

HOUSE BILL No. 5473

January 14, 1998, Introduced by Reps. Prusi, Gagliardi, Anthony, Lowe, Bobier and Bodem and referred to the Committee on Conservation, Environment and Recreation.

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.

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

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

1 right-of-way owned by Ameritech and operated by the Wisconsin
2 central limited railroad in the vicinity of Bergland, Michigan
3 between railroad mileposts 268.89 and 269.85 that will be used as
4 a connector to a designated snowmobile trail and that meets the
5 conditions imposed in subsections (2) and (3). THIS PROHIBITION
6 DOES NOT APPLY TO A PERSON OPERATING A SNOWMOBILE OVER AN
7 AT-GRADE CROSSING OF A RAILROAD RIGHT-OF-WAY THAT HAS BEEN
8 APPROVED BY THE OWNER OF THE RIGHT-OF-WAY AND EACH RAILROAD USING
9 THE TRACKS, AND THAT MEETS THE CONDITIONS DESCRIBED IN SUBSEC-
10 TIONS (2) AND (3).

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

20 (a) Indemnify the person owning the railroad right-of-way
21 and the person operating the railroad against any claims associ-
22 ated with or arising from the construction, maintenance, opera-
23 tion, and use of the trail.

24 (b) Provide liability insurance in the amount of
25 \$2,000,000.00 naming the person owning the railroad right-of-way
26 and the person operating the railroad as named insureds.

1 (c) Meet any other obligations or provisions considered
2 appropriate by the person owning the railroad right-of-way
3 including, but not limited to, the payment of rent that the
4 person owning the railroad right-of-way or the person operating
5 the railroad is authorized to charge under this part and the
6 meeting of all construction, operating, and maintenance condi-
7 tions imposed by the person owning the railroad right-of-way and
8 the person operating the railroad regarding the demonstration
9 snowmobile trail project.

10 (3) The demonstration snowmobile trail shall be clearly
11 demarcated by fencing and signing and shall occupy the outer edge
12 of the railroad right-of-way, as far from the edge of the rail-
13 road tracks as possible, but in any case not closer than 20 feet
14 from the edge of the railroad tracks unless topography or other
15 natural or manmade features require the trail to lie within 20
16 feet of the edge of those railroad tracks. THE AT-GRADE CROSSING
17 OF A RAILROAD RIGHT-OF-WAY SHALL BE ALIGNED AT 90 DEGREES OR AS
18 CLOSE TO 90 DEGREES AS POSSIBLE TO THE RAILROAD TRACK BEING
19 CROSSED, AND SHALL BE LOCATED WHERE APPROACH GRADES TO THE CROSS-
20 ING ARE MINIMAL AND WHERE THE VISION OF A PERSON OPERATING A
21 SNOWMOBILE WILL BE UNOBSTRUCTED AS HE OR SHE APPROACHES THE RAIL-
22 ROAD TRACKS. The design of the trail, including the location of
23 fencing and signing, shall be included upon plan sheets by the
24 constructing, operating, and maintaining the trail, and shall be
25 approved in writing by the person owning the right-of-way and the
26 person operating the railroad. Signing shall conform to

1 specifications issued by the department to its snowmobile trail
2 operator grantees.

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

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

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