

CHAPTER 350

SNOWMOBILES

350.01	Definitions.	350.108	Public education program.
350.02	Operation of snowmobiles on or in the vicinity of highways.	350.11	Penalties.
350.03	Right-of-way.	350.115	Snowmobile registration restitution surcharge.
350.035	Meeting of snowmobiles.	350.12	Registration of snowmobiles; trail use stickers.
350.04	Snowmobile races, derbies and routes.	350.122	Lac du Flambeau registration program.
350.045	Public utility exemption.	350.125	Completion of application for registration by snowmobile dealers.
350.047	Local ordinance to be filed.	350.13	Uniform trail signs and standards.
350.05	Operation by youthful operators restricted.	350.135	Interferences with uniform trail signs and standards prohibited.
350.055	Safety certification program established.	350.137	Uniform snowmobile rail crossing standards.
350.07	Driving animals.	350.138	Snowmobile rail crossings requiring permits.
350.08	Owner permitting operation.	350.139	Established snowmobile rail crossings.
350.09	Head lamps, tail lamps and brakes, etc.	350.1395	Snowmobile rail crossings; closing and removal; review of rail authorities; insurance rules.
350.10	Miscellaneous provisions for snowmobile operation.	350.14	Duties of snowmobile recreational council.
350.101	Intoxicated snowmobiling.	350.145	Recommendations of the snowmobile recreational council.
350.102	Preliminary breath screening test.	350.15	Accidents and accident reports.
350.1025	Application of intoxicated snowmobiling law.	350.155	Coroners and medical examiners to report; require blood specimen.
350.103	Implied consent.	350.17	Enforcement.
350.104	Chemical tests.	350.18	Local ordinances.
350.106	Report arrest to department.	350.19	Liability of landowners.
350.107	Officer's action after arrest for operating a snowmobile while under influence of intoxicant.	350.99	Parties to a violation.

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).

(6) “Headlamp” has the meaning designated in s. 340.01 (21).

(6m) “Headlamp barrier” means a fence, natural growth, difference in elevation or other means of restricting the view that users of an adjacent roadway have of headlamps 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).

(8m) “Immediate family” means persons who are related as spouses, as siblings or as parent and child.

(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.

(9e) “Land under the management and control of the person’s immediate family” means land owned or leased by the person or a member of the person’s immediate family and over which the owner or lessee has management and control. This term excludes land owned or leased by an organization of which the person or a member of the person’s immediate family is a member.

(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.

(10t) “Registration documentation” means a snowmobile registration certificate, a validated registration receipt, or a registration decal.

(10v) “Restricted controlled substance” means any of the following:

(a) A controlled substance included in schedule I under ch. 961 other than a tetrahydrocannabinol.

(b) A controlled substance analog, as defined in s. 961.01 (4m), of a controlled substance described in par. (a).

- (c) Cocaine or any of its metabolites.
- (d) Methamphetamine.
- (e) Delta-9-tetrahydrocannabinol.

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

(11m) “Sanctioned race or derby” means a competitive snowmobile event sponsored by a county, town, city or village, by a promoter, by a chamber of commerce or by a snowmobile club or other similar organization.

(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).

(22) “Validated registration receipt” means a receipt issued by the department or an agent under s. 350.12 (3h) (ag) 1. a. that shows that an application and the required fee for a registration certificate has been submitted to the department.

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; 1997 a. 34, 35, 248, 267; 1999 a. 9; 2001 a. 16, 56; 2003 a. 97.

Cross Reference: See also s. NR 6.03, Wis. adm. code.

Operation under sub. (9r) does not include the act of sitting on a parked snowmobile with its engine off. *Burg v. Cincinnati Casualty Insurance Co.* 2002 WI 76, 254 Wis. 2d 36, 645 N.W.2d 880.

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.

(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.

(2m) No person may operate a snowmobile on or adjacent to a roadway in excess of the applicable roadway speed limit established under s. 346.57 or 349.11 unless the person is operating the snowmobile as part of a special event authorized under s. 350.04.

(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.

(3m) A law enforcement officer may operate a snowmobile on a highway in performance of his or her official duties if the snowmobile is equipped with a light that is red or blue or a combination thereof and that is flashing, oscillating, or rotating.

(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; 1999 a. 9; 2003 a. 166.

350.03 Right-of-way. (1) 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.

(2) Subsection (1) does not apply to any of the following:

(a) The operator of a snowmobile on a privately owned raceway facility.

(b) The operator of a snowmobile in a sanctioned race or derby on public land, a highway or a snowmobile trail if the sponsor of the sanctioned race or derby marks the race or derby route or track

to warn spectators from entering the route or track. In this paragraph, “public land” does not include the frozen surface of public waters.

History: 1971 c. 277; 1991 a. 316; 1997 a. 267.

350.035 Meeting of snowmobiles. Operators of snowmobiles proceeding in opposite directions shall proceed with caution and pass each other to the right.

History: 2003 a. 166.

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.
Cross Reference: See also s. NR 6.09, Wis. adm. code.

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) **PERSONS UNDER 12.** 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) **PERSONS AGED 12 AND OLDER; SNOWMOBILE SAFETY CERTIFICATES AND PROGRAM.** (a) No person who is at least 12 years of age and who is born on or after January 1, 1985, may operate a snowmobile unless he or she holds a valid snowmobile safety certificate.

(b) Any person who is required to hold a snowmobile safety certificate while operating a snowmobile shall carry the certificate on the snowmobile and shall display the certificate 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 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, “accompany” means to be on the same snowmobile as the operator.

History: 1971 c. 277; 1973 c. 298; 1977 c. 402; 1991 a. 316; 1999 a. 9.

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. For each person who is under the age of 16 years, the program shall include 6 hours of classroom instruction, and the instructor may provide to the person up to 2 additional hours of instruction on a snowmobile as to how it is actually operated. Each person satisfactorily completing this program shall receive a snowmobile safety certificate from the department. The department shall establish by rule an instruction fee for this program. An instructor conducting a program of instruction under this section shall collect the instruction fee from each person who receives instruction. The department may determine the portion of this fee, which may not exceed 50%, that the instructor may retain to defray expenses incurred by the instructor in conducting the program. The instructor shall remit the remainder of the fee or, if nothing is retained, the entire fee to the department. A person who is required to hold a valid snowmobile safety certificate may operate a snowmobile in this state if the person holds a valid snowmobile safety certificate issued by another state or province of the Dominion of Canada and 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; 1999 a. 9; 2003 a. 253.

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 opera-

tor, and shall be so attached when the snowmobile is being operated.

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

Cross Reference: See also s. NR 6.01, Wis. adm. code.

Operation does not include the act of sitting on a parked snowmobile with its engine off. A person was not negligent per se for failing to have the head and tail lamps illuminated on a snowmobile that was not running at the time of an accident. *Burg v. Cincinnati Casualty Insurance Co.* 2002 WI 76, 254 Wis. 2d 36, 645 N.W.2d 880.

350.10 Miscellaneous provisions for snowmobile operation. (1) No person shall operate a snowmobile in the following manner:

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

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

(c) Without complying with all stop signs, yield signs or other regulatory signs established by rule under s. 350.13 that are located along snowmobile routes, snowmobile trails or other established snowmobile corridors that are open to the public.

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

(e) Without a functioning muffler.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

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

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

(m) On Indian lands without the consent of the tribal governing body or Indian owner. For purposes of this paragraph, "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.

(2) Subsection (1) (c) does not apply to a person operating a snowmobile on land under the management and control of the person's immediate family.

History: 1971 c. 219, 277; 1981 c. 79 s. 17; 1983 a. 459; 1987 a. 399; 1997 a. 34.

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 0.08 or more.

(bm) *Operating with a restricted controlled substance.* No person may engage in the operation of a snowmobile with a detectable amount of a restricted controlled substance in his or her blood.

(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 0.08.

(d) *Related charges.* A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a), (b), or (bm) for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a), (b), or (bm), the offenses shall be joined. If the person is found guilty of any combination of par. (a), (b), or (bm) 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), (b), and (bm) each require proof of a fact for conviction which the others do not require.

(e) *Defenses.* In an action under par. (bm) that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(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 0.08 or more may cause injury to another person by the operation of a snowmobile.

(bm) *Causing injury while operating a snowmobile with a detectable amount of a restricted controlled substance.* No person who has a detectable amount of a restricted controlled substance in his or her blood 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 any combination of par. (a), (b), or (bm) for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a), (b), or (bm) in the complaint, the crimes shall be joined under s. 971.12. If the person is found guilty of any combination of par. (a), (b), or (bm) 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), (b), and (bm) each require proof of a fact for conviction which the others do not require.

(d) *Defenses.* 1. 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 0.08 or more or a detectable amount of a restricted controlled substance in his or her blood.

2. In an action under par. (bm) that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine

or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

History: 1987 a. 399; 1989 a. 275; 1995 a. 436; 2003 a. 30, 97, 326.

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 or a detectable amount of a restricted controlled substance in his or her blood. 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); 2003 a. 97.

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 under s. 350.12 or 350.122.

History: 1987 a. 399; 1997 a. 27.

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

(b) Except as provided in subs. (2g), (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.

(2g) Any person who violates s. 350.12 (3j) shall forfeit not more than \$1,000.

(2m) Any person who violates s. 350.135 (1) is guilty of a Class H felony 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), (b), or (bm) 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), (b), or (bm) 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), (b), or (bm) 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; 1997 a. 27, 283; 2001 a. 109; 2003 a. 97.

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

350.115 Snowmobile registration restitution surcharge. (1) LEVY OF SNOWMOBILE REGISTRATION RESTITUTION SURCHARGE.

(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 surcharge under ch. 814 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 surcharge 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 surcharge under this section. If the deposit is forfeited, the amount of the snowmobile registration restitution surcharge shall be transmitted to the secretary of administration under par. (d). If the deposit is returned, the snowmobile registration restitution surcharge shall also be returned.

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

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

History: 1991 a. 39; 1995 a. 201; 2003 a. 33, 139, 326.

350.12 Registration of snowmobiles; trail use stickers. (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 s. 350.122 or as an antique under par. (b) and has the registration decals displayed as required under sub. (5) or s. 350.122 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 on the July 1 prior to the date of application if registration is made prior to April 1 and beginning on 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 \$30, except that 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 by this state or by another state, province, or country, 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 or an agent appointed under sub. (3h) (a) 3. 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 \$90. 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 \$30 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).

(cm) Subsection (3h) does not apply to commercial snowmobile certificates, reflectorized plates, or registration certificates issued for antique snowmobiles under par. (b).

(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 or an agent appointed under sub. (3h) (a) 3. shall issue to the applicant an original registration certificate stating the registration number, the name and address of the owner, and other information the department deems necessary or a validated registration receipt. The department or an agent appointed under sub. (3h) (a) 3. 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 registration certificate, registration decal, commercial snowmobile certificate, 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 or an agent appointed under sub. (3h) (a) 3. 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.

(3h) REGISTRATION; PROCEDURES. (a) *Issuers.* For the issuance of original or duplicate registration documentation and for the transfer or renewal of registration documentation, the department may do any of the following:

1. Directly issue, transfer, or renew the registration documentation with or without using the expedited services specified in par. (ag) 1.

3. Appoint persons who are not employees of the department as agents of the department to issue, transfer, or renew the registration documentation using either or both of the expedited services specified in par. (ag) 1.

(ag) *Registration; methods of issuance.* 1. For the issuance of original or duplicate registration documentation and for the transfer or renewal of registration documentation, the department may implement either or both of the following expedited procedures to be provided by the department and any agents appointed under par. (a) 3.:

a. A noncomputerized procedure under which the department or agent may accept applications for registration certificates and issue a validated registration receipt at the time the applicant submits the application accompanied by the required fees.

b. A computerized procedure under which the department or agent may accept applications for registration documentation and issue to each applicant all or some of the items of the registration documentation at the time the applicant submits the application accompanied by the required fees.

2. Under either procedure under subd. 1., the applicant shall receive any remaining items of registration documentation directly from the department at a later date. The items of registration documentation issued at the time of the submittal of the application under either procedure shall be sufficient to allow the

snowmobile for which the application is submitted to be operated in compliance with the registration requirements under this section.

(ar) *Fees.* 1. In addition to the applicable fee under sub. (3) (a), each agent appointed under par. (a) 3. shall collect an expedited service fee of \$3 each time the agent issues a validated registration receipt under par. (ag) 1. a. The agent shall retain the entire amount of each expedited service fee the agent collects.

2. In addition to the applicable fee under sub. (3) (a), the department or the agent appointed under par. (a) 3. shall collect an expedited service fee of \$3 each time the expedited service under par. (ag) 1. b. is provided. The agent shall remit to the department \$1 of each expedited service fee the agent collects.

(g) *Receipt of fees.* All fees remitted to or collected by the department under par. (ar) shall be credited to the appropriation account under s. 20.370 (9) (hu).

(h) *Rules.* The department may promulgate rules to establish eligibility and other criteria for the appointment of agents under par. (a) 3. and to regulate the activities of these agents.

(3j) TRAIL USE STICKERS. (a) 1. In this paragraph, “public snowmobile corridor” means a snowmobile trail or other established snowmobile corridor that is open to the public but does not include a snowmobile route.

2. Except as provided in par. (d), no person who is the owner of a snowmobile may operate, or give permission for another person to operate, a snowmobile on a public snowmobile corridor in this state unless a trail use sticker issued under this subsection is displayed on the snowmobile.

(b) The fee for a trail use sticker issued for a snowmobile that is exempt from registration under sub. (2) (b) or (bn) is \$17.25. A trail use sticker issued for such a snowmobile may be issued only by the department and persons appointed by the department and expires on June 30 of each year.

(c) There is no fee for a trail use sticker issued for a snowmobile that is registered under s. 23.35 or 350.122. The department or Indian tribe or band shall issue a trail use sticker for such a snowmobile when it issues the registration certificate for the snowmobile. The department shall provide Indian tribes or bands that register snowmobiles under s. 23.35 or 350.122 with a supply of trail use stickers.

(d) A snowmobile that is registered under this section or that is exempt from registration under sub. (2) (a) is exempt from having a trail use sticker displayed under par. (a).

(e) 1. The department may appoint any person who is not an employee of the department as the department’s agent to issue trail use stickers and collect the fees for these stickers.

2. Any person, including the department, who issues a trail use sticker shall collect in addition to the fee under par. (b) an issuing fee of 75 cents. The agent may retain 50 cents of the issuing fee to compensate the agent for the agent’s services in issuing the sticker.

3. The department shall establish by rule, procedures for issuing trail use stickers, and the department may promulgate rules regulating the activities of persons who are authorized to be agents under this paragraph.

(3m) SNOWMOBILE REGISTRATION AND TRAIL USE STICKER RECEIPTS. (a) *Deposited in the conservation fund.* All moneys that are collected under this section and that are not issuing fees retained by agents appointed by the department 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) (ak) and (aq), (5) (es) and (9) (mu) and (mw) 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) (ak) and (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.* Of the amounts appropriated under s. 20.370 (3) (ak) and (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) (cb), (cr), (cs), and (cw) 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 \$250 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 development 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.* 1. Of the moneys appropriated under s. 20.370 (5) (cs), the department shall make available in fiscal year 2001–02 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).

2. For fiscal year 2001–02, and for each fiscal year thereafter, the department shall calculate an amount equal to the number of trail use stickers issued under sub. (3j) in the previous fiscal year multiplied by \$15 and shall credit this amount to the appropriation account under s. 20.370 (5) (cw). From the appropriation account under s. 20.370 (5) (cw), the department shall make payments to the department or a county for the purposes specified in par. (b). The department shall make payments under par. (bm) for trail maintenance costs that were incurred in the previous fiscal year and that exceed the maximum specified under par. (b) 1. before making payments for any of 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 \$250 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) 1. Any moneys appropriated under s. 20.370 (1) (mq), (3) (aq) or (9) (mw) that lapse shall revert to the snowmobile account in the conservation fund.

2. If any moneys appropriated under s. 20.370 (9) (mu) lapse, a portion of those moneys shall revert to the snowmobile account in the conservation fund. The department shall calculate that portion by multiplying the total amount lapsing from the appropriation by the same percentage the department used for the fiscal year

to determine the amount to be expended under the appropriation for snowmobile registration.

Cross Reference: See also ch. NR 50, Wis. adm. code.

(5) **REGISTRATION DECALS AND TRAIL USE STICKERS 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. The owner of the snowmobile shall attach the trail use sticker to the snowmobile in the manner promulgated by rule by the department.

(b) The registration certificate or, for an owner who purchased a snowmobile and who has received a validated registration receipt but who has not yet received the registration certificate, the validated registration receipt shall be in the possession of the person operating the snowmobile at all times.

(c) The registration certificate or, for an owner who purchased a snowmobile and who has received a validated registration receipt but who has not yet received the registration certificate, the validated registration receipt shall be exhibited, upon demand, by the operator 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 a validated registration receipt and if the operator 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 renewal application. The owner shall sign the renewal application and return or present the application and the proper fee to the department or present the application and fee to an agent appointed under sub. (3h) (a) 3.

(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; 1997 a. 27, 237; 1999 a. 9; 2001 a. 16; 2003 a. 166, 321.

Cross Reference: See also ss. NR 6.11, 6.12, and 19.01, Wis. adm. code.

350.122 Lac du Flambeau registration program.

(1) **DEFINITIONS.** In this section:

(a) "Band" means the Lac du Flambeau band of Lake Superior Chippewa.

(b) "Reservation" means the territory within the boundaries of the Lac du Flambeau reservation that were in existence on April 10, 1996.

(2) **AUTHORIZATION FOR ISSUANCE.** The band may issue registration certificates for public use or private use for snowmobiles that are equivalent to the registration certificates for public use or private use that are issued by the department. The band may not register snowmobiles as antiques and may not issue registration certificates to political subdivisions of this state. The band may renew and transfer a registration certificate that it or the department has issued. The band may issue duplicates of only those registration certificates that it issues under this section.

(3) REQUIREMENTS FOR ISSUANCE; FEES; PERIODS OF VALIDITY.

(a) For issuing or renewing any registration certificate under this section, the band shall collect the same fee that would be collected for the equivalent registration certificate under s. 350.12 (3) (a). For transferring a registration certificate under this section, the band shall collect the same fee that would be collected for the transfer under s. 350.12 (3) (a) 3. For issuing a duplicate registration certificate under this section, the band shall collect the same fee that would be collected for the duplicate under s. 350.12 (3) (e).

(b) The band may not issue, renew or otherwise process registration certificates under this section in conjunction with discount coupons or as part of a promotion or other merchandising offer.

(c) For a registration certificate issued, transferred or renewed under this section, the period of validity shall be the same as it would be for the equivalent registration certificate under s. 350.12 (3) (a).

(d) The band may issue, renew or otherwise process registration certificates under this section only to persons who appear in person on the reservation.

(4) REQUIREMENTS FOR REGISTRATION: PROCEDURES, APPLICATIONS AND DECALS. (a) The band shall use registration applications and certificates that are substantially similar to those under s. 350.12 with regard to length, legibility and information content.

(b) The band shall use registration decals that are substantially similar to those under s. 350.12 with regard to color, size, legibility, information content, and placement on the snowmobile.

(c) The band shall use a sequential numbering system that includes a series of letters or initials that identify the band as the issuing authority.

(d) The band shall establish procedures that are substantially similar to the procedures specified in s. 350.12 (3) (a) 2., 3. and 4., (5) (d) and (6) and to the procedures to be used for validating applications for purposes of s. 350.12 (5) (b) and (c).

(5) REGISTRATION INFORMATION; RECORDS; TAX COLLECTION.

(a) The band shall provide registration information to the state in one of the following ways:

1. By transmitting all additions, changes or deletions of registration information to persons identified in the agreement described under sub. (6), for incorporation into the registration records of this state, within one working day after the addition, change or deletion.

2. By establishing a 24-hour per day data retrieval system, consisting of either a law enforcement agency with 24-hour per day staffing or a computerized data retrieval system to which law enforcement officials of this state have access at all times.

(b) Before June 1 annually, the band shall submit a report to the department notifying it of the number of each type of registration certificate that the band issued, transferred or renewed for the period beginning on April 1 of the previous year and ending on March 31 of the year in which the report is submitted.

(c) For law enforcement purposes, the band shall make available for inspection by the department during normal business hours the band's records of all registration certificates issued, renewed or otherwise processed, including copies of all applications made for certificates.

(d) The band shall ensure that a record of each registration certificate issued, renewed or otherwise processed under this section, including a copy of each application made, is retained for at least 2 years after the date of expiration of the certificate.

(e) The band shall collect the sales and use taxes due under s. 77.61 (1) on any snowmobile registered under this section and make the report in respect to those taxes. The band shall use collection and accounting methods approved by the department of revenue. On or before the 15th day of each month, the band shall pay to the department of revenue all taxes that the band collected in the previous month.

(6) APPLICABILITY. This section does not apply unless the department and the band have in effect a written agreement under which the band agrees to comply with subs. (2) to (5) and that contains all of the following terms:

(a) The manner in which the band will limit its treaty-based right to fish outside the reservation.

(b) A requirement that the fees collected by the band under sub. (3) be used only for a program for registering snowmobiles, for regulating snowmobiles and snowmobiling and for providing snowmobile trails, and snowmobile facilities.

History: 1997 a. 27.

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 an original registration certificate, collect the required fee, and do one of the following:

1. Mail the application and fee to the department no later than 5 days after the date of sale and furnish the buyer with a validated registration receipt.

2. Use the expedited service under s. 350.12 (3h) (ag) as an agent of the department.

(ag) The department shall provide combination application and receipt forms to be used by the dealer.

(am) The validated registration receipt shall be in the possession of the person operating the snowmobile until the registration certificate is received.

(ar) No snowmobile dealer may charge an additional fee to the buyer for performing the service required under this subsection unless the dealer uses the expedited service specified in s. 350.12 (3h) (ag). No snowmobile dealer may perform this service for a registration under s. 350.122.

(b) When a snowmobile dealer sells a snowmobile to a person from another state who wishes to register the snowmobile in his or her home state or to a person who wishes to register the snowmobile under s. 350.122, the dealer shall, at the time of sale, complete an application for a registration certificate and indicate on the application that the snowmobile is to be registered in another state or under s. 350.122 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; 1997 a. 27; 2001 a. 16.

Cross Reference: See also s. NR 19.01, Wis. adm. code.

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 warn-

ing, 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 each rail authority, as defined in s. 350.138 (1) (b), in this state, that has furnished the department with the information required under s. 350.138 (2m), an established snowmobile association that represents snowmobile clubs, as defined in s. 350.138 (1) (e), in this state, and the office of the commissioner of railroads, 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 an approaching train from the position of a snowmobile operator who is stopped on the approach to the proposed crossing.

(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.

History: 1993 a. 120; 2001 a. 14.

Cross Reference: See also ss. NR 6.40, 6.41, 6.42, 6.43, 6.44, 6.45, and 6.46, Wis. adm. code.

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 highway or street unless the person is a snowmobile organization and has a permit issued under this section. No person may maintain a snowmobile rail crossing that is not located on a railroad crossing of a highway or street unless the person is a snowmobile organization and either the person has a permit issued 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.

(2m) DESIGNATION OF AGENTS. Each rail authority with rail lines in this state shall furnish the department with the name and address of an agent who is authorized on behalf of the rail authority to receive copies of snowmobile crossing permit applications filed with the department. A rail authority that has rail lines in this

state on September 1, 2001, shall furnish this information to the department within 30 days of September 1, 2001.

(3) PROCEDURES FOR 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 shall, upon receipt of an application submitted under sub. (2), send a copy of the application to the agent designated under sub. (2m) for the applicable rail authority and shall, immediately thereafter, send notice to the applicant that a copy of the application was sent to the designated agent. The notice to the applicant must include the name and address of the designated agent to whom the department sent a copy of the application. 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. (a) Except as provided under par. (d), the department shall approve an application submitted under sub. (2) within 90 days after sending a copy of the application to the rail authority’s designated agent under sub. (3) if the department determines that all of the following conditions have been met:

1. Within 30 days after the date on which the department sent a copy of the application to the applicable rail authority, the applicant provided to the applicable rail authority a written offer to discuss the advisability and feasibility of the proposed rail crossing.

2. The applicant furnished the department with a copy of the written offer provided to the applicable rail authority under subd. 1.

3. The rail authority did not file an objection with the department to the application within 60 days after receiving notice under sub. (3) or did not object, within that period, to a modification of the application as agreed to by the rail authority and the applicant.

4. The application complies with the rules promulgated under s. 350.137.

(b) The department shall hold a hearing on the application if the conditions under par. (a) 1., 2., and 4. are met, if the rail authority files with the department an objection to the application within 60 days after receiving notice under sub. (3), and if the objection contains all of the following:

1. A statement that, after discussing the advisability and feasibility of the proposed rail crossing with the applicant in good faith, the rail authority opposes the application.

2. A statement of the basis for the rail authority’s objection.

(c) The department shall give notice of any hearing scheduled under par. (b) to the applicant, to the applicable rail authority, and to the office of the commissioner of railroads. The hearing shall be a contested case hearing under ch. 227. The department’s order issuing or denying a permit is a final order subject to judicial review under ch. 227.

(d) The department shall issue a permit to the applicant after a hearing under par. (b), and after giving substantial weight to the testimony or report given under s. 195.03 (30), if the department finds that the proposed snowmobile crossing is advisable and feasible. In making its finding, the department shall consider, but not be limited to, all of the following factors:

1. Whether the proposed snowmobile rail crossing could pose a substantial danger to public safety.

2. Whether a snowmobile rail crossing that is located near the proposed snowmobile rail crossing provides an adequate crossing for snowmobiles.

3. Whether the proposed snowmobile rail crossing would have a substantial adverse effect on railroad operations.

4. Whether the proposed snowmobile rail crossing conforms with the requirements of the rules promulgated under s. 350.137.

(e) If the department issues a permit to an applicant under this section, the rail authority shall construct that portion of the snowmobile rail crossing that is on the track and that portion that extends outward 4 feet from each outer rail.

(5) CHARGES. (a) The department may charge an initial application fee not to exceed \$150 for the costs of reviewing a permit application under sub. (4). If the department charges the fee, the applicant must include the fee with the permit application.

(b) Except as provided under par. (c), if the department issues a permit to an applicant under this section, the applicant shall pay the rail authority \$1,500 within 30 days after the date on which the permit is issued, to compensate the rail authority for the cost of constructing the snowmobile rail crossing and to pay for the use of the snowmobile rail crossing by snowmobile operators.

(c) Biennially, beginning on January 1, 2004, the department shall adjust the fee under par. (b) by a percentage that is equal to the percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, for the 24-month period ending on December 31 of the previous calendar year.

(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, maintenance, existence, or use of a snowmobile rail crossing for which a permit is issued under this section, except that the department may not require the snowmobile organization to maintain in effect liability insurance to indemnify the applicable rail authority for injuries sustained by a person engaged in a recreational activity, if the rail authority would be immune from liability for those injuries under s. 895.52. 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 \$2,000,000 for each snowmobile organization. The snowmobile organization shall designate the applicable rail authority as a named insured on the policy. 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. Annually, beginning on December 1, 2001, each snowmobile organization that is required to maintain liability insurance under this subsection shall furnish proof of that insurance to the applicable rail authority and to the department.

(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) REVOCATION OF PERMITS. The department may revoke a permit that it issued 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 department shall revoke a permit that it issued if 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 subsection shall begin on the first December 15 following the date of the issuance of the permit.

(9) INSPECTION AUTHORIZED. The department or the office of the commissioner of railroads may inspect the site of a proposed snowmobile rail crossing or the site of a snowmobile rail crossing for which a permit has been issued to determine whether there are grounds to refuse to issue a permit under sub. (4) or to revoke a permit under sub. (8).

History: 1993 a. 120; 2001 a. 14.

Cross Reference: See also ss. NR 6.40, 6.41, 6.42, 6.43, 6.44, 6.45, and 6.46, Wis. adm. code.

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, or maintained by a snowmobile organization for use 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, unless otherwise agreed upon by the rail authority and a snowmobile organization.

(4) USE AND MAINTENANCE REQUIREMENTS. The department shall require a snowmobile organization that uses or maintains any part of an established snowmobile rail crossing to do all of the following:

(a) Maintain that portion of the established snowmobile rail crossing that is outside of the portion of the snowmobile rail crossing that extends outward 4 feet from each outer rail.

(b) Maintain in effect liability insurance to indemnify the applicable rail authority for damages resulting from the design, construction, maintenance, existence, or use of the established snowmobile rail crossing, except that the department shall not require the snowmobile organization to maintain in effect liability insurance to indemnify the applicable rail authority for injuries sustained by a person engaged in a recreational activity, if the rail authority would be immune from liability for those injuries under s. 895.52. 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 \$2,000,000 for each snowmobile organization. The snowmobile organization shall designate the applicable rail authority as a named insured on the policy. 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. Annually, beginning on December 1, 2001, each snowmobile organization that is required to maintain liability insurance under this paragraph shall furnish proof of that insurance to the applicable rail authority and to the department.

(5) INSPECTION AUTHORIZED. The department or the office of the commissioner of railroads 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; 2001 a. 14.

Cross Reference: See also ss. NR 6.40, 6.41, 6.42, 6.43, 6.44, 6.45, and 6.46, Wis. adm. code.

350.1395 Snowmobile rail crossings; closing and removal; review of rail authorities; insurance rules.

(1) DEFINITIONS. In this section:

(a) “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) A rail authority may close or remove a snowmobile rail crossing if it enters into a written agreement with a snowmobile organization that holds a permit under s. 350.138 or that maintains an established snowmobile rail crossing under s. 350.139 under which the snowmobile organization agrees to allow the rail authority to close or remove the snowmobile rail crossing. Each rail authority that enters into a written agreement with a snowmobile organization under this paragraph to close or remove a snowmobile rail crossing shall notify the department of the agreement and that the snowmobile rail crossing has been closed or removed.

(b) 1. A rail authority may petition the department to authorize the rail authority to close or remove a snowmobile rail crossing. The rail authority may file a petition under this subdivision without requesting or obtaining a written agreement from the snowmobile organization to close or remove the snowmobile rail crossing.

2. The department shall hold a hearing on a petition filed under subd. 1. after giving notice of the hearing to the rail authority, the snowmobile organization, and the office of the commissioner of railroads. The hearing shall be a contested case hearing under ch. 227. The department's order shall be a final order subject to judicial review under ch. 227.

3. The department shall grant a rail authority's petition under subd. 2. to close or remove a snowmobile rail crossing if, after a hearing under subd. 2., and after giving substantial weight to the office of the commissioner of railroads' testimony or report given under s. 195.03 (30) (b), the department finds that any of the following applies:

a. The snowmobile rail crossing has not been maintained for use for at least 5 winters in the 10 years preceding the year in which the petition was filed.

b. The snowmobile rail crossing poses a substantial danger to public safety.

c. Another snowmobile rail crossing is located near the snowmobile rail crossing that is the subject of the petition and the other snowmobile rail crossing provides a crossing for snowmobiles that is adequate and accessible.

d. The snowmobile rail crossing has a substantial adverse effect on the operations of the rail authority.

(3) REVIEW OF ACTIONS OF RAIL AUTHORITY. A snowmobile organization may request the department to review any failure of a rail authority, and a rail authority may request the department to review any failure of a snowmobile organization, to comply with s. 350.138 or 350.139, this section, or rules promulgated under these sections or s. 350.137. The department shall decide the matter after notice and a contested case hearing. If the department finds that the rail authority or snowmobile organization failed to comply with s. 350.138 or 350.139, this section, or rules promulgated under these sections or s. 350.137, the department shall issue an order directing the rail authority or snowmobile organization to take appropriate action in order to comply with that 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) The department may not promulgate a rule under this subsection without first consulting with each rail authority in this state that has furnished the department with the information required under s. 350.138 (2m), an established snowmobile association that represents snowmobile clubs, as defined in s. 350.138 (1) (e), in this state, and the office of the commissioner of railroads.

History: 1993 a. 120; 2001 a. 14, 104.

Cross Reference: See also ss. NR 6.40, 6.41, 6.42, 6.43, 6.44, 6.45, and 6.46, Wis. adm. code.

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 practicable 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.

(6) **EXCEPTION.** This section does not apply to snowmobile accidents that occur during a sanctioned race or derby.

History: 1971 c. 277; 1983 a. 27; 1987 a. 403; 1989 a. 31; 1991 a. 316; 2003 a. 166.

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.