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SFA**BILL ANALYSIS**

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House Bill 5717 (as reported without amendment)
Sponsor: Representative James McNutt
House Committee: Conservation, Environment and Recreation
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 11-3-98

RATIONALE

Part 821 of the Natural Resources and Environmental Protection Act governs the operation of snowmobiles. This part prohibits the operation of a snowmobile under various circumstances, including at an excessive speed, or while the operator is under the influence of or impaired by alcohol and/or controlled substances. Except for an alcohol- or drug-related offense, which is subject to a range of penalties, a violation of Part 821 generally is a misdemeanor punishable by imprisonment for 90 days, a maximum fine of \$100, or both. In addition, if a snowmobile is operated on a highway, the Michigan Supreme Court has held that the prosecutor has the discretion to charge the operator with a violation of the Michigan Vehicle Code, rather than the snowmobile law (as described in **BACKGROUND**). As a rule, however, snowmobiles are prohibited from being operated on a highway.

Since snowmobile accidents can result in serious injury or death, some people believe that the present penalties are inadequate for individuals who operate snowmobiles recklessly. According to the Department of Natural Resources, peace officers currently possess few tools to deter unsafe operating practices; as a result, accidents continue to occur "at an alarming rate". It has been suggested that the law should specify penalties for the unsafe operation of snowmobiles.

CONTENT

The bill would add new provisions to Part 821 of the Natural Resources and Environmental Protection Act to establish civil and criminal penalties for the reckless operation of snowmobiles. The penalty provisions would apply to operating on a highway, public trail, frozen surface of a public lake, stream, river, pond, or

another public place, including an area designated for snowmobile or motor vehicle parking.

A person who operated a snowmobile in a careless or negligent manner that was likely to endanger any person or property would be responsible for a State civil infraction.

A person who operated a snowmobile in willful or wanton disregard for the safety of persons or property would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of up to \$500. A person who, by operating a snowmobile in a careless or negligent manner, but not willfully or wantonly, crippled or caused the death of another person would be guilty of a misdemeanor punishable by imprisonment for not more than two years and/or a fine of up to \$2,000. A person who, by operating a snowmobile in a careless and heedless manner in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, crippled another person, but did not cause the death of another, would be guilty of felonious operation, punishable by imprisonment for not more than two years and/or a fine of up to \$2,000.

Upon a person's conviction under these provisions, the court could issue an order prohibiting the person from operating a snowmobile in the State for at least two years in the discretion of the court. An order issued under this provision would be in addition to any other penalty authorized under Part 821.

Proposed MCL 324.82126a-324.82126c

BACKGROUND

In a 1991 decision, *People v Rogers* (438 Mich 602), the Michigan Supreme Court addressed the issue of whether an intoxicated snowmobile operator may be prosecuted under the drunk driving provisions of the Michigan Vehicle Code. The question arose because the snowmobile law also prohibits a person from operating a snowmobile while intoxicated. According to the Court, "...the prosecutor...has the right to exercise broad discretion in determining under which of two applicable statutes a prosecution will be instituted." The Court affirmed the decision of the Court of Appeals that a person who is intoxicated while operating a snowmobile upon a highway or other place open to the general public may be prosecuted as a drunk driving offender under the Michigan Vehicle Code.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Michigan is known by snowmobilers nationwide for its unique combination of abundant snow, exciting terrain, and extensive trail network. Snowmobiling generates important tourism business in the Upper Peninsula and northern lower Michigan, and contributes significantly to State and local tax revenue. Reportedly, some 212,000 snowmobile permits were sold in the winter of 1995-96. Although a popular activity, however, snowmobiling also can be a dangerous one. According to the Department of Natural Resources, there were 47 fatalities during the 1995-96 snowmobile season and 44 in 1996-97. As of last April, 39 fatalities had been reported for 1997-98.

Often, accidents are the result of careless or reckless operation, sometimes coupled with alcohol consumption. Except for the prohibitions against alcohol- or drug-related snowmobiling, or operating a snowmobile at an excessive speed, the snowmobile law contains few provisions that regulate the manner in which snowmobiles are operated. Although an intoxicated snowmobiler who caused an accident on a highway or the shoulder of a road could be prosecuted under the Michigan Vehicle Code's drunk driving provisions, snowmobiles generally may not be operated on highways. In addition, a snowmobiler presumably could be charged with a violation of another statute, such as the Michigan Penal Code. It is not clear, however, whether a snowmobile is considered a "vehicle" for purposes of the Penal Code's

negligent homicide provisions.

By imposing meaningful penalties for reckless snowmobiling, including enhanced penalties for violations that resulted in death or a crippling injury, the bill would establish appropriate sanctions for dangerous behavior. In addition, a court could prohibit an offender from operating a snowmobile in this State for two or more years.

Supporting Argument

In 1997, Michigan State University researchers conducted a survey of snowmobile riders in order to assess snowmobiling in Michigan. Among other things, the study results showed that residents were concerned about law enforcement, and considered excessive speed among the most dangerous snowmobiling situations. Given the popularity of snowmobiling as a winter recreation, and the State and local revenue generated by this activity, it is important to enhance the image of snowmobiling safety in Michigan. The proposed penalties would send a clear message to both residents and nonresidents that this State was working to improve its snowmobile safety record.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many people could be convicted of operating a snowmobile in a wilful or wanton disregard for safety of others manner, operating a snowmobile in a careless or negligent manner resulting in injury, or operating a snowmobile in a careless and heedless manner endangering property or causing injury. The misdemeanors and felony (respectively) proposed by this legislation could increase costs of incarceration and/or increase the receipt of fine revenue for State and local government.

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.