

HOUSE BILL No. 4616

April 14, 2005, Introduced by Reps. Condino, Van Regenmorter and Sak and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 82101, 82127, 82136, 82139, 82140, and 82143 (MCL 324.82101, 324.82127, 324.82136, 324.82139, 324.82140, and 324.82143), section 82101 as amended by 2004 PA 587, section 82127 as amended by 2001 PA 12, section 82136 as added by 1995 PA 58, and sections 82139, 82140, and 82143 as amended by 1996 PA 183.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 82101. As used in this part:

2 (A) "ALCOHOLIC LIQUOR" MEANS THAT TERMS AS DEFINED IN SECTION
3 1D OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1D.

4 (B) ~~-(a)-~~ "Conviction" means a final conviction, the payment
5 of a fine, a plea of guilty or nolo contendere if accepted by the

1 court, or a finding of guilt or probate court disposition on a
2 violation of this part, regardless of whether the penalty is
3 rebated or suspended.

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

6 (D) ~~-(e)-~~ "Former section 15a" means section 15a of former
7 1968 PA 74, as constituted ~~—prior to—~~ **BEFORE** May 1, 1994.

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

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

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

19 (H) ~~-(g)-~~ "Law of another state" means a law or ordinance
20 enacted by another state or by a local unit of government in
21 another state.

22 ~~——(h) "Long term incapacitating injury" means an injury that~~
23 ~~causes a person to be in a comatose, quadriplegic, hemiplegic, or~~
24 ~~paraplegic state, which state is likely to continue for 1 year or~~
25 ~~more.~~

26 (i) "Operate" means to ride in or on and be in actual physical
27 control of the operation of a snowmobile.

1 (j) "Operator" means any person who operates a snowmobile.

2 (k) "Owner" means any of the following:

3 (i) A person who holds the legal title to a snowmobile.

4 (ii) A vendee or lessee of a snowmobile that is the subject of
5 an agreement for conditional sale or lease with the right of
6 purchase upon performance of the conditions stated in the agreement
7 and with an immediate right of possession vested in the conditional
8 vendee or lessee.

9 (iii) A person renting a snowmobile or having the exclusive use
10 of a snowmobile for more than 30 days.

11 (l) "Peace officer" means any of the following:

12 (i) A sheriff.

13 (ii) A sheriff's deputy.

14 (iii) A deputy who is authorized by a sheriff to enforce this
15 part and who has satisfactorily completed at least 40 hours of law
16 enforcement training, including training specific to this part.

17 (iv) A village or township marshal.

18 (v) An officer of the police department of any municipality.

19 (vi) An officer of the Michigan state police.

20 (vii) The director and conservation officers employed by the
21 department.

22 (viii) A law enforcement officer who is certified ~~pursuant to~~
23 **UNDER** the commission on law enforcement standards act, 1965 PA 203,
24 MCL 28.601 to 28.616, as long as that officer is policing within
25 his or her jurisdiction.

26 (m) "Personal information" means information that identifies
27 an individual, including an individual's driver identification

1 number, name, address not including zip code, and telephone number,
2 but does not include information on snowmobile operation or
3 equipment-related violations or civil infractions, operator or
4 snowmobile registration status, accidents, or other behaviorally-
5 related information.

6 (n) "Probate court or family division disposition" means the
7 entry of a probate court order of disposition or family division
8 order of disposition for a child found to be within the provisions
9 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
10 712A.1 to 712A.32.

11 (o) "Prosecuting attorney", except as the context requires
12 otherwise, means the attorney general, the prosecuting attorney of
13 a county, or the attorney representing a local unit of government.

14 (p) "Recreational snowmobile trail improvement subaccount"
15 means the recreational snowmobile trail improvement subaccount of
16 the snowmobile account created in section 82110.

17 (q) "Right-of-way" means that portion of a highway or street
18 less the roadway and any shoulder.

19 (r) "Roadway" means that portion of a highway or street
20 improved, designated, or ordinarily used for vehicular travel. If a
21 highway or street includes 2 or more separate roadways, the term
22 roadway refers to any such roadway separately, but not to all such
23 roadways collectively.

24 (s) "Shoulder" means that portion of a highway or street on
25 either side of the roadway that is normally snowplowed for the
26 safety and convenience of vehicular traffic.

27 (t) "Snowmobile" means any motor-driven vehicle designed for

1 travel primarily on snow or ice of a type that utilizes sled-type
2 runners or skis, an endless belt tread, or any combination of these
3 or other similar means of contact with the surface upon which it is
4 operated, but is not a vehicle that must be registered under the
5 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

6 (u) "Snowmobile account" means the snowmobile account of the
7 Michigan conservation and recreation legacy fund provided for in
8 section 2025.

9 (v) "Snowmobile registration fee subaccount" means the
10 snowmobile registration fee subaccount of the snowmobile account
11 created in section 82111.

12 (w) "Zone 1" means all of the Upper Peninsula.

13 (x) "Zone 2" means all of that part of the Lower Peninsula
14 north of a line beginning at and drawn from a point on the
15 Michigan-Wisconsin boundary line due west of the westerly terminus
16 of River road in Muskegon county; thence due east to the westerly
17 terminus of River road; thence north and east along the center line
18 of the River road to its intersection with highway M-120; thence
19 northeasterly and easterly along the center line of highway M-120
20 to the junction of highway M-20; thence easterly along the center
21 line of M-20 to its junction with US-10 at the Midland-Bay county
22 line; thence easterly along the center line of the "business route"
23 of highway US-10 to the intersection of Garfield road in Bay
24 county; thence north along the center line of Garfield road to the
25 intersection of the Pinconning road; thence east along the center
26 line of Pinconning road to the intersection of the Seven Mile road;
27 thence north along the center of the Seven Mile road to the Bay-

1 Arenac county line; thence north along the center line of the
 2 Lincoln School road (county road 25) in Arenac county to the
 3 intersection of highway M-61; thence east along the center line of
 4 highway M-61 to the junction of highway US-23; thence northerly and
 5 easterly along the center line of highway US-23 to the center line
 6 of the Au Gres river; thence southerly along the center line of the
 7 river to its junction with Saginaw Bay of Lake Huron; thence north
 8 78° east to the international boundary line between the United
 9 States and the Dominion of Canada.

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

12 Sec. 82127. (1) A person shall not operate a snowmobile in
 13 this state if ~~either~~ **ANY** of the following ~~applies~~ **APPLY**:

14 (a) The person is under the influence of ~~intoxicating~~
 15 **ALCOHOLIC** liquor or a controlled substance, or both.

16 (b) The person has a blood alcohol content of ~~0.10~~ **0.08**
 17 grams or more per 100 milliliters of blood, per 210 liters of
 18 breath, or per 67 milliliters of urine.

19 **(C) THE PERSON HAS IN HIS OR HER BODY ANY AMOUNT OF A**
 20 **CONTROLLED SUBSTANCE LISTED IN SCHEDULE 1 UNDER SECTION 7212 OF THE**
 21 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7212, OR A RULE**
 22 **PROMULGATED UNDER THAT SECTION, OR OF A CONTROLLED SUBSTANCE**
 23 **DESCRIBED IN SECTION 7214(A)(iv) OF THE PUBLIC HEALTH CODE, 1978 PA**
 24 **368, MCL 333.7214.**

25 (2) The owner of a snowmobile or a person in charge or in
 26 control of a snowmobile shall not authorize or knowingly permit the
 27 snowmobile to be driven or operated by a person ~~who~~ **IF ANY OF THE**

1 **FOLLOWING APPLY:**

2 (A) **THE PERSON** is under the influence of ~~intoxicating~~
3 **ALCOHOLIC** liquor or a controlled substance, or both. ~~, or who~~

4 (B) **THE PERSON** has ~~a blood~~ **AN** alcohol content of ~~0.10~~ **0.08**
5 grams or more per 100 milliliters of blood, per 210 liters of
6 breath, or per 67 milliliters of urine.

7 (C) **THE PERSON'S ABILITY TO OPERATE A SNOWMOBILE IS VISIBLY**
8 **IMPAIRED DUE TO THE CONSUMPTION OF AN ALCOHOLIC LIQUOR, A**
9 **CONTROLLED SUBSTANCE, OR A COMBINATION OF AN ALCOHOLIC LIQUOR AND A**
10 **CONTROLLED SUBSTANCE.**

11 (3) A person shall not operate a snowmobile when, due to the
12 consumption of an ~~intoxicating~~ **ALCOHOLIC** liquor or a controlled
13 substance, or both, the person's ability to operate the snowmobile
14 is visibly impaired. If a person is charged with violating
15 subsection (1), a finding of guilty under this subsection may be
16 rendered.

17 (4) A person who operates a snowmobile ~~under the influence of~~
18 ~~intoxicating liquor or a controlled substance, or both, or with a~~
19 ~~blood alcohol content of 0.10 grams or more per 100 milliliters of~~
20 ~~blood, per 210 liters of breath, or per 67 milliliters of urine,~~
21 **IN VIOLATION OF SUBSECTION (1) OR (3)** and by the operation of that
22 snowmobile causes the death of another person is guilty of a felony
23 punishable by imprisonment for not more than 15 years ~~, or~~ or a fine
24 of not less than \$2,500.00 or more than \$10,000.00, or both.

25 (5) A person who operates a snowmobile ~~under the influence of~~
26 ~~intoxicating liquor or a controlled substance, or both, or with a~~
27 ~~blood alcohol content of 0.10 grams or more per 100 milliliters of~~

1 ~~blood, per 210 liters of breath, or per 67 milliliters of urine,~~
 2 **IN VIOLATION OF SUBSECTION (1) OR (3)** and by the operation of that
 3 snowmobile causes a serious impairment of a body function of
 4 another person is guilty of a felony punishable by imprisonment for
 5 not more than 5 years — or a fine of not less than \$1,000.00 or
 6 more than \$5,000.00, or both. As used in this subsection, "serious
 7 impairment of a body function" ~~includes, but is not limited to, 1~~
 8 ~~or more of the following:~~ **MEANS THAT TERM AS DEFINED IN SECTION**
 9 **58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.58C.**

- 10 ~~—— (a) Loss of a limb or use of a limb.~~
 11 ~~—— (b) Loss of a hand, foot, finger, or thumb or use of a hand,~~
 12 ~~foot, finger, or thumb.~~
 13 ~~—— (c) Loss of an eye or ear or use of an eye or ear.~~
 14 ~~—— (d) Loss or substantial impairment of a bodily function.~~
 15 ~~—— (e) Serious visible disfigurement.~~
 16 ~~—— (f) A comatose state that lasts for more than 3 days.~~
 17 ~~—— (g) Measurable brain damage or mental impairment.~~
 18 ~~—— (h) A skull fracture or other serious bone fracture.~~
 19 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~

20 Sec. 82136. (1) A peace officer, without a warrant, may arrest
 21 a person if the peace officer has reasonable cause to believe that
 22 the person was, at the time of an accident, the operator of a
 23 snowmobile involved in the accident in this state while in
 24 violation of section 82127(1), (3), (4), or (5) or a local
 25 ordinance substantially corresponding to section 82127(1) or (3).

26 (2) A peace officer who has reasonable cause to believe that a
 27 person was operating a snowmobile and that, by the consumption of

1 ~~intoxicating~~ **ALCOHOLIC** liquor, the person may have affected his or
2 her ability to operate a snowmobile may require the person to
3 submit to a preliminary chemical breath analysis. The following
4 apply with respect to a preliminary chemical breath analysis:

5 (a) A peace officer may arrest a person based in whole or in
6 part upon the results of a preliminary chemical breath analysis.

7 (b) The results of a preliminary chemical breath analysis are
8 admissible in a criminal prosecution for a crime enumerated in
9 section 82143(1) or in an administrative hearing solely to assist
10 the court or hearing officer in determining a challenge to the
11 validity of an arrest. This subdivision does not limit the
12 introduction of other competent evidence offered to establish the
13 validity of an arrest.

14 (c) A person who submits to a preliminary chemical breath
15 analysis remains subject to the requirements of sections 82143 to
16 82146 for the purposes of chemical tests described in those
17 sections.

18 (d) A person who refuses to submit to a preliminary chemical
19 breath analysis upon a lawful request by a peace officer is guilty
20 of a misdemeanor.

21 Sec. 82139. (1) The provisions of sections 82137 and 82138
22 relating to chemical testing do not limit the introduction of any
23 other competent evidence bearing upon the question of whether a
24 person was impaired by, or under the influence of, ~~intoxicating~~
25 **ALCOHOLIC** liquor or a controlled substance, or both, or whether the
26 person had a blood alcohol content of ~~0.10~~ **0.08** grams or more per
27 100 milliliters of blood, per 210 liters of breath, or per 67

1 milliliters of urine.

2 (2) If a chemical test described in sections 82137 and 82138
3 is administered, the results of the test shall be made available to
4 the person charged or the person's attorney upon written request to
5 the prosecution, with a copy of the request filed with the court.
6 The prosecution shall furnish the results at least 2 days before
7 the day of the trial. The results of the test shall be offered as
8 evidence by the prosecution in that trial. Failure to fully comply
9 with the request bars the admission of the results into evidence by
10 the prosecution.

11 Sec. 82140. ~~-(1) Except in a prosecution relating solely to a~~
12 ~~violation of section 82127(1)(b), the amount of alcohol in the~~
13 ~~driver's blood at the time alleged as shown by chemical analysis of~~
14 ~~the person's blood, urine, or breath gives rise to the following~~
15 ~~presumptions:~~

16 ~~—— (a) If at the time the defendant had a blood alcohol content~~
17 ~~of 0.07 grams or less per 100 milliliters of blood, per 210 liters~~
18 ~~of breath, or per 67 milliliters of urine, it shall be presumed~~
19 ~~that the defendant's ability to operate a snowmobile was not~~
20 ~~impaired due to the consumption of intoxicating liquor and that the~~
21 ~~defendant was not under the influence of intoxicating liquor.~~

22 ~~—— (b) If at the time the defendant had a blood alcohol content~~
23 ~~of more than 0.07 grams but less than 0.10 grams per 100~~
24 ~~milliliters of blood, per 210 liters of breath, or per 67~~
25 ~~milliliters of urine, it shall be presumed that the defendant's~~
26 ~~ability to operate a snowmobile was impaired within the provisions~~
27 ~~of section 82127(3) due to the consumption of intoxicating liquor.~~

1 ~~—— (c) If at the time the defendant had a blood alcohol content~~
2 ~~of 0.10 grams or more per 100 milliliters of blood, per 210 liters~~
3 ~~of breath, or per 67 milliliters of urine, it shall be presumed~~
4 ~~that the defendant was under the influence of intoxicating liquor.~~

5 ~~—— (2) A person's refusal to submit to a chemical test as~~
6 ~~provided in sections 82137 and 82138 is admissible in a criminal~~
7 ~~prosecution for a crime described in section 82143(1) only for the~~
8 ~~purpose of showing that a test was offered to the defendant, but~~
9 ~~not as evidence in determining innocence or guilt of the defendant.~~
10 ~~The jury shall be instructed accordingly.~~

11 Sec. 82143. (1) A person who operates a snowmobile is
12 considered to have given consent to chemical tests of his or her
13 blood, breath, or urine for the purpose of determining the amount
14 of alcohol or presence of a controlled substance, or both, in his
15 or her blood in all of the following circumstances:

16 (a) The person is arrested for a violation of section
17 82127(1), (3), (4), or (5) or a local ordinance substantially
18 corresponding to section 82127(1) or (3).

19 (b) The person is arrested for negligent homicide,
20 manslaughter, or murder resulting from the operation of a
21 snowmobile, and the peace officer had reasonable grounds to believe
22 that the person was operating the snowmobile ~~while impaired by, or~~
23 ~~under the influence of, intoxicating liquor or a controlled~~
24 ~~substance, or both, or while having a blood alcohol content of 0.10~~
25 ~~grams or more per 100 milliliters of blood, per 210 liters of~~
26 ~~breath, or per 67 milliliters of urine~~ **IN VIOLATION OF SECTION**
27 **82127.**

1 (2) A person who is afflicted with hemophilia, diabetes, or a
2 condition requiring the use of an anticoagulant under the direction
3 of a physician shall not be considered to have given consent to the
4 withdrawal of blood.

5 (3) A chemical test described in subsection (1) shall be
6 administered as provided in sections 82137 and 82138.

7 Enacting section 1. This amendatory act takes effect January
8 1, 2006.