

Act No. 175
Public Acts of 2005
Approved by the Governor
October 11, 2005
Filed with the Secretary of State
October 12, 2005
EFFECTIVE DATE: October 12, 2005

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Senator McManus

ENROLLED SENATE BILL No. 415

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 82101 and 82148 (MCL 324.82101 and 324.82148), section 82101 as amended by 2003 PA 230 and section 82148 as added by 1995 PA 58.

The People of the State of Michigan enact:

Sec. 82101. (1) As used in this part:

(a) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

(b) "Dealer" means any person engaged in the sale, lease, or rental of snowmobiles as a regular business.

(c) "Former section 15a" means section 15a of former 1968 PA 74, as constituted prior to May 1, 1994.

(d) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(e) "Highway or street" means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel.

(f) "In-kind contributions" means services and goods as approved by the department that are provided by a grant recipient toward completion of a department-approved local snowmobile program under section 82107.

(g) "Law of another state" means a law or ordinance enacted by any of the following:

(i) Another state.

(ii) A local unit of government in another state.

- (iii) Canada or a province or territory of Canada.
- (iv) A local unit of government in a province or territory of Canada.
- (h) “Long-term incapacitating injury” means an injury that causes a person to be in a comatose, quadriplegic, hemiplegic, or paraplegic state, which state is likely to continue for 1 year or more.
- (i) “Operate” means to ride in or on and be in actual physical control of the operation of a snowmobile.
- (j) “Operator” means any person who operates a snowmobile.
- (k) “Owner” means any of the following:
 - (i) A person who holds the legal title to a snowmobile.
 - (ii) A vendee or lessee of a snowmobile that is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.
 - (iii) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.
- (l) “Peace officer” means any of the following:
 - (i) A sheriff.
 - (ii) A sheriff’s deputy.
 - (iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.
 - (iv) A village or township marshal.
 - (v) An officer of the police department of any municipality.
 - (vi) An officer of the Michigan state police.
 - (vii) The director and conservation officers employed by the department.
 - (viii) A law enforcement officer who is certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, as long as that officer is policing within his or her jurisdiction.
- (m) “Personal information” means information that identifies an individual, including an individual’s driver identification number, name, address not including zip code, and telephone number, but does not include information on snowmobile operation or equipment-related violations or civil infractions, operator or snowmobile registration status, accidents, or other behaviorally-related information.
- (n) “Probate court or family division disposition” means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.
- (o) “Prosecuting attorney”, except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.
- (p) “Recreational snowmobile trail improvement subaccount”, subject to subsection (2), means the recreational snowmobile trail improvement subaccount of the snowmobile account created in section 82110.
- (q) “Right-of-way” means that portion of a highway or street less the roadway and any shoulder.
- (r) “Roadway” means that portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.
- (s) “Shoulder” means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.
- (t) “Snowmobile” means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.
- (u) “Snowmobile account”, subject to subsection (2), means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.
- (v) “Snowmobile registration fee subaccount”, subject to subsection (2), means the snowmobile registration fee subaccount of the snowmobile account created in section 82111.
- (w) “Zone 1” means all of the Upper Peninsula.
- (x) “Zone 2” means all of that part of the Lower Peninsula north of a line beginning at and drawn from a point on the Michigan-Wisconsin boundary line due west of the westerly terminus of River road in Muskegon county; thence due

east to the westerly terminus of River road; thence north and east along the center line of the River road to its intersection with highway M-120; thence northeasterly and easterly along the center line of highway M-120 to the junction of highway M-20; thence easterly along the center line of M-20 to its junction with US-10 at the Midland-Bay county line; thence easterly along the center line of the "business route" of highway US-10 to the intersection of Garfield road in Bay county; thence north along the center line of Garfield road to the intersection of the Pinconning road; thence east along the center line of Pinconning road to the intersection of the Seven Mile road; thence north along the center of the Seven Mile road to the Bay-Arenac county line; thence north along the center line of the Lincoln School road (county road 25) in Arenac county to the intersection of highway M-61; thence east along the center line of highway M-61 to the junction of highway US-23; thence northerly and easterly along the center line of highway US-23 to the center line of the Au Gres river; thence southerly along the center line of the river to its junction with Saginaw Bay of Lake Huron; thence north 78° east to the international boundary line between the United States and the Dominion of Canada.

(y) "Zone 3" means all of that part of the Lower Peninsula south of the line described in subdivision (x).

(2) Subsection (1)(p), (u), and (v) does not apply unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

Sec. 82148. (1) Upon receipt of the appropriate records of conviction, the secretary of state shall issue an order with no expiration date that the person not operate a snowmobile to a person having any of the following convictions, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Two convictions of a felony involving the use of a snowmobile within 7 years.

(b) Any combination of 2 convictions within 7 years for a violation of section 82127(1), section 15a(1) of former 1968 PA 74, or section 15a of former 1968 PA 74, as added by 1980 PA 402.

(c) One conviction under section 82127(4) or (5) or section 15a(4) or (5) of former 1968 PA 74.

(d) Any combination of 3 convictions within 10 years for a violation of section 82127(1) or (3), section 15a(1) or (3) of former 1968 PA 74, or section 15a of former 1968 PA 74, as added by 1980 PA 402.

(2) The department shall seek to enter agreements with the appropriate agencies of other states, Canada, and provinces and territories of Canada for the sharing of records of convictions described in subsection (1).

(3) The secretary of state shall issue an order with no expiration date that a person not operate a snowmobile notwithstanding a court order issued under section 82142, or a local ordinance substantially corresponding to section 82142. The secretary of state shall not terminate an indefinite order issued under this part until both of the following occur:

(a) The later of the following:

(i) The expiration of not less than 1 year after the order was issued.

(ii) The expiration of not less than 5 years after the date of a subsequent issuance of an indefinite order occurring within 7 years after the date of a prior order.

(b) The person meets the requirements of the department of state.

(4) Multiple convictions or probate court dispositions resulting from the same incident shall be treated as a single violation for purposes of issuance of an order under this section.

(5) A person who is aggrieved by the issuance of an order by the secretary of state under this section may request a hearing with the secretary of state. The hearing shall be requested within 14 days after issuance of an order under this section by the secretary of state. If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in section 322 of the Michigan vehicle code, 1949 PA 300, MCL 257.322.

(6) The hearing officer shall make a record of proceedings held pursuant to subsection (5). The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification of the filing of a petition for judicial review pursuant to section 82150 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition is filed the original or a certified copy of the official record of the proceedings. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(7) Judicial review of an administrative sanction under this section is governed by the law in effect at the time the offense was committed or attempted.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved _____

Governor