

HOUSE BILL No. 4795

May 17, 2007, Introduced by Reps. Corriveau, Coulouris, Condino, Alma Smith, Byrnes, Bieda, Robert Jones and Constan and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 82101, 82127, 82128, 82129, 82136, 82139, 82140, 82142, 82143, 82144, 82146, and 82148 (MCL 324.82101, 324.82127, 324.82128, 324.82129, 324.82136, 324.82139, 324.82140, 324.82142, 324.82143, 324.82144, 324.82146, and 324.82148), sections 82101 and 82148 as amended by 2005 PA 175, section 82127 as amended by 2001 PA 12, sections 82128 and 82129 as amended by 1999 PA 22, sections 82136, 82142, and 82146 as added by 1995 PA 58, and sections 82139, 82140, 82143, and 82144 as amended by 1996 PA 183.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 82101. ~~(1)~~As used in this part:

2 (A) "ALCOHOLIC LIQUOR" MEANS THAT TERM AS DEFINED IN SECTION

1 1D OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1D.

2 (B) ~~(a)~~—"Conviction" means a final conviction, the payment of
3 a fine, a plea of guilty or nolo contendere if accepted by the
4 court, or a finding of guilt or probate court disposition on a
5 violation of this part, regardless of whether the penalty is
6 rebated or suspended.

7 (C) ~~(b)~~—"Dealer" means any person engaged in the sale, lease,
8 or rental of snowmobiles as a regular business.

9 (D) ~~(c)~~—"Former section 15a" means section 15a of former 1968
10 PA 74, as constituted ~~prior to~~ **BEFORE** May 1, 1994.

11 (E) ~~(d)~~—"Highly restricted personal information" means an
12 individual's photograph or image, social security number, digitized
13 signature, and medical and disability information.

14 (F) ~~(e)~~—"Highway or street" means the entire width between the
15 boundary lines of every way publicly maintained if any part thereof
16 is open to the use of the public for purposes of vehicular travel.

17 (G) ~~(f)~~—"In-kind contributions" means services and goods as
18 approved by the department that are provided by a grant recipient
19 toward completion of a department-approved local snowmobile program
20 under section 82107.

21 (H) ~~(g)~~—"Law of another state" means a law or ordinance
22 enacted by any of the following:

23 (i) Another state.

24 (ii) A local unit of government in another state.

25 (iii) Canada or a province or territory of Canada.

26 (iv) A local unit of government in a province or territory of
27 Canada.

1 ~~(h) "Long term incapacitating injury" means an injury that~~
2 ~~causes a person to be in a comatose, quadriplegic, hemiplegic, or~~
3 ~~paraplegic state, which state is likely to continue for 1 year or~~
4 ~~more.~~

5 (i) "Operate" means to ride in or on and be in actual physical
6 control of the operation of a snowmobile.

7 (j) "Operator" means any person who operates a snowmobile.

8 (k) "Owner" means any of the following:

9 (i) A person who holds the legal title to a snowmobile.

10 (ii) A vendee or lessee of a snowmobile that is the subject of
11 an agreement for conditional sale or lease with the right of
12 purchase upon performance of the conditions stated in the agreement
13 and with an immediate right of possession vested in the conditional
14 vendee or lessee.

15 (iii) A person renting a snowmobile or having the exclusive use
16 of a snowmobile for more than 30 days.

17 (l) "Peace officer" means any of the following:

18 (i) A sheriff.

19 (ii) A sheriff's deputy.

20 (iii) A deputy who is authorized by a sheriff to enforce this
21 part and who has satisfactorily completed at least 40 hours of law
22 enforcement training, including training specific to this part.

23 (iv) A village or township marshal.

24 (v) An officer of the police department of any municipality.

25 (vi) An officer of the Michigan state police.

26 (vii) The director and conservation officers employed by the
27 department.

1 (viii) A law enforcement officer who is certified ~~pursuant to~~
2 **UNDER** the commission on law enforcement standards act, 1965 PA 203,
3 MCL 28.601 to 28.616, as long as that officer is policing within
4 his or her jurisdiction.

5 (m) "Personal information" means information that identifies
6 an individual, including an individual's driver identification
7 number, name, address not including zip code, and telephone number,
8 but does not include information on snowmobile operation or
9 equipment-related violations or civil infractions, operator or
10 snowmobile registration status, accidents, or other behaviorally-
11 related information.

12 (n) "Probate court or family division disposition" means the
13 entry of a probate court order of disposition or family division
14 order of disposition for a child found to be within the provisions
15 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
16 712A.1 to 712A.32.

17 (o) "Prosecuting attorney", except as the context requires
18 otherwise, means the attorney general, the prosecuting attorney of
19 a county, or the attorney representing a local unit of government.

20 (p) "Recreational snowmobile trail improvement subaccount" ~~7~~
21 ~~subject to subsection (2),~~ means the recreational snowmobile trail
22 improvement subaccount of the snowmobile account created in section
23 82110.

24 (q) "Right-of-way" means that portion of a highway or street
25 less the roadway and any shoulder.

26 (r) "Roadway" means that portion of a highway or street
27 improved, designated, or ordinarily used for vehicular travel. If a

1 highway or street includes 2 or more separate roadways, the term
2 roadway refers to any such roadway separately, but not to all such
3 roadways collectively.

4 (s) "Shoulder" means that portion of a highway or street on
5 either side of the roadway that is normally snowplowed for the
6 safety and convenience of vehicular traffic.

7 (t) "Snowmobile" means any motor-driven vehicle designed for
8 travel primarily on snow or ice of a type that utilizes sled-type
9 runners or skis, an endless belt tread, or any combination of these
10 or other similar means of contact with the surface upon which it is
11 operated, but is not a vehicle that must be registered under the
12 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

13 (u) "Snowmobile account" ~~, subject to subsection (2),~~ means
14 the snowmobile account of the Michigan conservation and recreation
15 legacy fund provided for in section 2025.

16 (v) "Snowmobile registration fee subaccount" ~~, subject to~~
17 ~~subsection (2),~~ means the snowmobile registration fee subaccount of
18 the snowmobile account created in section 82111.

19 (w) "Zone 1" means all of the Upper Peninsula.

20 (x) "Zone 2" means all of that part of the Lower Peninsula
21 north of a line beginning at and drawn from a point on the
22 Michigan-Wisconsin boundary line due west of the westerly terminus
23 of River road in Muskegon county; thence due east to the westerly
24 terminus of River road; thence north and east along the center line
25 of the River road to its intersection with highway M-120; thence
26 northeasterly and easterly along the center line of highway M-120
27 to the junction of highway M-20; thence easterly along the center

1 line of M-20 to its junction with US-10 at the Midland-Bay county
 2 line; thence easterly along the center line of the "business route"
 3 of highway US-10 to the intersection of Garfield road in Bay
 4 county; thence north along the center line of Garfield road to the
 5 intersection of the Pinconning road; thence east along the center
 6 line of Pinconning road to the intersection of the Seven Mile road;
 7 thence north along the center of the Seven Mile road to the Bay-
 8 Arenac county line; thence north along the center line of the
 9 Lincoln School road (county road 25) in Arenac county to the
 10 intersection of highway M-61; thence east along the center line of
 11 highway M-61 to the junction of highway US-23; thence northerly and
 12 easterly along the center line of highway US-23 to the center line
 13 of the Au Gres river; thence southerly along the center line of the
 14 river to its junction with Saginaw Bay of Lake Huron; thence north
 15 78° east to the international boundary line between the United
 16 States and the Dominion of Canada.

17 (y) "Zone 3" means all of that part of the Lower Peninsula
 18 south of the line described in subdivision (x).

19 ~~—— (2) Subsection (1) (p), (u), and (v) does not apply unless~~
 20 ~~House Joint Resolution Z of the 92nd Legislature becomes a part of~~
 21 ~~the state constitution of 1963 as provided in section 1 of article~~
 22 ~~XII of the state constitution of 1963.~~

23 Sec. 82127. (1) A person shall not operate a snowmobile in
 24 this state if ~~either~~**ANY** of the following ~~applies~~**APPLY**:

25 (a) The person is under the influence of ~~intoxicating~~
 26 **ALCOHOLIC** liquor or a controlled substance, or both.

27 (b) The person has a blood alcohol content of ~~0.10~~**0.08** grams

1 or more per 100 milliliters of blood, per 210 liters of breath, or
2 per 67 milliliters of urine.

3 (C) THE PERSON HAS IN HIS OR HER BODY ANY AMOUNT OF A
4 CONTROLLED SUBSTANCE LISTED IN SCHEDULE 1 UNDER SECTION 7212 OF THE
5 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7212, OR A RULE
6 PROMULGATED UNDER THAT SECTION, OR OF A CONTROLLED SUBSTANCE
7 DESCRIBED IN SECTION 7214 (A) (iv) OF THE PUBLIC HEALTH CODE, 1978 PA
8 368, MCL 333.7214.

9 (2) The owner of a snowmobile or a person in charge or in
10 control of a snowmobile shall not authorize or knowingly permit the
11 snowmobile to be driven or operated by a person ~~who~~ **IF ANY OF THE**
12 **FOLLOWING APPLY:**

13 (A) THE PERSON is under the influence of ~~intoxicating~~
14 **ALCOHOLIC** liquor or a controlled substance, or both. ~~or who~~

15 (B) THE PERSON has ~~a blood~~ **AN** alcohol content of ~~0.10~~ **0.08**
16 grams or more per 100 milliliters of blood, per 210 liters of
17 breath, or per 67 milliliters of urine.

18 (C) THE PERSON'S ABILITY TO OPERATE A SNOWMOBILE IS VISIBLY
19 IMPAIRED DUE TO THE CONSUMPTION OF AN ALCOHOLIC LIQUOR, A
20 CONTROLLED SUBSTANCE, OR A COMBINATION OF AN ALCOHOLIC LIQUOR AND A
21 CONTROLLED SUBSTANCE.

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

1 (4) A person who operates a snowmobile ~~under the influence of~~
 2 ~~intoxicating liquor or a controlled substance, or both, or with a~~
 3 ~~blood alcohol content of 0.10 grams or more per 100 milliliters of~~
 4 ~~blood, per 210 liters of breath, or per 67 milliliters of urine, IN~~
 5 **VIOLATION OF SUBSECTION (1) OR (3)** and by the operation of that
 6 snowmobile causes the death of another person is guilty of a felony
 7 punishable by imprisonment for not more than 15 years ~~or~~ a fine
 8 of not less than \$2,500.00 or more than \$10,000.00, or both.

9 (5) A person who operates a snowmobile ~~under the influence of~~
 10 ~~intoxicating liquor or a controlled substance, or both, or with a~~
 11 ~~blood alcohol content of 0.10 grams or more per 100 milliliters of~~
 12 ~~blood, per 210 liters of breath, or per 67 milliliters of urine, IN~~
 13 **VIOLATION OF SUBSECTION (1) OR (3)** and by the operation of that
 14 snowmobile causes a serious impairment of a body function of
 15 another person is guilty of a felony punishable by imprisonment for
 16 not more than 5 years ~~or~~ a fine of not less than \$1,000.00 or
 17 more than \$5,000.00, or both. As used in this subsection, "serious
 18 impairment of a body function" ~~includes, but is not limited to, 1~~
 19 ~~or more of the following: MEANS THAT TERM AS DEFINED IN SECTION 58C~~
 20 **OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.58C.**

21 ~~—— (a) Loss of a limb or use of a limb.~~

22 ~~—— (b) Loss of a hand, foot, finger, or thumb or use of a hand,~~
 23 ~~foot, finger, or thumb.~~

24 ~~—— (c) Loss of an eye or ear or use of an eye or ear.~~

25 ~~—— (d) Loss or substantial impairment of a bodily function.~~

26 ~~—— (e) Serious visible disfigurement.~~

27 ~~—— (f) A comatose state that lasts for more than 3 days.~~

1 ~~(g) Measurable brain damage or mental impairment.~~

2 ~~(h) A skull fracture or other serious bone fracture.~~

3 ~~(i) Subdural hemorrhage or subdural hematoma.~~

4 Sec. 82128. (1) If a person is convicted of violating section
5 82127(1), the following apply:

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

9 (i) Community service for not more than 45 days.

10 (ii) Imprisonment for not more than 93 days.

11 (iii) A fine of not less than \$100.00 or more than \$500.00.

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

16 (i) Community service for not less than 10 days or more than 90
17 days, and may be imprisoned for not more than 1 year.

18 (ii) Imprisonment for not less than 48 consecutive hours or
19 more than 1 year, and may be sentenced to community service for not
20 more than 90 days.

21 (c) If the violation occurs ~~within 10 years of~~ **AFTER** 2 or more
22 prior convictions **REGARDLESS OF THE NUMBER OF YEARS THAT HAVE**
23 **ELAPSED SINCE ANY PRIOR CONVICTION**, the person is guilty of a
24 felony and shall be sentenced to imprisonment for not less than 1
25 year or more than 5 years, or a fine of not less than \$500.00 or
26 more than \$5,000.00, or both.

27 (2) A term of imprisonment imposed under subsection (1) (b) (ii)

1 shall not be suspended.

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

8 (4) In addition to the sanctions prescribed under subsection
9 (1) and section 82127(4) and (5), the court may, pursuant to the
10 code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order
11 the person to pay the costs of the prosecution. The court shall
12 also impose sanctions under section 82142.

13 (5) A person who is convicted of violating section 82127(2) is
14 guilty of a misdemeanor, punishable by imprisonment for not more
15 than 93 days, or a fine of not less than \$100.00 or more than
16 \$500.00, or both.

17 (6) As used in this section, "prior conviction" means a
18 conviction for a violation of section 82127(1), (4), or (5), former
19 section 15a(1), (4), or (5) of 1968 PA 74, or former section 15a, a
20 local ordinance substantially corresponding to section 82127(1) or
21 former section 15a, or a law of another state substantially
22 corresponding to section 82127(1), (4), or (5) or former section
23 15a.

24 Sec. 82129. (1) If a person is convicted of violating section
25 82127(3), the following apply:

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

1 the following:

2 (i) Community service for not more than 45 days.

3 (ii) Imprisonment for not more than 93 days.

4 (iii) A fine of not more than \$300.00.

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

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

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

14 (c) If the violation occurs ~~within 10 years of~~ **AFTER** 2 or more
15 prior convictions **REGARDLESS OF THE NUMBER OF YEARS THAT HAVE**
16 **ELAPSED SINCE ANY PRIOR CONVICTION**, the person shall be sentenced
17 to both a fine of not less than \$200.00 or more than \$1,000.00, and
18 either of the following:

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

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

24 (2) In addition to the sanctions prescribed in subsection (1),
25 the court may, pursuant to the code of criminal procedure, 1927 PA
26 175, MCL 760.1 to 777.69, order the person to pay the costs of the
27 prosecution. The court shall also impose sanctions under section

1 82142.

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

8 (4) As used in this section, "prior conviction" means a
9 conviction for a violation of section 82127(1), (3), (4), or (5),
10 section 15a(1), (3), (4), or (5) of 1968 PA 74, or former section
11 15a, a local ordinance substantially corresponding to section
12 82127(1) or (3) or former section 15a, or a law of another state
13 substantially corresponding to section 82127(1), (3), (4), or (5)
14 or former section 15a.

15 Sec. 82136. (1) A peace officer, without a warrant, may arrest
16 a person if the peace officer has reasonable cause to believe that
17 the person was, at the time of an accident, the operator of a
18 snowmobile involved in the accident in this state while in
19 violation of section 82127(1), (3), (4), or (5) or a local
20 ordinance substantially corresponding to section 82127(1) or (3).

21 (2) A peace officer who has reasonable cause to believe that a
22 person was operating a snowmobile and that, by the consumption of
23 ~~intoxicating~~ **ALCOHOLIC** liquor, the person may have affected his or
24 her ability to operate a snowmobile may require the person to
25 submit to a preliminary chemical breath analysis. The following
26 apply with respect to a preliminary chemical breath analysis:

27 (a) A peace officer may arrest a person based in whole or in

House Bill No. 4795 as amended June 12, 2007
 as amended June 13, 2007

1 part upon the results of a preliminary chemical breath analysis.

2 (b) The results of a preliminary chemical breath analysis are
 3 admissible in a criminal prosecution for a crime enumerated in
 4 section 82143(1) or in an administrative hearing solely to assist
 5 the court or hearing officer in determining a challenge to the
 6 validity of an arrest. This subdivision does not limit the
 7 introduction of other competent evidence offered to establish the
 8 validity of an arrest.

9 (c) A person who submits to a preliminary chemical breath
 10 analysis remains subject to the requirements of sections 82143 to
 11 82146 for the purposes of chemical tests described in those
 12 sections.

13 (d) A person who refuses to submit to a preliminary chemical
 14 breath analysis upon a lawful request by a peace officer is ~~guilty~~
 15 ~~of a misdemeanor.~~ **RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE**
 16 **ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00.]**

17 Sec. 82139. (1) The provisions of sections 82137 and 82138
 18 relating to chemical testing do not limit the introduction of any
 19 other competent evidence bearing upon the question of whether a
 20 person was impaired by, or under the influence of, ~~intoxicating~~
 21 **ALCOHOLIC** liquor or a controlled substance, or both, or whether the
 22 person had a blood alcohol content of ~~0.10~~**0.08** grams or more per
 23 milliliters of urine **[OR HAD IN HIS OR HER BODY ANY AMOUNT OF A**
CONTROLLED SUBSTANCE LISTED IN SCHEDULE 1 UNDER SECTION 7212 OF THE
PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7212, OR A RULE PROMULGATED
UNDER THAT SECTION, OR OF A CONTROLLED SUBSTANCE DESCRIBED IN SECTION
7214(A) (iv) OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7214].

24 (2) If a chemical test described in sections 82137 and 82138
 25 is administered, the results of the test shall be made available to
 26 the person charged or the person's attorney upon written request to
 27 the prosecution, with a copy of the request filed with the court.

1 The prosecution shall furnish the results at least 2 days before
2 the day of the trial. The results of the test shall be offered as
3 evidence by the prosecution in that trial. Failure to fully comply
4 with the request bars the admission of the results into evidence by
5 the prosecution.

6 Sec. 82140. ~~(1) Except in a prosecution relating solely to a~~
7 ~~violation of section 82127(1)(b), the amount of alcohol in the~~
8 ~~driver's blood at the time alleged as shown by chemical analysis of~~
9 ~~the person's blood, urine, or breath gives rise to the following~~
10 ~~presumptions:~~

11 ~~—— (a) If at the time the defendant had a blood alcohol content~~
12 ~~of 0.07 grams or less per 100 milliliters of blood, per 210 liters~~
13 ~~of breath, or per 67 milliliters of urine, it shall be presumed~~
14 ~~that the defendant's ability to operate a snowmobile was not~~
15 ~~impaired due to the consumption of intoxicating liquor and that the~~
16 ~~defendant was not under the influence of intoxicating liquor.~~

17 ~~—— (b) If at the time the defendant had a blood alcohol content~~
18 ~~of more than 0.07 grams but less than 0.10 grams per 100~~
19 ~~milliliters of blood, per 210 liters of breath, or per 67~~
20 ~~milliliters of urine, it shall be presumed that the defendant's~~
21 ~~ability to operate a snowmobile was impaired within the provisions~~
22 ~~of section 82127(3) due to the consumption of intoxicating liquor.~~

23 ~~—— (c) If at the time the defendant had a blood alcohol content~~
24 ~~of 0.10 grams or more per 100 milliliters of blood, per 210 liters~~
25 ~~of breath, or per 67 milliliters of urine, it shall be presumed~~
26 ~~that the defendant was under the influence of intoxicating liquor.~~

27 ~~—— (2) A person's refusal to submit to a chemical test as~~

1 provided in sections 82137 and 82138 is admissible in a criminal
2 prosecution for a crime described in section 82143(1) only for the
3 purpose of showing that a test was offered to the defendant, but
4 not as evidence in determining innocence or guilt of the defendant.
5 The jury shall be instructed accordingly.

6 Sec. 82142. (1) Immediately upon acceptance by the court of a
7 plea of guilty or nolo contendere or upon entry of a verdict of
8 guilty for a violation of section 82127(1), (3), (4), or (5) or a
9 local ordinance substantially corresponding to section 82127(1) or
10 (3), whether or not the person is eligible to be sentenced as a
11 multiple offender, the court shall consider all prior convictions
12 established under section 82130, except those convictions that,
13 upon motion by the defendant, are determined by the court to be
14 constitutionally invalid, and shall impose the following sanctions:

15 (a) For a conviction under section 82127(4) or (5), the court
16 shall order, without an expiration date, that the person not
17 operate a snowmobile.

18 (b) For a conviction under section 82127(1) or a local
19 ordinance substantially corresponding to section 82127(1):

20 (i) If the court finds that the person has no prior convictions
21 within 7 years for a violation of section 82127(1), (3), (4), or
22 (5), former section 15a(1), (3), (4), or (5) of ~~Act No. 74 of the~~
23 ~~Public Acts of 1968~~ **1968 PA 74**, or former section 15a or another
24 snowmobile substance abuse offense or that the person has 1 prior
25 conviction within 7 years for a violation of section 82127(3),
26 former section 15a(3) of ~~Act No. 74 of the Public Acts of 1968~~ **1968**
27 **PA 74**, a local ordinance substantially corresponding to section

1 82127(3), or a law of another state substantially corresponding to
2 section 82127(3), the court shall order that the person not operate
3 a snowmobile for not less than 6 months or more than 2 years and
4 shall require that the person take and successfully complete the
5 snowmobile safety education and training program before operating a
6 snowmobile.

7 (ii) If the court finds that the person has 1 or more prior
8 convictions within 7 years for a violation of section 82127(1),
9 (4), or (5), former section 15a(1), (4), or (5) of ~~Act No. 74 of~~
10 ~~the Public Acts of 1968~~ **1968 PA 74**, or former section 15a, a local
11 ordinance substantially corresponding to section 82127(1) or former
12 section 15a, or a law of another state substantially corresponding
13 to section 82127(1), (4), or (5) or former section 15a, or that the
14 person has 2 or more prior convictions within ~~10~~ **ANY PERIOD OF**
15 years for a violation of section 82127(1), (3), (4), or (5), former
16 section 15a(1), (3), (4), or (5) of ~~Act No. 74 of the Public Acts~~
17 ~~of 1968~~ **1968 PA 74**, or former section 15a, or another snowmobile
18 substance abuse offense, the court shall order, without an
19 expiration date, that the person not operate a snowmobile.

20 (c) For a conviction under section 82127(3) or a local
21 ordinance substantially corresponding to section 82127(3):

22 (i) If the court finds that the convicted person has no prior
23 conviction within 7 years for a violation of section 82127(1), (3),
24 (4), or (5), former section 15a(1), (3), (4), or (5) of ~~Act No. 74~~
25 ~~of the Public Acts of 1968~~ **1968 PA 74**, former section 15a, or
26 another snowmobile substance abuse offense, the court shall order
27 that the person not operate a snowmobile for not less than 90 days

1 or more than 1 year.

2 (ii) If the court finds that the person has 1 prior conviction
3 within 7 years for a violation of section 82127(1), (3), (4), or
4 (5), former section 15a(1), (3), (4), or (5) of ~~Act No. 74 of the~~
5 ~~Public Acts of 1968~~ **1968 PA 74**, former section 15a, or another
6 snowmobile substance abuse offense, the court shall order that the
7 person not operate a snowmobile for not less than 6 months or more
8 than 2 years.

9 (iii) If the court finds that the person has 2 or more prior
10 convictions within ~~10~~ **ANY PERIOD OF** years for a violation of
11 section 82127(1), (3), (4), or (5), former section 15a(1), (3),
12 (4), or (5) of ~~Act No. 74 of the Public Acts of 1968~~ **1968 PA 74**,
13 former section 15a, or another snowmobile substance abuse offense,
14 the court shall order, without an expiration date, the person not
15 to operate a snowmobile.

16 (2) As used in this section, "another snowmobile substance
17 abuse offense" means a local ordinance substantially corresponding
18 to section 82127(1) or (3) or a law of another state substantially
19 corresponding to section 82127(1), (3), (4), or (5).

20 Sec. 82143. (1) A person who operates a snowmobile is
21 considered to have given consent to chemical tests of his or her
22 blood, breath, or urine for the purpose of determining the amount
23 of alcohol or presence of a controlled substance, or both, in his
24 or her blood in all of the following circumstances:

25 (a) The person is arrested for a violation of section
26 82127(1), (3), (4), or (5) or a local ordinance substantially
27 corresponding to section 82127(1) or (3).

1 (b) The person is arrested for negligent homicide,
2 manslaughter, or murder resulting from the operation of a
3 snowmobile, and the peace officer had reasonable grounds to believe
4 that the person was operating the snowmobile ~~while impaired by, or~~
5 ~~under the influence of, intoxicating liquor or a controlled~~
6 ~~substance, or both, or while having a blood alcohol content of 0.10~~
7 ~~grams or more per 100 milliliters of blood, per 210 liters of~~
8 ~~breath, or per 67 milliliters of urine~~ **IN VIOLATION OF SECTION**
9 **82127.**

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

14 (3) A chemical test described in subsection (1) shall be
15 administered as provided in sections 82137 and 82138.

16 Sec. 82144. (1) If a person refuses the request of a peace
17 officer to submit to a chemical test offered pursuant to section
18 82137 or 82138, a test shall not be given without a court order,
19 but the officer may seek to obtain the court order.

20 (2) If a person refuses a chemical test offered pursuant to
21 section 82137 or 82138, or submits to the chemical test and the
22 test reveals a blood alcohol content of ~~0.10~~ **0.08** grams or more per
23 100 milliliters of blood, per 210 liters of breath, or per 67
24 milliliters of urine, the peace officer who requested the person to
25 submit to the test shall immediately forward a written report to
26 the secretary of state. The report shall state that the officer had
27 reasonable grounds to believe that the person had committed a crime

1 described in section 82143(1), and either that the person has
2 refused to submit to the test upon the request of the peace officer
3 and has been advised of the consequences of the refusal or that the
4 test revealed a blood alcohol content of ~~0.10~~**0.08** grams or more
5 per 100 milliliters of blood, per 210 liters of breath, or per 67
6 milliliters of urine. The form of the report shall be prescribed
7 and furnished by the secretary of state.

8 Sec. 82146. (1) If a person who refuses to submit to a
9 chemical test ~~pursuant to~~**UNDER** section 82144 does not request a
10 hearing within 14 days of the date of notice pursuant to section
11 82145, the secretary of state shall issue an order that the person
12 not operate a snowmobile for ~~6 months~~**1 YEAR** or, for a second or
13 subsequent refusal within 7 years, for ~~1 year~~**2 YEARS**.

14 (2) If a hearing is requested, the secretary of state shall
15 hold the hearing in the same manner and under the same conditions
16 as provided in section 322 of the Michigan vehicle code, ~~Act No.~~
17 ~~300 of the Public Acts of 1949, being section 257.322 of the~~
18 ~~Michigan Compiled Laws 1949 PA 300, MCL 257.322~~. A person shall not
19 order a hearing officer to make a particular finding on any issue
20 enumerated under subdivisions (a) to (d). Not less than 5 days'
21 notice of the hearing shall be mailed to the person requesting the
22 hearing, to the peace officer who filed the report under section
23 82144, and, if the prosecuting attorney requests receipt of the
24 notice, to the prosecuting attorney of the county where the arrest
25 was made. The hearing officer may administer oaths, issue subpoenas
26 for the attendance of necessary witnesses, and grant a reasonable
27 request for an adjournment. Not more than 1 adjournment shall be

1 granted to a party, and the length of an adjournment shall not
2 exceed 14 days. A hearing under this subsection shall be scheduled
3 to be held within 45 days after the date of arrest and, except for
4 delay attributable to the unavailability of the defendant, a
5 witness, or material evidence or to an interlocutory appeal or
6 exceptional circumstances, but not for delay attributable to docket
7 congestion, shall be finally adjudicated within 77 days after the
8 date of arrest. The hearing shall cover only the following issues:

9 (a) Whether the peace officer had reasonable grounds to
10 believe that the person had committed a crime described in section
11 82143(1).

12 (b) Whether the person was placed under arrest for a crime
13 described in section 82143(1).

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

16 (d) Whether the person was advised of his or her rights under
17 section 82137.

18 (3) The hearing officer shall make a record of proceedings
19 held ~~pursuant to~~ **UNDER** subsection (2). The record shall be prepared
20 and transcribed in accordance with section 86 of the administrative
21 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
22 ~~being section 24.286 of the Michigan Compiled Laws 1969 PA 306, MCL~~
23 **24.286**. Upon notification of the filing of a petition for judicial
24 review ~~pursuant to~~ **UNDER** section 82150 and not less than 10 days
25 before the matter is set for review, the hearing officer shall
26 transmit to the court in which the petition is filed the original
27 or a certified copy of the official record of the proceedings. The

1 parties to the proceedings for judicial review may stipulate that
2 the record be shortened. A party unreasonably refusing to stipulate
3 to a shortened record may be taxed by the court in which the
4 petition is filed for the additional costs. The court may permit
5 subsequent corrections to the record.

6 (4) After a hearing, if the person who requested the hearing
7 does not prevail, the secretary of state shall order that the
8 person not operate a snowmobile for ~~6 months~~ **1 YEAR** or, for a
9 second or subsequent refusal within 7 years, for ~~1 year~~ **2 YEARS**.
10 The person may file a petition in the circuit court of the county
11 in which the arrest was made to review the order as provided in
12 section 82150. If after the hearing the person who requested the
13 hearing prevails, the peace officer who filed the report under
14 section 82144 may, with the consent of the prosecuting attorney,
15 file a petition in the circuit court of the county in which the
16 arrest was made to review the determination of the hearing officer
17 as provided in section 82150.

18 Sec. 82148. (1) Upon receipt of the appropriate records of
19 conviction, the secretary of state shall issue an order with no
20 expiration date that the person not operate a snowmobile to a
21 person having any of the following convictions, whether under a law
22 of this state, a local ordinance substantially corresponding to a
23 law of this state, or a law of another state substantially
24 corresponding to a law of this state:

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

27 (b) Any combination of 2 convictions within 7 years for a

1 violation of section 82127(1), section 15a(1) of former 1968 PA 74,
2 or section 15a of former 1968 PA 74, as added by 1980 PA 402.

3 (c) One conviction under section 82127(4) or (5) or section
4 15a(4) or (5) of former 1968 PA 74.

5 (d) Any combination of 3 convictions within ~~10~~**ANY TERM OF**
6 years for a violation of section 82127(1) or (3), section 15a(1) or
7 (3) of former 1968 PA 74, or section 15a of former 1968 PA 74, as
8 added by 1980 PA 402.

9 (2) The department shall seek to enter agreements with the
10 appropriate agencies of other states, Canada, and provinces and
11 territories of Canada for the sharing of records of convictions
12 described in subsection (1).

13 (3) The secretary of state shall issue an order with no
14 expiration date that a person not operate a snowmobile
15 notwithstanding a court order issued under section 82142, or a
16 local ordinance substantially corresponding to section 82142. The
17 secretary of state shall not terminate an indefinite order issued
18 under this part until both of the following occur:

19 (a) The later of the following:

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

22 (ii) The expiration of not less than 5 years after the date of
23 a subsequent issuance of an indefinite order occurring within 7
24 years after the date of a prior order.

25 (b) The person meets the requirements of the department of
26 state.

27 (4) Multiple convictions or probate court dispositions

1 resulting from the same incident shall be treated as a single
2 violation for purposes of issuance of an order under this section.

3 (5) A person who is aggrieved by the issuance of an order by
4 the secretary of state under this section may request a hearing
5 with the secretary of state. The hearing shall be requested within
6 14 days after issuance of an order under this section by the
7 secretary of state. If a hearing is requested, the secretary of
8 state shall hold the hearing in the same manner and under the same
9 conditions as provided in section 322 of the Michigan vehicle code,
10 1949 PA 300, MCL 257.322.

11 (6) The hearing officer shall make a record of proceedings
12 held pursuant to subsection (5). The record shall be prepared and
13 transcribed in accordance with section 86 of the administrative
14 procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification
15 of the filing of a petition for judicial review pursuant to section
16 82150 and not less than 10 days before the matter is set for
17 review, the hearing officer shall transmit to the court in which
18 the petition is filed the original or a certified copy of the
19 official record of the proceedings. The parties to the proceedings
20 for judicial review may stipulate that the record be shortened. A
21 party unreasonably refusing to stipulate to a shortened record may
22 be taxed by the court in which the petition is filed for the
23 additional costs. The court may permit subsequent corrections to
24 the record.

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

1 Enacting section 1. This amendatory act takes effect January
2 1, 2008.