

1999 SENATE BILL 485

March 21, 2000 – Introduced by Senators DECKER, BURKE, MOEN, PLACHE, ROESSLER and HUELSMAN, cosponsored by Representatives JOHNSRUD, HUTCHISON, J. LEHMAN, KELSO, VRAKAS and F. LASEE. Referred to Committee on Agriculture, Environmental Resources and Campaign Finance Reform.

1 **AN ACT** *to repeal* 350.02 (2) (b) 6. and 350.10 (1) (a); *to renumber and amend*
2 350.10 (1) (g) and 350.10 (1) (i); *to amend* 29.934 (1) (a), 59.54 (14) (g), 350.02
3 (2) (a) 6., 350.1025, 350.11 (3) (a) 1., 350.11 (3) (a) 2., 350.11 (3) (a) 3., 350.11 (3)
4 (a) 4., 350.11 (3) (b), 350.11 (3) (bm) and 350.12 (3) (a) (intro.); and *to create*
5 29.934 (1) (cm), 350.025, 350.11 (3) (a) 5., 350.11 (3) (bg), 350.11 (3m), 350.11 (5)
6 and 350.113 of the statutes; **relating to:** revocation of the privilege to operate
7 snowmobiles for violations of the intoxicated snowmobiling law; speed
8 restrictions on the operation of snowmobiles; confiscation of snowmobiles after
9 conviction under the intoxicated snowmobiling law or for failure to stop a
10 snowmobile in response to a law enforcement officer; increasing the public-use
11 snowmobile registration fee; snowmobile trail aids to counties; making
12 appropriations; and providing penalties.

Analysis by the Legislative Reference Bureau

This bill requires a court to revoke a person's privilege to operate a snowmobile for violating the intoxicated snowmobiling law, other than the absolute sobriety

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requirement for persons who are 18 years old or younger, and for violating the refusal law. The intoxicated snowmobiling law prohibits the operation of a snowmobile by a person who is under the influence of alcohol or a controlled substance to a degree that he or she cannot operate a snowmobile safely. The bill also prohibits the operation of a snowmobile by a person who has an alcohol concentration of 0.1 or more. The refusal law requires a person to submit to a legal request for a breath, blood or urine sample pursuant to an arrest for violating the intoxicated snowmobiling law. The periods of revocation are as follows:

1. For a period of one year for the first violation or for a subsequent violation, if the arrest for the subsequent violation occurs more than five years after the date of the conviction for the previous violation.

2. For a period of two years for the second violation, if the arrest for the second violation occurs within five years after the date of the conviction for the first violation.

3. For a period of three years for the third or subsequent violation if the arrest for the third or subsequent violation occurs within five years after the date of the conviction for the second or subsequent violation.

4. For a period of one year for a violation of the refusal law if the violator is 18 years old or younger.

The bill also provides a penalty for operating a snowmobile during revocation. Current law does not provide for the revocation of a person's privilege to operate a snowmobile for violating the intoxicated snowmobiling law. Also, in addition to any forfeiture, fine or period of jail time imposed by a court for a violation of the intoxicated snowmobiling law or for operating a snowmobile during revocation, under this bill the court may order the defendant to perform community service work.

The bill requires a snowmobile to be seized and confiscated if it is used by a person to which the three-year period of revocation applies and authorizes a snowmobile to be seized and confiscated if it is used by a person who fails to stop a snowmobile when requested to do so by a law enforcement officer. The bill allows the department of natural resources (DNR) to sell any snowmobile confiscated for these snowmobiling violations or to use it in its snowmobile safety program. The bill also allows any snowmobile confiscated for violations of the fish and game laws to be used in this program. DNR already has authority to sell such a snowmobile under current law.

Finally, this bill imposes a specific statutory speed limit of 50 miles per hour on the operation of a snowmobile from sunset to sunrise on a snowmobile trail, route and other area that is open to the public for the operation of snowmobiles. Under current law, the only other specific statutory restrictions apply to the operation of a snowmobile within a certain distance of a dwelling at nighttime or on the ice within a certain distance of a fishing shanty or a person on foot. Also, under current law, a snowmobile operator must observe the roadway speed limit when he or she is riding adjacent to a roadway. This bill expands this requirement to include the roadway itself.

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Under current law, the registration fee for a snowmobile that is not an antique and that is not used exclusively on property owned by the snowmobile owner or his or her family is \$20. The period of validity for the registration is from 15 months to 24 months depending on when, during a two-year period, the snowmobile is registered. This bill raises the fee from \$20 to \$50.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 29.934 (1) (a) of the statutes is amended to read:

2 29.934 (1) (a) All wild animals, carcasses or plants that are confiscated by the
3 department and all confiscated vehicles, boats or objects shall, if not destroyed as
4 authorized by law, be sold, except as provided in par. (cm), at the highest price
5 obtainable, by the department, or by an agent on commission under supervision of
6 the department. The net proceeds of sales under this subsection, after deducting the
7 expense of seizure and sale and any commissions and any amounts owing to holders
8 of security interests under par. (c) or (d), shall be remitted to the department. The
9 remittance shall be accompanied by a report of the sales, supported by vouchers for
10 expenses and commissions, and shall be filed with the department.

11 **SECTION 2.** 29.934 (1) (cm) of the statutes is created to read:

12 29.934 (1) (cm) The department may retain and use a snowmobile confiscated
13 under this section or under s. 350.113 for the program of instruction established
14 under s. 350.055.

15 **SECTION 3.** 59.54 (14) (g) of the statutes is amended to read:

16 59.54 (14) (g) A county may establish extensions of the jail, which need not be
17 at the county seat, to serve as places of temporary confinement. No person may be
18 detained in such an extension for more than 24 consecutive hours, except that a court

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1 may order that a person subject to imprisonment under s. 23.33 (13) (b) 2. or 3. or (c)
2 or 350.11 (3) (a) 2. or 3. or (b) or (3m) be imprisoned for more than 24 consecutive
3 hours in such an extension. Jail extensions shall be subject to plans and
4 specifications approval by the department of corrections and shall conform to other
5 requirements imposed by law on jails, except that cells may be designed and used for
6 multiple occupancy.

7 **SECTION 4.** 350.02 (2) (a) 6. of the statutes is amended to read:

8 350.02 **(2)** (a) 6. On a portion of the roadway or shoulder of a highway for a
9 purpose of residential access or for the purpose of access from lodging if the town, city
10 or village, within which that portion of the highway lies, enacts an ordinance under
11 s. 350.18 (3) for that portion of the highway. ~~A snowmobile operated on a portion of~~
12 ~~the roadway or shoulder of a highway under this subdivision shall observe the~~
13 ~~roadway speed limits.~~

14 **SECTION 5.** 350.02 (2) (b) 6. of the statutes is repealed.

15 **SECTION 6.** 350.025 of the statutes is created to read:

16 **350.025 Speed restrictions. (1)** No person may operate a snowmobile at a
17 rate of speed that is any of the following:

18 (a) Unreasonable or improper under the circumstances.

19 (b) In excess of a roadway speed limit established under s. 346.57 or 349.11 if
20 the person is operating the snowmobile on or adjacent to a roadway.

21 (c) In excess of any speed limit established by a county, town, city or village
22 under its authority under s. 350.18 (1).

23 (d) In excess of 50 miles per hour if the person is operating the snowmobile
24 during the period from sunset to sunrise on a snowmobile route, a snowmobile trail

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1 or any other corridor or area that is open to the public for the operation of
2 snowmobiles.

3 (2) Subsection (1) (b) and (c) does not apply if the person is operating the
4 snowmobile as part of a special snowmobile event authorized under s. 350.04.

5 **SECTION 7.** 350.10 (1) (a) of the statutes is repealed.

6 **SECTION 8.** 350.10 (1) (g) of the statutes is renumbered 350.025 (1) (e) and
7 amended to read:

8 350.025 (1) (e) ~~Between~~ In excess of 10 miles per hour if the person is operating
9 the snowmobile between the hours of 10:30 p.m. and 7 a.m. ~~when~~ and within 150 feet
10 of a dwelling at a rate of speed exceeding 10 miles per hour.

11 **SECTION 9.** 350.10 (1) (i) of the statutes is renumbered 350.025 (1) (f) and
12 amended to read:

13 350.025 (1) (f) ~~On~~ In excess of 10 miles per hour if the person is operating the
14 snowmobile on the frozen surface of public waters within 100 feet of a person not in
15 or upon a vehicle or within 100 feet of a fishing shanty ~~unless operated at a speed of~~
16 ~~10 miles per hour or less.~~

17 **SECTION 10.** 350.1025 of the statutes is amended to read:

18 **350.1025 Application of intoxicated snowmobiling law.** Except as
19 provided in this section, the intoxicated snowmobiling law is and the prohibition
20 under s. 350.11 (3) (bg) are applicable to all property, whether the property is publicly
21 or privately owned and whether or not a fee is charged for the use of that property.
22 The intoxicated snowmobiling law ~~does~~ and the prohibition under s. 350.11 (3) (bg)
23 do not apply to the operation of a snowmobile on private land not designated as a
24 snowmobile trail unless an accident involving personal injury occurs as the result of

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1 the operation of a snowmobile and the snowmobile was operated on the private land
2 without the consent of the owner of that land.

3 **SECTION 11.** 350.11 (3) (a) 1. of the statutes is amended to read:

4 350.11 (3) (a) 1. Except as provided under subds. 2. and 3., a person who violates
5 s. 350.101 (1) (a) or (b) or ~~s.~~ 350.104 (5) shall forfeit not less than \$400 nor more than
6 \$550 and shall have his or her privilege to operate a snowmobile revoked for one year.

7 **SECTION 12.** 350.11 (3) (a) 2. of the statutes is amended to read:

8 350.11 (3) (a) 2. Except as provided under subd. 3., a person who violates s.
9 350.101 (1) (a) or (b) or 350.104 (5) and who, within 5 years prior to the arrest for the
10 current violation, was convicted previously under the intoxicated snowmobiling law
11 or the refusal law shall be fined not less than \$300 nor more than \$1,000 ~~and~~, shall
12 be imprisoned for not less than 5 days nor more than 6 months and shall have his or
13 her privilege to operate a snowmobile revoked for 2 years.

14 **SECTION 13.** 350.11 (3) (a) 3. of the statutes is amended to read:

15 350.11 (3) (a) 3. A person who violates s. 350.101 (1) (a) or (b) or 350.104 (5) and
16 who, within 5 years prior to the arrest for the current violation, was convicted 2 or
17 more times previously under the intoxicated snowmobiling law or refusal law shall
18 be fined not less than \$600 nor more than \$2,000 ~~and~~, shall be imprisoned for not less
19 than 30 days nor more than one year in the county jail and shall have his or her
20 privilege to operate a snowmobile revoked for 3 years.

21 **SECTION 14.** 350.11 (3) (a) 4. of the statutes is amended to read:

22 350.11 (3) (a) 4. A person who violates s. 350.101 (1) (c) ~~or 350.104 (5)~~ and who
23 has not attained the age of 19 shall forfeit not more than \$50.

24 **SECTION 15.** 350.11 (3) (a) 5. of the statutes is created to read:

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1 350.11 (3) (a) 5. A person who violates s. 350.104 (5) and who has not attained
2 the age of 19 shall forfeit not more than \$50 and shall have his or her privilege to
3 operate a snowmobile revoked for one year.

4 **SECTION 16.** 350.11 (3) (b) of the statutes is amended to read:

5 350.11 (3) (b) *Penalties related to failure to stop; and for causing injury while*
6 *under the influence of intoxicants.* A person who violates s. 350.101 (2) ~~or 350.17 (2)~~
7 shall be fined not less than \$300 nor more than \$2,000 ~~and may~~ shall be imprisoned
8 for not less than 30 days nor more than one year in the county jail and shall have his
9 or her privilege to operate a snowmobile revoked for 2 years.

10 **SECTION 17.** 350.11 (3) (bg) of the statutes is created to read:

11 350.11 (3) (bg) *Operation during revocation.* No person whose operating
12 privilege has been revoked under par. (a) or (b) may operate a snowmobile during the
13 period of revocation. Any person who violates this paragraph shall be fined not more
14 than \$2,500 and imprisoned for not more than one year in the county jail.

15 **SECTION 18.** 350.11 (3) (bm) of the statutes is amended to read:

16 350.11 (3) (bm) *Sentence of detention.* The legislature intends that courts use
17 the sentencing option under s. 973.03 (4) whenever appropriate for persons subject
18 to par. (a) 2. or 3. or (b) or sub. (3m). The use of this option can result in significant
19 cost savings for the state and local governments.

20 **SECTION 19.** 350.11 (3m) of the statutes is created to read:

21 350.11 (3m) Any person who violates s. 350.17 (2) shall be fined not less than
22 \$300 nor more than \$2,000 and imprisoned for not less than 30 days nor more than
23 one year in the county jail.

24 **SECTION 20.** 350.11 (5) of the statutes is created to read:

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1 350.11 (5) In addition to any penalty imposed under sub. (3), the court may
2 order the defendant to perform community service work administered by a public
3 agency or a nonprofit charitable organization approved by the court.

4 **SECTION 21.** 350.113 of the statutes is created to read:

5 **350.113 Seizure and confiscation of snowmobiles. (1)** INTOXICATED
6 SNOWMOBILING. A law enforcement officer shall seize a snowmobile, and the
7 department shall hold the snowmobile, subject to the order of the circuit court for the
8 county in which the alleged violation was committed, if the law enforcement officer
9 has probable cause to believe that the snowmobile is being used to commit a violation
10 for which a penalty may be imposed under s. 350.11 (3) (a) 3. If it is proven that
11 within 6 months previous to the seizure the snowmobile was used in such a violation,
12 the court in its order for judgment shall direct that the snowmobile be confiscated.

13 **(2) REFUSAL TO STOP.** A law enforcement officer may seize a snowmobile, and
14 the department shall hold any such snowmobile, subject to the order of the circuit
15 court for the county in which the alleged violation was committed, if the law
16 enforcement officer has probable cause to believe that the snowmobile is being used
17 to commit a violation of s. 350.17 (2). If it is proven that within 6 months previous
18 to the seizure the snowmobile was used in such a violation, the court in its order for
19 judgment may direct that the snowmobile be confiscated.

20 **(3) DISPOSAL.** In disposing of a snowmobile confiscated under this section, the
21 department shall follow the requirements for confiscated motor vehicles under s.
22 29.934 (1).

23 **SECTION 22.** 350.12 (3) (a) (intro.) of the statutes is amended to read:

24 350.12 **(3)** (a) (intro.) Except as provided under subs. (2) and (5) (cm), no person
25 may operate and no owner may give permission for the operation of any snowmobile

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1 within this state unless the snowmobile is registered for public use or private use
2 under this paragraph or s. 350.122 or as an antique under par. (b) and has the
3 registration decals displayed as required under sub. (5) or s. 350.122 or unless the
4 snowmobile has a reflectorized plate attached as required under par. (c) 3. A
5 snowmobile that is not registered as an antique under par. (b) may be registered for
6 public use. A snowmobile that is not registered as an antique under par. (b) and that
7 is used exclusively on private property, as defined under s. 23.33 (1) (n), may be
8 registered for private use. A snowmobile public-use registration certificate is valid
9 for 2 years beginning the July 1 prior to the date of application if registration is made
10 prior to April 1 and beginning the July 1 subsequent to the date of application if
11 registration is made after April 1 and ending on June 30, 2 years thereafter. A
12 snowmobile private-use registration certificate is valid from the date of issuance
13 until ownership of the snowmobile is transferred. The fee for the issuance or renewal
14 of a public-use registration certificate is ~~\$20~~ \$50, except that the fee is \$5 if it is a
15 snowmobile owned and operated by a political subdivision of this state. There is no
16 fee for the issuance of a private-use registration certificate or for the issuance of a
17 registration certificate to the state.

SECTION 23. Appropriation changes.

18 (1) SNOWMOBILE LAW ENFORCEMENT AND SAFETY. In the schedule under section
19 20.005 (3) of the statutes for the appropriation to the department of natural
20 resources under section 20.370 (3) (aq) of the statutes, as affected by the acts of 1999,
21 the dollar amount is increased by \$1,200,000 for fiscal year 2000-01 to increase the
22 authorized FTE positions for the department by 10.0 SEG conservation warden
23 positions and to increase funding for the purposes for which the appropriation is
24 made.
25

