

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 50

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 81101, 81115, 81122, 81129, 81133, and 81147
(MCL 324.81101, 324.81115, 324.81122, 324.81129, 324.81133, and
324.81147), section 81101 as amended by 2012 PA 246, sections
81115, 81129, and 81147 as amended by 2008 PA 240, section 81122 as
added by 1995 PA 58, and section 81133 as amended by 2012 PA 340;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 81101. As used in this part:
- 2 (a) "ATV" means a ~~3-, 4-, or 6-wheeled~~ vehicle **WITH 3 OR MORE**
- 3 **WHEELS THAT IS** designed for off-road use, ~~that~~ has low-pressure
- 4 tires, has a seat designed to be straddled by the rider, and is

1 powered by a 50cc to 1,000cc gasoline engine or an engine of
2 comparable size using other fuels.

3 (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
4 257.1 to 257.923.

5 (C) "COUNTY ROAD" MEANS A COUNTY PRIMARY ROAD OR COUNTY LOCAL
6 ROAD AS DESCRIBED IN SECTION 5 OF 1951 PA 51, MCL 247.655, OR A
7 SEGMENT THEREOF.

8 (D) ~~(e)~~ "Dealer" means a person engaged in the sale, lease, or
9 rental of an ORV as a regular business or, for purposes of selling
10 licenses under section 81116, any other person authorized by the
11 department to sell licenses or permits, or both, under this act.

12 (E) ~~(d)~~ "Designated", unless the context implies otherwise,
13 means posted **BY THE DEPARTMENT, WITH APPROPRIATE SIGNS, AS** open for
14 ORV use. ~~with appropriate signs by the department.~~

15 (F) ~~(e)~~ "Farm vehicle" means either of the following:

16 (i) An implement of husbandry as ~~that term is~~ defined in
17 section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

18 (ii) A vehicle used in connection with a farm operation as ~~that~~
19 ~~term is~~ defined in section 2 of the Michigan right to farm act,
20 1981 PA 93, MCL 286.472.

21 (G) ~~(f)~~ "Forest road" means a hard surfaced road, gravel or
22 dirt road, or other route capable of travel by a 2-wheel drive, 4-
23 wheel conventional vehicle designed for ~~highway use, except an~~
24 ~~interstate, state, or county highway.~~ **ROAD USE. FOREST ROAD DOES NOT**
25 **INCLUDE A STREET, COUNTY ROAD, OR HIGHWAY.**

26 (H) ~~(g)~~ "Forest trail" means a designated path or way capable
27 of travel only by a vehicle less than 50 inches in width.

(I) ~~(h)~~ "Highway" means ~~the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.~~ **A STATE TRUNK LINE HIGHWAY OR A SEGMENT OF A STATE TRUNK LINE HIGHWAY.**

(J) ~~(i)~~ "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(K) ~~(j)~~ "Late model ORV" means an ORV manufactured in the current model year or the 5 model years immediately preceding the current model year.

(L) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, TOWNSHIP, OR MUNICIPALITY.

(M) "MAINTAINED PORTION" MEANS THE ROADWAY AND ANY SHOULDER OF A STREET, COUNTY ROAD, OR HIGHWAY.

(N) ~~(k)~~ "Manufacturer" means a person, partnership, corporation, or association engaged in the production and manufacture of ORVs as a regular business.

(O) "MUNICIPALITY" MEANS A CITY OR VILLAGE.

(P) ~~(l)~~ "Off-road vehicle account" means the off-road vehicle account of the Michigan conservation and recreation legacy fund established in section 2015.

(Q) ~~(m)~~ "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.

(R) ~~(n)~~ "Operator" means ~~a person~~ **AN INDIVIDUAL** who operates or is in actual physical control of the operation of an ORV.

(S) ~~(o)~~ "ORV" or, **UNLESS THE CONTEXT IMPLIES A DIFFERENT MEANING,** "vehicle" means a motor-driven off-road recreation vehicle

capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ~~ORV or vehicle includes, but is not limited to, a~~ **A** multitrack or multiwheel drive vehicle, ~~an ATV, a motorcycle or related 2-wheel~~ **VEHICLE, A 3-wheel, 4-wheel, or 6-wheel vehicle WITH 3 OR MORE WHEELS**, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation ~~deriving motive power from a source other than muscle or wind.~~ **MAY BE AN ORV. AN ATV IS AN ORV.** ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

(T) ~~(p)~~ "Owner" means any of the following:

(i) A vendee or lessee of an ORV that is the subject of an agreement for the conditional sale or lease of the ORV, with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee.

(ii) A person renting an ORV, or having the exclusive use of an ORV, for more than 30 days.

(iii) A person who holds legal ownership of an ORV.

(U) ~~(q)~~ "Person with a disability" means ~~a person~~ **AN INDIVIDUAL** who has 1 or more of the following physical

1 characteristics:

2 (i) Blindness.

3 (ii) Inability, **DURING SOME TIME OF THE YEAR**, to ambulate more
4 than 200 feet without having to stop and rest. ~~during any time of~~
5 ~~the year.~~

6 (iii) Loss of use of 1 or both legs or feet.

7 (iv) Inability to ambulate without the prolonged use of a
8 wheelchair, walker, crutches, braces, or other device required to
9 aid mobility.

10 (v) A lung disease from which the ~~person's~~ **INDIVIDUAL'S**
11 expiratory volume for 1 second, when measured by spirometry, is
12 less than 1 liter, or from which the ~~person's~~ **INDIVIDUAL'S** arterial
13 oxygen tension is less than 60 mm/hg of room air at rest.

14 (vi) A cardiovascular disease ~~from which the person measures~~
15 **THAT CAUSES THE INDIVIDUAL TO MEASURE** between 3 and 4 on the New
16 York heart classification scale, or ~~from which~~ **THAT RESULTS IN** a
17 marked limitation of physical activity ~~causes~~ **BY CAUSING** fatigue,
18 palpitation, dyspnea, or anginal pain.

19 (vii) Other diagnosed disease or disorder including, but not
20 limited to, severe arthritis or a neurological or orthopedic
21 impairment that creates a severe mobility limitation.

22 (V) ~~(r)~~ "Personal information" means information that
23 identifies an individual, including an individual's driver
24 identification number, name, address not including zip code, and
25 telephone number, but does not include information on ORV operation
26 or equipment-related violations or civil infractions, operator or
27 vehicle registration status, accidents, or other behaviorally-

1 related information.

2 (W) ~~(s)~~ "Public agency" means the department or a local or
3 federal unit of government.

4 ~~(t) "Roadway" means that portion of a highway improved,~~
5 ~~designated, or ordinarily used for vehicular travel. If a highway~~
6 ~~includes 2 or more separate roadways, the term roadway refers to a~~
7 ~~roadway separately, but not to all roadways collectively.~~

8 (X) "ROADWAY" MEANS THE PORTION OF A STREET, COUNTY ROAD, OR
9 HIGHWAY IMPROVED, DESIGNED, OR ORDINARILY USED FOR TRAVEL BY
10 VEHICLES REGISTERED UNDER THE CODE. ROADWAY DOES NOT INCLUDE THE
11 SHOULDER.

12 (Y) ~~(u)~~ "Route" means a forest road or other road that is
13 designated for purposes of this part by the department.

14 (Z) ~~(v)~~ "Safety chief instructor" means ~~a person~~ **AN INDIVIDUAL**
15 who has been certified by a nationally recognized ~~ATV and ORV~~
16 organization to certify instructors and to do on-sight evaluations
17 of instructors.

18 (AA) "SHOULDER" MEANS THAT PORTION OF A STREET, COUNTY ROAD,
19 OR HIGHWAY CONTIGUOUS TO THE ROADWAY AND GENERALLY EXTENDING THE
20 CONTOUR OF THE ROADWAY, NOT DESIGNED FOR VEHICULAR TRAVEL BUT
21 MAINTAINED FOR THE TEMPORARY ACCOMMODATION OF DISABLED OR STOPPED
22 MOTOR VEHICLES OTHERWISE PERMITTED ON THE ROADWAY.

23 (BB) "SOUTHERN COUNTY" MEANS MUSKEGON, KENT, IONIA, CLINTON,
24 SHIAWASSEE, GENESEE, LAPEER, OR MACOMB COUNTY, OR A COUNTY LYING
25 SOUTH OF THE TERRITORY CONSTITUTED BY THESE COUNTIES.

26 (CC) "STREET" MEANS A CITY OR VILLAGE MAJOR STREET OR CITY OR
27 VILLAGE LOCAL STREET AS DESCRIBED IN SECTION 9 OF 1951 PA 51, MCL

1 247.659, OR A SEGMENT THEREOF.

2 (DD) "TRAFFIC LANE" MEANS A CLEARLY MARKED LANE ON A ROADWAY.

3 (EE) "UNMAINTAINED PORTION" MEANS THE PORTION OF A STREET,
4 COUNTY ROAD, OR HIGHWAY THAT IS NOT THE MAINTAINED PORTION.

5 (FF) ~~(w)~~ "Visual supervision" means the direct observation of
6 the operator with the unaided or normally corrected eye, where the
7 observer is able to come to the immediate aid of the operator.

8 Sec. 81115. (1) ~~A~~ **SUBJECT TO SUBSECTION (2),** A person shall
9 not operate an ORV under any of the following conditions unless the
10 ORV is licensed with the department or a dealer as provided under
11 this part:

12 (a) Except as otherwise provided by law, on or over land,
13 snow, ice, or other natural terrain.

14 (b) Except as otherwise provided in this part, on a forest
15 trail or in a designated area.

16 (c) ~~Except as otherwise provided in section 81102, on the~~
17 ~~maintained portion of a road or street.~~ **ON A STREET, COUNTY ROAD, OR**
18 **HIGHWAY, EXCEPT IF THE VEHICLE IS REGISTERED UNDER THE CODE.**

19 (2) ~~Licensure~~ **AN ORV is not required for an** **TO BE LICENSED**
20 **UNDER THIS PART UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:**

21 (A) ~~THE ORV IS used exclusively in a safety and training~~
22 ~~program~~ **COMPREHENSIVE PROGRAM FOR TRAINING** as required in section
23 81129.

24 (B) **THE ORV IS OPERATED SOLELY ON PRIVATE PROPERTY BY THE**
25 **OWNER OF THE PROPERTY, A FAMILY MEMBER OF THE OWNER, OR AN INVITED**
26 **GUEST OF THE OWNER.**

27 (C) **THE ORV IS BEING OPERATED ON A FREE ORV-RIDING DAY. THE**

1 DEPARTMENT SHALL DESIGNATE AS FREE ORV-RIDING DAYS EACH YEAR A
 2 SATURDAY AND THE FOLLOWING SUNDAY THAT ARE ALSO DESIGNATED AS FREE
 3 FISHING DAYS UNDER SECTION 43534. IN ADDITION, THE DEPARTMENT MAY
 4 DESIGNATE 1 OTHER DAY OR 2 OTHER CONSECUTIVE DAYS EACH YEAR AS FREE
 5 ORV-RIDING DAYS. A PERSON OPERATING AN UNLICENSED ORV DURING A FREE
 6 ORV-RIDING DAY HAS THE SAME PRIVILEGES AND IS SUBJECT TO THE SAME
 7 RULES AND REGULATIONS AS A PERSON OPERATING AN ORV LICENSED AS
 8 REQUIRED UNDER SUBSECTION (1).

9 (D) IF AND TO THE EXTENT THE DEPARTMENT WAIVES THE REQUIREMENT
 10 PURSUANT TO A RECIPROCAL AGREEMENT WITH ANOTHER STATE.

11 (3) THE DEPARTMENT IS AUTHORIZED TO ENTER A RECIPROCAL
 12 AGREEMENT DESCRIBED IN SUBSECTION (2) (D).

13 Sec. 81122. (1) A person shall not operate an ORV that is not
 14 registered under the code upon a ~~public highway, street, or right-~~
 15 ~~of-way of a public highway or street,~~ **COUNTY ROAD, OR HIGHWAY,**
 16 except as provided in section 81131 or under the following
 17 conditions and circumstances:

18 (a) The operator of a vehicle may cross a ~~public~~-**STREET,**
 19 **COUNTY ROAD, OR** highway, other than a limited access highway, at
 20 right angles, for the purpose of getting from 1 area to another, if
 21 the operation can be done in safety. The operator shall bring the
 22 vehicle to a complete stop before proceeding across a ~~public~~
 23 **STREET, COUNTY ROAD, OR** highway, and shall yield the right-of-way
 24 to oncoming traffic.

25 (b) A vehicle may be operated on a street, **COUNTY ROAD,** or
 26 highway for a special event of limited duration and conducted
 27 according to a prearranged schedule only under permit from the

1 governmental unit having jurisdiction. ~~A-SUBJECT TO SUBSECTION (2),~~
2 A special event involving ORVs may be conducted on the frozen
3 surface of public waters only under permit from the department.

4 (c) A farmer, employee of a farmer, or family member of a
5 farmer who is at least 16 years of age may operate an ORV ~~on the~~
6 ~~extreme right side of a roadway or highway right of way when it is~~
7 ~~not practicable to operate off that roadway or highway right of~~
8 ~~way. Such operation shall be limited to~~ **ON A STREET, COUNTY ROAD,**
9 **OR HIGHWAY WHILE** traveling to or from the farmer's residence or
10 work location or field during the course of farming operations. An
11 ORV shall not be operated pursuant to this subdivision during the
12 period of 30 minutes before sunset to 30 minutes after sunrise ~~, OR~~
13 when visibility is substantially reduced due to weather conditions.
14 ~~, or in a manner so as to interfere with traffic. THE INDIVIDUAL~~
15 **SHALL OPERATE THE ORV IN THE SAME MANNER AND ON THE SAME PORTION OF**
16 **THE STREET, COUNTY ROAD, OR HIGHWAY AS REQUIRED UNDER SECTION**
17 **81131(9).** The state transportation department and all of its
18 employees are immune from tort liability for injury or damages
19 sustained by any person arising in any way by reason of the
20 operation or use of an ORV for the limited purposes allowed under
21 this subdivision. An operator of an ORV under this subdivision
22 shall have attached to the ORV a flag made of reflective material.
23 The flag shall extend not less than 8 feet from the surface of the
24 ~~roadway~~ **STREET, COUNTY ROAD, OR HIGHWAY** and not less than 4 feet
25 above the top of the ORV. The flag shall be not less than 12 inches
26 high by 18 inches long and not measure less than 100 square inches.

27 **(2) THE DEPARTMENT SHALL NOT REQUIRE A PERMIT UNDER THIS PART**

1 MERELY FOR ORGANIZED GROUP RECREATIONAL ORV RIDING ON DEPARTMENT
 2 LANDS, OR FOR AN ORV EVENT ON THE FROZEN SURFACE OF PUBLIC WATERS,
 3 IF CONDUCTED IN COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND
 4 ORDERS. WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
 5 ACT FROM THE 2013-2014 LEGISLATIVE SESSION THAT ADDED THIS
 6 SUBSECTION, THE DEPARTMENT SHALL DEVELOP AND ESTABLISH, IN
 7 CONSULTATION WITH REPRESENTATIVES OF THE MICHIGAN SNOWMOBILE AND
 8 TRAILS ADVISORY COMMITTEE AND OTHER INTERESTED PARTIES, POLICY
 9 CRITERIA FOR DETERMINING CIRCUMSTANCES UNDER WHICH NOTICE TO THE
 10 DEPARTMENT OR A PERMIT IS REQUIRED FOR ORV EVENTS ON DEPARTMENT
 11 LANDS.

12 (3) ~~(2)~~—In a court action in this state ~~where~~ **IF** competent
 13 evidence demonstrates that a vehicle that is permitted to operate
 14 on a highway pursuant to the code is in a collision ~~with an ORV on~~
 15 a roadway **WITH AN ORV THAT IS NOT REGISTERED UNDER THE CODE**, the
 16 operator of the ORV involved in the collision shall be considered
 17 prima facie negligent.

18 Sec. 81129. (1) Subject to subsections (2), (3), **AND** (17), ~~and~~
 19 ~~(18)~~, a parent or legal guardian of a child less than 16 years of
 20 age shall not permit the child to operate an ORV unless the child
 21 is under the direct visual supervision of an adult and the child
 22 has in his or her immediate possession an ORV safety certificate
 23 issued pursuant to this part or a comparable ORV safety certificate
 24 issued under the authority of another state or a province of
 25 Canada.

26 (2) Subject to subsection ~~(18)~~, **(17)**, a parent or legal
 27 guardian of a child less than 12 years of age shall not permit the

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

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

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

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

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

24 (7) The owner or person in charge of an ORV shall not
25 knowingly permit the vehicle to be operated by a person who is
26 incompetent to operate the vehicle because of mental or physical
27 disability. ~~except as provided in section 81131.~~

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

9 (9) In implementing a program under subsection (8), the
10 department shall cooperate with private organizations and
11 associations, private and public corporations, the department of
12 education, the department of state, and local governmental units.
13 The department shall consult with ORV and environmental
14 organizations and associations in regard to the subject matter of a
15 training program and performance testing that leads to
16 certification of ORV operators.

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

20 (11) The department may promulgate rules to implement
21 subsections (8) to (10) and ~~(18)-(17)~~.

22 (12) Subject to subsections (13), (14), **AND** (17), ~~and (18)~~, a
23 child who is less than 16 years of age shall not operate an ORV
24 unless the child is under the direct visual supervision of an adult
25 and the child has in his or her immediate possession an ORV safety
26 certificate issued pursuant to this section or a comparable ORV
27 safety certificate issued under the authority of another state or a

1 province of Canada.

2 (13) Subject to subsection ~~(18)~~, **(17)**, a child who is less
3 than 12 years of age shall not operate a 4-wheeled ATV, unless the
4 child is not less than 10 years of age and is on private land owned
5 by a parent or legal guardian of the child. This subsection does
6 not apply to the operation of an ATV used in agricultural
7 operations.

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

10 (15) Subject to subsection ~~(18)~~, **(17)**, when operating an ORV,
11 a child who is less than 16 years of age shall present the ORV
12 safety 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 **STREET,**
15 **COUNTY ROAD, OR** highway. ~~or street.~~ An operator who is not less
16 than 12 years of age but less than 16 years of age may cross a
17 **STREET, COUNTY ROAD, OR** highway ~~or street~~ or operate ~~on the right-~~
18 ~~of way or shoulder of roads and streets on which ORV use is~~
19 ~~authorized pursuant to section 81131(2), (3), or (5) AN ORV~~
20 **PURSUANT TO SECTION 81131(9)** if the operator has a valid ORV safety
21 certificate in his or her immediate possession and meets any other
22 requirements under this section for operation of the vehicle.

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

27 **(17)** ~~(18)~~ The requirement that a child possess an ORV safety

1 certificate to operate an ORV, and the requirement that a child who
2 is less than 12 years of age not operate a 4-wheeled ATV unless the
3 child is not less than 10 years of age and is on private land owned
4 by a parent or legal guardian of the child, do not apply if all of
5 the following requirements are met:

6 (a) The child is participating in an organized ORV riding or
7 racing event held on land not owned by this state.

8 (b) The child's parent or legal guardian has provided the
9 event organizer with written permission for the child to
10 participate in the event.

11 (c) The event organizer has not less than \$500,000.00
12 liability insurance coverage for the event.

13 (d) A physician or physician's assistant licensed or otherwise
14 authorized under part 170 or 175 of the public health code, 1978 PA
15 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a
16 paramedic or emergency medical technician licensed under part 209
17 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979,
18 is present at the site of the event or available on call.

19 (e) The event is at all times under the direct visual
20 supervision of adult staff of the event organizer and a staff
21 member serves as a flagger to warn ORV riders if another ORV rider
22 is injured or an ORV is inoperable in the ORV operating area.

23 (f) Fencing or another means of crowd control is used to keep
24 spectators out of the ORV operating area.

25 (g) If the event is on a closed course, dust is controlled in
26 the ORV operating area and the riding surface in the ORV operating
27 area is otherwise properly prepared.

1 (h) Three-wheeled ATVs are not used by participants.

2 (i) Any ATVs used by participants are equipped with a side
3 step bar or comparable safety equipment and with a tether kill
4 switch, and the tether is used by all participants.

5 (j) Each participant in the event wears a crash helmet
6 approved by the United States department of transportation, a
7 protective long-sleeved shirt or jacket, long pants, boots, and
8 protective gloves.

9 (k) Any other applicable requirements of this part or rules
10 promulgated under this part are met.

11 **(18)** ~~(19)~~—If a child less than 16 years of age participates
12 and is injured in an organized ORV riding or racing event, the
13 organizer of the event shall, within 30 days after the event,
14 submit to the department a report on a form developed by the
15 department. The report shall include all of the following, as
16 applicable:

17 (a) Whether any participant less than 16 years of age was
18 killed or suffered an injury resulting in transportation to a
19 hospital as a result of an ORV accident at the event.

20 (b) The age of the child.

21 (c) Whether the child had been issued an ORV safety
22 certificate under this part or a comparable ORV safety certificate
23 issued under the authority of another state or a province of
24 Canada.

25 (d) The type of ORV operated.

26 (e) A description of the accident and injury.

27 **(19)** ~~(20)~~—By December 31 of each year, the department shall

1 submit to the legislature a report that summarizes reports received
2 under subsection ~~(19)~~ **(18)** during the preceding calendar year. In
3 the report, the department may recommend amendments to this part to
4 improve the safety of children less than 16 years of age
5 participating in organized ORV riding or racing events.

6 **(20)** ~~(21)~~—The requirements of this section are in addition to
7 any applicable requirements of section ~~81131(9)~~ **81131(13)**.

8 Sec. 81133. **(1)** An individual shall not operate an ORV:

9 (a) At a rate of speed greater than is reasonable and proper,
10 or in a careless manner, having due regard for conditions then
11 existing.

12 (b) Unless the individual and any passenger in or on the
13 vehicle is wearing on his or her head a crash helmet and protective
14 eyewear approved by the United States department of transportation.
15 This subdivision does not apply to either of the following:

16 (i) The operator of or a passenger in a vehicle that is
17 equipped with a roof that meets or exceeds standards for a crash
18 helmet if the operator and each passenger is wearing a properly
19 adjusted and fastened safety belt.

20 (ii) The operator of or a passenger in an ORV that is operated
21 on a state licensed game bird hunting preserve at a speed of not
22 greater than 10 miles per hour.

23 (c) During the hours of 1/2 hour after sunset to 1/2 hour
24 before sunrise without displaying a lighted headlight and lighted
25 taillight. The requirements of this subdivision are in addition to
26 any applicable requirements of section ~~81131(8)~~ **81131(12)**.

27 (d) Unless equipped with a braking system that may be operated

1 by hand or foot, capable of producing deceleration at 14 feet per
2 second on level ground at a speed of 20 miles per hour; a brake
3 light, brighter than the taillight, visible **FROM BEHIND THE VEHICLE**
4 when the brake is activated, ~~to the rear of the vehicle when IF~~ the
5 vehicle is operated during the hours of 1/2 hour after sunset and
6 1/2 hour before sunrise; and a throttle so designed that when the
7 pressure used to advance the throttle is removed, the engine speed
8 will immediately and automatically return to idle.

9 (e) In a state game area or state park or recreation area,
10 except on roads, trails, or areas designated for this purpose; on
11 ~~state-owned~~ **OTHER STATE-OWNED** lands under the control of the
12 department ~~other than game areas, state parks, or recreational~~
13 ~~areas~~ where the operation would be in violation of rules
14 promulgated by the department; in a forest nursery or planting
15 area; on public lands posted or reasonably identifiable as an area
16 of forest reproduction, and when growing stock may be damaged; in a
17 dedicated natural area of the department; or in any area in such a
18 manner as to create an erosive condition, or to injure, damage, or
19 destroy trees or growing crops. However, the department may permit
20 an owner and guests of the owner to use an ORV within the
21 boundaries of a state forest in order to access the owner's
22 property.

23 (f) On the frozen surface of public waters within 100 feet of
24 an individual not in or upon a vehicle, or within 100 feet of a
25 fishing shanty or shelter or an area that is cleared of snow for
26 skating purposes, except at the minimum speed required to maintain
27 controlled forward movement of the vehicle, or as may be authorized

1 by permit in special events.

2 (g) Unless the vehicle is equipped with a spark arrester type
3 United States forest service approved muffler, in good working
4 order and in constant operation. Exhaust noise emission shall not
5 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
6 1, 1986, when the vehicle is under full throttle, traveling in
7 second gear, and measured 50 feet at right angles from the vehicle
8 path with a sound level meter that meets the requirement of ANSI
9 S1.4 1983, using procedure and ancillary equipment therein
10 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
11 January 1, 1986, or that level comparable to the current sound
12 level as provided for by the United States environmental protection
13 agency when tested according to the provisions of the current SAE
14 J1287, June 86 test procedure for exhaust levels of stationary
15 motorcycles, using sound level meters and ancillary equipment
16 therein described. A vehicle subject to this part, manufactured or
17 assembled after December 31, 1972 and used, sold, or offered for
18 sale in this state, shall conform to the noise emission levels
19 established by the United States environmental protection agency
20 under the noise control act of 1972, 42 USC 4901 to 4918.

21 (h) Within 100 feet of a dwelling at a speed greater than the
22 minimum required to maintain controlled forward movement of the
23 vehicle, except ~~on~~ **UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:**

24 (i) **ON** property owned **BY** or under the operator's control or on
25 which the operator is an invited guest. ~~, or on a roadway,~~

26 (ii) **ON A** forest road ~~, or forest trail~~ **IF THE FOREST ROAD OR**
27 **FOREST TRAIL IS** maintained by or under the jurisdiction of the

1 department. ~~, or on a road or street~~

2 (iii) **ON A STREET, COUNTY ROAD, OR HIGHWAY** on which ORV use is
3 authorized ~~under~~ **PURSUANT TO** section 81131(2), (3), ~~or~~ (5), **OR (6)**.

4 (i) In or upon the lands of another without the written
5 consent of the owner, the owner's agent, or a lessee, when required
6 by part 731. The operator of the vehicle is liable for damage to
7 private property **CAUSED BY OPERATION OF THE VEHICLE**, including, but
8 not limited to, damage to trees, shrubs, or growing crops, injury
9 to other living creatures, or ~~damage caused through vehicle~~
10 ~~operation in a manner so as to create~~ erosive or other ecological
11 damage. The owner of the private property may recover from the
12 individual responsible nominal damages of not less than the amount
13 of damage or injury. Failure to post private property or fence or
14 otherwise enclose in a manner to exclude intruders or of the
15 private property owner or other authorized person to personally
16 communicate against trespass does not imply consent to ORV use.

17 (j) In an area on which public hunting is permitted during the
18 regular November firearm deer season, from 7 a.m. to 11 a.m. and
19 from 2 p.m. to 5 p.m., except during an emergency or for law
20 enforcement purposes, to go to and from a permanent residence or a
21 hunting camp otherwise inaccessible by a conventional wheeled
22 vehicle, **OR** to remove from public land a deer, elk, or bear that
23 has been taken under a valid license; except ~~for the~~ **TO** conduct of
24 necessary work functions involving land and timber survey,
25 communication and transmission line patrol, ~~and~~ **OR** timber harvest
26 operations; or except on property owned or under control of the
27 operator or on which the operator is an invited guest. A hunter

1 removing game under this subdivision may leave the designated trail
2 or forest road only to retrieve the game and shall not exceed 5
3 miles per hour. A vehicle registered under the code is exempt from
4 this subdivision while operating on a ~~public highway or public or~~
5 private road capable of sustaining automobile traffic **OR A STREET,**
6 **COUNTY ROAD, OR HIGHWAY.** A person holding a valid permit to hunt
7 from a standing vehicle issued under part 401, or a person with a
8 disability using an ORV to access public lands for purposes of
9 hunting or fishing through use of a designated trail or forest
10 road, is exempt from this subdivision. An individual holding a
11 valid permit to hunt from a standing vehicle issued under part 401,
12 or a person with a disability using an ORV to access public lands
13 for purposes of hunting or fishing, may display a flag, the color
14 of which the department shall determine, to identify himself or
15 herself as a person with a disability or an individual holding a
16 permit to hunt from a standing vehicle under part 401.

17 (k) Except as otherwise provided in section 40111(3) or (4),
18 while transporting on the vehicle a bow unless unstrung or encased,
19 or a firearm unless unloaded and securely encased, or equipped with
20 and made inoperative by a manufactured keylocked trigger housing
21 mechanism.

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

24 (m) Within 100 feet of a slide, ski, or skating area, unless
25 the vehicle is being used for the purpose of servicing the area or
26 is being operated pursuant to section 81131(2), (3), ~~or~~ (5), **OR**
27 **(6).**

1 (n) On an operating or nonabandoned railroad or railroad
2 right-of-way, or public utility right-of-way, other than for the
3 purpose of crossing at a clearly established site intended for
4 vehicular traffic, except railroad, public utility, or law
5 enforcement personnel while in performance of their duties, and
6 except if the right-of-way is designated as provided for in section
7 81127.

8 (o) In or upon the waters of any stream, river, bog, wetland,
9 swamp, marsh, or quagmire except over a bridge, culvert, or similar
10 structure.

11 (p) To hunt, pursue, worry, kill, or attempt to hunt, pursue,
12 worry, or kill an animal, whether wild or domesticated.

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

14 (r) ~~In-ON PUBLIC LAND, IN~~ a manner contrary to operating
15 regulations. ~~on public lands.~~

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

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

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

25 (t) While transporting any passenger in or upon an ORV unless
26 the manufacturing standards for the vehicle make provisions for
27 transporting passengers.

(u) On adjacent private land, in an area zoned residential, within 300 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle except ~~on a roadway~~, **UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:**

(i) **ON A** forest road ~~, or forest trail~~ **IF THE FOREST ROAD OR FOREST TRAIL IS** maintained by or under the jurisdiction of the department. ~~, or on a road or street~~

(ii) **ON A STREET, COUNTY ROAD, OR HIGHWAY** on which ORV use is authorized under section 81131(2), (3), ~~or~~ (5), **OR (6).**

(2) **EACH PERSON WHO PARTICIPATES IN THE SPORT OF ORV RIDING ACCEPTS THE RISKS ASSOCIATED WITH THAT SPORT INsofar AS THE DANGERS ARE INHERENT. THOSE RISKS INCLUDE, BUT ARE NOT LIMITED TO, INJURIES TO PERSONS OR PROPERTY THAT CAN RESULT FROM VARIATIONS IN TERRAIN; DEFECTS IN TRAFFIC LANES; SURFACE OR SUBSURFACE SNOW OR ICE CONDITIONS; BARE SPOTS; ROCKS, TREES, AND OTHER FORMS OF NATURAL GROWTH OR DEBRIS; AND COLLISIONS WITH FILL MATERIAL, DECKS, BRIDGES, SIGNS, FENCES, TRAIL MAINTENANCE EQUIPMENT, OR OTHER ORVS. THOSE RISKS DO NOT INCLUDE INJURIES TO PERSONS OR PROPERTY THAT RESULT FROM THE USE OF AN ORV BY ANOTHER PERSON IN A CARELESS OR NEGLIGENT MANNER LIKELY TO ENDANGER PERSON OR PROPERTY. WHEN AN ORV IS OPERATED IN THE VICINITY OF A RAILROAD RIGHT-OF-WAY, EACH PERSON WHO PARTICIPATES IN THE SPORT OF ORV RIDING ADDITIONALLY ASSUMES RISKS INCLUDING, BUT NOT LIMITED TO, ENTANGLEMENT WITH RAILROAD TRACKS, SWITCHES, AND TIES AND COLLISIONS WITH TRAINS AND TRAIN-RELATED EQUIPMENT AND FACILITIES.**

Sec. 81147. (1) Except as otherwise provided in this part, a person who violates this part is guilty of a misdemeanor punishable

1 by imprisonment for not more than 90 days or a fine of not less
2 than \$50.00 or more than \$1,000.00, or both, for each violation.

3 (2) A person who violates section ~~81133(e)~~**81133(1)(E)** by
4 operating an ORV in such a manner as to create an erosive condition
5 or who violates section ~~81133(i) or (e)~~**81133(1)(I) OR (O)** is
6 guilty of a misdemeanor punishable by imprisonment for not more
7 than 90 days or a fine of not less than \$250.00 or more than
8 \$1,000.00, or both, for each violation.

9 (3) A person who violates section 81105, 81107, 81115, 81116,
10 81121, 81130, or ~~81133(b)~~**81133(1)(B)**, (c), (d), (f), (g), (h),
11 (j), (l), or (m) is responsible for a state civil infraction and may
12 be ordered to pay a civil fine of not more than \$500.00.

13 (4) A person shall not remove, deface, or destroy a sign or
14 marker placed by the department indicating the boundaries of an ORV
15 trail or area or that marks a route.

16 (5) In addition to the penalties otherwise provided under this
17 part, a court of competent jurisdiction may order a person to
18 restore, as nearly as possible, any land, water, stream bank,
19 streambed, or other natural or geographic formation damaged by the
20 violation of this part to the condition it was in before the
21 violation occurred.

22 (6) The department or any other peace officer may impound the
23 ORV of a person who commits a violation of this part that is
24 punishable as a misdemeanor or who causes damage to the particular
25 area in which the ORV was used in the commission of the violation.

26 (7) Upon conviction of a person for violation described in
27 subsection ~~(5)~~**(6)**, a court of competent jurisdiction may order

1 the ORV and any personal property on the ORV seized as a result of
2 the violation returned to the owner or, upon recommendation of the
3 local prosecuting attorney, turned over to the department. An ORV
4 or any other property turned over to the department under this
5 subsection shall be disposed of in the manner provided for
6 condemnation of property in part 16. The proceeds realized by the
7 department under this subsection shall first be used to restore
8 areas damaged by ORV use, with the balance to be deposited in the
9 off-road vehicle account.

10 Enacting section 1. Sections 81102 and 81128 of the natural
11 resources and environmental protection act, 1994 PA 451, MCL
12 324.81102 and 324.81128, are repealed.