

Act No. 201
Public Acts of 1995
Approved by the Governor
November 29, 1995
Filed with the Secretary of State
November 29, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Senators McManus, North and Gast

ENROLLED SENATE BILL No. 204

AN ACT to amend section 82126 of Act No. 451 of the Public Acts of 1994, 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, and assessments; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," as added by Act No. 58 of the Public Acts of 1995, being section 324.82126 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 82126 of Act No. 451 of the Public Acts of 1994, as added by Act No. 58 of the Public Acts of 1995, being section 324.82126 of the Michigan Compiled Laws, is amended to read as follows:

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 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 within 100 feet of a person, including a skater, not in or upon a snowmobile or within 100 feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water.

(d) Without a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from the vehicle path under full throttle does not exceed 86 DBA, decibels on the "a" scale, on a sound meter having characteristics defined by American standards association S1, 4-1966 "general purpose sound meter". A snowmobile manufactured after July 1, 1977, and sold or offered for sale in this state shall not exceed 78 decibels of sound pressure at 50 feet as measured under the 1974 society of automobile engineers code J-192a. This subdivision does not apply to a snowmobile that is being used in an organized race on a course which is used solely for racing.

(e) 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.

(f) 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 during an emergency, for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, or for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations, or on the person's own property or property under the person's control or as an invited guest.

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

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

(i) Within 100 feet of a slide, ski, or skating area except when traveling on a country 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.

(j) On a railroad or railroad right-of-way. This prohibition shall not apply to railroad personnel, public utility personnel, law enforcement personnel while in the performance of their duties, a railroad or railroad right-of-way rendered inoperable by the removal or partial removal of the railroad tracks, and persons using a demonstration snowmobile trail located on a state owned railroad right-of-way operated by the Lake State railway company, or on a railroad right-of-way owned by the Detroit and Mackinaw railway company connecting to a state owned railroad right-of-way operated by the Lake State railway company, between Gaylord and Frederic, which also meets the conditions imposed in subsections (2) and (3). This prohibition does not apply to persons using a snowmobile trail located on a railroad right-of-way owned by Ameritech and operated by the Wisconsin central limited railroad in the vicinity of Bergland, Michigan between railroad mileposts 268.89 and 269.85 that will be used as a connector to a designated snowmobile trail and that meets the conditions imposed in subsections (2) and (3).

(2) The demonstration snowmobile trail 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 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 or arising from the construction, maintenance, operation, and use of the trail.

(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 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 demonstration snowmobile trail project.

(3) The demonstration snowmobile trail shall be clearly demarcated by fencing and signing and shall occupy the outer edge of the railroad right-of-way, as far from the edge of the railroad tracks as possible, but in any case 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 those railroad tracks. The design of the trail, including the location of fencing and signing, shall be included upon plan sheets by the 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 operator grantees.

(4) The state transportation department, in cooperation with the Lake State railway company and the person operating the demonstration snowmobile trail, shall conduct a study every 2 years during operation of the trail to evaluate the demonstration snowmobile trail project, and to examine the feasibility and desirability of broadening statutory authority to establish snowmobile trails on functional railroad rights-of-way in Michigan. The findings of each study shall be summarized in a report to the legislature to be submitted not later than the September 1 following the previous snowmobile season.

(5) Notwithstanding section 82101, for purposes of this section, "operate" means to cause to function, run, or manage.

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

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.