

HOUSE BILL No. 4794

June 21, 2011, Introduced by Rep. Tyler 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, 82128, 82129, 82136, 82139, 82140, 82142, 82143, 82144, 82146, and 82148 (MCL 324.82101, 324.82127, 324.82128, 324.82129, 324.82136, 324.82139, 324.82140, 324.82142, 324.82143, 324.82144, 324.82146, and 324.82148), section 82101 as amended by 2010 PA 371, section 82127 as amended by 2001 PA 12, sections 82128 and 82129 as amended by 1999 PA 22, sections 82136, 82142, and 82146 as added by 1995 PA 58, sections 82139, 82140, 82143, and 82144 as amended by 1996 PA 183, and section 82148 as amended by 2005 PA 175.

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 **1D OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1D.**

4 **(B) ~~(a)~~**"Conviction" means a final conviction, the payment of
5 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
8 rebated or suspended.

9 **(C) ~~(b)~~**"Dealer" means any person engaged in the sale, lease,
10 or rental of snowmobiles as a regular business, other than an
11 auctioneer as that term is defined in section 2901 of the
12 occupational code, 1980 PA 299, MCL 339.2901.

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

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

18 **(F) ~~(e)~~**"Highway or street" means the entire width between the
19 boundary lines of every way publicly maintained if any part of it
20 is open to public use for vehicular travel.

21 **(G) ~~(f)~~**"Historic snowmobile" means a snowmobile that is over
22 25 years old and that is owned solely as a collector's item and for
23 occasional use and for participation in club activities,
24 exhibitions, tours, parades, and similar uses, including mechanical
25 testing.

26 **(H) ~~(g)~~**"In-kind contributions" means services and goods as
27 approved by the department that are provided by a grant recipient

1 toward completion of a department-approved local snowmobile program
2 under section 82107.

3 (I) ~~(h)~~—"Law of another state" means a law or ordinance
4 enacted by any of the following:

5 (i) Another state.

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

7 (iii) Canada or a province or territory of Canada.

8 (iv) A local unit of government in a province or territory of
9 Canada.

10 ~~— (i) "Long term incapacitating injury" means an injury that~~
11 ~~causes a person to be in a comatose, quadriplegic, hemiplegic, or~~
12 ~~paraplegic state, which state is likely to continue for 1 year or~~
13 ~~more.~~

14 (j) "Operate" means to ride in or on and be in actual physical
15 control of the operation of a snowmobile.

16 (k) "Operator" means any person who operates a snowmobile.

17 (l) "Owner" means any of the following:

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

19 (ii) A vendee or lessee of a snowmobile that is the subject of
20 an agreement for conditional sale or lease with the right of
21 purchase upon performance of the conditions stated in the agreement
22 and with an immediate right of possession vested in the conditional
23 vendee or lessee.

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

26 (m) "Peace officer" means any of the following:

27 (i) A sheriff.

1 (ii) A sheriff's deputy.

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

5 (iv) A village or township marshal.

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

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

8 (vii) The director and conservation officers employed by the
9 department.

10 (viii) A law enforcement officer who is certified under the
11 commission on law enforcement standards act, 1965 PA 203, MCL
12 28.601 to 28.616, provided that officer is policing within his or
13 her jurisdiction.

14 (n) "Personal information" means information that identifies
15 an individual, including an individual's driver identification
16 number, name, address not including zip code, and telephone number,
17 but does not include information on snowmobile operation or
18 equipment-related violations or civil infractions, operator or
19 snowmobile registration status, accidents, or other behaviorally-
20 related information.

21 (o) "Probate court or family division disposition" means the
22 entry of a probate court order of disposition or family division
23 order of disposition for a child found to be within the provisions
24 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
25 712A.1 to 712A.32.

26 (p) "Prosecuting attorney", except as the context requires
27 otherwise, means the attorney general, the prosecuting attorney of

1 a county, or the attorney representing a local unit of government.

2 (q) "Recreational snowmobile trail improvement subaccount"
3 means the recreational snowmobile trail improvement subaccount of
4 the snowmobile account created in section 82110.

5 (r) "Right-of-way" means that portion of a highway or street
6 less the roadway and any shoulder.

7 (s) "Roadway" means that portion of a highway or street
8 improved, designated, or ordinarily used for vehicular travel. If a
9 highway or street includes 2 or more separate roadways, the term
10 roadway refers to any roadway separately, but not to all of the
11 roadways collectively.

12 (t) "Shoulder" means that portion of a highway or street on
13 either side of the roadway that is normally snowplowed for the
14 safety and convenience of vehicular traffic.

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

21 (v) "Snowmobile account" means the snowmobile account of the
22 Michigan conservation and recreation legacy fund provided for in
23 section 2025.

24 (w) "Snowmobile registration fee subaccount" means the
25 snowmobile registration fee subaccount of the snowmobile account
26 created in section 82111.

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

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

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

27 Sec. 82127. (1) A person shall not operate a snowmobile in

1 this state if ~~either ANY~~ of the following ~~applies APPLY~~:

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

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

7 (C) **THE PERSON HAS IN HIS OR HER BODY ANY AMOUNT OF A**
8 **CONTROLLED SUBSTANCE LISTED IN SCHEDULE 1 UNDER SECTION 7212 OF THE**
9 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7212, OR A RULE**
10 **PROMULGATED UNDER THAT SECTION, OR OF A CONTROLLED SUBSTANCE**
11 **DESCRIBED IN SECTION 7214 (A) (iv) OF THE PUBLIC HEALTH CODE, 1978 PA**
12 **368, MCL 333.7214.**

13 (2) The owner of a snowmobile or a person in charge or in
14 control of a snowmobile shall not authorize or knowingly permit the
15 snowmobile to be driven or operated by a person ~~who~~**IF ANY OF THE**
16 **FOLLOWING APPLY:**

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

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

22 (C) **THE PERSON'S ABILITY TO OPERATE A SNOWMOBILE IS VISIBLY**
23 **IMPAIRED DUE TO THE CONSUMPTION OF AN ALCOHOLIC LIQUOR, A**
24 **CONTROLLED SUBSTANCE, OR A COMBINATION OF AN ALCOHOLIC LIQUOR AND A**
25 **CONTROLLED SUBSTANCE.**

26 (3) A person shall not operate a snowmobile when, due to the
27 consumption of an ~~intoxicating~~**ALCOHOLIC** liquor or a controlled

1 substance, or both, the person's ability to operate the snowmobile
 2 is visibly impaired. If a person is charged with violating
 3 subsection (1), a finding of guilty under this subsection may be
 4 rendered.

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

13 (5) A person who operates a snowmobile ~~under the influence of~~
 14 ~~intoxicating liquor or a controlled substance, or both, or with a~~
 15 ~~blood alcohol content of 0.10 grams or more per 100 milliliters of~~
 16 ~~blood, per 210 liters of breath, or per 67 milliliters of urine, IN~~
 17 **VIOLATION OF SUBSECTION (1) OR (3)** and by the operation of that
 18 snowmobile causes a serious impairment of a body function of
 19 another person is guilty of a felony punishable by imprisonment for
 20 not more than 5 years, ~~or a fine of not less than \$1,000.00 or~~
 21 ~~more than \$5,000.00, or both.~~ As used in this subsection, "serious
 22 impairment of a body function" ~~includes, but is not limited to, 1~~
 23 ~~or more of the following:~~ **MEANS THAT TERM AS DEFINED IN SECTION 58C**
 24 **OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.58C.**

25 ~~— (a) Loss of a limb or use of a limb.~~

26 ~~— (b) Loss of a hand, foot, finger, or thumb or use of a hand,~~
 27 ~~foot, finger, or thumb.~~

- 1 ~~(c) Loss of an eye or ear or use of an eye or ear.~~
 2 ~~(d) Loss or substantial impairment of a bodily function.~~
 3 ~~(e) Serious visible disfigurement.~~
 4 ~~(f) A comatose state that lasts for more than 3 days.~~
 5 ~~(g) Measurable brain damage or mental impairment.~~
 6 ~~(h) A skull fracture or other serious bone fracture.~~
 7 ~~(i) Subdural hemorrhage or subdural hematoma.~~

8 Sec. 82128. (1) If a person is convicted of violating section
 9 82127(1), the following apply:

10 (a) Except as otherwise provided in subdivisions (b) and (c),
 11 the person is guilty of a misdemeanor and may be punished by 1 or
 12 more of the following:

- 13 (i) Community service for not more than 45 days.
 14 (ii) Imprisonment for not more than 93 days.
 15 (iii) A fine of not less than \$100.00 or more than \$500.00.

16 (b) If the violation occurs within 7 years of a prior
 17 conviction, the person shall be sentenced to both a fine of not
 18 less than \$200.00 or more than \$1,000.00 and either of the
 19 following:

- 20 (i) Community service for not less than 10 days or more than 90
 21 days, and may be imprisoned for not more than 1 year.
 22 (ii) Imprisonment for not less than 48 consecutive hours or
 23 more than 1 year, and may be sentenced to community service for not
 24 more than 90 days.

25 (c) If the violation occurs ~~within 10 years of~~ **AFTER** 2 or more
 26 prior convictions **REGARDLESS OF THE NUMBER OF YEARS THAT HAVE**
 27 **ELAPSED SINCE ANY PRIOR CONVICTION**, the person is guilty of a

1 felony and shall be sentenced to imprisonment for not less than 1
2 year or more than 5 years, or a fine of not less than \$500.00 or
3 more than \$5,000.00, or both.

4 (2) A term of imprisonment imposed under subsection (1)(b)(ii)
5 shall not be suspended.

6 (3) A person sentenced to perform service to the community
7 under this section shall not receive compensation and shall
8 reimburse the state or appropriate local unit of government for the
9 cost of supervision incurred by the state or local unit of
10 government as a result of the person's activities in that service
11 if ordered by the court.

12 (4) In addition to the sanctions prescribed under subsection
13 (1) and section 82127(4) and (5), the court may, ~~pursuant to~~ **UNDER**
14 the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69,
15 order the person to pay the costs of the prosecution. The court
16 shall also impose sanctions under section 82142.

17 (5) A person who is convicted of violating section 82127(2) is
18 guilty of a misdemeanor, punishable by imprisonment for not more
19 than 93 days, or a fine of not less than \$100.00 or more than
20 \$500.00, or both.

21 (6) As used in this section, "prior conviction" means a
22 conviction for a violation of section 82127(1), (4), or (5), former
23 section 15a(1), (4), or (5) of 1968 PA 74, or former section 15a, a
24 local ordinance substantially corresponding to section 82127(1) or
25 former section 15a, or a law of another state substantially
26 corresponding to section 82127(1), (4), or (5) or former section
27 15a.

1 Sec. 82129. (1) If a person is convicted of violating section
2 82127(3), the following apply:

3 (a) Except as otherwise provided in subdivisions (b) and (c),
4 the person is guilty of a misdemeanor punishable by 1 or more of
5 the following:

6 (i) Community service for not more than 45 days.

7 (ii) Imprisonment for not more than 93 days.

8 (iii) A fine of not more than \$300.00.

9 (b) If the violation occurs within 7 years of 1 prior
10 conviction, the person shall be sentenced to both a fine of not
11 less than \$200.00 or more than \$1,000.00, and either of the
12 following:

13 (i) Community service for not less than 10 days or more than 90
14 days, and may be sentenced to imprisonment for not more than 1
15 year.

16 (ii) Imprisonment for not more than 1 year, and may be
17 sentenced to community service for not more than 90 days.

18 (c) If the violation occurs ~~within 10 years of~~ **AFTER** 2 or more
19 prior convictions **REGARDLESS OF THE NUMBER OF YEARS THAT HAVE**
20 **ELAPSED SINCE ANY PRIOR CONVICTION**, the person shall be sentenced
21 to both a fine of not less than \$200.00 or more than \$1,000.00, and
22 either of the following:

23 (i) Community service for a period of not less than 10 days or
24 more than 90 days, and may be sentenced to imprisonment for not
25 more than 1 year.

26 (ii) Imprisonment for not more than 1 year, and may be
27 sentenced to community service for not more than 90 days.

1 (2) In addition to the sanctions prescribed in subsection (1),
2 the court may, ~~pursuant to~~ **UNDER** the code of criminal procedure,
3 1927 PA 175, MCL 760.1 to 777.69, order the person to pay the costs
4 of the prosecution. The court shall also impose sanctions under
5 section 82142.

6 (3) A person sentenced to perform service to the community
7 under this section shall not receive compensation and shall
8 reimburse the state or appropriate local unit of government for the
9 cost of supervision incurred by the state or local unit of
10 government as a result of the person's activities in that service
11 as ordered by the court.

12 (4) As used in this section, "prior conviction" means a
13 conviction for a violation of section 82127(1), (3), (4), or (5),
14 section 15a(1), (3), (4), or (5) of 1968 PA 74, or former section
15 15a, a local ordinance substantially corresponding to section
16 82127(1) or (3) or former section 15a, or a law of another state
17 substantially corresponding to section 82127(1), (3), (4), or (5)
18 or former section 15a.

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

25 (2) A peace officer who has reasonable cause to believe that a
26 person was operating a snowmobile and that, by the consumption of
27 ~~intoxicating~~ **ALCOHOLIC** liquor, the person may have affected his or

1 her ability to operate a snowmobile may require the person to
2 submit to a preliminary chemical breath analysis. The following
3 apply with respect to a preliminary chemical breath analysis:

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

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

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

17 (d) A person who refuses to submit to a preliminary chemical
18 breath analysis upon a lawful request by a peace officer is ~~guilty~~
19 ~~of a misdemeanor.~~ **RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY**
20 **BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00.**

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 OR HAD IN HIS OR HER BODY ANY AMOUNT OF A
2 CONTROLLED SUBSTANCE LISTED IN SCHEDULE 1 UNDER SECTION 7212 OF THE
3 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7212, OR A RULE
4 PROMULGATED UNDER THAT SECTION, OR OF A CONTROLLED SUBSTANCE
5 DESCRIBED IN SECTION 7214 (A) (iv) OF THE PUBLIC HEALTH CODE, 1978 PA
6 368, MCL 333.7214.

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

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

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

27 ~~—— (b) If at the time the defendant had a blood alcohol content~~

1 ~~of more than 0.07 grams but less than 0.10 grams per 100~~
2 ~~milliliters of blood, per 210 liters of breath, or per 67~~
3 ~~milliliters of urine, it shall be presumed that the defendant's~~
4 ~~ability to operate a snowmobile was impaired within the provisions~~
5 ~~of section 82127(3) due to the consumption of intoxicating liquor.~~

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

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

16 Sec. 82142. (1) Immediately upon acceptance by the court of a
17 plea of guilty or nolo contendere or upon entry of a verdict of
18 guilty for a violation of section 82127(1), (3), (4), or (5) or a
19 local ordinance substantially corresponding to section 82127(1) or
20 (3), whether or not the person is eligible to be sentenced as a
21 multiple offender, the court shall consider all prior convictions
22 established under section 82130, except those convictions that,
23 upon motion by the defendant, are determined by the court to be
24 constitutionally invalid, and shall impose the following sanctions:

25 (a) For a conviction under section 82127(4) or (5), the court
26 shall order, without an expiration date, that the person not
27 operate a snowmobile.

1 (b) For a conviction under section 82127(1) or a local
2 ordinance substantially corresponding to section 82127(1):

3 (i) If the court finds that the person has no prior convictions
4 within 7 years for a violation of section 82127(1), (3), (4), or
5 (5), former section 15a(1), (3), (4), or (5) of ~~Act No. 74 of the~~
6 ~~Public Acts of 1968~~ **1968 PA 74**, or former section 15a or another
7 snowmobile substance abuse offense or that the person has 1 prior
8 conviction within 7 years for a violation of section 82127(3),
9 former section 15a(3) of ~~Act No. 74 of the Public Acts of 1968~~ **1968**
10 **PA 74**, a local ordinance substantially corresponding to section
11 82127(3), or a law of another state substantially corresponding to
12 section 82127(3), the court shall order that the person not operate
13 a snowmobile for not less than 6 months or more than 2 years and
14 shall require that the person take and successfully complete the
15 snowmobile safety education and training program before operating a
16 snowmobile.

17 (ii) If the court finds that the person has 1 or more prior
18 convictions within 7 years for a violation of section 82127(1),
19 (4), or (5), former section 15a(1), (4), or (5) of ~~Act No. 74 of~~
20 ~~the Public Acts of 1968~~ **1968 PA 74**, or former section 15a, a local
21 ordinance substantially corresponding to section 82127(1) or former
22 section 15a, or a law of another state substantially corresponding
23 to section 82127(1), (4), or (5) or former section 15a, or that the
24 person has 2 or more prior convictions within ~~10~~ **ANY PERIOD OF**
25 years for a violation of section 82127(1), (3), (4), or (5), former
26 section 15a(1), (3), (4), or (5) of ~~Act No. 74 of the Public Acts~~
27 ~~of 1968~~ **1968 PA 74**, or former section 15a, or another snowmobile

1 substance abuse offense, the court shall order, without an
2 expiration date, that the person not operate a snowmobile.

3 (c) For a conviction under section 82127(3) or a local
4 ordinance substantially corresponding to section 82127(3):

5 (i) If the court finds that the convicted person has no prior
6 conviction within 7 years for a violation of section 82127(1), (3),
7 (4), or (5), former section 15a(1), (3), (4), or (5) of ~~Act No. 74~~
8 ~~of the Public Acts of 1968~~ **1968 PA 74**, former section 15a, or
9 another snowmobile substance abuse offense, the court shall order
10 that the person not operate a snowmobile for not less than 90 days
11 or more than 1 year.

12 (ii) If the court finds that the person has 1 prior conviction
13 within 7 years for a violation of section 82127(1), (3), (4), or
14 (5), former section 15a(1), (3), (4), or (5) of ~~Act No. 74 of the~~
15 ~~Public Acts of 1968~~ **1968 PA 74**, former section 15a, or another
16 snowmobile substance abuse offense, the court shall order that the
17 person not operate a snowmobile for not less than 6 months or more
18 than 2 years.

19 (iii) If the court finds that the person has 2 or more prior
20 convictions within ~~10~~ **ANY PERIOD OF** years for a violation of
21 section 82127(1), (3), (4), or (5), former section 15a(1), (3),
22 (4), or (5) of ~~Act No. 74 of the Public Acts of 1968~~ **1968 PA 74**,
23 former section 15a, or another snowmobile substance abuse offense,
24 the court shall order, without an expiration date, the person not
25 to operate a snowmobile.

26 (2) As used in this section, "another snowmobile substance
27 abuse offense" means a local ordinance substantially corresponding

1 to section 82127(1) or (3) or a law of another state substantially
2 corresponding to section 82127(1), (3), (4), or (5).

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

8 (a) The person is arrested for a violation of section
9 82127(1), (3), (4), or (5) or a local ordinance substantially
10 corresponding to section 82127(1) or (3).

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

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

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

26 Sec. 82144. (1) If a person refuses the request of a peace
27 officer to submit to a chemical test offered ~~pursuant to~~ **UNDER**

1 section 82137 or 82138, a test shall not be given without a court
2 order, but the officer may seek to obtain the court order.

3 (2) If a person refuses a chemical test offered ~~pursuant to~~
4 **UNDER** section 82137 or 82138, or submits to the chemical test and
5 the test reveals a blood alcohol content of ~~0.10~~**0.08** grams or more
6 per 100 milliliters of blood, per 210 liters of breath, or per 67
7 milliliters of urine, the peace officer who requested the person to
8 submit to the test shall immediately forward a written report to
9 the secretary of state. The report shall state that the officer had
10 reasonable grounds to believe that the person had committed a crime
11 described in section 82143(1), and either that the person has
12 refused to submit to the test upon the request of the peace officer
13 and has been advised of the consequences of the refusal or that the
14 test revealed a blood alcohol content of ~~0.10~~**0.08** grams or more
15 per 100 milliliters of blood, per 210 liters of breath, or per 67
16 milliliters of urine. The form of the report shall be prescribed
17 and furnished by the secretary of state.

18 Sec. 82146. (1) If a person who refuses to submit to a
19 chemical test ~~pursuant to~~**UNDER** section 82144 does not request a
20 hearing within 14 days of the date of notice ~~pursuant to~~**UNDER**
21 section 82145, the secretary of state shall issue an order that the
22 person not operate a snowmobile for ~~6 months~~**1 YEAR** or, for a
23 second or subsequent refusal within 7 years, for ~~1 year~~**2 YEARS**.

24 (2) If a hearing is requested, the secretary of state shall
25 hold the hearing in the same manner and under the same conditions
26 as provided in section 322 of the Michigan vehicle code, ~~Act No.~~
27 ~~300 of the Public Acts of 1949, being section 257.322 of the~~

1 ~~Michigan Compiled Laws 1949 PA 300, MCL 257.322.~~ A person shall not
2 order a hearing officer to make a particular finding on any issue
3 enumerated under subdivisions (a) to (d). Not less than 5 days'
4 notice of the hearing shall be mailed to the person requesting the
5 hearing, to the peace officer who filed the report under section
6 82144, and, if the prosecuting attorney requests receipt of the
7 notice, to the prosecuting attorney of the county where the arrest
8 was made. The hearing officer may administer oaths, issue subpoenas
9 for the attendance of necessary witnesses, and grant a reasonable
10 request for an adjournment. Not more than 1 adjournment shall be
11 granted to a party, and the length of an adjournment shall not
12 exceed 14 days. A hearing under this subsection shall be scheduled
13 to be held within 45 days after the date of arrest and, except for
14 delay attributable to the unavailability of the defendant, a
15 witness, or material evidence or to an interlocutory appeal or
16 exceptional circumstances, but not for delay attributable to docket
17 congestion, shall be finally adjudicated within 77 days after the
18 date of arrest. The hearing shall cover only the following issues:

19 (a) Whether the peace officer had reasonable grounds to
20 believe that the person had committed a crime described in section
21 82143(1).

22 (b) Whether the person was placed under arrest for a crime
23 described in section 82143(1).

24 (c) If the person refused to submit to the test upon the
25 request of the officer, whether the refusal was reasonable.

26 (d) Whether the person was advised of his or her rights under
27 section 82137.

1 (3) The hearing officer shall make a record of proceedings
2 held ~~pursuant to~~ **UNDER** subsection (2). The record shall be prepared
3 and transcribed in accordance with section 86 of the administrative
4 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
5 ~~being section 24.286 of the Michigan Compiled Laws 1969 PA 306, MCL~~
6 **24.286**. Upon notification of the filing of a petition for judicial
7 review ~~pursuant to~~ **UNDER** section 82150 and not less than 10 days
8 before the matter is set for review, the hearing officer shall
9 transmit to the court in which the petition is filed the original
10 or a certified copy of the official record of the proceedings. The
11 parties to the proceedings for judicial review may stipulate that
12 the record be shortened. A party unreasonably refusing to stipulate
13 to a shortened record may be taxed by the court in which the
14 petition is filed for the additional costs. The court may permit
15 subsequent corrections to the record.

16 (4) After a hearing, if the person who requested the hearing
17 does not prevail, the secretary of state shall order that the
18 person not operate a snowmobile for ~~6 months~~ **1 YEAR** or, for a
19 second or subsequent refusal within 7 years, for ~~1 year~~ **2 YEARS**.
20 The person may file a petition in the circuit court of the county
21 in which the arrest was made to review the order as provided in
22 section 82150. If after the hearing the person who requested the
23 hearing prevails, the peace officer who filed the report under
24 section 82144 may, with the consent of the prosecuting attorney,
25 file a petition in the circuit court of the county in which the
26 arrest was made to review the determination of the hearing officer
27 as provided in section 82150.

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

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

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

13 (c) One conviction under section 82127(4) or (5) or section
14 15a(4) or (5) of former 1968 PA 74.

15 (d) Any combination of 3 convictions within ~~10~~ **ANY TERM OF**
16 years for a violation of section 82127(1) or (3), section 15a(1) or
17 (3) of former 1968 PA 74, or section 15a of former 1968 PA 74, as
18 added by 1980 PA 402.

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

23 (3) The secretary of state shall issue an order with no
24 expiration date that a person not operate a snowmobile
25 notwithstanding a court order issued under section 82142, or a
26 local ordinance substantially corresponding to section 82142. The
27 secretary of state shall not terminate an indefinite order issued

1 under this part until both of the following occur:

2 (a) The later of the following:

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

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

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

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

13 (5) A person who is aggrieved by the issuance of an order by
14 the secretary of state under this section may request a hearing
15 with the secretary of state. The hearing shall be requested within
16 14 days after issuance of an order under this section by the
17 secretary of state. If a hearing is requested, the secretary of
18 state shall hold the hearing in the same manner and under the same
19 conditions as provided in section 322 of the Michigan vehicle code,
20 1949 PA 300, MCL 257.322.

21 (6) The hearing officer shall make a record of proceedings
22 held ~~pursuant to~~ **UNDER** subsection (5). The record shall be prepared
23 and transcribed in accordance with section 86 of the administrative
24 procedures act of 1969, 1969 PA 306, MCL 24.286. Upon notification
25 of the filing of a petition for judicial review ~~pursuant to~~ **UNDER**
26 section 82150 and not less than 10 days before the matter is set
27 for review, the hearing officer shall transmit to the court in

1 which the petition is filed the original or a certified copy of the
2 official record of the proceedings. The parties to the proceedings
3 for judicial review may stipulate that the record be shortened. A
4 party unreasonably refusing to stipulate to a shortened record may
5 be taxed by the court in which the petition is filed for the
6 additional costs. The court may permit subsequent corrections to
7 the record.

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

11 Enacting section 1. This amendatory act takes effect January
12 1, 2011.