

Act No. 399  
Public Acts of 2008  
Approved by the Governor  
January 5, 2009  
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January 6, 2009  
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**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

Introduced by Senator Allen

# **ENROLLED SENATE BILL No. 1489**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 82105, 82106, and 82126 (MCL 324.82105, 324.82106, and 324.82126), section 82105 as amended by 2008 PA 145, section 82106 as amended by 2004 PA 587, and section 82126 as amended by 2008 PA 27.

*The People of the State of Michigan enact:*

Sec. 82105. (1) Before operating a snowmobile requiring registration in this state, the owner shall apply for registration with the department of state on forms provided by the department of state. If the snowmobile was purchased from a retail dealer in this state, application for initial registration shall be made with the dealer at the point of sale. The dealer shall issue a temporary registration permit in a form received from and approved by the department of state that is valid for 15 days after the date of sale. Each retail dealer shall submit applications for registrations and fees to the department of state not less than once each week. The application shall include the new owner's signature and, beginning July 1, 2009, the new owner's name and bona fide residence address and the names and addresses of holders of any security interest in the snowmobile and its accessories in the order of priority. The application shall be accompanied by a fee of \$22.00 if paid before July 1, 2009 or \$30.00 if paid on or after July 1, 2009. Upon receipt of the application in approved form, the department of state shall enter the application upon its records and issue to the applicant a certificate of registration and decal. The certificate of registration shall contain the number awarded to the snowmobile, the name and address of the owner, other information the department of state considers necessary, and, beginning July 1, 2009, the name and address of the holders of secured interests. A person shall not operate a snowmobile that is required to be registered in this state unless the person possesses the certificate of registration in legible form. The person shall make the certificate of registration available for inspection upon demand by a peace officer.

(2) If the secretary of state is not satisfied as to the ownership of a snowmobile that is worth more than \$2,500.00, before registering the snowmobile and issuing a certificate of registration, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the snowmobile as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser of the snowmobile and their successors in interest against any expense, loss, or damage, including reasonable attorney fees, incurred as a result of

the issuance of a certificate of registration for the snowmobile or any defect in the right, title, or interest of the applicant in the snowmobile. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the snowmobile is no longer registered in this state and the current valid certificate of registration is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a snowmobile that is worth \$2,500.00 or less, the secretary of state shall require the applicant to certify that the applicant is the owner of the snowmobile and entitled to register the snowmobile.

(3) The certificate of registration and registration decal authorizes the operation of the snowmobile for a 3-year period that begins on October 1 and expires on September 30 of the third year. The certificate of registration and registration decal may be renewed beginning July 1 of the expiration year by payment of a fee of \$22.00 before July 1, 2009 or \$30.00 on or after July 1, 2009. The registration decal shall be displayed as prescribed by rule promulgated by the department of state.

(4) The department of state may destroy a record of a certificate of registration 7 years after expiration of the certificate.

Sec. 82106. (1) Except as otherwise provided in this part, revenue received from the registration fees under this part shall be deposited as follows:

(a) Seventeen dollars of each registration fee shall be deposited into the snowmobile registration fee subaccount. However, if the balance of the snowmobile registration fee subaccount exceeds \$1,600,000.00 at any time, the state treasurer shall transfer all amounts in excess of \$1,600,000.00 to the recreational snowmobile trail improvement subaccount. From the revenue deposited in the snowmobile registration fee subaccount under this part, the legislature shall make an annual appropriation as follows:

(i) Not more than \$3.00 from each registration fee collected during each fiscal year shall be appropriated to the department of state for administration of the registration provisions of this part. At the close of each state fiscal year, any money appropriated under this subparagraph but not expended shall be credited to the recreational snowmobile trail improvement subaccount. Additionally, if less than \$3.00 from each registration fee is appropriated to the department of state, the state treasurer shall transfer the difference between \$3.00 and the amount appropriated from each registration fee to the recreational snowmobile trail improvement subaccount.

(ii) From each fee for a registration paid before July 1, 2009, \$14.00 or from each fee for a registration paid on or after July 1, 2009, \$19.00 shall be appropriated to the department for purposes set forth in section 82107, including financial assistance to county sheriff departments and local law enforcement agencies for local snowmobile programs. Any money appropriated but not expended under this subparagraph shall be credited each year to the snowmobile registration fee subaccount.

(b) From each fee for a registration paid before July 1, 2009, \$5.00 shall be deposited in the recreational snowmobile trail improvement subaccount and shall be administered by the department for the purposes of planning, construction, maintenance, and acquisition of trails and areas for the use of snowmobiles, or access to those trails and areas, and basic snowmobile facilities.

(c) From each fee for a registration paid on or after July 1, 2009, \$8.00 shall be deposited into the permanent snowmobile trail easement subaccount under section 82110a. This money is intended to supplement other money expended for snowmobile-related activities of the department and not as a replacement for those expenditures.

(2) The department shall designate a state recreational trail coordinator and shall maintain a comprehensive plan for implementing a statewide recreational and snowmobile trails system. The comprehensive plan shall be reviewed and updated each year by the department.

(3) The money appropriated under this section to the department for snowmobile trails and areas, for access to those trails or areas, and for basic snowmobile facilities may be expended for the acquisition, development, and maintenance on any land in the state. This money may be used to purchase lands or secure easements, leases, permits, or other appropriate agreements permitting use of private property for snowmobile trails, basic facilities, and areas which may be used by bicyclists, hikers, equestrians, and other nonconflicting off-season recreational trail users, if the easements, leases, permits, or other agreements provide public access to the trail, use areas, and support facilities.

(4) Recreational trail facilities or major improvements shall not be constructed on private land unless a written agreement in the form of an easement, lease, or permit for a public trail right-of-way having a term of not less than 5 years is made between the owner of the land and the department.

(5) The money appropriated under this section shall be expended in a manner and as part of the overall plan of the department for an interconnecting network of statewide snowmobile trails and use areas giving consideration to expected snowfall and availability for use with adequate snow cover. Consideration shall be given in the plan for alternative nonconflicting off-season recreational uses of snowmobile trails.

Sec. 82126. (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 on 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 that is in zone 2 or zone 3.

(c) On the frozen surface of public waters as follows:

(i) Within 100 feet of a person, including a skater, who is not in or upon a snowmobile.

(ii) Within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile.

(iii) On an area that has been cleared of snow for skating purposes unless the area is necessary for access to the public water.

(d) 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.

(e) 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 under 1 or more of the following circumstances:

(i) During an emergency.

(ii) For law enforcement purposes.

(iii) To go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle.

(iv) For the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, or timber harvest operations.

(v) On the person's own property or property under the person's control or as an invited guest.

(f) While transporting on the snowmobile a bow, unless unstrung or encased, or a firearm, unless unloaded in both barrel and magazine and securely encased.

(g) On or across a cemetery or burial ground.

(h) Within 100 feet of a slide, ski, or skating area except when traveling on a county road right-of-way pursuant to section 82119 or a snowmobile trail that is designated and funded by the department. A snowmobile may enter such an area for the purpose of servicing the area or for medical emergencies.

(i) On a railroad or railroad right-of-way. This prohibition does not apply to railroad personnel, public utility personnel, law enforcement personnel while in the performance of their duties, or persons using a snowmobile trail located on or along a railroad right-of-way, or an at-grade snowmobile trail crossing of a railroad right-of-way, that has been expressly approved in writing by the owner of the right-of-way and each railroad company using the tracks and that meets the conditions imposed in subsections (4) and (5). A snowmobile trail or an at-grade snowmobile trail crossing shall not be constructed on a right-of-way designated by the federal government as a high-speed rail corridor.

(2) Except as provided under subsection (3), a person shall not operate a snowmobile unless the snowmobile is equipped with a muffler in good working order and in constant operation from which noise emission does not exceed either of the following:

(a) For a snowmobile manufactured after July 1, 1977 and sold or offered for sale in this state, 78 decibels at 50 feet, as measured using the 2003 society of automotive engineers standard J192.

(b) For a stationary snowmobile manufactured after July 1, 1980 and sold or offered for sale in this state, 88 decibels, as measured using the 2004 society of automotive engineers standard J2567.

(3) A person is exempt from the requirement of subsection (2) under either of the following circumstances:

(a) While operating a snowmobile during an organized race on a course that is used solely for racing.

(b) While operating a snowmobile on private property, with the permission of the private property owner, in preparation for an organized race, if the operation of the snowmobile is in compliance with applicable local noise ordinances.

(4) A snowmobile trail located on or along a railroad right-of-way 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, except that an at-grade snowmobile trail crossing of a railroad right-of-way shall be constructed and maintained by the person operating the railroad at the sole cost and expense of the person operating the trail connected by the crossing, 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, arising from, or incidental to the construction, maintenance, operation, and use of the trail or at-grade snowmobile trail crossing.

(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 or the person operating the railroad 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 part 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 snowmobile trail.

(5) A snowmobile trail shall be clearly demarcated by signing constructed and maintained at the sole cost and expense of the grant program sponsor. The signing shall be placed at the outer edge of the railroad right-of-way, as far from the edge of the railroad tracks as possible, and 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 the railroad tracks. The at-grade snowmobile trail crossing of a railroad right-of-way shall be aligned at 90 degrees or as close to 90 degrees as possible to the railroad track being crossed, and shall be located where approach grades to the crossing are minimal and where the vision of a person operating a snowmobile will be unobstructed as he or she approaches the railroad tracks. The design of the snowmobile trail, including the location of 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 to its snowmobile trail grant program sponsors.

(6) Notwithstanding section 82101, as used in this section, "operate" means to cause to function, run, or manage.

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

(8) Each person who participates in the sport of snowmobiling accepts the risks associated with that sport insofar as the dangers are obvious and inherent. Those risks include, but are not limited to, injuries to persons or property that can result from variations in terrain; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; and collisions with signs, fences, or other snowmobiles or snow-grooming equipment. Those risks do not include injuries to persons or property that can result from the use of a snowmobile by another person in a careless or negligent manner likely to endanger person or property. When a snowmobile is operated in the vicinity of a railroad right-of-way, each person who participates in the sport of snowmobiling additionally assumes risks including, but not limited to, entanglement with tracks, switches, and ties and collisions with trains and other equipment and facilities.

(9) A person who violates subsection (2) is responsible for a state civil infraction and shall be ordered to pay a civil fine of not less than \$100.00 or more than \$250.00.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1490 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

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Governor