

HOUSE BILL No. 4124

January 28, 1997, Introduced by Rep. Whyman and referred to the Committee on Transportation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81133 (MCL 324.81133), as added by 1995 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81133. A person shall not operate an ORV:
2 (a) At a rate of speed greater than is reasonable and
3 proper, or in a careless manner having due regard for conditions
4 then existing.
5 (b) Unless the person and any passenger in or on the vehicle
6 is wearing on his or her head a crash helmet and protective eye-
7 wear approved by the United States department of transportation.
8 This subdivision does not apply if the vehicle is equipped with a
9 roof that meets or exceeds standards for a crash helmet and the
10 operator and each passenger is wearing a properly adjusted and

1 fastened safety belt. THIS SUBDIVISION DOES NOT APPLY IF THE
2 VEHICLE IS OPERATED ON PRIVATE PROPERTY BY THE OWNER OF THE PROP-
3 ERTY, A MEMBER OF THE OWNER'S FAMILY, OR ANOTHER PERSON WITH THE
4 PERMISSION OF THE OWNER.

5 (c) During the hours of 1/2 hour after sunset to 1/2 hour
6 before sunrise without displaying a lighted headlight and lighted
7 taillight.

8 (d) Unless equipped with a braking system that may be oper-
9 ated by hand or foot, capable of producing deceleration at 14
10 feet per second on level ground at a speed of 20 miles per hour;
11 a brake light, brighter than the taillight, visible when the
12 brake is activated to the rear of the vehicle when the vehicle is
13 operated during the hours of 1/2 hour after sunset and 1/2 hour
14 before sunrise; and a throttle so designed that when the pressure
15 used to advance the throttle is removed, the engine speed will
16 immediately and automatically return to idle.

17 (e) In a state game area or state park or recreation area,
18 except on roads, trails, or areas designated for this purpose; on
19 state owned lands under the control of the department other than
20 game areas, state parks, or recreational areas where the opera-
21 tion would be in violation of rules promulgated by the depart-
22 ment; in a forest nursery or planting area; on public lands
23 posted or reasonably identifiable as an area of forest reproduc-
24 tion, and when growing stock may be damaged; in a dedicated natu-
25 ral area of the department; or in any area in such a manner as to
26 create an erosive condition, or to injure, damage, or destroy
27 trees or growing crops. However, the department may permit an

1 owner and guests of the owner to use an ORV within the boundaries
2 of a state forest in order to access the owner's property.

3 (f) On the frozen surface of public waters within 100 feet
4 of a person not in or upon a vehicle, or within 100 feet of a
5 fishing shanty or shelter or an area that is cleared of snow for
6 skating purposes, except at the minimum speed required to main-
7 tain controlled forward movement of the vehicle, or as may be
8 authorized by permit in special events.

9 (g) Unless the vehicle is equipped with a spark arrester
10 type United States forest service approved muffler, in good work-
11 ing order and in constant operation. Exhaust noise emission
12 shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured
13 after January 1, 1986, when the vehicle is under full throttle,
14 traveling in second gear, and measured 50 feet at right angles
15 from the vehicle path with a sound level meter which meets the
16 requirement of ANSI S1.4 1983, using procedure and ancillary
17 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle
18 manufactured after January 1, 1986, or that level comparable to
19 the current sound level as provided for by the United States
20 environmental protection agency when tested according to the pro-
21 visions of the current SAE J1287, June 86 test procedure for
22 exhaust levels of stationary motorcycles, using sound level
23 meters and ancillary equipment therein described. A vehicle
24 subject to this part, manufactured or assembled after
25 December 31, 1972 and used, sold, or offered for sale in this
26 state, shall conform to the noise emission levels established by

1 the United States environmental protection agency under the noise
2 control act of 1972, Public Law 92-574, 86 Stat. 1234.

3 (h) Within 100 feet of a dwelling at a speed greater than
4 the minimum required to maintain controlled forward movement of
5 the vehicle, except on property owned or under the operator's
6 control or on which the operator is an invited guest, or on a
7 roadway, forest road, or forest trail maintained by or under the
8 jurisdiction of the department, or on an ORV access route as
9 authorized by local ordinance.

10 (i) In or upon the lands of another without the written con-
11 sent of the owner, owner's agent or lessee, when required by
12 part 731. The operator of the vehicle is liable for damage to
13 private property, including, but not limited to, damage to trees,
14 shrubs, growing crops, or injury to living creatures or damage
15 caused through vehicle operation in a manner so as to create ero-
16 sive or other ecological damage to private property. The owner
17 of the private property may recover from the person responsible
18 nominal damages of not less than the amount of damage or injury.
19 Failure to post private property or fence or otherwise enclose in
20 a manner to exclude intruders or of the private property owner or
21 other authorized person to personally communicate against tres-
22 pass does not imply consent to ORV use.

23 (j) In an area on which public hunting is permitted during
24 the the regular November firearm deer season from 7 a.m. to 11
25 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for
26 law enforcement purposes, to go to and from a permanent residence
27 or a hunting camp otherwise inaccessible by a conventional

1 wheeled vehicle, to remove a deer, elk, or bear from public land
2 which has been taken under a valid license; or except for the
3 conduct of necessary work functions involving land and timber
4 survey, communication and transmission line patrol, and timber
5 harvest operations; or on property owned or under control of the
6 operator or on which the operator is an invited guest. A hunter
7 removing game pursuant to this subdivision shall be allowed to
8 leave the designated trail or forest road only to retrieve the
9 game and shall not exceed 5 miles per hour. A vehicle registered
10 under the code is exempt from this subdivision while operating on
11 a public highway or public or private road capable of sustaining
12 automobile traffic. A person holding a valid permit to hunt from
13 a standing vehicle issued pursuant to part 401, or a handicapper
14 using an ORV to access public lands for purposes of hunting or
15 fishing through use of a designated trail or forest road, is
16 exempt from this subdivision.

17 (k) While transporting on the vehicle a bow unless unstrung
18 or encased, or a firearm unless unloaded and securely encased, or
19 equipped with and made inoperative by a manufactured keylocked
20 trigger housing mechanism.

21 (l) On or across a cemetery or burial ground, or land used
22 as an airport.

23 (m) Within 100 feet of a slide, ski, or skating area, unless
24 the vehicle is being used for the purpose of servicing the area.

25 (n) On an operating or nonabandoned railroad or railroad
26 right-of-way, or public utility right-of-way, other than for the
27 purpose of crossing at a clearly established site intended for

1 vehicular traffic, except railroad, public utility, or law
2 enforcement personnel while in performance of their duties, and
3 except if the right-of-way is designated as established in sec-
4 tion 81127.

5 (o) In or upon the waters of any stream, river, bog, wet-
6 land, swamp, marsh, or quagmire except over a bridge, culvert, or
7 similar structure.

8 (p) To hunt, pursue, worry, kill, or attempt to hunt,
9 pursue, worry, or kill a bird or animal, wild or domesticated.

10 (q) In a manner so as to leave behind litter or other
11 debris.

12 (r) In a manner contrary to operating regulations on public
13 lands.

14 (s) While transporting or possessing, in or on the vehicle,
15 alcoholic liquor in a container that is open or uncapped or upon
16 which the seal is broken, except under either of the following
17 circumstances:

18 (i) The container is in a trunk or compartment separate from
19 the passenger compartment of the vehicle.

20 (ii) If the vehicle does not have a trunk or compartment
21 separate from the passenger compartment, the container is encased
22 or enclosed.

23 (t) While transporting any passenger in or upon an ORV
24 unless the manufacturing standards for the vehicle make provi-
25 sions for transporting passengers.

26 (u) On adjacent private land, in an area zoned residential,
27 within 300 feet of a dwelling at a speed greater than the minimum

1 required to maintain controlled forward movement of the vehicle
2 except on a roadway, forest road, or forest trail maintained by
3 or under the jurisdiction of the department, or on an ORV access
4 route as authorized by local ordinance.