



RIPARIAN WINTER WONDERLAND

CLIFFORD H. BLOOM, ESQ. | BLOOM SLUGGETT, PC GRAND RAPIDS, MICHIGAN WWW.BLOOMSLUGGETT.COM

Michigan has long been known as a winter wonderland. Michigan lakes are part of that heritage. Not surprisingly, there are a number of legal issues associated with the use of Michigan inland lakes during the winter. Those issues include the following:

1. SNOWMOBILES, SIDE-BY-SIDES, QUADS, ETC. ON THE ICE

Once someone operating a snowmobile, side-by-side, quad, or other vehicle obtains legal access onto the ice on a Michigan inland lake (hopefully, only when the ice is thick enough to be safe), the operator has the right to go anywhere on the ice notwithstanding the particular riparian ownership at the shore and uplands. Of course, such vehicles cannot access the frozen lake through a privately owned uplands or shoreline except under two different circumstances. First, if the recreational vehicle operator has the permission of the landowner where access occurs, lake ice access can occur. Second, if there is a platted public road, alley, park, or other way dedicated to the public that provides access to the lake, it can generally lawfully be used for recreational vehicles to access the lake ice. The same is true with regard to backlot owners in a plat where the access is dedicated to the lot owners within the plat.

2. ICE SHANTIES AND THE EQUIVALENT

The common law regarding ice shanties is similar to recreation vehicles. If someone lawfully accesses the ice on an inland lake during the winter, they can use an ice shanty

or the equivalent anywhere on the frozen lake. Fishing pursuant to an ice shanty is considered lawful “navigability” for a lake. Nevertheless, state regulations limit the use of ice shanties under MCL 324.46501 et seq. Among other matters, that statute requires the owner of an ice shanty to affix their name and address on the outside of the shanty in legible letters not less than 2 inches high, and remove the fishing shanty before ice conditions are unsafe for its removal (but in no event beyond midnight of March 31) of any year (and earlier in some areas). That statute also partially preempts the ability of local governmental units to adopt ordinances that are stricter than state law regarding ice shanties. However, a local government may remove an ice shanty that violates state law. A violation of the statute constitutes a criminal misdemeanor. Upon conviction, and in addition to a potential fine and/or imprisonment, the violator must reimburse whichever governmental unit removes the illegal ice shanty in an amount equal to three times the cost of such removal. Pursuant to MCL 750.115, it is also a criminal misdemeanor to unlawfully enter or damage a lawful ice shanty.


Anyone using an ice shanty should check with their insurance agent to make sure that they have adequate liability insurance to cover any accidents associated with the ice shanty, such as a recreational vehicle running into it, someone falling into the ice shanty hole and drowning, or a similar calamity. Winter conditions such as blowing snow, snow storms, or darkness at night can increase the likelihood of such an accident.

3. BUBBLERS OR SIMILAR ICE PREVENTION APPARATUS

The use of bubblers or other apparatus to prevent the formation of ice around docks, piers, or large boats during the winter is becoming increasingly common on inland lakes, although it is still not frequent. Unfortunately, such items can be problematic, not only from a safety standpoint, but from an environmental one as well. Please see the February 2000 issue of *The Michigan Riparian* magazine for an earlier article on bubblers.

4. REMOVING ITEMS FROM THE WATER DURING THE WINTER

From both an environmental and safety standpoint, it is best to remove all docks, piers, boats, swim rafts, and other items from the water before the winter ice comes. Obviously, without an ice deterrent system, those items would likely be damaged by the ice. Furthermore, removing items from the lake for the winter allows a lake to more efficiently regenerate and “recover.” As discussed above, bubblers and other ice deterrent systems can be dangerous and are likely not environmentally sound. Finally, docks, boat hoists, and other items left frozen in the ice can be a hazard to snowmobiles and other vehicles on the ice during the winter, as well as constitute a significant liability to the landowner. R




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