



**House  
Legislative  
Analysis  
Section**

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## SNOWMOBILES ON RAILROAD RIGHT-OF-WAY

House Bills 4627 and 4628 (Substitutes H-2)  
First Analysis (11-28-90)

Sponsor: Rep. Sidney Ouwinga  
Committee: Conservation, Recreation &  
Environment

### ***THE APPARENT PROBLEM:***

Snowmobiling is one of the popular wintertime recreational sports enjoyed by outdoor enthusiasts in the state of Michigan. Constant efforts are made to ensure the safety of snowmobile recreationists while providing challenging trails. The Michigan Department of Natural Resources has incorporated several stretches of abandoned railroad rights-of-way into its recreational trail system. Some question the feasibility and safety of this policy because they feel it leads to encroachment by snowmobilers onto functional rights-of-way, while others encourage the broadening of the public's right to use functional rights-of-way as long as they are used in a safe manner. It has been suggested that allowing public use of a functional railroad right-of-way in a demonstration project for one winter snowmobile season would allow for study of the issue.

### ***THE CONTENT OF THE BILLS:***

House Bill 4627 would amend current law to specify that a person could operate a snowmobile between December 1, 1990 and March 31, 1991 on a demonstration snowmobile trail located on a state owned railroad right-of-way operated by the Detroit and Mackinaw Railway Company between Gaylord and Frederic. The bill would require the trail to be constructed, operated and maintained by persons other than the owner of the right-of-way (the state) and operators of the railroad (the company) according to an agreement between the owners, operators and the trail maintenance person. The agreement would require the person maintaining the trail to indemnify the state and the company against any claims associated with or arising from the trail. In addition, the person would have to provide liability insurance in the amount of \$2 million naming the state and the company as insurers. The trail would be clearly marked by fencing and signing and would occupy the outer edge of the right-of-way, no closer than 20 feet from the edge of the railroad tracks unless natural or manmade features of the land required closer placement of the trail to the tracks. The design of the trail would be approved in writing by the state and the company if the trail was closer than 20 feet from the edge of the tracks. The Department of Transportation in cooperation with the company and the person operating the demonstration trail would conduct a study during development, construction, and operation of the trail to evaluate the trial project, and to examine the feasibility and desirability of broadening statutory authority to establish trails on functional railroad rights-of-way in Michigan. The findings of the study would be summarized in a report to the legislature to be submitted by September 1, 1991.

MCL 257.1515

House Bill 4628 would amend the railroad right-of-way trespassing act to exempt from the act's provisions prohibiting a person from walking, riding, driving or being upon a railroad right-of-way a person using a demonstration snowmobile trail.

MCL 469.421

### ***FISCAL IMPLICATIONS:***

According to the Department of Natural Resources, the bills would have no fiscal implications for the state. (11-27-90)

### ***ARGUMENTS:***

#### ***For:***

Current law allows a person to use officially abandoned rights-of-way for recreational purposes. However, safety concerns have been raised because many feel that allowing snowmobilers to use abandoned rights-of-way leads to further encroachment by snowmobilers on functional rights-of-way and will result in an accident between snowmobilers and trains. Snowmobile enthusiasts argue that the law already allows them to use abandoned rights of way if they so choose and should allow them to use functional rights-of-way. The bill will address the problem by requiring all of the interested parties to join in a study to monitor snowmobile traffic on a railroad right-of-way and make recommendations regarding snowmobile use on functional railroad rights-of-way.

#### ***POSITIONS:***

The Department of Natural Resources supports the bills, but notes that those proposing the trail would have to follow the established process for applying for snowmobile trail grants. (11-27-90)

The Michigan Railroads Association does not oppose the bills. (11-27-90)