

**SUBSTITUTE FOR  
HOUSE BILL NO. 4180**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 81133 (MCL 324.81133), as amended by 1998 PA  
86.

**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

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1 operator and each passenger is wearing a properly adjusted and  
2 fastened safety belt.

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

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

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

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Sub. HB 4180 (H-2) as amended May 29, 2002

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1 PERSON 65 YEARS OF AGE OR OVER [, A VETERAN OF THE UNITED STATES ARMED  
FORCES OR THE MILITARY ESTABLISHMENT OF THIS STATE,] OR A PERSON WITH A  
DISABILITY MAY

2 OPERATE AN ORV ON A NONDESIGNATED TRAIL, FOREST ROAD, OR COUNTY

3 ROAD FOR THE SOLE PURPOSE OF ACCESSING A DESIGNATED ORV TRAIL,

4 ROUTE, OR AREA. AS USED IN THIS SUBDIVISION, "PERSON WITH A

5 DISABILITY" MEANS A PERSON WHO POSSESSES 1 OF THE FOLLOWING

6 ITEMS:

7 (i) A COMPLETED DEPARTMENT AFFIDAVIT SIGNED BY A LICENSED

8 PHYSICIAN.

9 (ii) A DEPARTMENT ISSUED PERMIT TO HUNT FROM A STANDING

10 VEHICLE.

11 (iii) A SPECIAL REGISTRATION PLATE, CERTIFICATE OF IDENTIFI-

12 CATION, OR WINDSHIELD PLACARD ISSUED BY THE DEPARTMENT OF STATE

13 FOR A PERSON WITH A DISABILITY.

14 (f) On the frozen surface of public waters within 100 feet

15 of a person not in or upon a vehicle, or within 100 feet of a

16 fishing shanty or shelter or an area that is cleared of snow for

17 skating purposes, except at the minimum speed required to main-

18 tain controlled forward movement of the vehicle, or as may be

19 authorized by permit in special events.

20 (g) Unless the vehicle is equipped with a spark arrester

21 type United States forest service approved muffler, in good work-

22 ing order and in constant operation. Exhaust noise emission

23 shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured

24 after January 1, 1986, when the vehicle is under full throttle,

25 traveling in second gear, and measured 50 feet at right angles

26 from the vehicle path with a sound level meter which meets the

27 requirement of ANSI S1.4 1983, using procedure and ancillary

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1 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle  
2 manufactured after January 1, 1986, or that level comparable to  
3 the current sound level as provided for by the United States  
4 environmental protection agency when tested according to the pro-  
5 visions of the current SAE J1287, ~~June 86~~ JULY 98 test proce-  
6 dure for exhaust levels of stationary motorcycles, using sound  
7 level meters and ancillary equipment therein described. A vehi-  
8 cle subject to this part, manufactured or assembled after  
9 December 31, 1972 and used, sold, or offered for sale in this  
10 state, shall conform to the noise emission levels established by  
11 the United States environmental protection agency under the noise  
12 control act of 1972, Public Law 92-574, 86 Stat. 1234.

13 (h) Within 100 feet of a dwelling at a speed greater than  
14 the minimum required to maintain controlled forward movement of  
15 the vehicle, except on property owned or under the operator's  
16 control or on which the operator is an invited guest, or on a  
17 roadway, forest road, or forest trail maintained by or under the  
18 jurisdiction of the department, or on an ORV access route as  
19 authorized by local ordinance.

20 (i) In or upon the lands of another without the written con-  
21 sent of the owner, owner's agent or lessee, when required by  
22 part 731. The operator of the vehicle is liable for damage to  
23 private property, including, but not limited to, damage to trees,  
24 shrubs, growing crops, or injury to living creatures or damage  
25 caused through vehicle operation in a manner so as to create ero-  
26 sive or other ecological damage to private property. The owner  
27 of the private property may recover from the person responsible

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1 nominal damages of not less than the amount of damage or injury.  
2 Failure to post private property or fence or otherwise enclose in  
3 a manner to exclude intruders or of the private property owner or  
4 other authorized person to personally communicate against tres-  
5 pass does not imply consent to ORV use.

6 (j) In an area on which public hunting is permitted during  
7 the regular November firearm deer season from 7 a.m. to 11  
8 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for  
9 law enforcement purposes, to go to and from a permanent residence  
10 or a hunting camp otherwise inaccessible by a conventional  
11 wheeled vehicle, to remove a deer, elk, or bear from public land  
12 which has been taken under a valid license; or except for the  
13 conduct of necessary work functions involving land and timber  
14 survey, communication and transmission line patrol, and timber  
15 harvest operations; or on property owned or under control of the  
16 operator or on which the operator is an invited guest. A hunter  
17 removing game pursuant to this subdivision shall be allowed to  
18 leave the designated trail or forest road only to retrieve the  
19 game and shall not exceed 5 miles per hour. A vehicle registered  
20 under the code is exempt from this subdivision while operating on  
21 a public highway or public or private road capable of sustaining  
22 automobile traffic. A person holding a valid permit to hunt from  
23 a standing vehicle issued pursuant to part 401, or a person with  
24 disabilities using an ORV to access public lands for purposes of  
25 hunting or fishing through use of a designated trail or forest  
26 road, is exempt from this subdivision.

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1 (k) While transporting on the vehicle a bow unless unstrung  
2 or encased, or a firearm unless unloaded and securely encased, or  
3 equipped with and made inoperative by a manufactured keylocked  
4 trigger housing mechanism.

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

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

9 (n) On an operating or nonabandoned railroad or railroad  
10 right-of-way, or public utility right-of-way, other than for the  
11 purpose of crossing at a clearly established site intended for  
12 vehicular traffic, except railroad, public utility, or law  
13 enforcement personnel while in performance of their duties, and  
14 except if the right-of-way is designated as established in sec-  
15 tion 81127.

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

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

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

23 (r) In a manner contrary to operating regulations on public  
24 lands.

25 (s) While transporting or possessing, in or on the vehicle,  
26 alcoholic liquor in a container that is open or uncapped or upon

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1 which the seal is broken, except under either of the following  
2 circumstances:

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

5       (ii) If the vehicle does not have a trunk or compartment  
6 separate from the passenger compartment, the container is encased  
7 or enclosed.

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

11       (u) On adjacent private land, in an area zoned residential,  
12 within 300 feet of a dwelling at a speed greater than the minimum  
13 required to maintain controlled forward movement of the vehicle  
14 except on a roadway, forest road, or forest trail maintained by  
15 or under the jurisdiction of the department, or on an ORV access  
16 route as authorized by local ordinance.