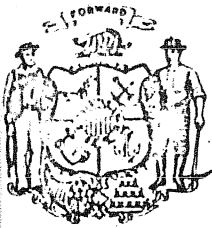


The State of Wisconsin
Department of Justice
Madison
53702



CHARLES A. BLECK
ASSISTANT ATTORNEY GENERAL
608 266-3934

December 21, 1973

ROBERT W. WARREN
ATTORNEY GENERAL

DAVID C. MEBANE
DEPUTY ATTORNEY GENERAL

Mr. G. T. Landsness
Chief Maintenance Engineer
Division of Highways
Department of Transportation
101 Hill Farms State Office Bldg.
1802 Sheboygan Avenue
Madison, Wisconsin 53702

Dear Mr. Landsness:

We understand that parts of State Trunk Highway 51 have been designated a freeway pursuant to sec. 84.295, Stats. As yet, very little of this highway has been built to meet the physical standards of freeways, with crossroads separated in grade from the freeway itself. Section 350.02 (1), Stats., reads:

"Snowmobiles shall not be operated upon any part of any freeway including freeways which are a part of the federal system of interstate and defense highways."

This statute provides that snowmobiles may not be operated upon any part of any freeway. From a first reading of these statutes, it would seem that the broad words "any freeway" would include a "designated" freeway even prior to the time it is built to freeway standards. If this were correct, snowmobiles could not be operated upon such a designated freeway.

There are certain results which occur immediately upon the designation of a freeway. For example, sec. 84.295 (3), Stats., provides that where a freeway is designated:

" . . . Except as otherwise provided by this section, all provisions of law relative to the acquisition or dedication by subdivision plat or otherwise, of land and interests in land for highway purposes, and relative to surveys, plans, establishing, laying out, widening, enlarging, extending, constructing, improving, maintaining and financing of state trunk highways shall apply to the segments designated freeways or expressways pursuant to this section. . . ."

| MAINT. SECTION | | |
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Mr. G. T. Landsness
Page 2

Also sec. 84.295 (5), Stats., provides that where a state trunk highway is established in a new location and designated as a freeway:

" . . . no right of access to the highway shall accrue to or vest in any abutting property owner . . . "

However, there is no statute which specifies that the prohibition of snowmobiles upon freeways shall immediately become applicable upon the designation of a freeway.

Section 990.01, Stats., reads in part:

"In the construction of Wisconsin laws the words and phrases which follow shall be construed as indicated unless such construction would produce a result inconsistent with the manifest intent of the legislature:

" . . .

"(9a) FREEWAY. 'Freeway' means a highway with full control of access and with all crossroads separated in grade from the pavements for through traffic."

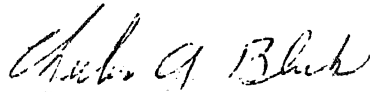
This statute defines freeway as a highway with all crossroads separated in grade from the freeway lanes. Since at the present time, Highway 51 does not have crossroads separated in grade, such highway is not a freeway as that term is defined in this statute.

I think the word "freeway" as used in sec. 350.02 (1), Stats., should be construed as defined in sec. 990.01 (9a), Stats. It does not appear that such construction would produce a result inconsistent with the manifest intention of the legislature. It seems to me that the intention of the legislature was to keep snowmobiles off of freeways because of the high speeds and heavy traffic which occur there. Similarly, sec. 346.16 (2), Stats., prohibits pedestrians, bicycles, and power driven cycles from using a freeway where signs have been erected. It is my understanding that such signs will not be placed on Highway 51 until it has been built to freeway standards. For the same reason, there is no need to prohibit snowmobiles on Highway 51 until it is built to freeway standards. It is the policy of the legislature to permit certain snowmobile operation on highways which are not freeways. Section 350.02 (2), Stats. I think this statute is applicable to Highway 51 in its present condition.

Mr. G. T. Landsness
Page 3

For these reasons, I conclude that the word "freeway" as used in sec. 350.02 (1), Stats., has the meaning as defined in sec. 990.01 (9a), Stats. The prohibition of snowmobiles on freeways applies only to such highways built to freeway standards. Obviously, snowmobiles would be prohibited on any parts of Highway 51 which are built to freeway standards.

Sincerely yours,



Charles A. Bleck
Assistant Attorney General

CAB/kh



State of Wisconsin \ DEPARTMENT OF TRANSPORTATION



DIVISION OF HIGHWAYS
District 4

P. O. BOX 887

1681 SECOND AVENUE SOUTH
WISCONSIN RAPIDS, WISCONSIN 54494

January 7, 1974

Mr. William C. Kempley, President
Marquette County Snowmobile Ass'n
Route 1, Box 98
Montello, Wisconsin 53949

Dear Mr. Kempley:

Subject: MAINTENANCE
Snowmobile Trails
U.S.H. 51
Marquette County

You will recall that last fall we held a meeting in the Marquette County Highway Commissioner's office with you and other members of the Marquette County Snowmobile Association. At that time, we informed the group of the Attorney-General's opinion regarding the operation of snowmobiles on freeways and that U.S.H. 51 in Marquette County was a designated freeway on which snowmobiles would be barred.

This opinion has now been reversed by Assistant Attorney-General, C. A. Bleck. We have attached copy of letter containing this reversed opinion. The opinion states "The prohibition of snowmobiles on freeways applies only to such highways built to freeway standards." U.S.H. 51 in Marquette County is not built to freeway standards, therefore, snowmobiles are allowed in accordance with the snowmobile laws.

We would, however, like to bring to your attention that construction or maintenance of snowmobile bridges or any other work on state trunk highway right of way requires a permit from the Division of Highways.

If you have any questions on these matters, please feel free to contact this office.

Sincerely,

D. L. CRONKRITE, District Engineer

By

District Chief Maintenance Engineer

CAD:plb

Attachment

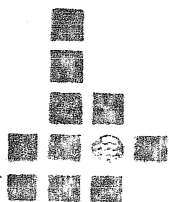
cc: Erwin Muehrer, Co. Hwy. Comm'r
G. T. Landsness
State Patrol Headquarters, Fond du Lac
Marquette County Sheriff Department

THE

~~ADDRESS:~~

~~DATE~~

[illegible]



EAST CENTRAL WISCONSIN

Regional Planning Commission

1919 NORTH LAKE STREET

NEENAH, WISCONSIN 54956

PHONE (414) 739-6156

October 30, 1974

Mr. William Kempley
Route 1
Montello, WI 53949

Dear Bill:

I enjoyed our discussion in regard to snowmobiling on the phone. Again I regret that I will be unable to attend the meeting of the Marquette County Snowmobile Association on November 11, but will plan on being at the December meeting.

As I mentioned on the phone, there are several items that are needed for the development of the Marquette County Snowmobile Plan before the actual discussion of exact trail location and priorities of development.

If you are able to send me the following information before the Association meeting in December, we can speed up the planning process and as a result make Marquette County eligible for the Snowmobile Aids Program sooner.

1. Names and locations of clubs within the County Association.
2. Map locating all private snowmobile trails (if the Association does not want this publicized, it will not be done).
3. Total miles of private club trails.
4. Number of club members in the County Association (only those who live in Marquette County).
5. Number of snowmobiles owned by club members in the County Association (again only those registered in Marquette County).

This information will be added to our current information to help determine demand and supply for Marquette County.

Mr. William Kempley

Page Two

October 30, 1974

If you have any questions or comments, please do not hesitate
to contact me.

Sincerely,

Tom
Thomas J. Wilson
Open Space Planner

JW:ag

c: Tom Brady

1973 SENATE BILL 598

May 24, 1973 - Introduced by Senators KRUEGER, KNOWLES and KEPPLER; cosponsored by Representative MITTNESS, by request of Snowmobile Recreational Council. Referred to Committee on Natural Resources.

Signed 6-15-74

1 AN ACT to amend 20.370 (2) (vn), 350.01 (19), 350.055 and 350.13;
2 and to repeal and recreate 350.12 (4) (b) of the statutes, relating
3 to allocation of snowmobile registration moneys for trail maintenance,
4 cooperative sign programs, signing of snowmobile routes,
5 snowmobile noise emission studies and departmental law enforcement.
6

7 Analysis by the Legislative Reference Bureau

8 This proposal expands the definition of "snowmobile trail" to
9 include those highways on which the roadway is not normally maintained
10 for other vehicular traffic by the removal of snow.

11 Of the \$2.50 which may be charged by the department of natural
12 resources for persons enrolling in a snowmobile safety certification
13 program, the department may authorize \$1 for instructors conducting
14 the courses to defray expenses incurred locally to operate the program.
15 The remaining \$1.50 must be used by the department to defray
16 some of the expense of operating the safety and accident reporting
17 program.

18 Various changes are made in allocating the moneys received
19 from snowmobile registrations including the following:

20 1. State aids for trail maintenance are increased to 75% of
21 the actual cost of maintaining the trail up to a maximum of \$50 per
22 mile per year.

23 2. Up to \$60,000 may be allocated for a cooperative sign program
24 with snowmobile clubs for trails open to the public and meeting
25 minimum trail construction standards.

26 3. Aids to municipalities up to 100% of the cost of initial
27 signing of snowmobile routes which connect authorized trails or
28 which offer entrance to or exit from trails leading to municipalities
29 may be made.

30 4. Up to \$25,000 for grants to public or nonprofit groups
31 approved by the department to study snowmobile noise emissions and

1 their effect on the ears of snowmobile users.

2 5. Up to \$130,000 annually to the department for law enforce-
3 ment.

4 For further information, see the appended fiscal note.
5

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

8 SECTION 1. 20.370 (2) (vn) of the statutes is amended to
9 read:

10 20.370 (2) (vn) (title) Snowmobile aids. The moneys allocated
11 under s. 350.12 (4) for ~~state aid to snowmobile trails and areas~~
12 aids under s. 23.09 (26) and s. 350.12 (4) (b).

13 SECTION 2. 350.01 (19) of the statutes is amended to read:

14 350.01 (19) "Snowmobile trail" means a marked route on public
15 property or on private lands subject to public easement or lease,
16 designated for use by snowmobile operators by the governmental
17 agency having jurisdiction, but excluding highways except those
18 highways on which the roadway is not normally maintained for other
19 vehicular traffic by the removal of snow.

20 SECTION 3. 350.055 of the statutes is amended to read:

21 350.055 SAFETY CERTIFICATION PROGRAM ESTABLISHED. The depart-
22 ment shall establish a program of instruction on snowmobile laws,
23 regulations, safety and related subjects. The program shall be con-
24 ducted by instructors certified by the department. The department
25 may procure liability insurance coverage for certified instructors
26 for work within the scope of their duties under this section. Per-
27 sons satisfactorily completing this program shall receive certifi-
28 cation from the department. The department may charge each person

1 who enrolls in the course an instruction fee of not to exceed \$2.50
2 for each person taking a program of instruction under this section.
3 From the fees collected under this section, \$20,000 shall be set
4 aside for the snowmobile safety and accident reporting program and
5 the balance shall be used for law enforcement aids under s. 350.12
6 (4) (a) 4. The department may authorize instructors conducting such
7 courses meeting standards established by it to retain \$1 of the fee
8 to defray expenses incurred locally to operate the program. The
9 remaining \$1.50 of the fee shall be retained by the department to
10 defray a part of its expenses incurred to operate the safety and
11 accident reporting program. A person over the age of 12 years but
12 under the age of 16 years who holds a valid certificate issued by
13 another state or province of the Dominion of Canada need not obtain
14 a certificate from the department if the course content of the pro-
15 gram in such other state or province substantially meets that estab-
16 lished by the department under this section.

7 SECTION 4. 350.12 (4) (b) of the statutes is repealed and
8 recreated to read:

9 350.12 (4) (b) From the sum available for a given year, two-
10 thirds shall be appropriated under s. 20.370 (2) (vn) for land
11 acquisition, development and maintenance, the cooperative snowmobile
12 sign program, signing of snowmobile routes, noise emission studies
13 and department law enforcement and allocated as follows:

14 1. State aids and funds for maintenance costs are limited to
15 75% of the actual cost of maintaining the trail per year up to a \$50
16 per mile per year maximum. Qualifying trails are those as are

1 approved by the board as snowmobile trails. State aid for the cost
2 of the leasing of land, the acquisition of easements and the pur-
3 chase of land may equal 100% of acquisition expense but the depart-
4 ment may require the county to furnish not more than 25% on a match-
5 ing basis. Development must be commenced the same year the land is
6 acquired. Moneys available for development shall be distributed on
7 a 100% grant basis, 75% at the time of approval but no later than
8 April 1 and 25% upon completion of the project. A county applica-
9 tion may include a request for aids for development, maintenance,
10 land acquisition or any one of those categories. Trail routes,
11 sizes and specifications shall be prescribed only by the board.

12 2. Not more than \$60,000 annually for a cooperative sign pro-
13 gram with snowmobile clubs for club snowmobile trails open to the
14 public and meeting minimum trail construction standards. Clubs may
15 apply to the department for free signs or aids for signs on forms
16 prescribed by the department and submit required documentation as
17 prescribed by departmental rule on or before October 1 of each year.

18 3. Aids to cities, villages or towns of up to 100% of the
19 cost of initial signing of snowmobile routes which connect author-
20 ized trails or which offer entrance to or exit from trails leading
21 to such municipalities. Applications and documentation shall be
22 submitted to the department by February 1 of each year on forms and
23 as prescribed by departmental rule.

24 4. Not more than \$25,000 annually for grants to study snow-
25 mobile noise emissions and their effects on the ears of snowmobile
26 users. The grants may be made to public or nonprofit groups

1 approved by the department under a matching fund or total grant
2 basis.

3 5. A sum of \$130,000 annually shall be allocated to the
4 department for law enforcement including enforcement of noise stan-
5 dards.

6 SECTION 5. 350.13 of the statutes is amended to read:

7 350.13 UNIFORM TRAIL SIGNS AND STANDARDS. The department of
8 natural resources in cooperation with the department of transporta-
9 tion, after having consulted with the snowmobile recreational coun-
10 cil and after public hearing, shall promulgate rules to establish
11 uniform trail and route signs and standards relating to operation
12 thereon as authorized by law. ~~The department of transportation~~
13 authority in charge of the maintenance of the highway shall place
14 ~~appropriate~~ signs of a type approved by the highway commission on
15 highways ~~and roadways~~ under its jurisdiction where authorized snow-
16 mobile trails cross.

17 (End)