

**SUBSTITUTE FOR
HOUSE BILL NO. 5132**

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 2003 PA 43, 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 term as defined in section**
3 **12 of the Michigan vehicle code, 1949 PA 300, MCL 257.12.**

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**
6 **court, or a finding of guilt or probate court disposition on a**
7 **violation of this part, regardless of whether the penalty is**

1 rebated or suspended.

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

4 (d) ~~-(e)-~~ "Former section 15a" means section 15a of former
5 1968 PA 74, as constituted prior to May 1, 1994.

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

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

13 (g) ~~-(f)-~~ "Law of another state" means a law or ordinance
14 enacted by another state or by a local unit of government in
15 another state.

16 ~~(g) "Long term incapacitating injury" means an injury that~~
17 ~~causes a person to be in a comatose, quadriplegic, hemiplegic, or~~
18 ~~paraplegic state, which state is likely to continue for 1 year or~~
19 ~~more.~~

20 (h) "Operate" means to ride in or on and be in actual
21 physical control of the operation of a snowmobile.

22 (i) "Operator" means any person who operates or is in actual
23 physical control of a snowmobile.

24 (j) "Owner" means any of the following:

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

26 (ii) A vendee or lessee of a snowmobile that is the subject
27 of an agreement for conditional sale or lease with the right of

1 purchase upon performance of the conditions stated in the
2 agreement and with an immediate right of possession vested in the
3 conditional vendee or lessee.

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

6 (k) "Peace officer" means any of the following:

7 (i) A sheriff.

8 (ii) A sheriff's deputy.

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

13 (iv) A village or township marshal.

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

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

16 (vii) The director and conservation officers employed by the
17 department.

18 (viii) A law enforcement officer who is certified pursuant to
19 the commission on law enforcement standards act, 1965 PA 203, MCL
20 28.601 to 28.616, as long as that officer is policing within his
21 or her jurisdiction.

22 (l) "Personal information" means information that identifies
23 an individual, including an individual's driver identification
24 number, name, address not including zip code, and telephone
25 number, but does not include information on snowmobile operation
26 or equipment-related violations or civil infractions, operator or
27 snowmobile registration status, accidents, or other

1 behaviorally-related information.

2 (m) "Probate court or family division disposition" means the
3 entry of a probate court order of disposition or family division
4 order of disposition for a child found to be within the
5 provisions of chapter XIIA of **the probate code of 1939**, 1939 PA
6 288, MCL 712A.1 to 712A.32.

7 (n) "Prosecuting attorney", except as the context requires
8 otherwise, means the attorney general, the prosecuting attorney
9 of a county, or the attorney representing a local unit of
10 government.

11 (o) "Right-of-way" means that portion of a highway or street
12 less the roadway and any shoulder.

13 (p) "Roadway" means that portion of a highway or street
14 improved, designated, or ordinarily used for vehicular travel.
15 If a highway or street includes 2 or more separate roadways, the
16 term roadway refers to any such roadway separately, but not to
17 all such roadways collectively.

18 (q) "Shoulder" means that portion of a highway or street on
19 either side of the roadway that is normally snowplowed for the
20 safety and convenience of vehicular traffic.

21 (r) "Snowmobile" means any motor-driven vehicle designed for
22 travel primarily on snow or ice of a type that utilizes sled-type
23 runners or skis, an endless belt tread, or any combination of
24 these or other similar means of contact with the surface upon
25 which it is operated, but is not a vehicle that must be
26 registered under the Michigan vehicle code, 1949 PA 300, MCL
27 257.1 to 257.923.

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

2 (t) "Zone 2" means all of that part of the Lower Peninsula
3 north of a line beginning at and drawn from a point on the
4 Michigan-Wisconsin boundary line due west of the westerly
5 terminus of river road in Muskegon county; thence due east to the
6 westerly terminus of river road; thence north and east along the
7 center line of the river road to its intersection with highway
8 M-120; thence northeasterly and easterly along the center line of
9 highway M-120 to the junction of highway M-20; thence easterly
10 along the center line of M-20 to its junction with US-10 at the
11 Midland-Bay county line; thence easterly along the center line of
12 the "business route" of highway US-10 to the intersection of
13 Garfield road in Bay county; thence north along the center line
14 of Garfield road to the intersection of the Pinconning road;
15 thence east along the center line of Pinconning road to the
16 intersection of the Seven Mile road; thence north along the
17 center of the Seven Mile road to the Bay-Arenac county line;
18 thence north along the center line of the Lincoln School road
19 (county road 25) in Arenac county to the intersection of highway
20 M-61; thence east along the center line of highway M-61 to the
21 junction of highway US-23; thence northerly and easterly along
22 the center line of highway US-23 to the center line of the Au
23 Gres river; thence southerly along the center line of the river
24 to its junction with Saginaw Bay of Lake Huron; thence north 78°
25 east to the international boundary line between the United States
26 and the Dominion of Canada.

27 (u) "Zone 3" means all of that part of the Lower Peninsula

1 south of the line described in subdivision (t).

2 Sec. 82127. (1) A person shall not operate a snowmobile in
3 this state if ~~either~~ **any** of the following ~~applies~~ **apply**:

4 (a) The person is under the influence of ~~intoxicating~~
5 **alcoholic** liquor or a controlled substance, or both.

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

9 (c) **The person has in his or her body any amount of a**
10 **controlled substance listed in schedule 1 under section 7212 of**
11 **the public health code, 1978 PA 368, MCL 333.7212, or a rule**
12 **promulgated under that section, or of a controlled substance**
13 **described in section 7214(a)(iv) of the public health code, 1978**
14 **PA 368, MCL 333.7214.**

15 (2) The owner of a snowmobile or a person in charge or in
16 control of a snowmobile shall not authorize or knowingly permit
17 the snowmobile to be driven or operated by a person ~~who~~ **if any**
18 **of the following apply**:

19 (a) **The person** is under the influence of ~~intoxicating~~
20 **alcoholic** liquor or a controlled substance, or both. ~~—, or who~~

21 (b) **The person** has ~~a blood~~ **an** alcohol content of ~~0.10~~
22 **0.08** grams or more per 100 milliliters of blood, per 210 liters
23 of breath, or per 67 milliliters of urine.

24 (c) **The person's ability to operate a snowmobile is visibly**
25 **impaired due to the consumption of an alcoholic liquor, a**
26 **controlled substance, or a combination of an alcoholic liquor and**
27 **a controlled substance.**

1 (3) A person shall not operate a snowmobile when, due to the
2 consumption of an ~~intoxicating~~ **alcoholic** liquor or a controlled
3 substance, or both, the person's ability to operate the
4 snowmobile is visibly impaired. If a person is charged with
5 violating subsection (1), a finding of guilty under this
6 subsection may be rendered.

7 (4) A person who operates a snowmobile ~~under the influence~~
8 ~~of intoxicating liquor or a controlled substance, or both, or~~
9 ~~with a blood alcohol content of 0.10 grams or more per 100~~
10 ~~milliliters of blood, per 210 liters of breath, or per 67~~
11 ~~milliliters of urine,~~ **in violation of subsection (1) or (3)** and
12 by the operation of that snowmobile causes the death of another
13 person is guilty of a felony punishable by imprisonment for not
14 more than 15 years ~~—~~ or a fine of not less than \$2,500.00 or
15 more than \$10,000.00, or both.

16 (5) A person who operates a snowmobile ~~under the influence~~
17 ~~of intoxicating liquor or a controlled substance, or both, or~~
18 ~~with a blood alcohol content of 0.10 grams or more per 100~~
19 ~~milliliters of blood, per 210 liters of breath, or per 67~~
20 ~~milliliters of urine,~~ **in violation of subsection (1) or (3)** and
21 by the operation of that snowmobile causes a serious impairment
22 of a body function of another person is guilty of a felony
23 punishable by imprisonment for not more than 5 years ~~—~~ or a
24 fine of not less than \$1,000.00 or more than \$5,000.00, or both.
25 As used in this subsection, "serious impairment of a body
26 function" ~~includes, but is not limited to, 1 or more of the~~
27 ~~following:~~ **means that term as defined in section 58c of the**

1 Michigan vehicle code, 1949 PA 300, MCL 257.58c.

2 ~~(a) Loss of a limb or use of a limb.~~

3 ~~(b) Loss of a hand, foot, finger, or thumb or use of a hand,~~
4 ~~foot, finger, or thumb.~~

5 ~~(c) Loss of an eye or ear or use of an eye or ear.~~

6 ~~(d) Loss or substantial impairment of a bodily function.~~

7 ~~(e) Serious visible disfigurement.~~

8 ~~(f) A comatose state that lasts for more than 3 days.~~

9 ~~(g) Measurable brain damage or mental impairment.~~

10 ~~(h) A skull fracture or other serious bone fracture.~~

11 ~~(i) Subdural hemorrhage or subdural hematoma.~~

12 Sec. 82136. (1) A peace officer, without a warrant, may
13 arrest a person if the peace officer has reasonable cause to
14 believe that the person was, at the time of an accident, the
15 operator of a snowmobile involved in the accident in this state
16 while in violation of section 82127(1), (3), (4), or (5) or a
17 local ordinance substantially corresponding to section 82127(1)
18 or (3).

19 (2) A peace officer who has reasonable cause to believe that
20 a person was operating a snowmobile and that, by the consumption
21 of ~~intoxicating~~ **alcoholic** liquor, the person may have affected
22 his or her ability to operate a snowmobile may require the person
23 to submit to a preliminary chemical breath analysis. The
24 following apply with respect to a preliminary chemical breath
25 analysis:

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

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

8 (c) A person who submits to a preliminary chemical breath
9 analysis remains subject to the requirements of sections 82143 to
10 82146 for the purposes of chemical tests described in those
11 sections.

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

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

23 (2) If a chemical test described in sections 82137 and 82138
24 is administered, the results of the test shall be made available
25 to the person charged or the person's attorney upon written
26 request to the prosecution, with a copy of the request filed with
27 the court. The prosecution shall furnish the results at least 2

1 days before the day of the trial. The results of the test shall
2 be offered as evidence by the prosecution in that trial. Failure
3 to fully comply with the request bars the admission of the
4 results into evidence by the prosecution.

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

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

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

24 ~~—— (c) If at the time the defendant had a blood alcohol content~~
25 ~~of 0.10 grams or more per 100 milliliters of blood, per 210~~
26 ~~liters of breath, or per 67 milliliters of urine, it shall be~~
27 ~~presumed that the defendant was under the influence of~~

1 ~~intoxicating liquor.~~

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

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

13 (a) The person is arrested for a violation of section
14 82127(1), (3), (4), or (5) or a local ordinance substantially
15 corresponding to section 82127(1) or (3).

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

25 (2) A person who is afflicted with hemophilia, diabetes, or a
26 condition requiring the use of an anticoagulant under the
27 direction of a physician shall not be considered to have given

1 consent to the withdrawal of blood.

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

4 Enacting section 1. This amendatory act takes effect
5 January 1, 2004.