

HOUSE BILL No. 4198

February 12, 2003, Introduced by Reps. LaSata, Adamini, Vander Veen, Caul and Howell
and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 82126 (MCL 324.82126), as amended by 1998
PA 30.

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 **on** public lands
6 posted or reasonably identifiable as an area of forest
7 reproduction when growing stock may be damaged or posted or
8 reasonably identifiable as a natural dedicated area that is in
9 zone 2 or zone 3.

10 (c) On the frozen surface of public waters ~~within~~ **as**

1 follows:

2 (i) Within 100 feet of a person, including a skater, who is
3 not in or upon a snowmobile. ~~or within~~

4 (ii) Within 100 feet of a fishing shanty or shelter except at
5 the minimum speed required to maintain forward movement of the
6 snowmobile. ~~or on~~

7 (iii) On an area ~~which~~ that has been cleared of snow for
8 skating purposes unless the area is necessary for access to the
9 public water.

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

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

25 (f) In an area on which public hunting is permitted during
26 the regular November firearm deer season from 7 a.m. to
27 11 a.m. and from 2 p.m. to 5 p.m., except ~~during~~ under 1 or

1 more of the following circumstances:

2 (i) During an emergency. ~~—, for~~

3 (ii) For law enforcement purposes. ~~—, to~~

4 (iii) To go to and from a permanent residence or a hunting
5 camp otherwise inaccessible by a conventional wheeled vehicle. ~~—~~
6 ~~or for~~

7 (iv) For the conduct of necessary work functions involving
8 land and timber survey, communication and transmission line
9 patrol, and timber harvest operations. ~~—, or on~~

10 (v) On the person's own property or property under the
11 person's control or as an invited guest.

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

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

16 (i) Within 100 feet of a slide, ski, or skating area except
17 when traveling on a ~~—country—~~ **county** road right-of-way pursuant
18 to section 82119 or a snowmobile trail that is designated and
19 funded by the department. A snowmobile may enter such an area
20 for the purpose of servicing the area or for medical
21 emergencies.

22 (j) On a railroad or railroad right-of-way. This prohibition
23 ~~—shall—~~ **does** not apply to railroad personnel, public utility
24 personnel, law enforcement personnel while in the performance of
25 their duties, and persons using a snowmobile trail located on or
26 along a railroad right-of-way, or an at-grade snowmobile trail
27 crossing of a railroad right-of-way, ~~—which—~~ **that** has been

1 expressly approved in writing by the owner of the right-of-way
2 and each railroad company using the tracks and ~~which~~ **that** meets
3 the conditions imposed in subsections (2) and (3). A snowmobile
4 trail or an at-grade snowmobile trail crossing shall not be
5 constructed on a right-of-way designated by the federal
6 government as a high-speed rail corridor.

7 (2) A snowmobile trail shall be constructed, operated, and
8 maintained by a person other than the person owning the railroad
9 right-of-way and the person operating the railroad, except ~~in~~
10 ~~the case of~~ **that** an at-grade snowmobile trail crossing of a
11 railroad right-of-way ~~which~~ shall be constructed and maintained
12 by the person operating the railroad at the sole cost and expense
13 of the ~~persons~~ **person** operating the trail connected by the
14 crossing, pursuant to terms of a lease agreement under which the
15 person operating the trail agrees to do all of the following:

16 (a) Indemnify the person owning the railroad right-of-way and
17 the person operating the railroad against any claims associated
18 with, ~~or~~ arising from, or incidental to the construction,
19 maintenance, operation, and use of the trail or at-grade
20 snowmobile trail crossing.

21 (b) Provide liability insurance in the amount of
22 \$2,000,000.00 naming the person owning the railroad right-of-way
23 and the person operating the railroad as named insureds.

24 (c) Meet any other obligations or provisions considered
25 appropriate by the person owning the railroad right-of-way or the
26 person operating the railroad including, but not limited to, the
27 payment of rent that the person owning the railroad right-of-way

1 or the person operating the railroad is authorized to charge
2 under this part and the meeting of all construction, operating,
3 and maintenance conditions imposed by the person owning the
4 railroad right-of-way and the person operating the railroad
5 regarding the snowmobile trail.

6 (3) ~~The~~ A snowmobile trail shall be clearly demarcated by
7 signing ~~—, which shall be—~~ constructed and maintained at the sole
8 cost and expense of the grant program sponsor. ~~—, and shall~~
9 ~~occupy~~ **The signing shall be placed at** the outer edge of the
10 railroad right-of-way, as far from the edge of the railroad
11 tracks as possible, but ~~in any case~~ not closer than 20 feet
12 from the edge of the railroad tracks unless topography or other
13 natural or manmade features require the trail to lie within 20
14 feet of the edge of ~~these~~ **the** railroad tracks. The at-grade
15 snowmobile trail crossing of a railroad right-of-way shall be
16 aligned at 90 degrees or as close to 90 degrees as possible to
17 the railroad track being crossed, and shall be located where
18 approach grades to the crossing are minimal and where the vision
19 of a person operating a snowmobile will be unobstructed as he or
20 she approaches the railroad tracks. The design of the **snowmobile**
21 trail, including the location of signing, shall be included upon
22 plan sheets by the person constructing, operating, and
23 maintaining the trail, and shall be approved in writing by the
24 person owning the right-of-way and the person operating the
25 railroad. Signing shall conform to specifications issued by the
26 department to its snowmobile trail grant program sponsors.

27 (4) Notwithstanding section 82101, ~~for purposes of~~ **as used**

1 in this section, "operate" means to cause to function, run, or
2 manage.

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

5 (6) Each person who participates in the sport of snowmobiling
6 accepts the risks associated with that sport insofar as the
7 dangers are obvious and inherent. Those risks include, but are
8 not limited to, injuries to persons or property that can result
9 from variations in terrain; surface or subsurface snow or ice
10 conditions; bare spots; rocks, trees, and other forms of natural
11 growth or debris; or collisions with signs, fences, or other
12 snowmobiles or snow-grooming equipment. **Those risks do not**
13 **include injuries to persons or property that can result from the**
14 **use of a snowmobile by another person in a careless or negligent**
15 **manner likely to endanger person or property.** When a snowmobile
16 is operated in the vicinity of a railroad right-of-way, each
17 person who participates in the sport of snowmobiling additionally
18 assumes risks including, but not limited to, entanglement with
19 tracks, switches, and ties and collisions with trains and other
20 equipment and facilities.