

## **OPERATING SNOWMOBILE: ASSUMPTION OF RISK**

**House Bill 4198 as introduced  
First Analysis (2-26-03)**

**Sponsor: Rep. Charles LaSata  
Committee: Judiciary**

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

According to the Department of Natural Resources, "Michigan is known by snowmobilers nationwide for its unique combination of abundant and dependable snow, exciting terrain, and extensive trail network." With over 6,100 miles of designated snowmobile trails located in six state forests, three national forests, and privately owned lands throughout the state, Michigan is one of only a few states that offer an extensive system of interconnected trails. Because snowmobiling opportunities abound, it has become a vital component of northern Michigan's tourism and recreation industry, attracting not only residents of surrounding areas, but also residents of southern areas of the state as well as snowmobile enthusiasts from other states.

While snowmobiling can be a thrilling adventure, it can also be dangerous, especially when operators fail to take basic safety precautions. Snowmobilers are prohibited from operating their snowmobiles at rates of speed greater than is reasonable for existing conditions or while under the influence of drugs or alcohol, but some people do so anyway. Also, snowmobilers are required to keep their brakes in good working order and wear helmets but do not always do so. The results can be life-altering or life-ending. According to a DNR report, there were 33 fatalities from snowmobile crashes during the 2001-2002 season. While this marks a 15 percent reduction from the previous year's total of 39 fatalities, 33 fatalities is clearly 33 too many. The report stated that excessive speed was involved in 20 of the fatal crashes. But perhaps the most troubling statistic in the report is that alcohol or drug use was involved in 22 of the fatalities—two-thirds of the total.

The Natural Resources and Environmental Protection Act states that people who participate in the sport of snowmobiling accept the risks associated with the sport "insofar as the dangers are obvious and inherent". One obvious and inherent danger identified in the act is the risk of collision with other

snowmobiles. The act makes no exception for injuries to one snowmobiler that are attributable to another snowmobiler's carelessness or negligence. Written testimony submitted by the Michigan Trial Lawyers Association suggests that the current language has been interpreted as placing no responsibility on those who are at fault in such accidents, and as a representative of the association testified, civil immunity for drunk and otherwise careless or negligent snowmobilers is inconsistent with good public policy.

### ***THE CONTENT OF THE BILL:***

House Bill 4198 would amend the Natural Resources and Environmental Protection Act to specify that a person who participates in the sport of snowmobiling does not thereby accept the risk for injuries to persons or property that can result from the careless or negligent use of a snowmobile by another person.

MCL 324.82126

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

According to the House Fiscal Agency, the bill would have no fiscal impact on the state or local governments. (2-25-03)

### ***ARGUMENTS:***

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

Even those snowmobilers who take every recommended precaution to help make snowmobiling a fun and safe experience for themselves and others may find themselves victims of other snowmobilers' carelessness or negligence. Under current law, a snowmobiler who is injured in this way has no legal recourse. It seems unfair not to hold snowmobilers responsible for careless or negligent behavior when they cause accidents injuring other snowmobilers.

***POSITIONS:***

The Michigan Trial Lawyers' Association supports the bill. (2-25-03)

A representative of the Department of Natural Resources testified in support of the bill. (2-25-03)

Analyst: J. Caver

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.