

SENATE BILL No. 847

October 26, 2005, Introduced by Senators JELINEK, KUIPERS, GOSCHKA, VAN WOERKOM and ALLEN and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81129 (MCL 324.81129), as amended by 2003 PA
111.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 81129. (1) Subject to subsections (2), (3), ~~and~~ (17),
2 **AND (18)**, a parent or legal guardian of a child less than 16 years
3 of age shall not permit the child to operate an ORV unless the
4 child is under the direct visual supervision of an adult and the
5 child has in his or her immediate possession an ORV safety
6 certificate issued pursuant to this part or a comparable ORV safety
7 certificate issued under the authority of another state or a
8 province of Canada.
- 9 (2) A parent or legal guardian of a child less than 12 years

1 of age shall not permit the child to operate a 4-wheeled ATV,
2 unless the child is not less than 10 years of age and, **SUBJECT TO**
3 **SUBSECTION (18)**, is on private land owned by a parent or legal
4 guardian of the child. This subsection does not apply to the
5 operation of an ATV used in agricultural operations.

6 (3) A parent or legal guardian of a child less than 16 years
7 of age shall not permit the child to operate a 3-wheeled ATV.

8 (4) Subject to subsections (5), (6), ~~and~~ (17), **AND (18)**, the
9 owner or person in charge of an ORV shall not knowingly permit the
10 vehicle to be operated by a child less than 16 years of age unless
11 the child is under the direct visual supervision of an adult and
12 the child has in his or her immediate possession an ORV safety
13 certificate issued pursuant to this part or a comparable ORV safety
14 certificate issued under the authority of another state or a
15 province of Canada.

16 (5) ~~The~~ **SUBJECT TO SUBSECTION (18)**, **THE** owner or person in
17 charge of a 4-wheeled ATV shall not knowingly permit the vehicle to
18 be operated by a child less than 12 years of age, unless the child
19 is not less than 10 years of age and is on private land owned by a
20 parent or legal guardian of the child. This subsection does not
21 apply to the operation of an ATV used in agricultural operations.

22 (6) The owner or person in charge of a 3-wheeled ATV shall not
23 knowingly permit the vehicle to be operated by a child less than 16
24 years of age.

25 (7) The owner or person in charge of an ORV shall not
26 knowingly permit the vehicle to be operated by a person who is
27 incompetent to operate the vehicle because of mental or physical

1 disability except as provided in section 81131.

2 (8) The department shall implement a comprehensive ORV
3 information, safety education, and training program that shall
4 include the training of operators and the preparation and
5 dissemination of information and safety advice to the public. The
6 program shall provide for the training of youthful operators and
7 for the issuance of ORV safety certificates to those who
8 successfully complete the training provided under the program and
9 may include separate instruction for each type of ORV.

10 (9) In implementing a program that is established pursuant to
11 this section, the department shall cooperate with private
12 organizations and associations, private and public corporations,
13 the department of education, the department of state, and local
14 governmental units. The department shall consult with ORV and
15 environmental organizations and associations in regard to the
16 subject matter of a training program and performance testing that
17 leads to certification of ORV operators.

18 (10) The department may designate a person it considers
19 qualified to provide course instruction and to award ORV safety
20 certificates.

21 (11) The department may promulgate rules to implement
22 subsections (8) to (10) **AND (18)**.

23 (12) Subject to subsections (13), (14), ~~and~~ (17), **AND (18)**,
24 a child who is less than 16 years of age may operate an ORV if the
25 child is under the direct visual supervision of an adult and the
26 child has in his or her immediate possession an ORV safety
27 certificate issued pursuant to this section or a comparable ORV

1 safety certificate issued under the authority of another state or a
2 province of Canada.

3 (13) ~~A~~ **SUBJECT TO SUBSECTION (18), A** child who is less than
4 12 years of age shall not operate a 4-wheeled ATV, unless the child
5 is not less than 10 years of age and is on private land owned by a
6 parent or legal guardian of the child. This subsection does not
7 apply to the operation of an ATV used in agricultural operations.

8 (14) A child who is less than 16 years of age shall not
9 operate a 3-wheeled ATV.

10 (15) ~~When~~ **SUBJECT TO SUBSECTION (18), WHEN** operating an ORV
11 under subsection (12), a child shall present the ORV safety
12 certificate to a peace officer upon demand.

13 (16) Notwithstanding any other provision of this section, an
14 operator who is less than 12 years of age shall not cross a highway
15 or street. An operator who is not less than 12 years of age but
16 less than 16 years of age may cross a highway or street or operate
17 on the right-of-way or shoulder of designated access routes
18 pursuant to section 81131 if the operator has a valid ORV safety
19 certificate in his or her immediate possession and meets any other
20 requirements under this section for operation of the vehicle.

21 (17) The requirement of possession or presentation of an ORV
22 safety certificate under this section does not apply until
23 implementation of the program for the vehicle proposed to be
24 operated required by subsection (8).

25 **(18) A REQUIREMENT OF THIS SECTION THAT A CHILD BE UNDER THE**
26 **DIRECT VISUAL SUPERVISION OF AN ADULT, POSSESS AN ORV SAFETY**
27 **CERTIFICATE, OR OPERATE AN ORV ON PRIVATE LAND OWNED BY A PARENT OR**

1 GUARDIAN DOES NOT APPLY IF ALL OF THE FOLLOWING REQUIREMENTS ARE
2 MET:

3 (A) THE CHILD IS PARTICIPATING IN AN ORGANIZED ORV RIDING OR
4 RACING EVENT HELD ON LAND NOT OWNED BY THIS STATE.

5 (B) THE CHILD'S PARENT OR LEGAL GUARDIAN HAS PROVIDED THE
6 EVENT ORGANIZER WITH WRITTEN PERMISSION FOR THE CHILD TO
7 PARTICIPATE IN THE EVENT.

8 (C) THE EVENT ORGANIZER HAS NOT LESS THAN \$500,000.00
9 LIABILITY INSURANCE COVERAGE FOR THE EVENT.

10 (D) A PHYSICIAN OR PHYSICIAN'S ASSISTANT LICENSED OR OTHERWISE
11 AUTHORIZED UNDER PART 170 OR 175 OF THE PUBLIC HEALTH CODE, 1978 PA
12 368, MCL 333.17001 TO 333.17084 AND 333.17501 TO 333.17556, OR A
13 PARAMEDIC OR EMERGENCY MEDICAL TECHNICIAN LICENSED UNDER PART 209
14 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20901 TO 333.20979,
15 IS PRESENT AT THE SITE OF THE EVENT OR AVAILABLE ON CALL.

16 (E) THE EVENT IS AT ALL TIMES UNDER THE SUPERVISION OF ADULT
17 STAFF OF THE EVENT ORGANIZER AND A STAFF MEMBER SERVES AS A FLAGGER
18 TO WARN ORV RIDERS IF ANOTHER ORV RIDER IS INJURED OR AN ORV IS
19 INOPERABLE IN THE ORV OPERATING AREA.

20 (F) FENCING OR ANOTHER MEANS OF CROWD CONTROL IS USED TO KEEP
21 SPECTATORS OUT OF THE ORV OPERATING AREA.

22 (G) IF THE EVENT IS ON A CLOSED COURSE, DUST IS CONTROLLED IN
23 THE ORV OPERATING AREA AND THE RIDING SURFACE IN THE ORV OPERATING
24 AREA IS OTHERWISE PROPERLY PREPARED.

25 (H) ANY ATVS USED BY PARTICIPANTS ARE EQUIPPED WITH A SIDE
26 STEP BAR OR COMPARABLE SAFETY EQUIPMENT AND WITH A TETHER KILL
27 SWITCH, AND THE TETHER IS USED BY ALL PARTICIPANTS.

1 (I) EACH PARTICIPANT IN THE EVENT WEARS A CRASH HELMET
2 APPROVED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION, A
3 PROTECTIVE LONG-SLEEVED SHIRT OR JACKET, LONG PANTS, BOOTS, AND
4 PROTECTIVE GLOVES.

5 (J) ANY OTHER APPLICABLE REQUIREMENTS OF THIS PART OR RULES
6 PROMULGATED UNDER THIS PART ARE MET.