

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5473**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 82126 (MCL 324.82126), as amended by 1996 PA
500.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 82126. (1) A person shall not operate a snowmobile
2 under any of the following circumstances:

3 (a) At a rate of speed greater than is reasonable and proper
4 having due regard for conditions then existing.

5 (b) In a forest nursery, planting area, or public lands
6 posted or reasonably identifiable as an area of forest reproduc-
7 tion when growing stock may be damaged or posted or reasonably
8 identifiable as a natural dedicated area that is in zone 2 or
9 zone 3.

HB 5473, As Passed Senate, March 4, 1998

House Bill No. 5473

2

1 (c) On the frozen surface of public waters within 100 feet
2 of a person, including a skater, not in or upon a snowmobile or
3 within 100 feet of a fishing shanty or shelter except at the min-
4 imum speed required to maintain forward movement of the snowmo-
5 bile or on an area which has been cleared of snow for skating
6 purposes unless the area is necessary for access to the public
7 water.

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

19 (e) Within 100 feet of a dwelling between 12 midnight and 6
20 a.m., at a speed greater than the minimum required to maintain
21 forward movement of the snowmobile.

22 (f) In an area on which public hunting is permitted during
23 the regular November firearm deer season from 7 a.m. to 11
24 a.m. and from 2 p.m. to 5 p.m., except during an emergency, for
25 law enforcement purposes, to go to and from a permanent residence
26 or a hunting camp otherwise inaccessible by a conventional
27 wheeled vehicle, or for the conduct of necessary work functions

HB 5473, As Passed Senate, March 4, 1998

House Bill No. 5473

3

1 involving land and timber survey, communication and transmission
2 line patrol, and timber harvest operations, or on the person's
3 own property or property under the person's control or as an
4 invited guest.

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

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

9 (i) Within 100 feet of a slide, ski, or skating area except
10 when traveling on a country road right-of-way pursuant to section
11 82119 or a snowmobile trail that is designated and funded by the
12 department. A snowmobile may enter such an area for the purpose
13 of servicing the area or for medical emergencies.

14 (j) On a railroad or railroad right-of-way. This prohibi-
15 tion shall not apply to railroad personnel, public utility per-
16 sonnel, law enforcement personnel while in the performance of
17 their duties, ~~a railroad or railroad right-of-way rendered inop-~~
18 ~~erable by the removal or partial removal of the railroad tracks,~~
19 and persons using a ~~demonstration~~ snowmobile trail located on
20 OR ALONG a ~~state owned~~ railroad right-of-way, ~~operated by the~~
21 ~~Lake State railway company, or on a railroad right-of-way owned~~
22 ~~by the Detroit and Mackinaw railway company connecting to a state~~
23 ~~owned railroad right-of-way operated by the lake state railway~~
24 ~~company, between Gaylord and Grayling at railroad milepost 91.8,~~
25 ~~which also meets the conditions imposed in subsections (2) and~~
26 ~~(3). This prohibition does not apply to persons using a~~
27 ~~snowmobile trail located on a railroad right-of-way owned by~~

HB 5473, As Passed Senate, March 4, 1998

House Bill No. 5473

4

1 ~~Ameritech and operated by the Wisconsin central limited railroad~~
2 ~~in the vicinity of Bergland, Michigan between railroad mileposts~~
3 ~~268.89 and 269.85 that will be used as a connector to a desig-~~
4 ~~nated snowmobile trail and that meets the conditions imposed in~~
5 ~~subsections (2) and (3).— OR AN AT-GRADE SNOWMOBILE TRAIL CROSS-~~
6 ~~ING OF A RAILROAD RIGHT-OF-WAY, WHICH HAS BEEN EXPRESSLY APPROVED~~
7 ~~IN WRITING BY THE OWNER OF THE RIGHT-OF-WAY AND EACH RAILROAD~~
8 ~~COMPANY USING THE TRACKS AND WHICH MEETS THE CONDITIONS IMPOSED~~
9 ~~IN SUBSECTIONS (2) AND (3). A SNOWMOBILE TRAIL OR AN AT-GRADE~~
10 ~~SNOWMOBILE TRAIL CROSSING SHALL NOT BE CONSTRUCTED ON A~~
11 ~~RIGHT-OF-WAY DESIGNATED BY THE FEDERAL GOVERNMENT AS A HIGH-SPEED~~
12 ~~RAIL CORRIDOR.~~

13 (2) ~~The demonstration~~ A snowmobile trail shall be con-
14 structed, operated, and maintained by a person other than the
15 person owning the railroad right-of-way and the person operating
16 the railroad, EXCEPT IN THE CASE OF AN AT-GRADE SNOWMOBILE TRAIL
17 CROSSING OF A RAILROAD RIGHT-OF-WAY WHICH SHALL BE CONSTRUCTED
18 AND MAINTAINED BY THE PERSON OPERATING THE RAILROAD AT THE SOLE
19 COST AND EXPENSE OF THE PERSONS OPERATING THE TRAIL CONNECTED BY
20 THE CROSSING, pursuant to terms of a lease agreement under which
21 the person operating the trail agrees to do all of the
22 following:

23 (a) Indemnify the person owning the railroad right-of-way
24 and the person operating the railroad against any claims associ-
25 ated with or arising from OR INCIDENTAL TO the construction,
26 maintenance, operation, and use of the trail OR AT-GRADE
27 SNOWMOBILE TRAIL CROSSING.

HB 5473, As Passed Senate, March 4, 1998

House Bill No. 5473

5

1 (b) Provide liability insurance in the amount of
2 \$2,000,000.00 naming the person owning the railroad right-of-way
3 and the person operating the railroad as named insureds.

4 (c) Meet any other obligations or provisions considered
5 appropriate by the person owning the railroad right-of-way OR THE
6 PERSON OPERATING THE RAILROAD including, but not limited to, the
7 payment of rent that the person owning the railroad right-of-way
8 or the person operating the railroad is authorized to charge
9 under this part and the meeting of all construction, operating,
10 and maintenance conditions imposed by the person owning the rail-
11 road right-of-way and the person operating the railroad regarding
12 the ~~demonstration~~ snowmobile trail. ~~project.~~

13 (3) The ~~demonstration~~ snowmobile trail shall be clearly
14 demarcated by ~~fencing and~~ signing, WHICH SHALL BE CONSTRUCTED
15 AND MAINTAINED AT THE SOLE COST AND EXPENSE OF THE GRANT PROGRAM
16 SPONSOR, and shall occupy the outer edge of the railroad
17 right-of-way, as far from the edge of the railroad tracks as pos-
18 sible, but in any case not closer than 20 feet from the edge of
19 the railroad tracks unless topography or other natural or manmade
20 features require the trail to lie within 20 feet of the edge of
21 those railroad tracks. THE AT-GRADE SNOWMOBILE TRAIL CROSSING OF
22 A RAILROAD RIGHT-OF-WAY SHALL BE ALIGNED AT 90 DEGREES OR AS
23 CLOSE TO 90 DEGREES AS POSSIBLE TO THE RAILROAD TRACK BEING
24 CROSSED, AND SHALL BE LOCATED WHERE APPROACH GRADES TO THE CROSS-
25 ING ARE MINIMAL AND WHERE THE VISION OF A PERSON OPERATING A
26 SNOWMOBILE WILL BE UNOBSTRUCTED AS HE OR SHE APPROACHES THE
27 RAILROAD TRACKS. The design of the trail, including the location

HB 5473, As Passed Senate, March 4, 1998

House Bill No. 5473

6

1 of ~~fencing and~~ signing, shall be included upon plan sheets by
2 the PERSON constructing, operating, and maintaining the trail,
3 and shall be approved in writing by the person owning the
4 right-of-way and the person operating the railroad. Signing
5 shall conform to specifications issued by the department to its
6 snowmobile trail ~~operator grantees~~ GRANT PROGRAM SPONSORS.

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

17 (4) ~~(5)~~ Notwithstanding section 82101, for purposes of
18 this section, "operate" means to cause to function, run, or
19 manage.

20 (5) ~~(6)~~ A person shall not alter, deface, damage, or
21 remove a snowmobile trail sign or control device.

22 (6) EACH PERSON WHO PARTICIPATES IN THE SPORT OF SNOWMOBIL-
23 ING ACCEPTS THE RISKS ASSOCIATED WITH THAT SPORT INsofar AS THE
24 DANGERS ARE OBVIOUS AND INHERENT. THOSE RISKS INCLUDE, BUT ARE
25 NOT LIMITED TO, INJURIES TO PERSONS OR PROPERTY THAT CAN RESULT
26 FROM VARIATIONS IN TERRAIN; SURFACE OR SUBSURFACE SNOW OR ICE
27 CONDITIONS; BARE SPOTS; ROCKS, TREES, AND OTHER FORMS OF NATURAL

HB 5473, As Passed Senate, March 4, 1998

House Bill No. 5473

7

1 GROWTH OR DEBRIS; OR COLLISIONS WITH SIGNS, FENCES, OR OTHER
2 SNOWMOBILES OR SNOW-GROOMING EQUIPMENT. WHEN A SNOWMOBILE IS
3 OPERATED IN THE VICINITY OF A RAILROAD RIGHT-OF-WAY, EACH PERSON
4 WHO PARTICIPATES IN THE SPORT OF SNOWMOBILING ADDITIONALLY
5 ASSUMES RISKS INCLUDING, BUT NOT LIMITED TO, ENTANGLEMENT WITH
6 TRACKS, SWITCHES, AND TIES AND COLLISIONS WITH TRAINS AND OTHER
7 EQUIPMENT AND FACILITIES.