a natural dedicated area which is in zone 2 or zone 3.

(c) On the frozen surface of public waters within 100 feet of a person including a skater not in or upon a snowmobile or within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement.

of the snowmobile or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water

(d) Without a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from vehicle path under full throttle does not exceed 86 DBA decibels on the a scale on a sound meter having characteristics defined by American standards association S1 4 1966 general purpose sound meter A snowmobile manufactured after July 1 1977 and sold or offered for sale in this state shall not exceed 78 decibels of sound pressure at 50 feet as measured under the 1974 society of automobile engineers code J 192a This subdivision does not apply to a snowmobile which is being used in an organized race on a course which is used solely for racing

(e) Within 100 feet of a dwelling between 12 midnight and 6 a m at a speed greater than the minimum required to maintain forward movement of the snowmobile

(f) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a m to 11 a m and from 2 p m to 5 p m except during an emergency for law enforcement purposes to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle or for the conduct of necessary work functions involving land and timber survey communication and transmission line patrol and timber harvest operations or on the person's own property or property under the person's control or as an invited guest

(g) While transporting on the snowmobile a bow unless unstrung or a firearm unless unloaded and securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism

(h) On or across a cemetery or burial ground

(i) Within 100 feet of a slide ski or skating area except when traveling on a country road right of way pursuant to section 12 or a department of natural resources designated and funded snowmobile trail A snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies

(j) On a railroad or railroad right of way This prohibition shall not apply to railroad personnel public utility personnel law enforcement personnel while in the performance of their duties a railroad or railroad right of way rendered inoperable by the removal or partial removal of the railroad tracks and persons using between December 1 1992 and March 31 1993 between December 1 1993 and March 31 1994 and between December 1 1994 and March 31 1995 a demonstration snowmobile trail located on a state owned railroad right of way operated by the Detroit and Mackinaw railway company or on a railroad right of way owned by the Detroit and Mackinaw railway company connecting to a state owned railroad right of way operated by the Detroit and Mackinaw railway company between Gaylord and Frederic which also meets the conditions imposed in subsections (2) and (3)

(2) The demonstration snowmobile trail shall be constructed operated and maintained by a person other than the person owning the railroad right of way and the person operating the railroad pursuant to terms of a lease agreement under which the person operating the trail agrees to do all of the following

(a) Indemnify the person owning the railroad right of way and the person operating the railroad against any claims associated with or arising from the construction maintenance operation and use of the trail

(b) Provide liability insurance in the amount of \$2 000 000 00 naming the person owning the railroad right of way and the person operating the railroad as named insureds

(c) Meet any other obligations or provisions considered appropriate by the person owning the railroad right of way including but not limited to the payment of rent that the person owning the railroad right of way or the person operating the railroad is authorized to charge under this act and the meeting of all construction operating and maintenance conditions imposed by the person owning the railroad right of way and the person operating the railroad regarding the demonstration snowmobile trail project

(3) The demonstration snowmobile trail shall be clearly demarcated by fencing and signing and shall occupy the outer edge of the railroad right of way as far from the edge of the railroad tracks as possible but in any case not closer than 20 feet from the edge of the railroad tracks unless topography or other natural or manmade features require the trail to lie within 20 feet of the edge of those railroad tracks The design of the trail including the location of fencing and signing shall be included upon plan sheets by the person constructing operating and maintaining the trail and shall be approved in writing by the person owning the right of way and the person operating the railroad Signing shall conform to specifications issued by the department of natural resources to its snowmobile trail operator grantees

(4) The state transportation department in cooperation with the Detroit and Mackinaw railway company and the person operating the demonstration snowmobile trail shall conduct a study each year during development construction and operation of the trail to evaluate the demonstration snowmobile trail project and to examine the feasibility and desirability of broadening statutory authority to establish snowmobile trails on functional railroad rights of way in Michigan The findings of each study shall be summarized in a report to the legislature to be submitted not later than September 1 of 1993 1994 and 1995

(5) Notwithstanding section 1(c) and for purposes of this section operate means to cause to function run or manage

(6) A person shall not alter deface damage or remove a snowmobile trail sign or control device

Sec 15a (1) A person shall not operate a snowmobile in this state if either of the following applies

- (a) The person is under the influence of intoxicating liquor or a controlled substance or both
- (b) The person has a blood alcohol content of 0.10% or more by weight of alcohol

(2) The owner of a snowmobile or a person in charge or in control of a snowmobile shall not authorize or knowingly permit the snowmobile to be driven or operated by a person who is under the influence of intoxicating liquor or a controlled substance or both or who has a blood alcohol content of 0.10% or more by weight of alcohol

(3) A person shall not operate a snowmobile when due to the consumption of an intoxicating liquor or a controlled substance or both the person's ability to operate the snowmobile is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person who operates a snowmobile under the influence of intoxicating liquor or a controlled substance or both or with a blood alcohol content of 0.10% or more by weight of alcohol and by the operation of that snowmobile causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00 or both.

(5) A person who operates a snowmobile under the influence of intoxicating liquor or a controlled substance or both or with a blood alcohol content of 0.10% or more by weight of alcohol and by the operation of that snowmobile causes a long term incapacitating injury to another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00 or both.

Sec 15b (1) If a person is convicted of violating section 15a(1) the following apply

(a) Except as otherwise provided in subdivisions (b) and (c) the person is guilty of a misdemeanor and may be punished by 1 or more of the following

- (i) Community service for not more than 45 days
- (ii) Imprisonment for not more than 90 days
- (iii) A fine of not less than \$100.00 or more than \$500.00

(b) If the violation occurs within 7 years of a prior conviction the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following

- (i) Community service for not less than 10 days or more than 90 days and may be imprisoned for not more than 1 year
- (ii) Imprisonment for not less than 48 consecutive hours or more than 1 year and may be sentenced to community service for not more than 90 days

(c) If the violation occurs within 10 years of 2 or more prior convictions the person is guilty of a felony and shall be sentenced to imprisonment for not less than 1 year or more than 5 years or a fine of not less than \$500.00 or more than \$5,000.00 or both.

(2) A term of imprisonment imposed under subsection (1)(b)(ii) shall not be suspended.

(3) A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service if ordered by the court.

(4) In addition to the sanctions prescribed under subsection (1) and section 15a(4) and (5) the court may pursuant to the code of criminal procedure Act No. 175 of the Public Acts of 1927 being sections 760.1 to 776.21 of the Michigan Compiled Laws order the person to pay the costs of the prosecution. The court shall also impose sanctions under section 26.

(5) A person who is convicted of violating section 15a(2) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$500.00 or both.

(6) As used in this section prior conviction means a conviction for a violation of section 15a(1), (4) or (5) or former section 15a, a local ordinance substantially corresponding to section 15a(1) or former section 15a, or a law of another state substantially corresponding to section 15a(1), (4) or (5) or former section 15a.

Sec 15c (1) If a person is convicted of violating section 15a(3) the following apply

(a) Except as otherwise provided in subdivisions (b) and (c) the person is guilty of a misdemeanor punishable by 1 or more of the following

- (i) Community service for not more than 45 days
- (ii) Imprisonment for not more than 90 days
- (iii) A fine of not more than \$300.00

(b) If the violation occurs within 7 years of 1 prior conviction the person shall be sentenced to both a fine of not less than \$200.00 or more than \$1,000.00 and either of the following

(i) Community service for not less than 10 days or more than 90 days and may be sentenced to imprisonment for not more than 1 year

(ii) Imprisonment for not more than 1 year and may be sentenced to community service for not more than 90 days

(c) If the violation occurs within 10 years of 2 or more prior convictions the person shall be sentenced to both a fine of not less than \$200 00 or more than \$1 000 00 and either of the following

(i) Community service for a period of not less than 10 days or more than 90 days and may be sentenced to imprisonment for not more than 1 year

(ii) Imprisonment for not more than 1 year and may be sentenced to community service for not more than 90 days

(2) In addition to the sanctions prescribed in subsection (1) the court may pursuant to the code of criminal procedure Act No 175 of the Public Acts of 1927 being sections 760 1 to 776 21 of the Michigan Compiled Laws order the person to pay the costs of the prosecution The court shall also impose sanctions under section 26

(3) A person sentenced to perform service to the community under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service as ordered by the court

(4) As used in this section prior conviction means a conviction for a violation of section 15a(1) (3) (4) or (5) or former section 15a a local ordinance substantially corresponding to section 15a(1) or (3) or former section 15a or a law of another state substantially corresponding to section 15a(1) (3) (4) or (5) or former section 15a

Sec 15d (1) If the prosecuting attorney intends to seek an enhanced sentence under section 15b or 15c based upon the defendant having 1 or more prior convictions the prosecuting attorney shall include on the complaint and information filed in district court circuit court recorder's court municipal court or probate court a statement listing the defendant's prior convictions

(2) A prior conviction shall be established at sentencing by 1 or more of the following

(a) An abstract of conviction

(b) An admission by the defendant

(3) A person who is convicted of an attempted violation of section 15a(1) or (3) or a local ordinance substantially corresponding to section 15a(1) or (3) shall be punished as if the offense had been completed

(4) When issuing an order under this act the secretary of state and the court shall treat a conviction of an attempted violation of section 15a(1) or (3) a local ordinance substantially corresponding to section 15a(1) or (3) or a law of another state substantially corresponding to section 15a(1) or (3) the same as if the offense had been completed

Sec 16 The operator of a snowmobile involved in an accident resulting in injuries to or death of any person or property damage in an estimated amount of \$100 00 or more shall immediately by the quickest means of communication notify a state police officer or officers or the sheriff's office of the county in which the accident occurred or to the office of the police department of the municipality in which the accident occurred The police agency receiving the notice shall complete a report of the accident on forms prescribed by the director of the department of state police and forward the report to the department of state police within 14 days after the date of the accident The department of state police shall forward a copy of all snowmobile accident reports to the department of natural resources within 14 days after receipt of the accident report

Sec 19 (1) A peace officer without a warrant may arrest a person if the peace officer has reasonable cause to believe that the person was at the time of an accident the operator of a snowmobile involved in the accident in this state while in violation of section 15a(1) (3) (4) or (5) or a local ordinance substantially corresponding to section 15a(1) or (3)

(2) A peace officer who has reasonable cause to believe that a person was operating a snowmobile and that by the consumption of intoxicating liquor the person may have affected his or her ability to operate a snowmobile may require the person to submit to a preliminary chemical breath analysis The following provisions apply with respect to a preliminary chemical breath analysis

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 27(1) or in an administrative hearing solely to assist the court or hearing officer in determining a challenge to the validity of an arrest This subdivision does not limit the introduction of other competent evidence offered to establish the validity of an arrest

(c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 27 to 30 for the purposes of chemical tests described in those sections

(d) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is guilty of a misdemeanor

Sec 20 (1) The following provisions apply with respect to a chemical test and analysis of a person's blood, urine, or breath other than a preliminary chemical breath analysis

(a) The amount of alcohol or presence of a controlled substance or both in an operator's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding

(b) A person arrested for a crime described in section 27(1) shall be advised of all of the following

(i) That if the person takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, the person has the right to demand that someone of the person's own choosing administer 1 of the chemical tests that the results of the test are admissible in a judicial proceeding as provided under this act and shall be considered with other competent evidence in determining the innocence or guilt of the defendant, and that the person is responsible for obtaining a chemical analysis of a test sample obtained pursuant to the person's own request

(ii) That if the person refuses the request of a peace officer to take a test described in subparagraph (i), the test shall not be given without a court order, but the peace officer may seek to obtain such a court order

(iii) That the person's refusal of the request of a peace officer to take a test described in subparagraph (i) will result in issuance of an order that the person not operate a snowmobile

(2) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician or a licensed nurse or medical technician under the direction of a licensed physician, qualified to withdraw blood and acting in a medical environment, may withdraw blood at the request of a peace officer for the purpose of determining the amount of alcohol or presence of a controlled substance or both in a person's blood as provided in this subsection. A qualified person who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act is not liable for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures unless the withdrawal or analysis is performed in a negligent manner

(3) A rule relating to a chemical test for alcohol or a controlled substance promulgated under the Michigan vehicle code Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, applies to a chemical test administered under this act

Sec 21 (1) A chemical test described in section 20 shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 27(1). A person who takes a chemical test administered at the request of a peace officer as provided in section 20 shall be given a reasonable opportunity to have someone of the person's own choosing administer 1 of the chemical tests described in section 20 within a reasonable time after the person's detention, and the results of the test are admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by someone of the person's own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample

(2) If after an accident the operator of a snowmobile involved in an accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the results of a chemical analysis of that sample is admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure

(3) If after an accident the operator of a snowmobile involved in an accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or the presence of a controlled substance or both in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident, and that agency shall forward the results to the department of state police

Sec 22 (1) The provisions of sections 20 and 21 relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether a person was impaired by or under the influence of intoxicating liquor or a controlled substance or both, or whether the person had a blood alcohol content of 0.10% or more by weight of alcohol

(2) If a chemical test described in sections 20 and 21 is administered, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The results of the

test shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

Sec 23 (1) Except in a prosecution relating solely to a violation of section 15a(1)(b) the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath gives rise to the following presumptions:

(a) If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a snowmobile was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.

(b) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a snowmobile was impaired within the provisions of section 15a(3) due to the consumption of intoxicating liquor.

(c) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(2) A person's refusal to submit to a chemical test as provided in sections 20 and 21 is admissible in a criminal prosecution for a crime described in section 27(1) only for the purpose of showing that a test was offered to the defendant but not as evidence in determining innocence or guilt of the defendant. The jury shall be instructed accordingly.

Sec 25 (1) Before accepting a plea of guilty or nolo contendere under section 15a or a local ordinance substantially corresponding to section 15a(1) (2) or (3) the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation.

(2) Before imposing sentence other than court ordered operating sanctions for a violation of section 15a(1) (3) (4) or (5) or a local ordinance substantially corresponding to section 15a(1) or (3) the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services including alcohol or drug education or treatment programs. As part of the sentence the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

Sec 26 (1) Immediately upon acceptance by the court of a plea of guilty or nolo contendere or upon entry of a verdict of guilty for a violation of section 15a(1) (3) (4) or (5) or a local ordinance substantially corresponding to section 15a(1) or (3) whether or not the person is eligible to be sentenced as a multiple offender the court shall consider all prior convictions established under section 15d except those convictions that upon motion by the defendant are determined by the court to be constitutionally invalid and shall impose the following sanctions:

(a) For a conviction under section 15a(4) or (5) the court shall order without an expiration date that the person not operate a snowmobile.

(b) For a conviction under section 15a(1) or a local ordinance substantially corresponding to section 15a(1)

(i) If the court finds that the person has no prior convictions within 7 years for a violation of section 15a(1) (3) (4) or (5) or former section 15a or another snowmobile substance abuse offense or that the person has 1 prior conviction within 7 years for a violation of section 15a(3) a local ordinance substantially corresponding to section 15a(3) or a law or another state substantially corresponding to section 15a(3) the court shall order that the person not operate a snowmobile for not less than 6 months or more than 2 years and shall require that the person take and successfully complete the snowmobile safety education and training program before operating a snowmobile.

(ii) If the court finds that the person has 1 or more prior convictions within 7 years for a violation of section 15a(1) (4) or (5) or former section 15a a local ordinance substantially corresponding to section 15a(1) or former section 15a or a law of another state substantially corresponding to section 15a(1) (4) or (5) or former section 15a or that the person has 2 or more prior convictions within 10 years for a violation of section 15a(1) (3) (4) or (5) or former section 15a or another snowmobile substance abuse offense the court shall order without an expiration date that the person not operate a snowmobile.

(c) For a conviction under section 15a(3) or a local ordinance substantially corresponding to section 15a(3)

(i) If the court finds that the convicted person has no prior conviction within 7 years for a violation of section 15a(1) (3) (4) or (5) former section 15a or another snowmobile substance abuse offense the court shall order that the person not operate a snowmobile for not less than 90 days or more than 1 year.

(ii) If the court finds that the person has 1 prior conviction within 7 years for a violation of section 15a(1) (3) (4) or (5) former section 15a or another snowmobile substance abuse offense the court shall order that the person not operate a snowmobile for not less than 6 months or more than 2 years.

(m) If the court finds that the person has 2 or more prior convictions within 10 years for a violation of section 15a(1) (3) (4) or (5) former section 15a or another snowmobile substance abuse offense the court shall order without an expiration date the person not to operate a snowmobile

(2) As used in this section another snowmobile substance abuse offense means a local ordinance substantially corresponding to section 15a(1) or (3) or a law of another state substantially corresponding to section 15a(1) (3) (4) or (5)

Sec 27 (1) A person who operates a snowmobile is considered to have given consent to chemical tests of his or her blood breath or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood in all of the following circumstances

(a) The person is arrested for a violation of section 15a(1) (3) (4) or (5) or a local ordinance substantially corresponding to section 15a(1) or (3)

(b) The person is arrested for negligent homicide manslaughter or murder resulting from the operation of a snowmobile and the peace officer had reasonable grounds to believe that the person was operating the snowmobile while impaired by or under the influence of intoxicating liquor or a controlled substance or both or while having a blood alcohol content of 0.10% or more by weight of alcohol

(2) A person who is afflicted with hemophilia diabetes or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood

(3) A chemical test described in subsection (1) shall be administered as provided in sections 20 and 21

Sec 28 (1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 20 or 21 a test shall not be given without a court order but the officer may seek to obtain the court order

(2) If a person refuses a chemical test offered pursuant to section 20 or 21 or submits to the chemical test and the test reveals a blood alcohol content of 0.10% or more by weight of alcohol the peace officer who requested the person to submit to the test shall immediately forward a written report to the secretary of state The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 27(1) and either that the person has refused to submit to the test upon the request of the peace officer and has been advised of the consequences of the refusal or that the test revealed a blood alcohol content of 0.10% or more by weight of alcohol The form of the report shall be prescribed and furnished by the secretary of state

Sec 29 (1) If a person refuses to submit to a chemical test pursuant to section 28 the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 30 The form of the notice shall be prescribed and furnished by the secretary of state

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in issuance of an order that the person not operate a snowmobile The notice shall also state that there is not a requirement that the person retain counsel for the hearing though counsel is permitted to represent the person at the hearing

Sec 30 (1) If a person who refuses to submit to a chemical test pursuant to section 28 does not request a hearing within 14 days of the date of notice pursuant to section 29 the secretary of state shall issue an order that the person not operate a snowmobile for 6 months or for a second or subsequent refusal within 7 years for 1 year

(2) If a hearing is requested the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code Act No. 300 of the Public Acts of 1949 being section 257.322 of the Michigan Compiled Laws A person shall not order a hearing officer to make a particular finding on any issue enumerated under subdivisions (a) to (d) Not less than 5 days notice of the hearing shall be mailed to the person requesting the hearing to the peace officer who filed the report under section 28 and if the prosecuting attorney requests receipt of the notice to the prosecuting attorney of the county where the arrest was made The hearing officer may administer oaths issue subpoenas for the attendance of necessary witnesses and grant a reasonable request for an adjournment Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest and except for delay attributable to the unavailability of the defendant a witness or material evidence or to an interlocutory appeal or exceptional circumstances but not for delay attributable to docket congestion shall be finally adjudicated within 77 days after the date of arrest The hearing shall cover only the following issues

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 27(1)

(b) Whether the person was placed under arrest for a crime described in section 27(1)

(c) If the person refused to submit to the test upon the request of the officer whether the refusal was reasonable

(d) Whether the person was advised of his or her rights under section 20

(3) The hearing officer shall make a record of proceedings held pursuant to subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24-236 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to section 34 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(4) After a hearing, if the person who requested the hearing does not prevail, the secretary of state shall order that the person not operate a snowmobile for 6 months or, for a second or subsequent refusal within 7 years, for 1 year. The person may file a petition in the circuit court of the county in which the arrest was made to review the order as provided in section 34. If, after the hearing, the person who requested the hearing prevails, the peace officer who filed the report under section 28 may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in section 34.

Sec. 31 (1) Notwithstanding a court order issued under section 15a(1), (3), (4), or (5), sections 24 to 26, or a local ordinance substantially corresponding to section 15a(1) or (3) or sections 24 to 26, if a court has not ordered a person not to operate a snowmobile as authorized by this act, the secretary of state shall issue an order that the person not operate a snowmobile as follows:

(a) For not less than 90 days or more than 1 year upon receiving a record of the conviction of the person for a violation of section 15a(3), a local ordinance substantially corresponding to section 15a(3), or a law of another state substantially corresponding to section 15a(3), if the person has no prior convictions within 7 years for a violation of section 15a(1), (3), (4), or (5) or former section 15a, a local ordinance substantially corresponding to section 15a(1) or (3) or former section 15a, or a law of another state substantially corresponding to section 15a(1), (3), (4), or (5) or former section 15a.

(b) A violation of section 324-413 or 414 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750-324, 750-413, and 750-414 of the Michigan Compiled Laws, or a violation of section 1 of Act No. 214 of the Public Acts of 1931, being section 752-191 of the Michigan Compiled Laws.

(c) For not less than 6 months or more than 2 years, if the person has the following convictions within a 7-year period, whether under the law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(i) One conviction under section 15a(1) or former section 15a.

(ii) Two convictions under section 15a(3) or former section 15a.

(iii) One conviction under section 15a(1) and 1 conviction under section 15a(3) or former section 15a.

(iv) One conviction under section 15a(4) or (5) followed by 1 conviction under section 15a(3).

(2) If the secretary of state receives records of more than 1 conviction or probate court disposition of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.

Sec. 32 (1) Upon receipt of the appropriate records of conviction, the secretary of state shall issue an order with no expiration date that the person not operate a snowmobile to a person having any of the following convictions, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Two convictions of a felony involving the use of a snowmobile within 7 years.

(b) Any combination of 2 convictions within 7 years for 1 or more of the following:

(i) A violation of section 15a(1) or former section 15a.

(ii) A violation of section 15a(4) or (5).

(c) One conviction under section 15a(4) or (5).

(d) Any combination of 3 convictions within 10 years for a violation of section 15a(1), (3), (4), or (5) or former section 15a.

(2) The secretary of state shall issue an order with no expiration date that a person not operate a snowmobile notwithstanding a court order issued under section 15a, sections 24 to 26, or a local ordinance substantially corresponding to section 15a or sections 24 to 26. The secretary of state shall not terminate an indefinite order issued under this act until both of the following occur:

(a) The later of the following:

(i) The expiration of not less than 1 year after the order was issued.

(u) The expiration of not less than 5 years after the date of a subsequent issuance of an indefinite order occurring within 7 years after the date of a prior order

(b) The person meets the requirements of the department

(3) Multiple convictions or probate court dispositions resulting from the same incident shall be treated as a single violation for purposes of issuance of an order under this section

(4) A person who is aggrieved by the issuance of an order by the secretary of state under this section may request a hearing with the secretary of state. The hearing shall be requested within 14 days after issuance of an order under this section by the secretary of state. If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code. Act No. 300 of the Public Acts of 1949 being section 257.322 of the Michigan Compiled Laws.

(5) The hearing officer shall make a record of proceedings held pursuant to subsection (2). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969. Act No. 306 of the Public Acts of 1969 being section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to section 34 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(6) Judicial review of an administrative sanction under this section is governed by the law in effect at the time the offense was committed or attempted.

Sec. 33 (1) If a person is charged with or convicted of a violation of section 15a(1) (2) (3) (4) or (5) or a local ordinance substantially corresponding to section 15a(1) (2) or (3) and the person fails to answer a citation or a notice to appear in court or for any matter pending or fails to comply with an order or judgment of the court including but not limited to paying all fines costs and crime victim's rights assessments, the court shall immediately give notice by first class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued or fails to comply with the order or judgment of the court including but not limited to paying all fines costs and crime victim's rights assessments within 14 days after the notice is issued, the secretary of state will issue an order with no expiration date that the person not operate a snowmobile. If the person fails to appear within the 7 day period or fails to comply with the order or judgment of the court including but not limited to paying all fines costs and crime victim's rights assessments within the 14 day period, the court shall immediately inform the secretary of state who shall immediately issue the order and send a copy to the person by personal service or first class mail sent to the person's last known address.

(2) An order imposed under subsection (1) remains in effect until both of the following occur:

(a) The court informs the secretary of state that the person has appeared before the court and that all matters relating to the violation are resolved.

(b) The person has paid to the court a \$25.00 administrative order processing fee.

Sec. 34 (1) A person who is aggrieved by a final determination of the secretary of state under this act may petition for a review of the determination in the circuit court in the county where the person was arrested. The petition shall be filed within 63 days after the determination is made except that for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made. As provided in section 30, a peace officer who is aggrieved by a determination of a hearing officer in favor of a person who requested a hearing under section 30 may, with the consent of the prosecuting attorney, petition for review of the determination in the circuit court in the county where the arrest was made. The petition shall be filed within 63 days after the determination is made except that for good cause shown, the court may allow the petition to be filed within 182 days after the determination is made.

(2) The circuit court shall enter an order setting the cause for hearing for a day certain that is not more than 63 days after the date of the order. The order, a copy of the petition which shall include the person's full name, current address and birth date, and all supporting affidavits shall be served on the secretary of state's office in Lansing not less than 20 days before the date set for the hearing. If the person is seeking a review of the record prepared pursuant to section 30, the service upon the secretary of state shall be made not less than 50 days before the date set for the hearing.

(3) Except as provided in subsections (4) and (6), the court may take testimony and examine all the facts and circumstances incident to the order that the person not operate a snowmobile. The court may affirm, modify, or set aside the order. The order of the court shall be duly entered, and the petitioner shall file a certified copy of the order with the secretary of state's office in Lansing within 7 days after entry of the order.

(4) In reviewing a determination under section 30, the court shall confine its consideration to a review of the record prepared pursuant to section 30 to determine whether the hearing officer properly determined the issues enumerated in section 30.

(5) In reviewing a determination resulting in issuance of an order under section 32(1)(b) (c) or (d) the court shall confine its consideration to a review of the record prepared pursuant to section 32. The court shall set aside the determination of the secretary of state only if substantial rights of the petitioner have been prejudiced because the determination is any of the following

- (a) In violation of the Constitution of the United States the state constitution of 1963 or a statute
- (b) In excess of the statutory authority or jurisdiction of the secretary of state
- (c) Made upon unlawful procedure resulting in material prejudice to the petitioner
- (d) Not supported by competent material and substantial evidence on the whole record
- (e) Arbitrary capricious or clearly an abuse or unwarranted exercise of discretion
- (f) Affected by other substantial and material error of law

(6) This section does not apply to an order issued by the secretary of state pursuant to a court order issued as part of the sentence for a conviction under section 15a sections 24 to 26 or a local ordinance substantially corresponding to section 15a(1) (2) or (3)

Sec 35 (1) Within 63 days after the determination a person who is aggrieved by a final determination of the secretary of state under this act may petition the circuit court for the county in which the conviction or determination resulting in issuance of the order that the person not operate a snowmobile for an order staying the order. Except as provided in subsection (2) the court may enter an ex parte order staying the order subject to terms and conditions prescribed by the court until the determination of an appeal to the secretary of state or of an appeal or a review by the circuit court or for a lesser time that the court considers proper

(2) The court shall not enter an ex parte order staying the order if the order is based upon a claim of undue hardship

Sec 36 (1) A person who is ordered not to operate a snowmobile and who has been notified of the order by personal service or first class mail shall not operate a snowmobile. A person shall not knowingly permit a snowmobile owned by the person to be operated by a person who is subject to such an order. A person who violates this subsection is guilty of a misdemeanor punishable as follows

(a) By imprisonment for not more than 90 days or by a fine of not more than \$500.00 or both

(b) For a second or subsequent violation punishable under this subsection by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 or both

(2) Upon receiving a record of the conviction or probate court disposition of a person upon a charge of unlawful operation of a snowmobile while the person is subject to an order not to operate a snowmobile the secretary of state shall immediately extend the length of the order for an additional like period

(3) If the secretary of state receives records of more than 1 conviction or probate court disposition resulting from the same incident all of the convictions or probate court dispositions shall be treated as a single violation for purposes of extending the length of an order under subsection (2)

(4) If a person is convicted of violating subsection (1) the court shall order cancellation of the certificate of registration for the snowmobile unless the snowmobile was stolen or permission to use the snowmobile was not knowingly given. The secretary of state shall not issue a certificate of registration for a snowmobile whose registration is canceled until after the expiration of 90 days after the cancellation

Sec 37 (1) When a person is convicted under section 36(1) the snowmobile if it is owned by that person shall be ordered impounded for not less than 30 or more than 120 days from the date of judgment

(2) An order of impoundment issued pursuant to subsection (1) is valid throughout the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the snowmobile to the storage for insurance coverage purposes

(3) The owner of a snowmobile impounded pursuant to this section is liable for expenses incurred in the removal and storage of the snowmobile whether or not the snowmobile is returned to him or her. The snowmobile shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the snowmobile is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the snowmobile the snowmobile shall be considered abandoned

(4) Nothing in this section affects the rights of a conditional vendor chattel mortgagee or lessor of a snowmobile registered in the name of another person as owner who becomes subject to this act

Sec 38 A conviction based on a plea of nolo contendere shall be treated in the same manner as a conviction based on a plea of guilty or a finding of guilt for all purposes under this act

Sec 39 Whether of definite or indefinite length an order not to operate a snowmobile does not expire until the person subject to the order pays an administrative order processing fee of \$125 00 to the secretary of state The state treasurer shall deposit \$10 00 of the fee in the drunk driving prevention equipment and training fund created under section 625h(1) of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 625h of the Michigan Compiled Laws and \$30 00 in the drunk driving caseflow assistance fund created under section 625h(5) of Act No 300 of the Public Acts of 1949 being section 257 625h of the Michigan Compiled Laws The state treasurer shall allocate the balance of the fee to the department of state for the administration of orders issued under this act

Sec 40 In order to provide an individual historical snowmobiling record the secretary of state shall create and maintain a central file that includes the name of each person who is convicted of an offense who fails to comply with an order or judgment issued or against whom an order is entered under this act A certified copy of an order record or paper maintained in this record is admissible in evidence in like manner as the original and is prima facie proof of the facts stated in the original

Sec 41 (1) Each district judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or of a local ordinance corresponding to this act regulating the operation of snowmobiles

(2) Within 14 days after a conviction forfeiture of bail entry of a civil infraction determination or default judgment upon a charge of or citation for violating this act or a local ordinance corresponding to this act regulating the operation of snowmobiles except as provided in subsection (11) the district judge or clerk of the court of record shall prepare and immediately forward to the secretary of state an abstract of the record of the court for the case The abstract shall be certified to be true and correct by signature stamp or facsimile signature by the person required to prepare the abstract If a city or village department bureau or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance corresponding to this act the city or village department bureau or person shall send a full report of each case in which a person pays any amount of money to the city or village department bureau or person to the secretary of state upon a form prescribed by the secretary of state

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state and shall include all of the following

- (a) The name address and date of birth of the person charged or cited
- (b) The date and nature of the violation
- (c) The type of snowmobile operated at the time of the violation
- (d) The date of the conviction finding forfeiture judgment or determination
- (e) Whether bail was forfeited
- (f) Any order issued by the court pursuant to this act
- (g) Other information considered necessary to the secretary of state

(4) As used in subsections (5) to (7) felony in which a snowmobile was used means a felony during the commission of which the person operated a snowmobile and while operating the snowmobile presented real or potential harm to persons or property and 1 or more of the following circumstances existed

- (a) The snowmobile was used as an instrument of the felony
- (b) The snowmobile was used to transport a victim of the felony
- (c) The snowmobile was used to flee the scene of the felony
- (d) The snowmobile was necessary for the commission of the felony

(5) If a person is charged with a felony in which a snowmobile was used the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court You are charged with the commission of a felony in which a snowmobile was used If you are convicted and the judge finds that the conviction is for a felony in which a snowmobile was used as defined in section 41 of Act No 74 of the Public Acts of 1968 being section 257 1541 of the Michigan Compiled Laws the secretary of state will order you not to operate a snowmobile in this state

(6) If a child is accused of an act the nature of which constitutes a felony in which a snowmobile was used the prosecuting attorney or juvenile court shall include the following statement on the petition filed in the probate court You are accused of an act the nature of which constitutes a felony in which a snowmobile was used If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a snowmobile was used as defined in section 41 of Act No 74 of the Public Acts of 1968 being section 257 1541 of the Michigan Compiled Laws the secretary of state will order you not to operate a snowmobile in this state

(7) If the judge or juvenile court referee determines as part of the sentence or disposition that the felony for which the defendant was convicted or adjudicated and with respect to which notice was given pursuant to subsection (5) or (6)

is a felony in which a snowmobile was used the clerk of the court shall forward an abstract of the court record of that conviction or adjudication to the secretary of state

(8) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification The certification shall be made upon a form furnished by the secretary of state and shall include all of the following

(a) The name and title of the person required to forward abstracts

(b) The court for which the certification is filed

(c) The time period covered by the certification

(d) The following statement I certify that all abstracts required by section 41 of Act No 74 of the Public Acts of 1968 MCL 257 1541 MSA 9 3200(21) for the period ____ through ____ have been forwarded to the secretary of state

(e) Other information the secretary of state considers necessary

(f) The signature of the person required to forward abstracts

(9) The failure refusal or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office

(10) Except as provided in subsection (11) the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours The secretary of state shall enter each abstract upon the snowmobiling record of the person to whom it pertains and shall record the information in a manner that makes the information available to peace officers through the law enforcement information network

(11) The court shall not submit and the secretary of state shall discard and not enter on the snowmobiling record an abstract for a conviction or civil infraction determination for a violation of this act that could not be the basis for the secretary of state's issuance of an order not to operate a snowmobile in this state The secretary of state shall discard and not enter on the snowmobiling record an abstract for a bond forfeiture that occurred outside this state

(12) The secretary of state shall inform the court of the violations of this act that are used by the secretary of state as the basis for issuance of an order not to operate a snowmobile in this state

(13) If a conviction or civil infraction determination is reversed upon appeal the court shall transmit a copy of the order of reversal to the secretary of state and the secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination

(14) The secretary of state may permit a city or village department bureau person or court to modify the requirement as to the time and manner of reporting a conviction civil infraction determination or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records If the permitted abstract of court record reporting a conviction civil infraction determination or settlement originates as a part of the written notice to appeal authorized in section 17a the form of the written notice and report shall be as prescribed by the secretary of state

Sec 42 (1) The operator or person in charge of a snowmobile being used or operated in this state who is by hand voice emergency light or siren or a visual or audible signal directed to bring his or her snowmobile to a stop by any peace police or conservation officer who is in uniform and empowered to enforce the provisions of this act or the provisions of a local ordinance or rules established under this act shall immediately bring the snowmobile to a stop or maneuver it in a manner that permits the officer to come alongside A vehicle or snowmobile which is used by an officer at night for purposes of enforcing this act shall be identified as an official law enforcement vehicle or snowmobile The operator or person in charge of the snowmobile and any other person on board shall give his or her correct name and address exhibit the certificate of registration awarded for the snowmobile and submit to a reasonable inspection of the snowmobile and to a reasonable inspection and test of the equipment of the snowmobile

(2) A person who wilfully fails to obey the direction by increasing his or her speed extinguishing his or her lights or otherwise attempts to flee or elude the officer is guilty of a misdemeanor

(3) A person who is detained for a violation of this act or of a local ordinance substantially corresponding to a provision of this act and who furnishes a peace officer false forged fictitious or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor

(4) A peace officer who observes a violation by a person of this act or of a local ordinance or rule established under this act may arrest the person without a warrant

Sec 43 If a person is arrested without a warrant for any of the following the arrested person shall be taken without unreasonable delay before a magistrate or judge who is within the county in which the offense charged is alleged to

have been committed who has jurisdiction of the offense and who is nearest or most accessible with reference to the place where the arrest is made

(a) The person is arrested upon a charge of negligent homicide

(b) The person is arrested under section 15a or a local ordinance substantially corresponding to section 15a If in the existing circumstances it does not appear that releasing the person pending the issuance of a warrant will constitute a public menace the arresting officer may proceed as provided by section 17a

Section 2 Section 16a of Act No 74 of the Public Acts of 1968 being section 257 1516a of the Michigan Compiled Laws is repealed

Section 3 This amendatory act shall take effect May 1 1994

Section 4 This amendatory act shall not take effect unless House Bill No 4445 of the 87th Legislature is enacted into law

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor