

Legislative Analysis



DISCLOSE SECURITY INTERESTS ON SNOWMOBILE REGISTRATIONS

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House Bill 5085 as passed by the House
Sponsor: Rep. Jeff Mayes
Committee: Tourism, Outdoor Recreation, and Natural Resources

Second Analysis (1-7-08)

BRIEF SUMMARY: The bill would amend Part 821 (Snowmobiles) of the Natural Resources and Environmental Protection Act to require security interests listed on snowmobile registration applications to be printed on the registration certificates issued by the Secretary of State.

FISCAL IMPACT: A fiscal analysis is in process. [As noted elsewhere, the cost of instituting the new snowmobile registration procedures will be minimized by delaying the effective date of the bill to coincide with a planned upgrade of the Secretary of State's computer systems.]

THE APPARENT PROBLEM:

As snowmobiles have risen in price, more people are reportedly borrowing money from banks and credit unions to finance snowmobile purchases. However, under Michigan law titles are not issued for snowmobiles, which lenders say makes it more difficult for them to collect on their loans from borrowers in default. Currently, the only way for a lender to publicly disclose its security interest is to file a financing statement with the Secretary of State.

At times, financially strapped or dishonest snowmobile owners who have pledged their snowmobile as collateral have sold or given away their "sleds" without paying off their loans. When this happens, it can be difficult for a lender to collect repayment—the borrower is no longer in possession of the snowmobile and may be insolvent or bankrupt. Some say this happens more easily in Michigan than in some other states because no titles are issued for snowmobiles and liens are not currently listed on registrations.

According to the Secretary of State's website:

Snowmobiles are not titled. To transfer ownership, simply complete the back of your snowmobile registration. If you have lost the registration, then a complete bill of sale with the year, make, hull identification number, registration number (if available), and the names and addresses of the buyer and seller may be used to transfer ownership.

Although some states issue titles for snowmobiles, the current bill's approach is to strengthen protections for snowmobile loan lenders by requiring security interests to be listed on registration applications. Thereafter, the Secretary of State would place lien or security interest information on registration certificates in much the same way that lien information is placed on automobile titles. When a snowmobile is sold or transferred, the new owner would not be able to register it without proof that any lien shown on the previous owner's certificate

has been satisfied, giving additional legal protection to persons and institutions making snowmobile loans.

THE CONTENT OF THE BILL:

Disclosure of security interests. An applicant for a snowmobile certificate of registration would have to include the names and addresses of holders of any security interest in the snowmobile and its accessories, in the order of priority, along with the applicant's name, signature, and "bona fide" residence address. The fee for a registration would remain \$22. In addition, the names and addresses of any secured parties would have to be listed on the certificate of registration issued to a snowmobile owner by the Department of State.

Issuance of registration certificates and decals. The bill would delete a provision in current law requiring that the snowmobile's owner be issued a certificate of registration and decal at the time the application is made.

Retention of registration records. The bill would require the department to retain records of expired certificates of registration for seven years instead of five years as is currently the case. The department would have to retain records of surrendered certificates of registration for ten years instead of one year.

Bad checks, drafts, or electronic payments; late fees. If a check, draft, or electronic payment of a required fee were not paid on its first presentation, the fee would be considered delinquent from the date it was tendered, and the person submitting it would remain liable for the fee and, in some cases, a penalty. If the fee remained unpaid after reasonable notice or demand for payment, the department could suspend the operator's or chauffeur's license of the person who submitted the bad payment. If a fee is not paid 15 days after the department gives notice to the person who tendered the bad payment, a \$25 penalty would be added to the fee. Any penalties collected under this section would be deposited into the General Fund and first used to defray the administrative costs of the Department of State relating to snowmobile registrations. Any penalty funds not needed for this purpose would be credited each year to the Snowmobile Trail Improvement Fund.

Grounds for revocation or refusal to issue a snowmobile registration. The department could cancel, suspend, revoke, or refuse to issue a snowmobile registration for any of the following reasons:

- The applicant failed to furnish all required information or reasonable additional information requested by the department.
- The required fees were not paid.
- The applicant is not entitled to a snowmobile registration under Part 821.
- The department issued the registration in error.
- The application contained a false or fraudulent statement.
- The department has reasonable grounds to believe that the snowmobile was stolen.

Transfers of registered snowmobiles. Under Part 821, when a snowmobile has been transferred to a new owner, the new owner must apply for a new certificate of registration within 15 days and pay the usual \$22 registration fee. Currently, an application must only list

the name and address of the new owner and the previous registration number of the snowmobile. Under the bill, the new owner would have to provide all of the following in connection with a transfer:

- The snowmobile's previous registration number.
- Proof of payment or satisfaction of any security interest shown on the previous owner's certificate of registration or department of state records.
- The new owner's name, signature, and "bona fide" residence address.
- The names and addresses of the holders of the secured parties in the snowmobile and its accessories in the order of their priority.

Special identification numbers for snowmobiles without vehicle numbers. An owner of a snowmobile whose vehicle number has been altered, removed, or defaced, or an individual who intends to register an assembled snowmobile, would have to apply for a special identifying number in a form prescribed by the department, accompanied by a registration application and the required fees. If satisfied that the applicant owned the snowmobile, the department would assign a special identification number, preceded by a symbol indicating that the vehicle number had been issued by the State of Michigan (rather than a manufacturer). The department would maintain a record of assigned special identifying numbers. A special identifying number would be applied to the snowmobile as directed by the Department of State, and would be regarded as the identifying number of the snowmobile.

The owner of a snowmobile whose vehicle number is missing would apply for a replacement vehicle number using a form prescribed by the department accompanied by a \$10 fee. Upon receipt of information from the applicant satisfying the department that the applicant owns the snowmobile, the department would assign a replacement vehicle number to be applied to the snowmobile as directed. The department would note on the snowmobile's registration record that a replacement vehicle number had been issued.

Exclude auctioneers from definition of snowmobile "dealer." A "dealer" currently means "any person engaged in the sale, lease, or rental of snowmobiles as a regular business." The bill would exclude registered auctioneers from the definition of dealer.

Effective date. The bill would become effective July 1, 2009.

MCL 324.82105a, 324.105b, 324.82116a

BACKGROUND INFORMATION:

Article 9 of the Uniform Commercial Code (UCC), entitled Secured Transactions, designates the office of the Secretary of State as the place for the filing and searching of secured transaction documents. Currently, financing statements are filed as a public notice of a security interest in collateral. Record searches are requested to reveal financing statements filed against an organization or individual. For example, when a debtor (borrower) pledges collateral to obtain a loan, a UCC financing statement tells a secured party (creditor) whether others have financing statements against the same collateral.

"Optimizing the Titling of Motor Vehicles: A Survey of Practice Among Midwest States," a summary of Illinois, Iowa, Michigan, Minnesota, and Ohio statutes regarding titles and liens for various vehicles, including snowmobiles, is available online at:
www.dot.wisconsin.gov/library/research/docs/tsrs/tsrvehicletitling.pdf

ARGUMENTS:

For:

Supporters say the bill would provide additional protections to lenders against financially strapped or unscrupulous borrowers who sell or give away their snowmobiles without repaying their loans. Although some people would like Michigan to go further and issue titles for snowmobiles, by allowing lien information to be put on registration certificates, the bill would give lenders additional protections without imposing any additional costs on snowmobile owners, who will only have to pay registration fees, as is currently the case, and not both title and registration fees.

The cost of instituting the new snowmobile registration procedures will be minimized by delaying the effective date of the bill to coincide with a planned upgrade of the Secretary of State's computer systems.

Against:

Critics say it is too harsh to suspend a person's driver license for failing to make good on a bad check presented to the Secretary of State when registering a snowmobile?

This bill may unduly complicate snowmobile registration procedures.

POSITIONS:

The Secretary of State indicated support of the bill, as amended. (11-8-07)

The Michigan Bankers Association indicated its support of the bill. (11-8-07)

The Michigan Credit Union League testified in support of the bill. (11-8-07)

The Department of Natural Resources indicated neutrality. (11-8-07)

The Michigan Snowmobile Association indicated neutrality. (11-8-07)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.