

**SUBSTITUTE FOR
HOUSE BILL NO. 4443**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 82101, 82127, 82128, 82129, 82130, 82136,
82139, 82140, 82142, 82143, 82144, 82146, and 82148 (MCL 324.82101,
324.82127, 324.82128, 324.82129, 324.82130, 324.82136, 324.82139,
324.82140, 324.82142, 324.82143, 324.82144, 324.82146, and
324.82148), section 82101 as amended by 2014 PA 195, section 82127
as amended by 2001 PA 12, sections 82128 and 82129 as amended by
1999 PA 22, sections 82130, 82136, 82142, and 82146 as added by
1995 PA 58, sections 82139, 82140, 82143, and 82144 as amended by
1996 PA 183, and section 82148 as amended by 2005 PA 175, and by
adding sections 82129a and 82129b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 82101. 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)~~—"Auction" means the sale or offer for sale by bidding
3 of real or personal property at a public or private location.

4 (C) ~~(b)~~—"Auctioneer" means a person that is engaged in the
5 business of conducting auctions or that offers to conduct an
6 auction for compensation.

7 (D) ~~(c)~~—"Conviction" means a final conviction, the payment of
8 a fine, a plea of guilty or nolo contendere if accepted by the
9 court, or a finding of guilt or probate court disposition on a
10 violation of this part, regardless of whether the penalty is
11 rebated or suspended.

12 (E) ~~(d)~~—"Dealer" means any person engaged in the sale, lease,
13 or rental of snowmobiles as a regular business, other than an
14 auctioneer.

15 (F) ~~(e)~~—"Former section 15a" means section 15a of former 1968
16 PA 74, as constituted before May 1, 1994.

17 (G) ~~(f)~~—"Highly restricted personal information" means an
18 individual's photograph or image, social security number, digitized
19 signature, and medical and disability information.

20 (H) ~~(g)~~—"Highway or street" means the entire width between the
21 boundary lines of every way publicly maintained if any part of it
22 is open to public use for vehicular travel.

23 (I) ~~(h)~~—"Historic snowmobile" means a snowmobile that is over
24 25 years old and that is owned solely as a collector's item and for
25 occasional use and for participation in club activities,
26 exhibitions, tours, parades, and similar uses, including mechanical
27 testing.

1 **(J)** ~~(i)~~—"In-kind contributions" means services and goods as
2 approved by the department that are provided by a grant recipient
3 toward completion of a department-approved local snowmobile program
4 under section 82107.

5 **(K)** ~~(j)~~—"Law of another state" means a law or ordinance
6 enacted by any of the following:

7 (i) Another state.

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

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

10 (iv) A local unit of government in a province or territory of
11 Canada.

12 ~~—— (k) "Long term incapacitating injury" means an injury that~~
13 ~~causes a person to be in a comatose, quadriplegic, hemiplegic, or~~
14 ~~paraplegic state, which state is likely to continue for 1 year or~~
15 ~~more.~~

16 (l) "Operate" means to ride in or on and be in actual physical
17 control of the operation of a snowmobile.

18 (m) "Operator" means any individual who operates a snowmobile.

19 (n) "Owner" means any of the following:

20 (i) A person that holds the legal title to a snowmobile.

21 (ii) A vendee or lessee of a snowmobile that is the subject of
22 an agreement for conditional sale or lease with the right of
23 purchase upon performance of the conditions stated in the agreement
24 and with an immediate right of possession vested in the conditional
25 vendee or lessee.

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

(o) "Peace officer" means any of the following:

(i) A sheriff.

(ii) A sheriff's deputy.

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

(iv) A village or township marshal.

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

(vi) An officer of the Michigan state police.

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

(viii) A law enforcement officer who is certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, provided that officer is policing within his or her jurisdiction.

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

(Q) "PRIOR CONVICTION" MEANS A CONVICTION FOR ANY OF THE FOLLOWING, WHETHER UNDER A LAW OF THIS STATE, A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE, A LAW OF THE UNITED STATES SUBSTANTIALLY CORRESPONDING TO A LAW OF THIS STATE, OR A LAW OF ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO A LAW OF

1 THIS STATE:

2 (i) A VIOLATION OR AN ATTEMPTED VIOLATION OF SECTION 82127(1),
 3 (3), (4), (5), (6), OR (7), EXCEPT THAT ONLY 1 VIOLATION OR
 4 ATTEMPTED VIOLATION OF SECTION 82127(6), A LOCAL ORDINANCE
 5 SUBSTANTIALLY CORRESPONDING TO SECTION 82127(6), OR A LAW OF
 6 ANOTHER STATE SUBSTANTIALLY CORRESPONDING TO SECTION 82127(6), OR A
 7 LAW OF THE UNITED STATES SUBSTANTIALLY CORRESPONDING TO SECTION
 8 82127(6) MAY BE USED AS A PRIOR CONVICTION OTHER THAN FOR
 9 ENHANCEMENT PURPOSES AS PROVIDED IN SECTION 82129A(1)(B).

10 (ii) NEGLIGENT HOMICIDE, MANSLAUGHTER, OR MURDER RESULTING FROM
 11 THE OPERATION OF A SNOWMOBILE OR AN ATTEMPT TO COMMIT ANY OF THOSE
 12 CRIMES.

13 (iii) FORMER SECTION 15A(1), (3), (4), OR (5) OF 1968 PA 74.

14 (iv) FORMER SECTION 15A.

15 (R) ~~(q)~~—"Probate court or family division disposition" means
 16 the entry of a probate court order of disposition or family
 17 division order of disposition for a child found to be within the
 18 provisions of chapter XIIA of the probate code of 1939, 1939 PA
 19 288, MCL 712A.1 to 712A.32.

20 (S) ~~(r)~~—"Prosecuting attorney", except as the context requires
 21 otherwise, means the attorney general, the prosecuting attorney of
 22 a county, or the attorney representing a local unit of government.

23 (T) ~~(s)~~—"Recreational snowmobile trail improvement subaccount"
 24 means the recreational snowmobile trail improvement subaccount of
 25 the snowmobile account created in section 82110.

26 (U) ~~(t)~~—"Right-of-way" means that portion of a highway or
 27 street less the roadway and any shoulder.

1 **(V)** ~~(u)~~—"Roadway" means that portion of a highway or street
 2 improved, designated, or ordinarily used for vehicular travel. If a
 3 highway or street includes 2 or more separate roadways, the term
 4 roadway refers to any roadway separately, but not to all of the
 5 roadways collectively.

6 **(W)** ~~(v)~~—"Shoulder" means that portion of a highway or street
 7 on either side of the roadway that is normally snowplowed for the
 8 safety and convenience of vehicular traffic.

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

15 **(Y)** ~~(x)~~—"Snowmobile account" means the snowmobile account of
 16 the Michigan conservation and recreation legacy fund provided for
 17 in section 2025.

18 **(Z)** ~~(y)~~—"Snowmobile registration fee subaccount" means the
 19 snowmobile registration fee subaccount of the snowmobile account
 20 created in section 82111.

21 **(AA)** ~~(z)~~—"Zone 1" means all of the Upper Peninsula.

22 **(BB)** ~~(aa)~~—"Zone 2" means all of that part of the Lower
 23 Peninsula north of a line beginning at and drawn from a point on
 24 the Michigan-Wisconsin boundary line due west of the westerly
 25 terminus of River road in Muskegon county; thence due east to the
 26 westerly terminus of River road; thence north and east along the
 27 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.

(CC) ~~(bb)~~ "Zone 3" means all of that part of the Lower Peninsula south of the line described in subdivision ~~(aa)~~ (BB).

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

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

(b) The person has a blood alcohol content of ~~0.10~~ **0.08** grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

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

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

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

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

26 (4) A person who operates a snowmobile ~~under the influence of~~
27 ~~intoxicating liquor or a controlled substance, or both, or with a~~

~~blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, IN~~
VIOLATION OF SUBSECTION (1) OR (3) 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 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, IN~~
VIOLATION OF SUBSECTION (1) OR (3) and by the operation of that snowmobile causes a serious impairment of a body function of 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.~~ As used in this subsection, "serious impairment of a body function" ~~includes, but is not limited to, 1 or more of the following:~~ **MEANS THAT TERM AS DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.58C.**

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

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

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

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

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

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

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

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

1 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~

2 (6) A PERSON WHO IS LESS THAN 21 YEARS OF AGE, WHETHER
3 LICENSED OR NOT, SHALL NOT OPERATE A SNOWMOBILE IF THE PERSON HAS
4 ANY BODILY ALCOHOL CONTENT. AS USED IN THIS SUBSECTION, "ANY BODILY
5 ALCOHOL CONTENT" MEANS EITHER OF THE FOLLOWING:

6 (A) AN ALCOHOL CONTENT OF 0.02 GRAMS OR MORE BUT LESS THAN
7 0.08 GRAMS PER 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH,
8 OR PER 67 MILLILITERS OF URINE, OR, BEGINNING OCTOBER 1, 2018, AN
9 ALCOHOL CONTENT OF 0.02 GRAMS OR MORE BUT LESS THAN 0.10 GRAMS PER
10 100 MILLILITERS OF BLOOD, PER 210 LITERS OF BREATH, OR PER 67
11 MILLILITERS OF URINE.

12 (B) ANY PRESENCE OF ALCOHOL WITHIN A PERSON'S BODY RESULTING
13 FROM THE CONSUMPTION OF ALCOHOLIC LIQUOR, OTHER THAN CONSUMPTION OF
14 ALCOHOLIC LIQUOR AS A PART OF A GENERALLY RECOGNIZED RELIGIOUS
15 SERVICE OR CEREMONY.

16 (7) A PERSON IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

17 (A) HE OR SHE SHALL NOT OPERATE A SNOWMOBILE IN VIOLATION OF
18 SUBSECTION (1), (3), (4), OR (5) WHILE ANOTHER PERSON WHO IS LESS
19 THAN 16 YEARS OF AGE IS OCCUPYING THE SNOWMOBILE.

20 (B) HE OR SHE SHALL NOT OPERATE A SNOWMOBILE IN VIOLATION OF
21 SUBSECTION (6) WHILE ANOTHER PERSON WHO IS LESS THAN 16 YEARS OF
22 AGE IS OCCUPYING THE SNOWMOBILE.

23 Sec. 82128. (1) If a person is convicted of violating section
24 82127(1), the following apply:

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

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

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

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

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

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

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

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

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

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

27 (4) In addition to the sanctions prescribed under subsection

(1) and section 82127(4) and (5), the court may, ~~pursuant to~~ **UNDER** the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs of the prosecution. The court shall also impose sanctions under section 82142.

(5) A person who is convicted of violating section 82127(2) is guilty of a misdemeanor, punishable by imprisonment for not more than 93 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 82127(1), (4), or (5), former section 15a(1), (4), or (5) of 1968 PA 74, or former section 15a, a local ordinance substantially corresponding to section 82127(1) or former section 15a, or a law of another state substantially corresponding to section 82127(1), (4), or (5) or former section 15a.~~

Sec. 82129. (1) If a person is convicted of violating section 82127(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 93 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:

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

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

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

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

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

16 (2) In addition to the sanctions prescribed in subsection (1),
17 the court may, ~~pursuant to~~ **UNDER** the code of criminal procedure,
18 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs
19 of the prosecution. The court shall also impose sanctions under
20 section 82142.

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

27 ~~— (4) As used in this section, "prior conviction" means a~~

~~conviction for a violation of section 82127(1), (3), (4), or (5),
section 15a(1), (3), (4), or (5) of 1968 PA 74, or former section
15a, a local ordinance substantially corresponding to section
82127(1) or (3) or former section 15a, or a law of another state
substantially corresponding to section 82127(1), (3), (4), or (5)
or former section 15a.~~

SEC. 82129A. (1) IF A PERSON IS CONVICTED OF VIOLATING SECTION
82127(6), ALL OF THE FOLLOWING APPLY:

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B), THE
PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY 1 OR BOTH OF THE
FOLLOWING:

(i) COMMUNITY SERVICE FOR NOT MORE THAN 360 HOURS.

(ii) A FINE OF NOT MORE THAN \$250.00.

(B) IF THE VIOLATION OCCURS WITHIN 7 YEARS OF 1 OR MORE PRIOR
CONVICTIONS, INCLUDING A PRIOR CONVICTION FOR SECTION 82127(6), THE
PERSON MAY BE SENTENCED TO 1 OR MORE OF THE FOLLOWING:

(i) COMMUNITY SERVICE FOR NOT MORE THAN 60 DAYS.

(ii) A FINE OF NOT MORE THAN \$500.00.

(iii) IMPRISONMENT FOR NOT MORE THAN 93 DAYS.

(2) IN ADDITION TO IMPOSING THE SANCTIONS PRESCRIBED UNDER
THIS SECTION, THE COURT MAY ORDER THE PERSON TO PAY THE COSTS OF
THE PROSECUTION UNDER THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175,
MCL 760.1 TO 777.69.

(3) A PERSON SENTENCED TO PERFORM COMMUNITY SERVICE 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

1 RESULT OF THE PERSON'S ACTIVITIES IN THAT SERVICE.

2 SEC. 82129B. (1) A PERSON WHO VIOLATES SECTION 82127(7) (A) IS
3 GUILTY OF A CRIME PUNISHABLE AS FOLLOWS:

4 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), A PERSON WHO
5 VIOLATES SECTION 82127(7) (A) IS GUILTY OF A MISDEMEANOR AND SHALL
6 BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$200.00 OR MORE THAN
7 \$1,000.00 AND TO 1 OR MORE OF THE FOLLOWING:

8 (i) IMPRISONMENT FOR NOT LESS THAN 5 DAYS OR MORE THAN 1 YEAR.
9 NOT LESS THAN 48 HOURS OF THIS IMPRISONMENT SHALL BE SERVED
10 CONSECUTIVELY. THIS TERM OF IMPRISONMENT SHALL NOT BE SUSPENDED.

11 (ii) COMMUNITY SERVICE FOR NOT LESS THAN 30 DAYS OR MORE THAN
12 90 DAYS.

13 (B) IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR
14 CONVICTION OR AFTER 2 OR MORE PRIOR CONVICTIONS, REGARDLESS OF THE
15 NUMBER OF YEARS THAT HAVE ELAPSED SINCE ANY PRIOR CONVICTION, A
16 PERSON WHO VIOLATES SECTION 82127(7) (A) IS GUILTY OF A FELONY AND
17 SHALL BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$500.00 OR MORE
18 THAN \$5,000.00 AND TO EITHER OF THE FOLLOWING:

19 (i) IMPRISONMENT UNDER THE JURISDICTION OF THE DEPARTMENT OF
20 CORRECTIONS FOR NOT LESS THAN 1 YEAR OR MORE THAN 5 YEARS.

21 (ii) PROBATION WITH IMPRISONMENT IN THE COUNTY JAIL FOR NOT
22 LESS THAN 30 DAYS OR MORE THAN 1 YEAR AND COMMUNITY SERVICE FOR NOT
23 LESS THAN 60 DAYS OR MORE THAN 180 DAYS. NOT LESS THAN 48 HOURS OF
24 THIS IMPRISONMENT SHALL BE SERVED CONSECUTIVELY. THIS TERM OF
25 IMPRISONMENT SHALL NOT BE SUSPENDED.

26 (2) A PERSON WHO VIOLATES SECTION 82127(7) (B) IS GUILTY OF A
27 MISDEMEANOR PUNISHABLE AS FOLLOWS:

1 (A) EXCEPT AS PROVIDED IN SUBDIVISION (B), A PERSON WHO
2 VIOLATES SECTION 82127(7) (B) MAY BE SENTENCED TO 1 OR MORE OF THE
3 FOLLOWING:

4 (i) COMMUNITY SERVICE FOR NOT MORE THAN 60 DAYS.

5 (ii) A FINE OF NOT MORE THAN \$500.00.

6 (iii) IMPRISONMENT FOR NOT MORE THAN 93 DAYS.

7 (B) IF THE VIOLATION OCCURS WITHIN 7 YEARS OF A PRIOR
8 CONVICTION OR AFTER 2 OR MORE PRIOR CONVICTIONS, REGARDLESS OF THE
9 NUMBER OF YEARS THAT HAVE ELAPSED SINCE ANY PRIOR CONVICTION, A
10 PERSON WHO VIOLATES SECTION 82127(7) (B) SHALL BE SENTENCED TO PAY A
11 FINE OF NOT LESS THAN \$200.00 OR MORE THAN \$1,000.00 AND TO 1 OR
12 MORE OF THE FOLLOWING:

13 (i) IMPRISONMENT FOR NOT LESS THAN 5 DAYS OR MORE THAN 1 YEAR.
14 NOT LESS THAN 48 HOURS OF THIS IMPRISONMENT SHALL BE SERVED
15 CONSECUTIVELY. THIS TERM OF IMPRISONMENT SHALL NOT BE SUSPENDED.

16 (ii) COMMUNITY SERVICE FOR NOT LESS THAN 30 DAYS OR MORE THAN
17 90 DAYS.

18 (3) IN ADDITION TO IMPOSING THE SANCTIONS PRESCRIBED UNDER
19 THIS SECTION, THE COURT MAY ORDER THE PERSON TO PAY THE COSTS OF
20 THE PROSECUTION UNDER THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175,
21 MCL 760.1 TO 777.69.

22 (4) A PERSON SENTENCED TO PERFORM COMMUNITY SERVICE UNDER THIS
23 SECTION SHALL NOT RECEIVE COMPENSATION AND SHALL REIMBURSE THE
24 STATE OR APPROPRIATE LOCAL UNIT OF GOVERNMENT FOR THE COST OF
25 SUPERVISION INCURRED BY THE STATE OR LOCAL UNIT OF GOVERNMENT AS A
26 RESULT OF THE PERSON'S ACTIVITIES IN THAT SERVICE.

27 Sec. 82130. (1) If the prosecuting attorney intends to seek an

1 enhanced sentence under section 82128, ~~or~~ 82129, **82129A, OR 82129B**
 2 based upon the defendant having 1 or more prior convictions, the
 3 prosecuting attorney shall include on the complaint and information
 4 filed in district court, circuit court, recorder's court, municipal
 5 court, or probate court a statement listing the defendant's prior
 6 convictions.

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

9 (a) An abstract of conviction.

10 (b) An admission by the defendant.

11 (3) A person who is convicted of an attempted violation of
 12 section 82127(1) or (3) or a local ordinance substantially
 13 corresponding to section 82127(1) or (3) shall be punished as if
 14 the offense had been completed.

15 (4) When issuing an order under this part, the secretary of
 16 state and the court shall treat a conviction of an attempted
 17 violation of section 82127(1) or (3), former section 15a(1) or (3)
 18 of ~~Act No. 74 of the Public Acts of 1968~~ **1968 PA 74**, a local
 19 ordinance substantially corresponding to section 82127(1) or (3),
 20 ~~or~~ a law of another state substantially corresponding to section
 21 82127(1) or (3), **OR A LAW OF THE UNITED STATES SUBSTANTIALLY**
 22 **CORRESPONDING TO SECTION 82127(1) OR (3)** the same as if the offense
 23 had been completed.

24 Sec. 82136. (1) A peace officer, without a warrant, may arrest
 25 a person if the peace officer has reasonable cause to believe that
 26 the person was, at the time of an accident, the operator of a
 27 snowmobile involved in the accident in this state while in

1 violation of section 82127(1), (3), (4), ~~or~~ (5), (6), OR (7) or a
2 local ordinance substantially corresponding to section 82127(1), ~~or~~
3 (3), OR (6).

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

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

12 (b) The results of a preliminary chemical breath analysis are
13 admissible in a criminal prosecution for a crime enumerated in
14 section 82143(1) or in an administrative hearing solely to assist
15 the court or hearing officer in determining a challenge to the
16 validity of an arrest. This subdivision does not limit the
17 introduction of other competent evidence offered to establish the
18 validity of an arrest.

19 (c) A person who submits to a preliminary chemical breath
20 analysis remains subject to the requirements of sections 82143 to
21 82146 for the purposes of chemical tests described in those
22 sections.

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

27 Sec. 82139. (1) The provisions of sections 82137 and 82138

1 relating to chemical testing do not limit the introduction of any
 2 other competent evidence bearing upon the question of whether a
 3 person was impaired by, or under the influence of, ~~intoxicating~~
 4 **ALCOHOLIC** liquor or a controlled substance, or both, or whether the
 5 person had a blood alcohol content of ~~0.10~~**0.08** grams or more per
 6 100 milliliters of blood, per 210 liters of breath, or per 67
 7 milliliters of urine **OR HAD IN HIS OR HER BODY ANY AMOUNT OF A**
 8 **CONTROLLED SUBSTANCE LISTED IN SCHEDULE 1 UNDER SECTION 7212 OF THE**
 9 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7212, OR A RULE**
 10 **PROMULGATED UNDER THAT SECTION, OR OF A CONTROLLED SUBSTANCE**
 11 **DESCRIBED IN SECTION 7214 (A) (iv) OF THE PUBLIC HEALTH CODE, 1978 PA**
 12 **368, MCL 333.7214.**

13 (2) If a chemical test described in sections 82137 and 82138
 14 is administered, the results of the test shall be made available to
 15 the person charged or the person's attorney upon written request to
 16 the prosecution, with a copy of the request filed with the court.
 17 The prosecution shall furnish the results at least 2 days before
 18 the day of the trial. The results of the test shall be offered as
 19 evidence by the prosecution in that trial. Failure to fully comply
 20 with the request bars the admission of the results into evidence by
 21 the prosecution.

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

27 ~~—— (a) If at the time the defendant had a blood alcohol content~~

1 ~~of 0.07 grams or less per 100 milliliters of blood, per 210 liters~~
2 ~~of breath, or per 67 milliliters of urine, it shall be presumed~~
3 ~~that the defendant's ability to operate a snowmobile was not~~
4 ~~impaired due to the consumption of intoxicating liquor and that the~~
5 ~~defendant was not under the influence of intoxicating liquor.~~

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

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

16 ~~—— (2) A person's refusal to submit to a chemical test as~~
17 ~~provided in sections 82137 and 82138 is admissible in a criminal~~
18 ~~prosecution for a crime described in section 82143(1) only for the~~
19 ~~purpose of showing that a test was offered to the defendant, but~~
20 ~~not as evidence in determining innocence or guilt of the defendant.~~
21 ~~The jury shall be instructed accordingly.~~

22 Sec. 82142. ~~(1)~~ Immediately upon acceptance by the court of a
23 plea of guilty or nolo contendere or upon entry of a verdict of
24 guilty for a violation of section 82127(1), (3), (4), ~~or~~ (5), (6),
25 **OR (7)** or a local ordinance substantially corresponding to section
26 82127(1), ~~or~~ (3), **OR (6)** whether or not the person is eligible to
27 be sentenced as a multiple offender, the court shall consider all

1 prior convictions established under section 82130, except those
2 convictions that, upon motion by the defendant, are determined by
3 the court to be constitutionally invalid, and shall impose the
4 following sanctions:

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

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

10 (i) If the court finds that the person has no prior convictions
11 within 7 years, ~~for a violation of section 82127(1), (3), (4), or~~
12 ~~(5), former section 15a(1), (3), (4), or (5) of Act No. 74 of the~~
13 ~~Public Acts of 1968, or former section 15a or another snowmobile~~
14 ~~substance abuse offense or that the person has 1 prior conviction~~
15 ~~within 7 years for a violation of section 82127(3), former section~~
16 ~~15a(3) of Act No. 74 of the Public Acts of 1968, a local ordinance~~
17 ~~substantially corresponding to section 82127(3), or a law of~~
18 ~~another state substantially corresponding to section 82127(3), the~~
19 court shall order that the person not operate a snowmobile for not
20 less than 6 months or more than 2 years and shall require that the
21 person take and successfully complete the snowmobile safety
22 education and training program before operating a snowmobile.

23 (ii) If the court finds that the person has 1 or more prior
24 convictions within 7 years, ~~for a violation of section 82127(1),~~
25 ~~(4), or (5), former section 15a(1), (4), or (5) of Act No. 74 of~~
26 ~~the Public Acts of 1968, or former section 15a, a local ordinance~~
27 ~~substantially corresponding to section 82127(1) or former section~~

1 ~~15a, or a law of another state substantially corresponding to~~
2 ~~section 82127(1), (4), or (5) or former section 15a, or~~ THE COURT
3 SHALL ORDER THAT THE PERSON NOT OPERATE A SNOWMOBILE FOR A PERIOD
4 OF NOT LESS THAN 1 YEAR OR MORE THAN 2 YEARS AND SHALL REQUIRE THE
5 PERSON TO TAKE AND SUCCESSFULLY COMPLETE THE SNOWMOBILE SAFETY
6 EDUCATION AND TRAINING PROGRAM BEFORE OPERATING A SNOWMOBILE.

7 (iii) IF THE COURT FINDS that the person has 2 or more prior
8 convictions within 10 years, ~~for a violation of section 82127(1),~~
9 ~~(3), (4), or (5), former section 15a(1), (3), (4), or (5) of Act~~
10 ~~No. 74 of the Public Acts of 1968, or former section 15a, or~~
11 ~~another snowmobile substance abuse offense,~~ the court shall order,
12 without an expiration date, that the person not operate a
13 snowmobile.

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

16 (i) If the court finds that the convicted person has no prior
17 conviction within 7 years, ~~for a violation of section 82127(1),~~
18 ~~(3), (4), or (5), former section 15a(1), (3), (4), or (5) of Act~~
19 ~~No. 74 of the Public Acts of 1968, former section 15a, or another~~
20 ~~snowmobile substance abuse offense,~~ the court shall order that the
21 person not operate a snowmobile for not less than 90 days or more
22 than 1 year.

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

1 operate a snowmobile for not less than 6 months or more than 2
2 years.

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

9 ~~— (2) As used in this section, "another snowmobile substance~~
10 ~~abuse offense" means a local ordinance substantially corresponding~~
11 ~~to section 82127(1) or (3) or a law of another state substantially~~
12 ~~corresponding to section 82127(1), (3), (4), or (5).~~

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

18 (a) The person is arrested for a violation of section
19 82127(1), (3), (4), ~~or (5), (6), OR (7)~~ or a local ordinance
20 substantially corresponding to section 82127(1), ~~or (3), OR (6)~~.

21 (b) The person is arrested for negligent homicide,
22 manslaughter, or murder resulting from the operation of a
23 snowmobile, and the peace officer had reasonable grounds to believe
24 that the person was operating the snowmobile ~~while impaired by, or~~
25 ~~under the influence of, intoxicating liquor or a controlled~~
26 ~~substance, or both, or while having a blood alcohol content of 0.10~~
27 ~~grams or more per 100 milliliters of blood, per 210 liters of~~

1 ~~breath, or per 67 milliliters of urine~~ **IN VIOLATION OF SECTION**
2 **82127.**

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

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

9 Sec. 82144. (1) If a person refuses the request of a peace
10 officer to submit to a chemical test offered ~~pursuant to~~ **UNDER**
11 section 82137 or 82138, a test shall not be given without a court
12 order, but the officer may seek to obtain the court order.

13 (2) If a person refuses a chemical test offered ~~pursuant to~~
14 **UNDER** section 82137 or 82138, or submits to the chemical test and
15 the test reveals a blood alcohol content of ~~0.10~~ **0.08** grams or more
16 per 100 milliliters of blood, per 210 liters of breath, or per 67
17 milliliters of urine, the peace officer who requested the person to
18 submit to the test shall immediately forward a written report to
19 the secretary of state. The report shall state that the officer had
20 reasonable grounds to believe that the person had committed a crime
21 described in section 82143(1), and either that the person has
22 refused to submit to the test upon the request of the peace officer
23 and has been advised of the consequences of the refusal or that the
24 test revealed a blood alcohol content of ~~0.10~~ **0.08** grams or more
25 per 100 milliliters of blood, per 210 liters of breath, or per 67
26 milliliters of urine. The form of the report shall be prescribed
27 and furnished by the secretary of state.

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

7 (2) If a hearing is requested, the secretary of state shall
8 hold the hearing in the same manner and under the same conditions
9 as provided in section 322 of the Michigan vehicle code, ~~Act No.~~
10 ~~300 of the Public Acts of 1949, being section 257.322 of the~~
11 ~~Michigan Compiled Laws 1949 PA 300, MCL 257.322~~. A person shall not
12 order a hearing officer to make a particular finding on any issue
13 enumerated under subdivisions (a) to (d). Not less than 5 days'
14 notice of the hearing shall be mailed to the person requesting the
15 hearing, to the peace officer who filed the report under section
16 82144, and, if the prosecuting attorney requests receipt of the
17 notice, to the prosecuting attorney of the county where the arrest
18 was made. The hearing officer may administer oaths, issue subpoenas
19 for the attendance of necessary witnesses, and grant a reasonable
20 request for an adjournment. Not more than 1 adjournment shall be
21 granted to a party, and the length of an adjournment shall not
22 exceed 14 days. A hearing under this subsection shall be scheduled
23 to be held within 45 days after the date of arrest and, except for
24 delay attributable to the unavailability of the defendant, a
25 witness, or material evidence or to an interlocutory appeal or
26 exceptional circumstances, but not for delay attributable to docket
27 congestion, shall be finally adjudicated within 77 days after the

1 date of arrest. The hearing shall cover only the following issues:

2 (a) Whether the peace officer had reasonable grounds to
3 believe that the person had committed a crime described in section
4 82143(1).

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

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

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

11 (3) The hearing officer shall make a record of proceedings
12 held ~~pursuant to~~ **UNDER** subsection (2). The record shall be prepared
13 and transcribed in accordance with section 86 of the administrative
14 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
15 ~~being section 24.286 of the Michigan Compiled Laws 1969 PA 306, MCL~~
16 **24.286**. Upon notification of the filing of a petition for judicial
17 review ~~pursuant to~~ **UNDER** section 82150 and not less than 10 days
18 before the matter is set for review, the hearing officer shall
19 transmit to the court in which the petition is filed the original
20 or a certified copy of the official record of the proceedings. The
21 parties to the proceedings for judicial review may stipulate that
22 the record be shortened. A party unreasonably refusing to stipulate
23 to a shortened record may be taxed by the court in which the
24 petition is filed for the additional costs. The court may permit
25 subsequent corrections to the record.

26 (4) After a hearing, if the person who requested the hearing
27 does not prevail, the secretary of state shall order that the

1 person not operate a snowmobile for ~~6 months~~ **1 YEAR** or, for a
2 second or subsequent refusal within 7 years, for ~~1 year~~ **2 YEARS**.

3 The person may file a petition in the circuit court of the county
4 in which the arrest was made to review the order as provided in
5 section 82150. If after the hearing the person who requested the
6 hearing prevails, the peace officer who filed the report under
7 section 82144 may, with the consent of the prosecuting attorney,
8 file a petition in the circuit court of the county in which the
9 arrest was made to review the determination of the hearing officer
10 as provided in section 82150.

11 Sec. 82148. (1) Upon receipt of the appropriate records of
12 conviction, the secretary of state shall issue an order with no
13 expiration date that the person not operate a snowmobile to a
14 person having any of the following convictions, whether under a law
15 of this state, a local ordinance substantially corresponding to a
16 law of this state, or a law of another state substantially
17 corresponding to a law of this state:

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

20 (b) Any combination of 2 convictions within 7 years for a
21 violation of section 82127(1), section 15a(1) of former 1968 PA 74,
22 or section 15a of former 1968 PA 74, as added by 1980 PA 402.

23 (c) One conviction under section 82127(4) or (5) or section
24 15a(4) or (5) of former 1968 PA 74.

25 (d) Any combination of 3 convictions within 10 years for a
26 violation of section 82127(1) or (3), section 15a(1) or (3) of
27 former 1968 PA 74, or section 15a of former 1968 PA 74, as added by

1 1980 PA 402.

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

6 (3) The secretary of state shall issue an order with no
7 expiration date that a person not operate a snowmobile
8 notwithstanding a court order issued under section 82142, or a
9 local ordinance substantially corresponding to section 82142. The
10 secretary of state shall not terminate an indefinite order issued
11 under this part until both of the following occur:

12 (a) The later of the following:

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

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

18 (b) The person meets the requirements of the department of
19 state.

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

23 (5) A person who is aggrieved by the issuance of an order by
24 the secretary of state under this section may request a hearing
25 with the secretary of state. The hearing shall be requested within
26 14 days after issuance of an order under this section by the
27 secretary of state. If a hearing is requested, the secretary of

1 state shall hold the hearing in the same manner and under the same
2 conditions as provided in section 322 of the Michigan vehicle code,
3 1949 PA 300, MCL 257.322.

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

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