

SENATE BILL NO. 210

March 09, 2021, Introduced by Senator MCBROOM and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81133 (MCL 324.81133), as amended by 2018 PA
206.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 81133. (1) An individual shall not operate an ORV:
2 (a) At a rate of speed greater than is reasonable and proper,
3 or in a careless manner, having due regard for conditions then
4 existing.
5 (b) During the hours of 1/2 hour after sunset to 1/2 hour
6 before sunrise, ~~without displaying~~ **except with** a lighted headlight

1 and lighted taillight. The requirements of this subdivision are in
2 addition to any applicable requirements of section 81131(12).

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

12 (d) In a state game area or state park or recreation area,
13 except on roads, trails, or areas designated for this purpose,
14 notwithstanding section 72118; on other state-owned lands under the
15 control of the department where the operation would be in violation
16 of rules promulgated by the department; in a forest nursery or
17 planting area; on public lands posted or reasonably identifiable as
18 an area of forest reproduction, ~~and~~ when growing stock may be
19 damaged; in a dedicated natural area of the department; or in any
20 area in such a manner as to create an erosive condition, or to
21 injure, damage, or destroy trees or growing crops. However, the
22 department may permit ~~an~~ **a property** owner and guests of the owner
23 to use an ORV within the boundaries of a state forest ~~in order to~~
24 access the owner's property.

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

1 by permit in special events.

2 (f) 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 (g) 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 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.

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
28 department.

29 (iii) On a street, county road, or highway on which ORV use is

1 authorized under section 81131(2), (3), (5), or (6).

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

15 (i) In an area on which public hunting is permitted during the
 16 regular November firearm deer season, from 7 a.m. to 11 a.m. and
 17 from 2 p.m. to 5 p.m., except as follows:

18 (i) During an emergency.

19 (ii) For law enforcement purposes.

20 (iii) To go to and from a permanent residence or a hunting camp
 21 otherwise inaccessible by a conventional wheeled vehicle.

22 (iv) To remove legally harvested deer, bear, or elk from public
 23 land. An individual shall operate an ORV under this subparagraph at
 24 a speed not exceeding 5 miles per hour, using the most direct route
 25 that complies with subdivision (n).

26 (v) To conduct necessary work ~~functions~~ involving land ~~and-or~~
 27 timber survey, communication ~~and-or~~ transmission line patrol, or
 28 timber harvest operations.

29 (vi) On property owned or under control of the operator or on

1 which the operator is an invited guest.

2 (vii) While operating a vehicle registered under the code on a
3 private road capable of sustaining automobile traffic or a street,
4 county road, or highway.

5 (viii) If the individual holds a valid permit to hunt from a
6 standing vehicle issued under part 401 or is a person with a
7 disability using ~~an~~**the** ORV to access public lands for purposes of
8 hunting or fishing through use of a designated trail or forest
9 road. An individual holding a valid permit to hunt from a standing
10 vehicle issued under part 401, or a person with a disability using
11 ~~an~~**the** ORV to access public lands for purposes of hunting or
12 fishing, may display a flag, the color of which the department
13 shall determine, to identify himself or herself as a person with a
14 disability or an individual holding a permit to hunt from a
15 standing vehicle under part 401.

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

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

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

26 (m) On an operating or nonabandoned railroad or railroad
27 right-of-way, or public utility right-of-way, other than for the
28 purpose of crossing at a clearly established site intended for
29 vehicular traffic, except railroad, public utility, or law

1 enforcement personnel while in performance of their duties, and
2 except if the right-of-way is designated as provided for in section
3 81127.

4 (n) In or upon the waters of any stream, river, bog, wetland,
5 swamp, marsh, or quagmire, except over a bridge, culvert, or
6 similar structure.

7 (o) To hunt, pursue, worry, kill, or attempt to hunt, pursue,
8 worry, or kill an animal. ~~, whether wild or domesticated.~~

9 (p) In a manner so as to leave behind litter or other debris.

10 (q) On public land, in a manner contrary to operating
11 regulations.

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

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

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

21 (s) While transporting any passenger in or upon ~~an~~**the** ORV,
22 unless the manufacturing standards for the vehicle make provisions
23 for transporting passengers.

24 (t) On adjacent private land, in an area zoned residential,
25 within 300 feet of a dwelling at a speed greater than the minimum
26 required to maintain controlled forward movement of the vehicle,
27 except under any of the following circumstances:

28 (i) On a forest road or forest trail if the forest road or
29 forest trail is maintained by or under the jurisdiction of the

1 department.

2 (ii) On a street, county road, or highway on which ORV use is
3 authorized under section 81131(2), (3), (5), or (6).

4 (u) On a forest trail if the ORV is greater than 50 inches in
5 width.

6 (2) An individual who is operating or is a passenger on an ORV
7 shall wear a crash helmet and protective eyewear that are approved
8 by the United States Department of Transportation. This subsection
9 does not apply to any of the following:

10 (a) An individual who owns the property on which the ORV is
11 operating, is a family member of the owner and resides at that
12 property, or is an invited guest of an individual who owns the
13 property. An exception under this subdivision does not apply to any
14 of the following:

15 (i) An individual less than 16 years of age.

16 (ii) An individual 16 or 17 years of age, unless the individual
17 has consent from his or her parent or guardian to ride without a
18 crash helmet.

19 (iii) An individual participating in an organized ORV riding or
20 racing event if an individual who owns the property receives
21 consideration for use of the property for operating ORVs.

22 (b) An individual wearing a properly adjusted and fastened
23 safety belt if the ORV is equipped with a roof that meets or
24 exceeds United States Department of Transportation standards for a
25 crash helmet.

26 (c) **An individual who possesses a written verification from a**
27 **physician that the individual, for physical or medical reasons, is**
28 **unable to wear a crash helmet. The individual shall exhibit the**
29 **written verification upon the request of a peace officer.**

1 (d) ~~(e)~~—An ORV operated on a state-licensed game bird hunting
2 preserve at a speed of not greater than 10 miles per hour.

3 (e) ~~(d)~~—An ORV operated for the purpose of towing a fishing
4 shanty or supply shed over the frozen surface of public waters at
5 the minimum speed required to maintain controlled forward movement
6 of the vehicle or while traveling to and from a fishing shanty at a
7 speed of not greater than 10 miles per hour. An owner of private
8 property is not liable for personal injuries, including death, to
9 an individual who operates an ORV as described in this subdivision
10 without wearing a helmet while traveling on the owner's property.

11 (3) Each person who participates in the sport of ORV riding
12 accepts the risks associated with that sport insofar as the dangers
13 are inherent. Those risks include, but are not limited to, injuries
14 to persons or property that can result from variations in terrain;
15 defects in traffic lanes; surface or subsurface snow or ice
16 conditions; bare spots; rocks, trees, and other forms of natural
17 growth or debris; and collisions with fill material, decks,
18 bridges, signs, fences, trail maintenance equipment, or other ORVs.
19 Those risks do not include injuries to persons or property that
20 result from the use of an ORV by another person in a careless or
21 negligent manner likely to endanger person or property. When an ORV
22 is operated in the vicinity of a railroad right-of-way, each person
23 who participates in the sport of ORV riding additionally assumes
24 risks including, but not limited to, entanglement with railroad
25 tracks, switches, and ties and collisions with trains and train-
26 related equipment and facilities.