

Act No. 183
Public Acts of 1996
Approved by the Governor
May 3, 1996
Filed with the Secretary of State
May 3, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Fitzgerald, Cropsey, Dalman, Ryan, Lowe, Bush and Jersevic

ENROLLED HOUSE BILL No. 5549

AN ACT to amend sections 82118, 82127, 82139, 82140, 82143, and 82144 of Act No. 451 of the Public Acts of 1994, 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 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," section 82118 as amended by Act No. 139 of the Public Acts of 1996 and sections 82127, 82139, 82140, 82143, and 82144 as added by Act No. 58 of the Public Acts of 1995, being sections 324.82118, 324.82127, 324.82139, 324.82140, 324.82143, and 324.82144 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 82118, 82127, 82139, 82140, 82143, and 82144 of Act No. 451 of the Public Acts of 1994, section 82118 as amended by Act No. 139 of the Public Acts of 1996 and sections 82127, 82139, 82140, 82143, and 82144 as added by Act No. 58 of the Public Acts of 1995, being sections 324.82118, 324.82127, 324.82139, 324.82140, 324.82143, and 324.82144 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 82118. (1) In addition to registration of a snowmobile pursuant to section 82105 or registration in another state or province, beginning October 1, 1994, except as otherwise provided in this section, a person who desires to operate a snowmobile in this state shall purchase a Michigan snowmobile trail permit sticker. The Michigan snowmobile trail permit issued under this section shall be valid for a period of 1 year which begins on October 1 and ends on the following September 30. The fee for the permit is \$10.00. Fifty cents of the fee shall be retained by the department for administrative costs. Fifty cents of the fee shall be retained by the agent selling the permit. Nine dollars of the fee shall be credited to the recreational snowmobile trail improvement fund created in section 82110.

(2) The trail permit sticker shall be permanently affixed to the forward half of the snowmobile directly above or below the headlight of the snowmobile.

(3) The department may contract with a person to act as an agent for the purpose of issuing Michigan snowmobile trail permits. The department shall sell the permits to agents in bulk. Agents may obtain a refund from the department for any permits that are not sold.

(4) An agent who uses or allows the use of a permit by anyone except the snowmobile user to whom the permit is sold is guilty of a misdemeanor, punishable by a fine of \$50.00 for each instance of such use or allowed use.

(5) The department of state may suspend a certificate of registration when the department of state determines that the required fee has not been paid and remains unpaid after reasonable notice or demand. In addition to the required fee, a \$10.00 penalty shall be assessed and collected against any person who tenders an insufficient check or draft in payment of the fee.

(6) A snowmobile used solely for transportation on the frozen surface of public waters for the purpose of ice fishing is exempt from the requirement of purchasing and displaying a snowmobile trail permit sticker under this section.

(7) A person shall not charge a fee for a snowmobile trail permit in an amount that is greater than the fee printed on the face of the permit.

(8) To obtain a snowmobile trail permit, an applicant must provide all information required on the permit application.

(9) A person who fails to secure a permit under this section or who violates subsection (2) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$50.00.

Sec. 82127. (1) A person shall not operate a snowmobile in this state if either of the following applies:

(a) The person is under the influence of intoxicating liquor or a controlled substance, or both.

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

(2) The owner of a snowmobile or a person in charge or in control of a snowmobile shall not authorize or knowingly permit the snowmobile to be driven or operated by a person who is under the influence of intoxicating liquor or a controlled substance, or both, or who has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

(5) A person who operates a snowmobile under the influence of intoxicating liquor or a controlled substance, or both, or with a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, and by the operation of that snowmobile causes a long-term incapacitating injury to another person is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not less than \$1,000.00 or more than \$5,000.00, or both.

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

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

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

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

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

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

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

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

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

(b) The person is arrested for negligent homicide, manslaughter, or murder resulting from the operation of a snowmobile, and the peace officer had reasonable grounds to believe that the person was operating the snowmobile while impaired by, or under the influence of, intoxicating liquor or a controlled substance, or both, or while having a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

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

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

Sec. 82144. (1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 82137 or 82138, a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) If a person refuses a chemical test offered pursuant to section 82137 or 82138, or submits to the chemical test and the test reveals a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the peace officer who requested the person to submit to the test shall immediately forward a written report to the secretary of state. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 82143(1), and either that the person has refused to submit to the test upon the request of the peace officer and has been advised of the consequences of the refusal or that the test revealed a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine. The form of the report shall be prescribed and furnished by the secretary of state.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.