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PENALTIES FOR SNOWMOBILE ACCIDENTS

**House Bill 5717 as enrolled
Public Act 461 of 1998
Second Analysis (1-11-99)**

**Sponsor: Rep. James McNutt
House Committee: Conservation,
Environment and Recreation
Senate Committee: Natural Resources
and Environmental Affairs**

THE APPARENT PROBLEM:

Snowmobiling is a popular sport in Michigan and is considered an important part of northern Michigan's tourism and recreation industry, since it attracts not only Michigan residents from populous southern areas of the state, but a significant number of nonresidents who travel here from surrounding states. Nevertheless, snowmobiles are potentially dangerous vehicles. According to the Department of State Police, 1,066 people were involved in accidents concerning snowmobiles in Michigan during 1997. Seventeen of the accidents involved fatalities.

These reports of deaths and injuries to snowmobile riders and others draw attention to the need to clearly define the legal consequences of reckless and careless actions involving such vehicles. However, current laws pertaining to snowmobile accidents are ambiguous. For example, in *People v. Rogers* (438 Mich 602, 1991) the court ruled that a snowmobile must be treated like a motor vehicle when it is operated on the shoulder of a road. Therefore, a snowmobile operator who is involved in an accident on the side of the road may be prosecuted for manslaughter or negligent homicide if that accident results in the death of another person. On the other hand, if a snowmobile driver kills another person while driving in a field or other area not regulated under the act, the laws are generally less clear.

The Natural Resources and Environmental Protection Act (NREPA) specifies that a violation of Part 821 of the act, which regulates snowmobiles, is a misdemeanor (MCL 324.82133). The act also provides penalties for the drunken operation of a snowmobile, and establishes certain restrictions on the operation of snowmobiles, but otherwise specifies

only that a person must not operate a snowmobile "at a rate of speed greater than is reasonable and proper having due regard for conditions then existing." As a result, it has been suggested that snowmobiles should be subject to the same laws governing other vehicles.

THE CONTENT OF THE BILL:

House Bill 5717 would add a new section to Part 821 of the Natural Resources and Environmental Protection Act (NREPA), which regulates snowmobiles, to establish civil and criminal penalties for operating a snowmobile recklessly. The provisions of the bill would apply to driving on a highway, public trail, frozen surface of a public lake, stream, river, pond, or another public place, including, but not limited to, an area designated for snowmobile or motor vehicle parking. Under the bill, operating a snowmobile in violation of the provisions of the act would result in certain penalties, as follows:

- It would be a civil infraction to operate a snowmobile "in a careless or negligent manner," likely to endanger another person or property. Should this conduct result in the death or serious impairment of bodily function of another person, the penalty would be imprisonment for up to two years, a fine of up to \$2,000, or both. (Under the bill, "serious impairment of bodily function" would be defined to include one or more of the following: loss of a limb or use of a limb, hand, foot, finger, thumb, eye or ear; loss or substantial impairment of a bodily function; serious visible disfigurement; a comatose state that lasted for more than three days; measurable brain damage or mental impairment; a skull fracture or other serious bone fracture; or subdural hemorrhage or hematoma.)

- It would be a misdemeanor to operate a snowmobile "in willful or wanton disregard for the safety of persons or property," punishable by a fine of up to \$250.

- It would be a felony to operate a snowmobile "in a careless and heedless manner, in willful and wanton disregard for the rights or safety of others", or without due caution and circumspection, and at a speed or in a manner so as to endanger or to be likely to endanger any person or property, and thereby cause serious impairment of bodily function -- but not the death -- of another. The punishment would be imprisonment for up to two years, a fine of up to \$2,000, or both.

In addition to any other penalty, the court could, at its discretion, issue an order prohibiting a person from operating a snowmobile in the state for two or more years.

MCL 324.82126a et al.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have an indeterminate impact on state and local corrections systems. Whether and where increased costs were incurred would depend on the numbers of offenders adjudicated and directed into state or local sanctions. (1-6-99)

ARGUMENTS:

For:

The bill would provide consistency in the regulation of snowmobile accidents. Snowmobiling generates millions of dollars annually in tourism business for communities in the Upper Peninsula and northern lower Michigan, and contributes significantly to state and local tax revenues. However, current laws pertaining to snowmobile accidents are vague. For example, if a snowmobile driver kills another person while driving on the shoulder of a road, the snowmobile is considered a motor vehicle, and the snowmobile operator may be prosecuted for manslaughter, negligent homicide, or whatever the prosecutor deems appropriate. On the other hand, if a snowmobile driver kills another person while driving on a snowmobile trail, the laws are less clear. In fact, county prosecutors report that an accident involving a snowmobile often goes unreported unless it results in the hospitalization of one of the persons involved.

Against:

The bill is unnecessary. The penalty that would be imposed under the bill for operating a snowmobile in "willful or wanton disregard" for the safety of others, or for operating one "in a careless or negligent manner," mirrors the penalty currently provided under the Michigan Vehicle Code for reckless or careless driving. Those provided under the bill for operating a snowmobile in a manner likely to injure or cause the death of another mirror the negligent homicide penalties provided under the penal code. Therefore, law enforcement agencies maintain that the former penalty is unnecessary, and that it would provide more uniformity if the penal code were amended to include penalties for negligent homicide involving a snowmobile, than if such provisions were included under the Natural Resources and Environmental Protection Act (NREPA). In addition, to provide further consistency, law enforcement agencies recommend that ORVs and dirt bikes be included under the provisions of the bill.

Against:

According to the Revised Judicature Act (MCL 600.8379), fines and costs assessed for violations such as those established under the bill must be distributed to local units of government and provided to local public libraries. However, some have suggested that the penalty provisions of the bill be amended to specify, instead, that these funds be earmarked for snowmobile safety programs.

Response:

Article 8, Section 4 of the state constitution requires the distribution of criminal fines to libraries.

Analyst: R. Young

■ 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.