

## CHAPTER 350

### SNOWMOBILES

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#### 350.01 Definitions. In this chapter:

**(1g)** “Alcohol beverages” has the meaning designated in s. 125.02.

**(1h)** “Alcohol concentration” has the meaning given in s. 340.01 (1v).

**(1i)** “Approved public treatment facility” has the meaning specified under s. 51.45 (2) (c).

**(1r)** “Board” means the natural resources board.

**(2)** “Controlled substance” has the meaning designated in s. 961.01 (4).

**(2d)** “Controlled substance analog” has the meaning given in s. 961.01 (4m).

**(3)** “Department” means the department of natural resources.

**(3m)** “Drug” has the meaning specified in s. 450.01 (10).

**(5)** “Game” has the meaning designated in s. 29.01 (5).

**(6)** “Head lamp” has the meaning designated in s. 340.01 (21).

**(6m)** “Head lamp barrier” means a fence, natural growth, difference in elevation or other means of restricting the view that users of an adjacent roadway have of head lamps on a snowmobile trail.

**(7)** “Highway” has the meaning designated in s. 340.01 (22).

**(8)** “Hours of darkness” has the meaning designated in s. 340.01 (23).

**(9)** “Intoxicant” means any alcohol beverage, controlled substance, controlled substance analog or other drug or any combination thereof.

**(9c)** “Intoxicated snowmobiling law” means s. 350.101 (1) or a local ordinance in conformity therewith, s. 350.101 (2) or, if the operation of a snowmobile is involved, s. 940.09 or 940.25.

**(9g)** “Law enforcement officer” has the meaning specified under s. 165.85 (2) (c) and includes a person appointed as a conservation warden by the department under s. 23.10 (1).

**(9m)** “Lodging establishment” means any of the following:

(a) A bed and breakfast establishment, as defined in s. 254.61 (1).

(b) A hotel, as defined in s. 254.61 (3).

(c) A tourist rooming house, as defined in s. 254.61 (6).

(d) A campground.

**(9r)** “Operate” means the exercise of physical control over the speed or direction of a snowmobile or the physical manipulation or activation of any of the controls of a snowmobile necessary to

put it in motion. “Operate” includes the operation of a snowmobile.

**(9w)** “Operator” means a person who operates a snowmobile, who is responsible for the operation of a snowmobile or who is supervising the operation of a snowmobile.

**(10)** “Owner” means a person who has lawful possession of a snowmobile by virtue of legal title or equitable interest therein which entitles the person to possession.

**(10d)** “Purpose of access from lodging” means for the purpose of traveling for the shortest distance that is necessary for a person operating the snowmobile to go between a lodging establishment and the snowmobile route or snowmobile trail that is closest to the lodging establishment.

**(10g)** “Purpose of authorized analysis” means for the purpose of determining or obtaining evidence of the presence, quantity or concentration of any intoxicant in a person’s blood, breath or urine.

**(10m)** “Purpose of residential access” means for the purpose of traveling for the shortest distance that is necessary for a person operating the snowmobile to go between a residence and the snowmobile route or snowmobile trail that is closest to that residence.

**(10r)** “Refusal law” means s. 350.104 (5) or a local ordinance in conformity therewith.

**(11)** “Roadway” has the meaning designated in s. 340.01 (54).

**(12)** “Snowmobile” has the meaning designated in s. 340.01 (58a).

**(13)** “Snowmobile dealer” means any person engaged in the sale of snowmobiles for a profit at wholesale or retail.

**(13m)** “Snowmobile distributor” means a person who sells or distributes snowmobiles to snowmobile dealers or who maintains distributor representatives.

**(14)** “Snowmobile manufacturer” means any person engaged in the manufacture of snowmobiles for sale to the public.

**(15)** “Snowmobile renter” means any person engaged in the rental or leasing of snowmobiles to the public.

**(16)** “Snowmobile route” means a highway or sidewalk designated for use by snowmobile operators by the governmental agency having jurisdiction as authorized under this chapter.

**(17)** “Snowmobile trail” means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by snowmobile operators by the governmental agency having jurisdiction, but excluding highways except those

highways on which the roadway is not normally maintained for other vehicular traffic by the removal of snow.

(18) “State trunk highway” has the meaning designated in s. 340.01 (60).

(19) “Street” has the meaning designated in s. 340.01 (64).

(20) “Tail lamp” has the meaning designated in s. 340.01 (66).

(21) “Test facility” means a test facility or agency prepared to administer tests under s. 343.305 (2).

**History:** 1971 c. 219, 277; 1973 c. 298; 1981 c. 79 s. 18; 1981 c. 295; 1983 a. 27 s. 2202 (38); 1983 a. 189, 459; 1985 a. 146 s. 8; 1985 a. 331, 332; 1987 a. 399; 1989 a. 51, 359; 1991 a. 39; 1995 a. 61, 436, 448.

**350.02 Operation of snowmobiles on or in the vicinity of highways.** (1) No person may operate a snowmobile upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate a snowmobile upon any part of any other freeway unless the department of transportation authorizes snowmobile use on that freeway.

(2) (a) No person may operate a snowmobile on any highway except in the following manner or as otherwise authorized by law:

1. Directly across any roadway having fewer than 5 lanes, but only after stopping and yielding the right-of-way to all vehicles approaching on the roadway. Crossings under this subdivision may be made only at a place where no obstruction prevents a quick and safe crossing. For purposes of this subdivision, “obstruction” includes but is not limited to impairment of view and dangerous roadway condition.

1m. Directly across a roadway having 5 lanes, in the manner specified in subd. 1., but only if the department of transportation authorizes such a crossing.

2. On any roadway which is not normally maintained for other vehicular traffic by the removal of snow.

3. On the roadway of highways to cross a bridge, culvert or railroad right-of-way unless posted by the maintaining authority, but shall yield the right-of-way to all vehicular traffic.

4. On the roadway of county or town highways and city or village streets for special snowmobile events authorized under s. 350.04.

5. On highways which have been designated as routes and which are required to be marked.

6. On a portion of the roadway or shoulder of a highway for a purpose of residential access or for the purpose of access from lodging if the town, city or village, within which that portion of the highway lies, enacts an ordinance under s. 350.18 (3) for that portion of the highway. A snowmobile operated on a portion of the roadway or shoulder of a highway under this subdivision shall observe roadway speed limits.

(b) Snowmobiles may be operated adjacent to a roadway with due regard to safety in the following manner:

1. Along U.S. numbered highways, state and county highways at a distance of 10 or more feet from the roadway. Travel upon the median of a divided highway is prohibited except to cross.

2. Along town highways outside of the roadway.

3. During daylight hours travel may be in either direction regardless of the flow of vehicular traffic.

4. At night travel shall conform to the direction of vehicular traffic in the nearest lane unless:

a. The snowmobile trail is located at least 40 feet from the roadway, or is separated from the roadway by a head lamp barrier; and

c. The use of the snowmobile trail is approved by the department of transportation with respect to snowmobile trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to snowmobile trails located near or crossing other highways.

5. Whenever it is impracticable to gain immediate access to an area adjacent to a highway, other than a freeway, where a snowmobile is to be operated, the snowmobile may be operated adjacent and parallel to the roadway for the purpose of gaining access to and from the area of operation. Loading or unloading of the snowmobile shall be accomplished with due regard to safety at the nearest practical point to the area of operation.

6. Snowmobiles traveling adjacent to a roadway shall observe roadway speed limits.

(3) Snowmobiles may be operated for emergency purposes on any highway during a period of emergency when so declared by the governmental agency having jurisdiction.

(4) Under no circumstances, except as provided in this section, is a snowmobile to be operated on the main-traveled portion of a highway or on the plowed portion.

**History:** 1971 c. 277; 1981 c. 295; 1983 a. 47; 1987 a. 232; 1989 a. 51; 1995 a. 61.

**350.03 Right-of-way.** The operator of a snowmobile shall slow the vehicle to a speed not to exceed 10 miles per hour and yield the right-of-way when traveling within 100 feet of a person who is not in or on a snowmobile except as provided in ch. 346 where applicable.

**History:** 1971 c. 277; 1991 a. 316.

**350.04 Snowmobile races, derbies and routes.**

(1) Any county, town, city or village may block off the highways under its jurisdiction for the purpose of allowing special snowmobile events. No state trunk highway or connecting highway or part thereof, shall be blocked off by any county, town, city or village for any snowmobile race or derby. Every county, town, city or village shall notify the local police department and the county sheriff’s office at least one week in advance of the time and place of any snowmobile race or derby which may result in any street or part thereof, of the county, town, city or village being blocked off. Upon such notice, the local police department shall take such measures as it deems appropriate to protect persons and property and to regulate traffic in the designated area and its vicinity on the day of such race or derby.

(2) On state trunk bridges a sidewalk or, if no sidewalk exists, one lane of the bridge may be designated by the town, city or village as a snowmobile route. Towns, cities or villages may adopt ordinances designating highways as snowmobile routes for snowmobile operation, subject to the following limitations:

(a) Snowmobiles shall be operated on the extreme right side of the roadway.

(b) Left turns shall be made as safely as possible from any position depending on snow cover and other prevailing conditions.

(c) Snowmobile operators shall yield right-of-way to other vehicular traffic and pedestrians.

(d) Highways designated for snowmobile operation shall be marked in accordance with s. 350.13.

(e) Snowmobile operation is not permitted on state trunk highways or connecting highways except as provided under s. 350.02.

(3) (a) No county, town, city or village shall be liable for any injury suffered in connection with a race or derby under this section, unless the injury is caused by the negligence of the county, town, city or village.

(b) The county, town, city or village shall post the provisions of par. (a) in a conspicuous place, readily accessible to all contestants and spectators, and shall assist in locating and identifying persons responsible for injuries that may occur.

**History:** 1971 c. 277; 1977 c. 29 s. 1654 (3); 1981 c. 295.

**350.045 Public utility exemption.** So that public utilities may effectively carry out their obligations to the public, the restrictions imposed by this chapter relating to use on, near or adjacent to highways shall not apply to snowmobiles operated to fulfill the corporate function of the public utility in those cases

where safety does not require strict adherence to the regulations related to snowmobiles in general. However, snowmobiles operated by public utilities must be operated in a safe manner at all times.

**History:** 1971 c. 277.

**350.047 Local ordinance to be filed.** Whenever a town, city or village adopts an ordinance designating a highway as a snowmobile route, and whenever a county, town, city or village adopts an ordinance regulating snowmobiles, its clerk shall immediately send a copy of the ordinance to the department and to the office of the law enforcement agency of the municipality and county having jurisdiction over such street or highway.

**History:** 1971 c. 277.

**350.05 Operation by youthful operators restricted.**

**(1) AGE RESTRICTION.** No person under the age of 12 years may operate a snowmobile unless the person is accompanied either by a parent or guardian or by a person over 18 years of age.

**(2) SNOWMOBILE SAFETY PERMIT OR OPERATOR'S LICENSE REQUIRED.** No person over the age of 12 years but under the age of 16 years may operate a snowmobile unless he or she holds a valid snowmobile safety certificate or is accompanied by a person over 18 years of age or by a person over 14 years of age having a snowmobile safety certificate issued by the department. Any person who is over the age of 12 and under the age of 16 who holds a snowmobile safety certificate shall carry it while operating a snowmobile and shall display it to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the department may operate a snowmobile in an area designated by the instructor.

**(3) EXCEPTIONS.** This section does not apply to the operation of snowmobiles by an operator under the age of 16 years upon lands owned or leased by the operator's parent or guardian. As used in this section, "leased lands" does not include lands leased by an organization of which said operator or the operator's parent or guardian is a member.

**(4) DEFINITION.** For purposes of this section, "accompanied" means being on the same snowmobile as the operator.

**History:** 1971 c. 277; 1973 c. 298; 1977 c. 402; 1991 a. 316.

**350.055 Safety certification program established.** The department shall establish a program of instruction on snowmobile laws, including the intoxicated snowmobiling law, regulations, safety and related subjects. The program shall be conducted by instructors certified by the department. The department may procure liability insurance coverage for certified instructors for work within the scope of their duties under this section. Persons satisfactorily completing this program shall receive certification from the department. The department may charge each person who enrolls in the course an instruction fee of \$5. The department shall authorize instructors conducting such courses meeting standards established by it to retain \$1 of the fee to defray expenses incurred locally to conduct the program. The remaining \$4 of the fee shall be retained by the department to defray a part of its expenses incurred to conduct the safety and accident reporting program.

A person over the age of 12 years but under the age of 16 years who holds a valid certificate issued by another state or province of the Dominion of Canada need not obtain a certificate from the department if the course content of the program in such other state or province substantially meets that established by the department under this section.

**History:** 1971 c. 277; 1973 c. 298; 1987 a. 27, 399; 1991 a. 39.

**350.07 Driving animals.** No person shall drive or pursue any animal with a snowmobile, except as a part of normal farming operations involving the driving of livestock.

**History:** 1971 c. 277.

**350.08 Owner permitting operation.** No owner or other person having charge or control of a snowmobile may knowingly

authorize or permit any person to operate the snowmobile if the person is prohibited from operating a snowmobile under s. 350.05, if the person is incapable of operating a snowmobile because of physical or mental disability or if the person is under the influence of an intoxicant.

**History:** 1971 c. 219; 1981 c. 79 s. 17; 1981 c. 295, 391; 1983 a. 459; 1987 a. 399.

**350.09 Head lamps, tail lamps and brakes, etc. (1)** Any snowmobile operated during the hours of darkness or operated during daylight hours on any highway right-of-way shall display a lighted head lamp and tail lamp.

**(2)** After February 12, 1970, the head lamp on a snowmobile may be of the single beam or multiple beam type, but in either case shall comply with the following requirements and limitations:

(a) The head lamp shall be an electric head lamp and the current shall be supplied by a wet battery and electric generator, by a current-generating coil incorporated into the magneto or by a generator driven directly by the motor by means of gears, friction wheel, chain or belt.

(b) The head lamp shall display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of 200 feet ahead.

(c) If the snowmobile is equipped with a multiple beam head lamp, the upper beam shall meet the minimum requirements set forth in par. (b) and the lower most beam shall be so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead.

(d) If the snowmobile is equipped with a single beam lamp, such lamp shall be so aimed that when the vehicle is loaded none of the high intensity portion of the light, at a distance of 25 feet ahead, projects higher than the level of the center of the lamp from which it comes.

**(3)** After February 12, 1970, the tail lamp on a snowmobile must display a red light plainly visible during darkness from a distance of 500 feet to the rear.

**(4)** Every snowmobile shall be equipped with at least one brake operated either by hand or by foot, capable of bringing the snowmobile to a stop, under normal conditions, within 40 feet when traveling at a speed of 20 miles per hour with a 150 pound driver on a level, hard-packed snow surface, or capable of locking the track on a level, hard-packed snow surface. The design shall permit simple and easy adjustment to compensate for wear. There shall be no other control linked to the brake which impairs braking operation.

**(5)** All snowmobiles manufactured after July 1, 1972, and offered for sale or sold in this state shall be equipped with side marker reflectors meeting the visibility requirements of society of automotive engineers standards or reflex material standards in compliance with federal specifications.

**(6)** No snowmobile shall be manufactured, sold, offered for sale, or operated unless it is equipped with a muffler in good working order, which blends the exhaust noise into the overall engine noise and is in constant operation to prevent excessive or unusual noise.

**(7)** Every snowmobile manufactured after July 1, 1972, and offered for sale or sold in this state shall be so constructed as to limit total vehicle noise to not more than 82 decibels of A sound pressure at 50 feet, as measured by society of automotive engineers standards. Every snowmobile manufactured after July 1, 1975, and offered for sale or sold in this state shall be so constructed as to limit total vehicle noise to not more than 78 decibels of A sound pressure, as measured by society of automotive engineers standards. No snowmobile shall be modified by any person in any manner that shall amplify or otherwise increase total noise emission above that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

(8) Subsection (7) does not apply to snowmobiles competing in a sanctioned race or derby or to snowmobiles being tested by manufacturers, distributors or dealers on lands under their control.

(8m) No person may operate, offer for sale or sell a snowmobile that is manufactured after May 7, 1994, if the width of the snowmobile exceeds 48 inches.

(9) All snowmobiles competing in a sanctioned race or derby shall be equipped with a device wired into the motor's electrical system that will shut off the motor if the operator falls from the snowmobile or otherwise leaves the operator's position. The device shall be capable of being attached to the body of the operator, and shall be so attached when the snowmobile is being operated.

**History:** 1971 c. 277; 1981 c. 295; 1993 a. 436.

**350.10 Miscellaneous provisions for snowmobile operation.** No person shall operate a snowmobile in the following manner:

(1) At a rate of speed that is unreasonable or improper under the circumstances.

(2) In any careless way so as to endanger the person or property of another.

(4) In such a way that the exhaust of the motor makes an excessive or unusual noise.

(5) Without a functioning muffler.

(6) On the private property of another without the consent of the owner or lessee. Failure to post private property does not imply consent for snowmobile use. Any other motor-driven craft or vehicle principally manufactured for off-highway use shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

(7) Between the hours of 10:30 p.m. and 7 a.m. when within 150 feet of a dwelling at a rate of speed exceeding 10 miles per hour.

(8) In any forest nursery, planting area or on public lands posted or reasonably identified as an area of forest or plant reproduction when growing stock may be damaged.

(9) On the frozen surface of public waters within 100 feet of a person not in or upon a vehicle or within 100 feet of a fishing shanty unless operated at a speed of 10 miles per hour or less.

(10) On a slide, ski or skating area except for the purpose of serving the area, crossing at places where marked or after stopping and yielding the right-of-way.

(11) On or across a cemetery, burial ground, school or church property without consent of the owner.

(12) On the lands of an operating airport or landing facility except for personnel in performance of their duties or with consent.

(13) On Indian lands without the consent of the tribal governing body or Indian owner. For purposes of this subsection, "Indian lands" means lands owned by the United States and held for the use or benefit of Indian tribes, bands, or individual Indians and lands owned by Indian tribes, bands, or individual Indians which are subject to restrictions on alienation. Failure to post Indian lands does not imply consent for snowmobile use. Any other motor-driven craft or vehicle principally manufactured for off-highway use shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

**History:** 1971 c. 219, 277; 1981 c. 79 s. 17; 1983 a. 459; 1987 a. 399.

**350.101 Intoxicated snowmobiling.** (1) OPERATION. (a) *Operating while under the influence of an intoxicant.* No person may engage in the operation of a snowmobile while under the influence of an intoxicant to a degree which renders him or her incapable of safe snowmobile operation.

(b) *Operating with alcohol concentrations at or above specified levels.* No person may engage in the operation of a snowmobile while the person has an alcohol concentration of 0.1 or more.

(c) *Operating with alcohol concentrations at specified levels; below age 19.* If a person has not attained the age of 19, the person may not engage in the operation of a snowmobile while he or she has an alcohol concentration of more than 0.0 but not more than 0.1.

(d) *Related charges.* A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of par. (a) or (b) or both for acts arising out of the same incident or occurrence. If the person is charged with violating both pars. (a) and (b), the offenses shall be joined. If the person is found guilty of both pars. (a) and (b) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a) and (b) each require proof of a fact for conviction which the other does not require.

(2) CAUSING INJURY. (a) *Causing injury while under the influence of an intoxicant.* No person while under the influence of an intoxicant to a degree which renders him or her incapable of safe snowmobile operation may cause injury to another person by the operation of a snowmobile.

(b) *Causing injury with alcohol concentrations at or above specified levels.* No person who has an alcohol concentration of 0.1 or more may cause injury to another person by the operation of a snowmobile.

(c) *Related charges.* A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of par. (a) or (b) or both for acts arising out of the same incident or occurrence. If the person is charged with violating both pars. (a) and (b) in the complaint, the crimes shall be joined under s. 971.12. If the person is found guilty of both pars. (a) and (b) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a) and (b) each require proof of a fact for conviction which the other does not require.

(d) *Defenses.* In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant or did not have an alcohol concentration of 0.1 or more.

**History:** 1987 a. 399; 1989 a. 275; 1995 a. 436.

**350.102 Preliminary breath screening test.**

(1) REQUIREMENT. A person shall provide a sample of his or her breath for a preliminary breath screening test if a law enforcement officer has probable cause to believe that the person is violating or has violated the intoxicated snowmobiling law and if, prior to an arrest, the law enforcement officer requested the person to provide this sample.

(2) USE OF TEST RESULTS. A law enforcement officer may use the results of a preliminary breath screening test for the purpose of deciding whether or not to arrest a person for a violation of the intoxicated snowmobiling law or for the purpose of deciding whether or not to request a chemical test under s. 350.104. Following the preliminary breath screening test, chemical tests may be required of the person under s. 350.104.

(3) ADMISSIBILITY. The result of a preliminary breath screening test is not admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to show that a chemical test was properly required of a person under s. 350.104.

(4) REFUSAL. There is no penalty for a violation of sub. (1). Section 350.11 (1) and the general penalty provision under s. 939.61 do not apply to that violation.

**History:** 1987 a. 399.

**350.1025 Application of intoxicated snowmobiling law.** Except as provided in this section, the intoxicated snowmobiling law is applicable to all property, whether the property is

publicly or privately owned and whether or not a fee is charged for the use of that property. The intoxicated snowmobiling law does not apply to the operation of a snowmobile on private land not designated as a snowmobile trail unless an accident involving personal injury occurs as the result of the operation of a snowmobile and the snowmobile was operated on the private land without the consent of the owner of that land.

**History:** 1987 a. 399; 1991 a. 91.

**350.103 Implied consent.** Any person who engages in the operation of a snowmobile upon the public highways of this state, or in those areas enumerated in s. 350.1025, is deemed to have given consent to provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis as required under s. 350.104. Any person who engages in the operation of a snowmobile within this state is deemed to have given consent to submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis as required under s. 350.104.

**History:** 1987 a. 399.

**350.104 Chemical tests. (1) REQUIREMENT.** (a) *Samples; submission to tests.* A person shall provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated snowmobiling law and if he or she is requested to provide the sample by a law enforcement officer. A person shall submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis if he or she is arrested for a violation of the intoxicated snowmobiling law and if he or she is requested to submit to the test by a law enforcement officer.

(b) *Information.* A law enforcement officer requesting a person to provide a sample or to submit to a chemical test under par. (a) shall inform the person of all of the following at the time of the request and prior to obtaining the sample or administering the test:

1. That he or she is deemed to have consented to tests under s. 350.103.

2. That a refusal to provide a sample or to submit to a chemical test constitutes a violation under sub. (5) and is subject to the same penalties and procedures as a violation of s. 350.101 (1) (a).

3. That in addition to the designated chemical test under sub. (2) (b), he or she may have an additional chemical test under sub. (3) (a).

(c) *Unconscious person.* A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this subsection, and if a law enforcement officer has probable cause to believe that the person violated the intoxicated snowmobiling law, one or more chemical tests may be administered to the person without a request under par. (a) and without providing information under par. (b).

**(2) CHEMICAL TESTS.** (a) *Test facility.* Upon the request of a law enforcement officer, a test facility shall administer a chemical test of breath, blood or urine for the purpose of authorized analysis. A test facility shall be prepared to administer 2 of the 3 chemical tests of breath, blood or urine for the purpose of authorized analysis. The department may enter into agreements for the cooperative use of test facilities.

(b) *Designated chemical test.* A test facility shall designate one chemical test of breath, blood or urine which it is prepared to administer first for the purpose of authorized analysis.

(c) *Additional chemical test.* A test facility shall specify one chemical test of breath, blood or urine, other than the test designated under par. (b), which it is prepared to administer for the purpose of authorized analysis as an additional chemical test.

(d) *Validity; procedure.* A chemical test of blood or urine conducted for the purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of the laboratory of hygiene, department of health and family services and department of transportation under s. 343.305 (6) apply to a chemical test of blood or urine conducted for the purpose of authorized

analysis under this section. Blood may be withdrawn from a person arrested for a violation of the intoxicated snowmobiling law only by a physician, registered nurse, medical technologist, physician assistant or person acting under the direction of a physician and the person who withdraws the blood, the employer of that person and any hospital where blood is withdrawn have immunity from civil or criminal liability as provided under s. 895.53

(e) *Report.* A test facility which administers a chemical test of breath, blood or urine for the purpose of authorized analysis under this section shall prepare a written report which shall include the findings of the chemical test, the identification of the law enforcement officer or the person who requested a chemical test and the identification of the person who provided the sample or submitted to the chemical test. The test facility shall transmit a copy of the report to the law enforcement officer and the person who provided the sample or submitted to the chemical test.

**(3) ADDITIONAL AND OPTIONAL CHEMICAL TESTS.** (a) *Additional chemical test.* If a person is arrested for a violation of the intoxicated snowmobiling law or is the operator of a snowmobile involved in an accident resulting in great bodily harm to or the death of someone and if the person is requested to provide a sample or to submit to a test under sub. (1) (a), the person may request the test facility to administer the additional chemical test specified under sub. (2) (c) or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis.

(b) *Optional test.* If a person is arrested for a violation of the intoxicated snowmobiling law and if the person is not requested to provide a sample or to submit to a test under sub. (1) (a), the person may request the test facility to administer a chemical test of his or her breath or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood or urine for the purpose of authorized analysis. If a test facility is unable to perform a chemical test of breath, the person may request the test facility to administer the designated chemical test under sub. (2) (b) or the additional chemical test under sub. (2) (c).

(c) *Compliance with request.* A test facility shall comply with a request under this subsection to administer any chemical test it is able to perform.

(d) *Inability to obtain chemical test.* The failure or inability of a person to obtain a chemical test at his or her own expense does not preclude the admission of evidence of the results of a chemical test required and administered under subs. (1) and (2).

**(4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE.** The results of a chemical test required or administered under sub. (1), (2) or (3) are admissible in any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have violated the intoxicated snowmobiling law on the issue of whether the person was under the influence of an intoxicant or the issue of whether the person had alcohol concentrations at or above specified levels. Results of these chemical tests shall be given the effect required under s. 885.235. This section does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.

**(5) REFUSAL.** No person may refuse a lawful request to provide one or more samples of his or her breath, blood or urine or to submit to one or more chemical tests under sub. (1). A person shall not be deemed to refuse to provide a sample or to submit to a chemical test if it is shown by a preponderance of the evidence that the refusal was due to a physical inability to provide the sample or to submit to the test due to a physical disability or disease unrelated to the use of an intoxicant. Issues in any action concerning violation of sub. (1) or this subsection are limited to:

(a) Whether the law enforcement officer had probable cause to believe the person was violating or had violated the intoxicated snowmobiling law.

(b) Whether the person was lawfully placed under arrest for violating the intoxicated snowmobiling law.

(c) Whether the law enforcement officer requested the person to provide a sample or to submit to a chemical test and provided the information required under sub. (1) (b) or whether the request and information was unnecessary under sub. (1) (c).

(d) Whether the person refused to provide a sample or to submit to a chemical test.

**History:** 1987 a. 399; 1989 a. 359; 1993 a. 105; 1995 a. 27 s. 9126 (19).

**350.106 Report arrest to department.** If a law enforcement officer arrests a person for a violation of the intoxicated snowmobiling law or the refusal law, the law enforcement officer shall notify the department of the arrest as soon as practicable.

**History:** 1987 a. 399.

**350.107 Officer's action after arrest for operating a snowmobile while under influence of intoxicant.** A person arrested for a violation of s. 350.101 (1) (a) or (b) or a local ordinance in conformity therewith or s. 350.101 (2) (a) or (b) may not be released until 12 hours have elapsed from the time of his or her arrest or unless a chemical test administered under s. 350.104 (1) (a) shows that the person has an alcohol concentration of 0.05 or less, but the person may be released to his or her attorney, spouse, relative or other responsible adult at any time after arrest.

**History:** 1987 a. 399; 1995 a. 436.

**350.108 Public education program. (1)** The department shall promulgate rules to provide for a public education program to:

(a) Inform snowmobile operators of the prohibitions and penalties included in the intoxicated snowmobiling law. The snowmobile recreational council may assist the department in developing the public education program.

(b) Provide for the development of signs briefly explaining the intoxicated snowmobiling law.

(2) The department shall develop and issue an educational pamphlet on the intoxicated snowmobiling law to be distributed, beginning in 1989, to persons issued snowmobile registration certificates.

**History:** 1987 a. 399.

**350.11 Penalties. (1)** (a) Except as provided in par. (b) and subs. (2m) and (3), any person who violates any provision of this chapter shall forfeit not more than \$250.

(b) Except as provided in subs. (2m) and (3), any person who violates any provision of this chapter and who, within the last 3 years prior to the conviction for the current violation, was 2 or more times previously convicted for violating the same provision of this chapter shall forfeit not more than \$500.

(2m) Any person who violates s. 350.135 (1) shall be fined not more than \$10,000 or imprisoned for not more than 2 years or both if the violation causes the death or injury, as defined in s. 30.67 (3) (b), of another person.

(3) (a) *Penalties related to prohibited operation of a snowmobile; intoxicants; refusal.* 1. Except as provided under subs. 2. and 3., a person who violates s. 350.101 (1) (a) or (b) or s. 350.104 (5) shall forfeit not less than \$400 nor more than \$550.

2. Except as provided under subd. 3., a person who violates s. 350.101 (1) (a) or (b) or 350.104 (5) and who, within 5 years prior to the arrest for the current violation, was convicted previously under the intoxicated snowmobiling law or the refusal law shall be fined not less than \$300 nor more than \$1,000 and shall be imprisoned not less than 5 days nor more than 6 months.

3. A person who violates s. 350.101 (1) (a) or (b) or 350.104 (5) and who, within 5 years prior to the arrest for the current violation, was convicted 2 or more times previously under the intoxicated snowmobiling law or refusal law shall be fined not less than \$600 nor more than \$2,000 and shall be imprisoned not less than 30 days nor more than one year in the county jail.

4. A person who violates s. 350.101 (1) (c) or 350.104 (5) and who has not attained the age of 19 shall forfeit not more than \$50.

(b) *Penalties related to failure to stop; and for causing injury while under influence of intoxicants.* A person who violates s. 350.101 (2) or 350.17 (2) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail.

(bm) *Sentence of detention.* The legislature intends that courts use the sentencing option under s. 973.03 (4) whenever appropriate for persons subject to par. (a) 2. or 3. or (b). The use of this option can result in significant cost savings for the state and local governments.

(c) *Calculation of previous convictions.* In determining the number of previous convictions under par. (a) 2. and 3., convictions arising out of the same incident or occurrence shall be counted as one previous conviction.

(cm) *Reporting convictions to the department.* Whenever a person is convicted of a violation of the intoxicated snowmobiling law, the clerk of the court in which the conviction occurred, or the justice, judge or magistrate of a court not having a clerk, shall forward to the department the record of such conviction. The record of conviction forwarded to the department shall state whether the offender was involved in an accident at the time of the offense.

(d) *Alcohol, controlled substances or controlled substance analogs; assessment.* In addition to any other penalty or order, a person who violates s. 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or 940.25 if the violation involves the operation of a snowmobile, shall be ordered by the court to submit to and comply with an assessment by an approved public treatment facility for an examination of the person's use of alcohol, controlled substances or controlled substance analogs. The assessment order shall comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an assessment ordered under this paragraph constitutes contempt of court, punishable under ch. 785.

(4) In addition to the penalties under this section, the court may order the defendant to restore or replace any uniform snowmobile trail sign or standard that the defendant removed, damaged, defaced, moved or obstructed.

**History:** 1971 c. 277; 1973 c. 218; 1975 c. 365; 1987 a. 399; 1991 a. 269; 1993 a. 119, 436; 1995 a. 417, 448.

**Cross-reference:** See s. 23.50 concerning enforcement procedures.

**350.115 Snowmobile registration restitution payments. (1)** LEVY OF SNOWMOBILE REGISTRATION RESTITUTION PAYMENT. (a) If a court imposes a forfeiture for a violation of a provision of this chapter where the payment of a registration fee is required, the court shall impose a snowmobile registration restitution payment equal to the amount of the fee that was required and should have been obtained.

(b) If a forfeiture is suspended in whole or in part, the snowmobile registration restitution payment shall be reduced in proportion to the suspension unless the court directs otherwise.

(c) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the snowmobile registration restitution payment prescribed in this section. If the deposit is forfeited, the amount of the snowmobile registration restitution payment shall be transmitted to the state treasurer under par. (d). If the deposit is returned, the snowmobile registration restitution payment shall also be returned.

(d) The clerk of the court shall collect and transmit to the county treasurer the snowmobile registration restitution payment and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the state treasurer as provided in s. 59.25 (3) (f) 2.

(2) USE OF SNOWMOBILE REGISTRATION RESTITUTION PAYMENT FUNDS. All moneys collected from snowmobile registration restitution payments shall be deposited in the conservation fund.

**History:** 1991 a. 39; 1995 a. 201.

**350.12 Registration of snowmobiles. (1) REGISTRATION REQUIREMENT.** After January 1, 1970, no person shall operate, and no owner shall give permission for the operation of any snowmobile within this state unless the operation of the snowmobile complies with sub. (3) (a) (intro.) or (5) (cm) or is exempt from registration. No political subdivision shall have authority to register or license snowmobiles.

**(2) EXEMPTION.** A snowmobile is exempt from registration if it is one of the following:

(a) Owned by the United States, another state or a political subdivision thereof, but such snowmobiles shall display the name of the owner on the cowling thereof.

(b) Covered by a valid registration in another state, province or country, provided there is some identification of registration displayed on the snowmobile and it has not been in this state for more than 15 consecutive days.

(bm) Covered by a valid registration of a federally recognized American Indian tribe or band, if all of the following apply:

1. The registration program of the tribe or band is covered by an agreement under s. 23.35.

2. The snowmobile displays the registration decal required by the tribe or band.

3. The snowmobile has not been, for more than 15 consecutive days, in that portion of this state that is outside the boundaries of the reservation where it is registered.

(bn) In the registration application process in another state, province or country, if proof of the application for registration is carried on the operator and the snowmobile has not been in this state for more than 15 consecutive days.

(c) Used exclusively for racing on a raceway facility.

**(3) APPLICATIONS, ISSUANCES, RENEWALS, FEES.** (a) Except as provided under subs. (2) and (5) (cm), no person may operate and no owner may give permission for the operation of any snowmobile within this state unless the snowmobile is registered for public use or private use under this paragraph or as an antique under par. (b) and has the registration decals displayed as required by sub. (5) or unless the snowmobile has a reflectorized plate attached as required under par. (c) 3. A snowmobile that is not registered as an antique under par. (b) may be registered for public use. A snowmobile that is not registered as an antique under par. (b) and that is used exclusively on private property, as defined under s. 23.33 (1) (n), may be registered for private use. A snowmobile public-use registration certificate is valid for 2 years beginning the July 1 prior to the date of application if registration is made prior to April 1 and beginning the July 1 subsequent to the date of application if registration is made after April 1 and ending on June 30, 2 years thereafter. A snowmobile private-use registration certificate is valid from the date of issuance until ownership of the snowmobile is transferred. The fee for the issuance or renewal of a public-use registration certificate is \$20 except the fee is \$5 if it is a snowmobile owned and operated by a political subdivision of this state. There is no fee for the issuance of a private-use registration certificate or for the issuance of a registration certificate to the state.

2. Upon transfer of ownership of a snowmobile for which a registration certificate has been issued, the seller shall, at time of sale, deliver the assigned certificate to the purchaser.

3. The purchaser shall complete the application for transfer and cause it to be mailed or delivered to the department within 10 days from the date of purchase. A fee of \$5 shall be paid for transfer of a current registration certificate.

4. Whenever a snowmobile is junked, the owner shall return the certificate of registration to the department marked "junked".

(b) Any person who is a resident of this state and the owner of a snowmobile which has a model year of 1966 or earlier may, upon application, register the snowmobile as an antique snowmobile. Upon payment of a fee of \$20, the applicant shall be furnished a registration certificate and decals of a distinctive design, in lieu of

the design on the decals issued under par. (d). The design shall show that the snowmobile is an antique. The registration shall be valid without payment of any additional registration fee while the snowmobile is owned by the applicant. Unless inconsistent with this paragraph, the provisions of this chapter applicable to other snowmobiles shall apply to antique snowmobiles.

(c) 1. Every person who is a snowmobile manufacturer, snowmobile dealer, snowmobile distributor or snowmobile renter or any combination thereof engaged in business in this state shall register with the department and obtain from the department a commercial snowmobile certificate.

2. The fee for issuing or renewing a commercial snowmobile certificate is \$60. Upon receipt of the application form required by the department and the fee required under this subdivision, the department shall issue to the applicant a commercial snowmobile certificate and 3 reflectorized plates. The fee for additional reflectorized plates is \$20 per plate.

3. A person who is required to obtain a commercial snowmobile certificate under subd. 1. shall attach in a clearly visible place a reflectorized plate to any snowmobile that is not registered for public use and that the person leases, rents, offers for sale or otherwise allows to be used whenever the snowmobile is being operated.

4. The period of validity for a commercial snowmobile certificate is 2 years, to be calculated in the same manner as is the period of validity for a public-use registration certificate under par. (a).

(d) Upon receipt of the required fee, a sales tax report, payment of sales and use taxes due under s. 77.61 (1) and an application on forms prescribed by it, the department shall issue to the applicant a registration certificate stating the registration number, the name and address of the owner, and other information the department deems necessary. The department shall issue 2 registration decals per snowmobile owned by an individual owner, this state or a political subdivision of this state. The decals shall be no larger than 3 inches in height and 6 inches in width. The decals shall contain reference to the state, the department, whether the snowmobile is registered for public use or private use under par. (a), or as an antique under par. (b), and shall show the expiration date of the registration.

(e) If a commercial snowmobile certificate, registration certificate, registration decal or reflectorized plate is lost or destroyed, the holder of the certificate, decal or plate may apply for a duplicate on forms provided for by the department accompanied by a fee of \$5. Upon receipt of a proper application and the required fee, the department shall issue a duplicate certificate, decal or plate to the applicant.

**(3g) REGISTRATION OF CERTAIN SNOWMOBILES.** (a) Registration certificates issued to persons under s. 350.12 (3) (c) (intro.), 1989 stats., before August 15, 1991, shall remain valid until their expiration dates.

(b) A snowmobile put into use by a snowmobile renter before August 15, 1991, shall be subject to the requirements that are applicable under s. 350.12 (3) (c) (intro.) and 5., 1989 stats., s. 350.12 (3) (d), 1989 stats., s. 350.12 (3) (dm), 1989 stats., and s. 350.12 (5) (b), 1989 stats., and is exempt from the requirement under sub. (3) (c) 3. until the expiration date of the snowmobile registration.

**(3m) SNOWMOBILE REGISTRATION RECEIPTS.** (a) *Deposited in the conservation fund.* All moneys collected under this section shall be deposited in the conservation fund and credited to the snowmobile account established under s. 25.29 (1m).

(d) *Estimate.* On July 1 of each even-numbered year, the department shall estimate as accurately as possible the total registration receipts for a 2-year period and adjust the estimate periodically to reflect actual receipts.

**(4) AIDS; APPROPRIATION; LAPSES.** (a) *Enforcement, administration and related costs.* The moneys appropriated from s. 20.370 (3) (aq), (5) (es) and (mw) and (8) (dq) may be used for the following:

1. Registration costs;
2. The cost of the snowmobile recreational council;
- 2m. The costs incurred by coroners or medical examiners in the submission of reports and blood specimens and by laboratories in the analysis of blood specimens under s. 350.155;

3. The cost of a snowmobile safety and accident reporting program in the sum of \$80,000 annually;

3m. The cost of state law enforcement efforts as appropriated under s. 20.370 (3) (aq); and

4. An amount necessary to pay the cost of law enforcement aids to counties as appropriated under s. 20.370 (5) (es). On or before June 1, a county shall file with the department on forms prescribed by the department a detailed statement of the costs incurred by the county in the enforcement of this chapter during the preceding May 1 to April 30. The department shall audit the statements and determine the county's net costs for enforcement of this chapter. The department shall compute the state aids on the basis of 100% of these net costs and shall pay these aids on or before October 1. If the state aids payable to counties exceed the moneys available for such purpose, the department shall prorate the payments.

(am) *Enforcement aids to department.* Beginning with fiscal year 1993–94, of the amounts appropriated under s. 20.370 (3) (aq), the department shall allocate \$26,000 in each fiscal year to be used exclusively for the purchase of snowmobiles or trailers to carry snowmobiles, or both, to be used in state law enforcement efforts.

(b) *Trail aids and related costs.* The moneys appropriated under s. 20.370 (1) (mq) and (5) (cr) and (cs) shall be used for development and maintenance, the cooperative snowmobile sign program, major reconstruction or rehabilitation to improve bridges on existing approved trails, trail rehabilitation, signing of snowmobile routes, and state snowmobile trails and areas and distributed as follows:

1. State aids and funds for maintenance costs shall be 100% of the actual cost of maintaining the trail per year up to a \$200 per mile per year maximum, except as provided in pars. (bg) to (br). Qualifying trails are trails approved by the board as snowmobile trails. State aid for development may equal 100% of development expenses. Aids for major reconstruction or rehabilitation projects to improve bridges may equal 100% of eligible costs. Aids for trail rehabilitation may equal 100% of eligible costs. Development shall begin the same year the land is acquired. Moneys available for development shall be distributed on a 100% grant basis, 75% at the time of approval but no later than January 1 and 25% upon completion of the project. A county application may include a request for development, rehabilitation or maintenance of trails, or any combination thereof. Trail routes, sizes and specifications shall be prescribed only by the board.

2. Not more than \$15,000 annually for a cooperative sign program with snowmobile clubs for club snowmobile trails open to the public and meeting minimum trail construction standards. Clubs may apply to the department for free signs on forms prescribed by the department and submit required documentation as prescribed by departmental rule on or before April 15 of each year.

3. Not more than \$30,000 for a route signing program of aids to cities, villages, towns or counties of up to 100% of the cost of initial signing of snowmobile routes which connect authorized trails or which offer entrance to or exit from trails leading to such municipalities. Aid may be provided under this subdivision to cities, villages, towns and counties for up to 100% of the cost of placing signs developed under s. 350.108 (1) (b) which briefly explain the intoxicated snowmobiling law along snowmobile routes. Applications and documentation shall be submitted to the department by April 15 of each year on forms prescribed by departmental rule.

4. For the maintenance, rehabilitation and development of snowmobile trails and areas on state lands and for major rehabilitation of snowmobile bridges, 100% of the actual cost for devel-

opment and rehabilitation and 100% of the actual cost of maintaining the trails per year up to the per mile per year maximum specified under subd. 1. Qualifying trails are those approved by the board. Trail routes, sizes and specifications shall be prescribed only by the board.

(bc) *Development costs.* For the purposes of par. (b) (intro.), 1. and 4., development includes the following:

1. The purchase of land in fee simple.

2. The acquisition of interests in land by lease, easement, permit, or other agreement if the term of the acquisition is for a period of 3 years or longer.

(be) *Maintenance costs.* In addition to paying for trail maintenance costs, payments received for maintenance under par. (b) 1. or 4., par. (bg) or (bm) may be used for any of the following:

1. The purchase of liability insurance.

2. The acquisition of interests in land, by lease, easement, permit or other agreement if the term of the acquisition is for a period of less than 3 years.

(bg) *Supplemental trail aid payments.* Of the moneys appropriated under s. 20.370 (5) (cs), the department shall make available in fiscal year 1992–93 and each fiscal year thereafter an amount equal to the amount calculated under s. 25.29 (1) (d) 2. to make payments to the department or a county under par. (bm) for trail maintenance costs incurred in the previous fiscal year that exceed the maximum specified under par. (b) 1. before expending any of the amount for the other purposes specified in par. (b).

(bm) *Supplemental trail aid payments; eligibility.* A county or the department shall be eligible for payments under par. (bg) if it applies for the aid and if all of the following apply:

1. The actual cost incurred by the department or the county in maintaining its trails that are qualified under par. (b) 1. or 4. in the previous fiscal year exceeds the maximum of \$200 per mile per year under par. (b) 1.

2. Of the actual cost incurred by the department or the county in maintaining its trails that are qualified under par. (b) 1. or 4. for the fiscal year applicable under subd. 1., the actual cost incurred in grooming the trails exceeds a maximum of \$130 per mile per year.

(br) *Supplemental trail aid payments; insufficient funding.* If the aid that is payable to counties and to the department under par. (bm) exceeds the moneys available under par. (bg), the department may prorate the payments or may request the joint committee on finance to take action under s. 13.101. The requirement of a finding of emergency under s. 13.101 (3) (a) 1. does not apply to such a request.

(c) *Lapses.* Any moneys appropriated under s. 20.370 (1) (mq), (3) (aq), (5) (mw) or (8) (dq) that lapse at the end of the fiscal year or that lapse after the end of the fiscal year because of the liquidation of an encumbrance shall revert to the snowmobile account in the conservation fund.

**(5) REGISTRATION DECALS TO BE DISPLAYED.** (a) The owner of the snowmobile shall attach the registration decals to the snowmobile in a prominent place, and shall maintain the registration decals in a legible condition at all times. Decals shall be not larger than 3 inches in height and 6 inches in width. Registration decals are to be applied on both sides of the cowling of the snowmobile.

(b) The registration certificate or, for owners who purchased a snowmobile and who have received an approved application for registration receipt validated by the department but who have not yet received the registration certificate, the approved application for registration receipt shall be in the possession of the user of the snowmobile at all times.

(c) The registration certificate or, for owners who purchased a snowmobile and who have received an approved application for registration receipt validated by the department but who have not yet received the registration certificate, the approved application for registration receipt shall be exhibited, upon demand, by the

user of the snowmobile for inspection by any person authorized to enforce this section as provided under s. 350.17 (1) and (3).

(cm) A person may operate a snowmobile without having the registration decals displayed as provided under par. (a) if the owner has received an approved application for registration receipt validated by the department and if the user of the snowmobile complies with pars. (b) and (c).

(d) At the end of the registration period the department shall send the owner of each snowmobile a 2-part renewal application. The owner shall complete and sign one portion of the renewal application and return that portion and the proper fee to the department. The owner shall complete and sign the other portion of the renewal application. The owner shall destroy this portion of the renewal application upon receipt of the registration certificate and decals.

(e) This subsection does not apply to any snowmobile to which a reflectorized plate is attached as required under sub. (3) (c) 3.

(6) CHANGE OF ADDRESS. Whenever the owner of a registered snowmobile changes his or her address, the owner shall within 15 days thereafter notify the department in writing of the new address and of the registration numbers awarded to the owner. At the same time the owner shall endorse the new address on the owner's registration certificates.

(7) SALES AND USE TAXES. The department shall collect sales and use taxes due under s. 77.61 (1) on any snowmobile registered under this section and the report in respect to those taxes. The department shall use collection and accounting methods approved by the department of revenue.

**History:** 1971 c. 211, 277; 1973 c. 298; 1975 c. 39 ss. 693g to 693m, 734; 1975 c. 224; 1977 c. 29, 402; 1979 c. 32; 1979 c. 34 ss. 1072, 2102 (39) (a); 1979 c. 221; 1981 c. 20, 294, 295; 1983 a. 27 ss. 1709, 1710, 2202 (38); 1983 a. 36, 405; 1985 a. 29 s. 3202 (39); 1985 a. 68, 322; 1985 a. 332 ss. 211, 253; 1987 a. 27, 129, 399; 1989 a. 31, 270, 336; 1991 a. 39, 269, 316; 1993 a. 16, 405, 436; 1995 a. 27, 225.

**350.125 Completion of application for registration by snowmobile dealers.** (1) (a) When a snowmobile dealer sells a snowmobile the dealer, at the time of sale, shall require the buyer to complete an application for a registration certificate, collect the required fee and mail the application and fee to the department no later than 5 days after the date of sale. The department shall provide combination application and receipt forms and the dealer shall furnish the buyer with a completed receipt showing that application for registration has been made. This completed receipt shall be in the possession of the user of the snowmobile until the registration certificate is received. No snowmobile dealer may charge an additional fee to the buyer for performing the service required under this subsection.

(b) When a snowmobile dealer sells a snowmobile to a person from another state who wishes to register that machine in his or her home state, the dealer shall, at the time of sale, complete an application for a registration certificate and indicate on the application that the machine is to be registered in another state and mail one copy to the department no later than 14 days after the date of sale, furnish the buyer with one copy and retain one copy for the dealer's records.

(2) Every dealer shall maintain, for one year, a record in the form prescribed by the department for each new snowmobile sold. These records shall be open to inspection by the department.

**History:** 1973 c. 298; 1975 c. 230, 399, 421; 1977 c. 402; 1981 c. 295.

**350.13 Uniform trail signs and standards.** The department of natural resources in cooperation with the department of transportation, after public hearing, shall promulgate rules to establish uniform trail and route signs and standards relating to operation thereon as authorized by law. The authority in charge of the maintenance of the highway may place signs on highways under its jurisdiction where authorized snowmobile trails cross. These signs must be of a type approved by the department of natural resources and the department of transportation.

**History:** 1971 c. 40 s. 93; 1971 c. 277; 1973 c. 298; 1989 a. 31; 1991 a. 39.

**350.135 Interferences with uniform trail signs and standards prohibited.** (1) No person may intentionally remove, damage, deface, move or obstruct any uniform snowmobile trail sign or standard or intentionally interfere with the effective operation of any uniform snowmobile trail sign or standards if the sign or standard is legally placed by the state, any municipality or any authorized individual. This subsection does not apply to an authorized individual who removes or moves any uniform snowmobile trail sign or standard from his or her own property.

(2) No person may possess any uniform snowmobile trail sign or standard of the type established by the department for the warning, instruction or information of the public, unless he or she obtained the uniform snowmobile trail sign or standard in a lawful manner. Possession of a uniform snowmobile trail sign or standard creates a rebuttable presumption of illegal possession.

**History:** 1981 c. 295; 1993 a. 119.

**350.137 Uniform snowmobile rail crossing standards.** (1) The department, after having consulted with the snowmobile recreational council, shall promulgate rules to establish uniform maintenance standards and uniform design and construction standards for snowmobile rail crossings under ss. 350.138 and 350.139.

(2) The maintenance standards shall include requirements for the marking of snowmobile rail crossings and for the maintenance of adequate drainage of railroad rights-of-way. The design and construction standards shall include a list and a description of the frequency and speed of trains and the types of railroad tracks, embankments, ditches, snowmobile trail alignments and other configurations that do any of the following:

(a) Preclude the use of a proposed site for a snowmobile rail crossing because the site would be unsafe due to poor visibility of the proposed snowmobile rail crossing from the cab of a railroad engine.

(b) Make it difficult to construct a snowmobile rail crossing at a proposed site because of steep embankments or irregular terrain near the railroad track.

(3) No rule may be promulgated under this section without the approval of the rule by the public service commission.

**History:** 1993 a. 120.

**350.138 Snowmobile rail crossings requiring permits.**

(1) DEFINITIONS. In this section:

(a) "Established snowmobile rail crossing" has the meaning given in s. 350.139 (1) (a).

(b) "Rail authority" means a rail transit body or a railroad corporation.

(c) "Rail transit body" means any transit or transportation commission or authority or public corporation established by law or by interstate compact to provide rail service.

(d) "Snowmobile alliance" means an organization that consists of or represents any combination of 2 or more snowmobile clubs or counties.

(e) "Snowmobile club" means an organization that meets at least 3 times a year, that has at least 10 members, that promotes snowmobiling and that participates in the department's program under s. 350.12 (4) (b) 2.

(f) "Snowmobile organization" means a snowmobile club, a snowmobile alliance or a county.

(2) PERMIT REQUIRED. No person may construct a snowmobile rail crossing that is not located on a railroad crossing of a public highway or street unless the person is a snowmobile organization and has a permit approved under this section. No person may maintain a snowmobile rail crossing that is not located on a railroad crossing of a public highway or street unless the person is a snowmobile organization and either the person has a permit approved under this section or the snowmobile rail crossing is an established snowmobile rail crossing. In order to obtain a permit required under this section, a snowmobile organization shall

apply to the department. A separate permit is required for each snowmobile rail crossing subject to this section.

(3) CONTENTS OF PERMIT APPLICATION. An application submitted under sub. (2) shall include adequate descriptions and drawings showing the proposed location of the snowmobile rail crossing, the design of the snowmobile rail crossing and the location of snowmobile trails that connect with the snowmobile rail crossing. The department may reject an application within 15 days after it is submitted if the application is incomplete or is not sufficiently detailed to determine whether to approve or deny the application.

(4) PERMIT APPLICATION APPROVAL AND DENIALS. The department shall approve or deny an application submitted under sub. (2) within 60 days after receiving a complete and sufficiently detailed application. The department may deny an application only if the department determines that the proposed snowmobile rail crossing does not comply with the rules promulgated under s. 350.137.

(5) CHARGES. The department may charge an initial application fee not to exceed \$150 for the costs of reviewing a permit application under sub. (4). Neither a rail authority nor the department may charge any other fee or amount for the construction or use of a snowmobile rail crossing or for the use of the right-of-way for the crossing.

(6) LIABILITY INSURANCE. The department shall require a snowmobile organization to maintain in effect liability insurance to indemnify the applicable rail authority for damages resulting from the design, construction or maintenance of a snowmobile rail crossing for which a permit is approved under this section. Regardless of the number of snowmobile rail crossings that the snowmobile organization maintains under this section and s. 350.139, the amount of the liability insurance that is required to be maintained under this subsection shall be at least \$1,000,000 for each snowmobile organization. Beginning on January 1, 1997, this minimum amount shall increase to \$2,000,000. Any liability insurance that is required under this subsection for the purpose of indemnifying a rail authority that is a rail transit body shall also indemnify the owners and operators of any railroad using the tracks of the rail transit body.

(7) RIGHTS-OF-WAY. For each application approved under sub. (4), the applicable rail authority shall give the snowmobile organization access to any right-of-way that the rail authority may have to permit the snowmobile organization to construct and maintain the snowmobile rail crossing.

(8) TERMS OF PERMITS. (a) The initial period for a permit approved under this section shall be 11 years. Unless par. (b) applies, the department shall renew the permit for additional periods of time, not to exceed 11 years per renewal, as determined by the department, until the snowmobile rail crossing becomes an established snowmobile rail crossing.

(b) The department may revoke or refuse to renew a permit that it previously approved only if the department determines that the snowmobile rail crossing is not constructed or maintained in compliance with the rules promulgated under s. 350.137, the snowmobile organization does not maintain any liability insurance that is required under sub. (6) or the snowmobile rail crossing is not maintained for use by snowmobiles for at least 5 winters in any 10-year period. The 10-year period for purposes of this paragraph shall begin on the first December 15 following the date of the issuance of the permit.

(9) INSPECTION AUTHORIZED. The department may inspect a snowmobile rail crossing to determine whether there are grounds to refuse to issue a permit under sub. (4) or to revoke or refuse to renew a permit under sub. (8) (b).

History: 1993 a. 120.

### 350.139 Established snowmobile rail crossings.

(1) DEFINITIONS. In this section:

(a) “Established snowmobile rail crossing” means a snowmobile rail crossing that has been used by snowmobiles for at least 5 winters of the last 10 years.

(b) “Rail authority” has the meaning given in s. 350.138 (1) (b).

(c) “Rail transit body” has the meaning given in s. 350.138 (1) (c).

(d) “Snowmobile organization” has the meaning given in s. 350.138 (1) (f).

(2) NO PERMIT REQUIRED. An established snowmobile rail crossing does not require a permit under s. 350.138.

(3) CHARGES PROHIBITED. Neither the department nor a rail authority may charge a fee or any other amount for the use of an established snowmobile rail crossing or for the use of a right-of-way for the established snowmobile rail crossing.

(4) REQUIREMENTS. The department shall require a snowmobile organization that maintains an established snowmobile rail crossing to do all of the following:

(a) Maintain the established snowmobile rail crossing in conformance with the rules promulgated under s. 350.137.

(b) Maintain in effect liability insurance to indemnify the applicable rail authority for damages resulting from the design, construction or maintenance of the established snowmobile rail crossing. Regardless of the number of established snowmobile rail crossings and snowmobile rail crossings under s. 350.138 that each snowmobile organization maintains, the amount of the liability insurance that is required to be maintained under this paragraph shall be at least \$1,000,000 for each snowmobile organization. Beginning on January 1, 1997, this minimum amount shall increase to \$2,000,000. Any liability insurance that is required under this paragraph for the purpose of indemnifying a rail authority that is a rail transit body shall also indemnify the owners and operators of any railroad using the tracks of the rail transit body.

(5) INSPECTION AUTHORIZED. The department may inspect an established snowmobile rail crossing to determine whether the snowmobile organization maintaining the crossing is in compliance with the requirements imposed under sub. (4).

History: 1993 a. 120.

### 350.1395 Snowmobile rail crossings; closing; review of rail authorities; insurance rules. (1) DEFINITIONS. In this section:

(a) “Established snowmobile rail crossing” means a snowmobile rail crossing that has been used by snowmobiles for at least 5 winters of the last 10 years.

(b) “Rail authority” has the meaning given in s. 350.138 (1) (b).

(c) “Snowmobile organization” has the meaning given in s. 350.138 (1) (f).

(2) CLOSING OF CROSSINGS. (a) Except as provided in par. (b), no rail authority may close or remove a snowmobile rail crossing subject to a permit under s. 350.138 or an established snowmobile rail crossing.

(b) A rail authority may petition the department to review any failure of a snowmobile organization to comply with any requirements imposed under s. 350.138 or 350.139 (4), and to issue an order authorizing the rail authority to close or remove an established snowmobile rail crossing. The department shall decide the matter after notice and hearing. The order issued by the department is a final order of the department subject to judicial review under ch. 227.

(3) REVIEW OF ACTIONS OF RAIL AUTHORITY. A snowmobile organization may request the department to review any failure of the rail authority to comply with s. 350.138 or 350.139 or this section. The department shall decide the matter after notice and hearing. If the department finds that the rail authority failed to comply, the department shall issue an order directing the rail authority to

take appropriate action in order to comply with this section. The order issued by the department is a final order of the department subject to judicial review under ch. 227.

**(4) RULES FOR LIABILITY INSURANCE.** (a) The department may promulgate rules to increase the minimum amounts of liability insurance required under ss. 350.138 (6) and 350.139 (4) (b) based on the need for, and the availability and affordability of, such insurance.

(b) No rule may be promulgated under this subsection without approval of the rule by the public service commission.

**History:** 1993 a. 120.

#### **350.14 Duties of snowmobile recreational council.**

**(1)** The snowmobile recreational council shall carry out studies and make recommendations to the legislature, governor, department of natural resources and department of transportation on all matters related to this chapter or otherwise affecting snowmobiles and snowmobiling.

**(2)** The department shall prepare written minutes of each meeting of the snowmobile recreational council and shall make them available to any interested party upon request.

**History:** 1971 c. 277; 1991 a. 39.

#### **350.145 Recommendations of the snowmobile recreational council.**

**(1) PROCEDURE REQUIRED.** To assist the snowmobile recreational council in performing its duty to make recommendations under s. 350.14 (1), the department and the snowmobile recreational council shall follow the procedures under sub. (2).

**(2) RECOMMENDATIONS FOR RULES.** (a) The department shall distribute any rule that it is proposing and that affects snowmobiles or snowmobiling to each member of the snowmobile recreational council for his or her review and comment at least 20 days before the notice stating that the proposed rule is in final draft form is submitted to the legislature in the manner provided under s. 227.19 (2). A member of the snowmobile recreational council may submit his or her written comments on the proposed rule to the department.

(b) The department shall include in the report required under s. 227.19 (3) the written comments that it receives under par. (a).

**(3) RECOMMENDATIONS FOR EXECUTIVE BUDGET BILL.** (a) 1. Before June 30 of each even-numbered year, the department shall consult with the snowmobile recreational council on the proposed changes for the succeeding biennium in the appropriations and laws that affect snowmobiles and snowmobiling.

2. A member of the snowmobile recreational council may submit before August 1 of the even-numbered year his or her written comments on the proposed changes specified in subd. 1. to the secretary of natural resources.

(b) The secretary of natural resources shall submit any written comments that the secretary receives under par. (a) 2. to the natural resources board and to the secretary of administration with the department's submission of its budget report under s. 16.42.

(c) Before March 1 of each odd-numbered year, the snowmobile recreational council shall meet and review the provisions that are included in the executive bill or bills and that affect snowmobiles and snowmobiling. A member of the snowmobile recreational council may submit his or her written comments on these provisions to the secretary of natural resources before March 10 of each odd-numbered year.

(d) The secretary shall submit the written comments that he or she receives under par. (a) 2. or (c) before March 10 of the odd-numbered year to the cochairpersons of the joint committee on finance before March 15 of that odd-numbered year.

**History:** 1991 a. 39.

**350.15 Accidents and accident reports.** **(2) DUTY TO RENDER AID.** Insofar as the operator is capable of doing, the operator of a snowmobile involved in a snowmobile accident shall render to other persons affected thereby such assistance as is practica-

ble and necessary to save them from or minimize any danger caused by the accident and shall give his or her name and address and identification of his or her snowmobile to any person injured and to the owner of any property damaged in the accident.

**(3) DUTY TO REPORT.** (a) If a snowmobile accident results in the death of any person, or in an injury that requires the treatment of a person by a physician, the operator of each snowmobile involved in the accident shall give notice of the accident to a conservation warden or local law enforcement officer as soon as possible and, within 10 days after the accident, shall file a written report of the accident with the department on the form prescribed by it.

(b) If the operator of a snowmobile is physically incapable of making the report required by this subsection and there was another occupant on the snowmobile at the time of the accident capable of making the report that other occupant shall make such report.

**(4) REPORTS NOT USED AS EVIDENCE.** No report required by this section to be filed with the department shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has or claims to have made such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made.

**(5) INVESTIGATIONS.** (a) The department shall investigate any snowmobile accident that results in the death of any person.

(b) The department may investigate any snowmobile accident that results in an injury that requires the treatment of a person by a physician.

**History:** 1971 c. 277; 1983 a. 27; 1987 a. 403; 1989 a. 31; 1991 a. 316.

Reports under (3) aren't confidential documents. 76 Atty. Gen. 56.

#### **350.155 Coroners and medical examiners to report; require blood specimen.**

**(1)** Every coroner or medical examiner shall on or before the 10th day of each month report in writing to the department the death of any person within the coroner's or medical examiner's jurisdiction during the preceding calendar month as the result of an accident involving a snowmobile and the circumstances of such accidents.

**(2)** In cases of death involving a snowmobile in which the decedent died within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from the body of the decedent within 12 hours after death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of such physician. All funeral directors shall obtain a release from the coroner or medical examiner prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the department of health and family services for analysis of the alcoholic content of such blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the department of health and family services. The department of health and family services shall keep a record of all such examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the department of health and family services. The department shall reimburse coroners and medical examiners for the costs incurred in submitting reports and taking blood specimens and laboratories for the costs incurred in analyzing blood specimens under this section.

**History:** 1973 c. 298; 1975 c. 39 s. 732 (2); 1975 c. 199; 1983 a. 485; 1991 a. 316; 1995 a. 27 s. 9126 (19).

**350.17 Enforcement.** **(1)** Any officer of the state traffic patrol under s. 110.07 (1), inspector under s. 110.07 (3), warden of the department under s. 23.10, county sheriff or municipal peace officer may enforce the provisions of this chapter.

(2) No person operating a snowmobile shall refuse to stop after being requested or signaled to do so by a law enforcement officer.

(3) Notwithstanding subs. (1) and (2), no law enforcement officer may stop a snowmobile operator for a violation of a statutory provision under this chapter or a rule promulgated or an ordinance adopted under this chapter unless the law enforcement officer has reasonable cause to believe the snowmobile operator has committed such a violation.

**History:** 1971 c. 277; 1989 a. 31.

**Cross-reference:** See s. 23.50 concerning enforcement procedures.

**350.18 Local ordinances.** (1) Counties, towns, cities and villages may regulate snowmobile operation on snowmobile trails maintained by or on snowmobile routes designated by the county, city, town or village.

(2) Any county, town, city or village may enact an ordinance that is in strict conformity with ss. 350.02 to 350.05, 350.07 to 350.107, 350.11, 350.12, 350.13, 350.135, 350.15 to 350.17, 350.19 and 350.99.

(3) (a) A town, city or village may enact an ordinance allowing the operation of snowmobiles on a roadway and shoulder of a highway for any portion of a highway that lies within the boundaries of the town, city or village for the purpose of residential access, or for the purpose of access from lodging if the town,

city or village also enacts or has in effect an ordinance for the purpose of residential access.

(b) The department and the snowmobile recreational council shall jointly prepare a model ordinance as an example of an ordinance that a town, city or village may enact under par. (a).

**History:** 1971 c. 277; 1991 a. 39, 269; 1993 a. 436; 1995 a. 61.

**Cross-reference:** See s. 23.50 concerning enforcement procedures.

**350.19 Liability of landowners.** Section 895.52 applies to this chapter.

**History:** 1971 c. 277; 1983 a. 418 s. 8.

**350.99 Parties to a violation.** (1) Whoever is concerned in the commission of a violation of this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

(a) Directly commits the violation;

(b) Aids and abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it or advises, hires or counsels or otherwise procures another to commit it.

**History:** 1975 c. 365.