

Legislative Analysis



DISCLOSE SECURITY INTERESTS ON SNOWMOBILE REGISTRATIONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5085 as enrolled
Public Act 145 of 2008
Sponsor: Rep. Jeff Mayes
Committee: Tourism, Outdoor Recreation and Natural Resources

Third Analysis (1-21-09)

BRIEF SUMMARY: The act amends the snowmobile registration procedures contained in Part 821 (Snowmobiles) of the Natural Resources and Environmental Protection Act, including adoption of a new requirement that the names and addresses of any holders of security interests (lenders) in a snowmobile be listed on the registration certificate for that snowmobile issued by the Secretary of State.

FISCAL IMPACT: 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 act'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 ACT:

The act amends the snowmobile registration procedures contained in Part 821 (Snowmobiles) of the Natural Resources and Environmental Protection Act, including adoption of a new requirement that the names and addresses of any holders of security interests (lenders) in a snowmobile be listed on the registration certificate for that snowmobile issued by the Secretary of State. A detailed explanation follows.

Disclosure of security interests. An applicant for a snowmobile registration certificate must include the names and addresses of holders of any security interest (lenders) 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 remains \$22. In addition, the names and addresses of any secured parties must be listed on the certificate of registration issued to a snowmobile owner by the Department of State.

Issuance of registration certificates and decals. A provision requiring that the snowmobile's owner be issued a certificate of registration and decal at the time the application was made was deleted from the statute.

Retention of registration records. The act requires the department to retain records of expired certificates of registration for seven years instead of five years as is currently the case. The department must 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 is not paid on its first presentation, the fee will be considered delinquent from the date it is tendered, and the person submitting it remains liable for the fee and, in some cases, a penalty. If the fee remains unpaid after reasonable notice or demand for payment, the department may suspend the driver 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 will be added to the fee. Any penalties collected under this section are to 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 are to be credited each year to the Snowmobile Trail Improvement Fund.

Grounds for revocation or refusal to issue a snowmobile registration. The department may 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 registration certificate 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 act, 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, must 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 owns the snowmobile, the department will assign a special identification number, preceded by a symbol indicating that the vehicle number was issued by the State of Michigan (rather than a manufacturer). The department must maintain a record of assigned special identifying numbers. The special identifying number is to be applied to the snowmobile as directed by the Department of State, and will be considered the identifying number of the snowmobile.

The owner of a snowmobile whose vehicle number is missing must 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 must assign a replacement vehicle number to be applied to the snowmobile as directed. The department is to note on the snowmobile's registration record that a replacement vehicle number has 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." When purchasing a snowmobile from a dealer, the purchaser must apply for a registration certificate at the point of sale, and the dealer must send in completed applications at least weekly. The new act excludes auctioneers as defined in the Occupational Code from the definition of dealer.

Effective date. The act takes effect on 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 new act provides 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 act gives 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 ask whether 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 for a snowmobile registration?

The new act may unduly complicate snowmobile registration procedures.

Legislative Analyst: Shannan Kane
Fiscal Analyst: Mark Wolf

■ 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.