

# SENATE BILL No. 93

February 2, 1989, Introduced by Senators SCHWARZ, DINGELL, SEDERBURG, KELLY, EHLERS, POLLACK, GAST and J. HART and referred to the Committee on Health Policy.

A bill to amend the title and sections 17, 20, 21a, and 24 of Act No. 319 of the Public Acts of 1975, entitled "An act to provide for the registration and regulation of off-road recreation vehicles; and to provide penalties," section 17 as amended by Act No. 166 of the Public Acts of 1985, section 20 as amended by Act No. 152 of the Public Acts of 1987, and section 21a as added by Act No. 399 of the Public Acts of 1980, being sections 257.1617, 257.1620, 257.1621a, and 257.1624 of the Michigan Compiled Laws; and to add sections 20a, 20b, 20c, 20d, and 20e.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 17, 20, 21a, and 24 of  
2 Act No. 319 of the Public Acts of 1975, section 17 as amended by  
3 Act No. 166 of the Public Acts of 1985, section 20 as amended by  
4 Act No. 152 of the Public Acts of 1987, and section 21a as added

1 by Act No. 399 of the Public Acts of 1980, being sections  
2 257.1617, 257.1620, 257.1621a, and 257.1624 of the Michigan  
3 Compiled Laws, are amended and sections 20a, 20b, 20c, 20d, and  
4 20e are added to read as follows:

5 TITLE

6 An act to provide for the registration and regulation of  
7 off-road recreation vehicles; TO PRESCRIBE THE POWERS AND DUTIES  
8 OF CERTAIN OFFICERS AND AGENCIES; and to provide penalties.

9 Sec. 17. (1) A PERSON LESS THAN 16 YEARS OF AGE SHALL NOT  
10 OPERATE AN ORV ON PUBLIC LANDS OR ON THE FROZEN SURFACE OF PUBLIC  
11 WATERS. A PERSON LESS THAN 16 YEARS OF AGE MAY OPERATE AN ORV ON  
12 PRIVATE LANDS AS PROVIDED IN THIS ACT WHILE UNDER THE DIRECT  
13 SUPERVISION OF A PERSON 18 YEARS OF AGE OR OLDER.

14 (2) ~~(1)~~ A parent or legal guardian OF A CHILD LESS THAN 16  
15 YEARS OF AGE shall not permit ~~a~~ THE child ~~under 12 years of~~  
16 ~~age~~ to operate ~~a vehicle without the direct supervision of an~~  
17 ~~adult, except on land owned by, or under the control of, the~~  
18 ~~parent or legal guardian~~ AN ORV, EXCEPT ON PRIVATE LANDS AS PRO-  
19 VIDED IN THIS ACT UNDER THE DIRECT SUPERVISION OF A PERSON 18  
20 YEARS OF AGE OR OLDER.

21 (3) ~~(2)~~ The owner or person in charge or in control of ~~a~~  
22 ~~vehicle~~ AN ORV shall not knowingly permit:

23 (a) The vehicle to be operated by a person ~~under the age of~~  
24 ~~12 without direct supervision of an adult~~ LESS THAN 16 YEARS OF  
25 AGE, EXCEPT ON PRIVATE LANDS AS PROVIDED IN THIS ACT UNDER THE  
26 DIRECT SUPERVISION OF A PERSON 18 YEARS OF AGE OR OLDER.

1 (b) The vehicle to be operated by a person who is  
2 incompetent to operate the vehicle because of mental or physical  
3 disability except as provided in section 18. ~~, or because the~~  
4 ~~person is under the influence of intoxicating liquor, a con-~~  
5 ~~trolled substance as defined by section 7104 of Act No. 368 of~~  
6 ~~the Public Acts of 1978, as amended, being section 333.7104 of~~  
7 ~~the Michigan Compiled Laws, or a combination of intoxicating~~  
8 ~~liquor and a controlled substance.~~

9 (4) ~~(3)~~ The department of natural resources shall imple-  
10 ment a comprehensive ORV information, safety education, and  
11 training program which shall include the preparation and dissemi-  
12 nation of information and safety advice to the public and train-  
13 ing of operators. The program shall provide for the training of  
14 youthful operators and for the issuance of ORV safety certifi-  
15 cates to those who successfully complete the training provided  
16 under the program.

17 (5) ~~(4)~~ In implementing a program which is established  
18 pursuant to this section, the department of natural resources  
19 shall cooperate with private organizations and associations, pri-  
20 vate and public corporations, the department of education, and  
21 local governmental units. The department of natural resources  
22 shall consult with ORV and environmental organizations and asso-  
23 ciations in regard to subject matter of a training program and  
24 performance testing that leads to certification of ORV  
25 operators.

1       (6) ~~(5)~~ The department of natural resources may designate  
2 a person it considers qualified to provide course instruction and  
3 to award ORV safety certificates.

4       ~~(6) A person who is at least 12 years of age but less than~~  
5 ~~16 years of age may operate an ORV if that person satisfies any~~  
6 ~~of the following:~~

7       ~~(a) Is under the direct supervision of a person who is 18~~  
8 ~~years of age or older.~~

9       ~~(b) Is on land owned or under the control of a parent or~~  
10 ~~legal guardian.~~

11       ~~(c) Has in his or her immediate possession an ORV safety~~  
12 ~~certificate issued pursuant to subsection (3).~~

13       ~~(d) Possesses an ORV safety certificate issued under the~~  
14 ~~authority of another state or a province of Canada.~~

15       ~~(7) When operating an ORV under subdivision (c) or (d), that~~  
16 ~~person shall present the ORV safety certificate to a peace offi-~~  
17 ~~cer upon demand.~~

18       ~~(8) Notwithstanding any other provision of this section, an~~  
19 ~~operator who is under 12 years of age shall not cross a highway~~  
20 ~~or street. An operator who is at least 12 years of age but less~~  
21 ~~than 16 years of age may cross a highway or street or operate on~~  
22 ~~the right of way or shoulder of designated access routes pursuant~~  
23 ~~to section 18 if the operator has a valid ORV safety certificate~~  
24 ~~in his or her immediate possession.~~

25       Sec. 20. A person shall not operate an ORV:

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

4 (b) ~~While under the influence of intoxicating liquor, a~~  
5 ~~controlled substance, or a combination of intoxicating liquor and~~  
6 ~~controlled substance.~~ UNLESS THE PERSON AND ANY PASSENGER IN OR  
7 ON THE VEHICLE IS WEARING ON HIS OR HER HEAD A CRASH HELMET  
8 APPROVED BY THE DEPARTMENT OF STATE POLICE. THIS SUBDIVISION  
9 SHALL NOT APPLY IF THE VEHICLE IS EQUIPPED WITH A ROOF WHICH  
10 MEETS OR EXCEEDS STANDARDS FOR A CRASH HELMET AND THE OPERATOR  
11 AND EACH PASSENGER IS WEARING A PROPERLY ADJUSTED AND FASTENED  
12 SAFETY BELT.

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

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

25 (e) In a state game area or state park or recreation area,  
26 except on roads, trails, or areas designated for this purpose; on  
27 state owned lands under the control of the department of natural

1 resources other than game areas, state parks, or recreational  
2 areas where the operation would be in violation of rules promul-  
3 gated by the commission; in a forest nursery or planting area; on  
4 public lands posted or reasonably identifiable as an area of  
5 forest reproduction, and when growing stock may be damaged; in a  
6 dedicated natural area of the department of natural resources; or  
7 in any area in such a manner as to create an erosive condition,  
8 or to injure, damage, or destroy trees or growing crops.

9 (f) On the frozen surface of public waters within 100 feet  
10 of a person not in or upon a vehicle, or within 100 feet of a  
11 fishing shanty or shelter or an area which is cleared of snow for  
12 skating purposes, except at the minimum speed required to main-  
13 tain controlled forward movement of the vehicle, or as may be  
14 authorized by permit in special events.

15 (g) Unless the vehicle is equipped with a spark arrester  
16 type muffler, in good working order and in constant operation.  
17 Noise emission under full throttle, at 50 feet at right angles  
18 from the vehicle path, shall not exceed 90 db(A) on a vehicle  
19 manufactured or assembled before January 1, 1973; 88 db(A) on a  
20 vehicle manufactured or assembled after December 31, 1972; 86  
21 db(A) on a vehicle manufactured or assembled after January 1,  
22 1975 as measured on a sound level meter which meets the require-  
23 ments of ANSI SI.4 1971, using procedure and ancillary equipment  
24 therein described. A vehicle subject to this act, manufactured  
25 or assembled after February 1, 1976 and used, sold, or offered  
26 for sale in this state shall conform to the noise emission levels  
27 established by the environmental protection agency under the

1 noise control act of 1972, Public Law 92-574, 86 Stat. 1234,  
2 except in an officially authorized special event.

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 pursuant to section 15, or  
8 on an ORV access route as authorized by local ordinance.

9 (i) In or upon the lands of another without the written con-  
10 sent of the owner, owner's agent or lessee, when required by the  
11 recreational trespass act, Act No. 323 of the Public Acts of  
12 1976, as amended, being sections 317.171 to 317.181 of the  
13 Michigan Compiled Laws. The operator of the vehicle is liable  
14 for damage to private property, including, but not limited to,  
15 damage to trees, shrubs, growing crops, or injury to living crea-  
16 tures or damage caused through vehicle operation in a manner so  
17 as to create erosive or other ecological damage to private  
18 property. The owner of the private property may recover from the  
19 person responsible nominal damages of not less than the amount of  
20 damage or injury. Failure to post private property or fence or  
21 otherwise enclose in a manner to exclude intruders ~~—~~ or ~~for~~  
22 OF the private property owner or other authorized person to per-  
23 sonally communicate against trespass shall not imply consent ~~or~~  
24 TO ORV use.

25 (j) In an area on which public hunting is permitted during  
26 the season open to the taking of deer with firearms, from 7 a.m.  
27 to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency

1 or for law enforcement purposes, to go to and from a permanent  
2 residence or a hunting camp otherwise inaccessible by a conven-  
3 tional wheeled vehicle; or except for the conduct of necessary  
4 work functions involving land and timber survey, communication  
5 and transmission line patrol, and timber harvest operations; or  
6 on property owned or under control of the operator or on which  
7 the operator is an invited guest. A vehicle registered under the  
8 Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as  
9 amended, being sections 257.1 to 257.923 of the Michigan Compiled  
10 Laws, is exempt from this subdivision while operating on a public  
11 highway or public or private road capable of sustaining automo-  
12 bile traffic. A person holding a valid ~~special~~ permit to hunt  
13 from a standing vehicle issued pursuant to section ~~10~~ 14(1) of  
14 ~~chapter II of the game law of 1929, Act No. 286 of the Public~~  
15 ~~Acts of 1929, being section 312.10~~ THE WILDLIFE CONSERVATION  
16 ACT, ACT NO. 256 OF THE PUBLIC ACTS OF 1988, BEING SECTION  
17 300.264 of the Michigan Compiled Laws, is exempt from this  
18 subdivision.

19 (k) While transporting on the ~~snowmobile~~ VEHICLE a bow  
20 unless unstrung or encased, or a firearm unless unloaded and  
21 securely encased, or equipped with and made inoperative by a man-  
22 ufactured keylocked trigger housing mechanism.

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

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



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

6 (o) In or upon the waters of any stream, except for the pur-  
7 pose of crossing the stream over a bridge, culvert, or similar  
8 structure or by operating the vehicle at the minimum speed  
9 required to maintain controlled forward movement of the vehicle  
10 and crossing in the most direct manner from and to an established  
11 trail so as to negate erosive damage to the bed and banks of the  
12 stream or river or as may otherwise be authorized by the director  
13 of the department of natural resources on state owned land; or to  
14 travel up or down stream in any river or stream unless of a water  
15 depth sufficient to permit flotation of the vehicle at all  
16 times.

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

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

21 (r) In a manner contrary to operating regulations on public  
22 lands.

23 SEC. 20A. (1) A PERSON WHO IS UNDER THE INFLUENCE OF INTOX-  
24 ICATING LIQUOR OR A CONTROLLED SUBSTANCE, AS DEFINED BY  
25 SECTION 7104 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC  
26 ACTS OF 1978, BEING SECTION 333.7104 OF THE MICHIGAN COMPILED

1 LAWS, OR A COMBINATION OF INTOXICATING LIQUOR AND A CONTROLLED  
2 SUBSTANCE SHALL NOT OPERATE AN ORV.

3 (2) A PERSON WHOSE BLOOD CONTAINS 0.10% OR MORE BY WEIGHT OF  
4 ALCOHOL SHALL NOT OPERATE AN ORV.

5 (3) THE OWNER OR PERSON IN CHARGE OR IN CONTROL OF AN ORV  
6 SHALL NOT AUTHORIZE OR KNOWINGLY PERMIT THE ORV TO BE OPERATED BY  
7 A PERSON WHO IS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR A  
8 CONTROLLED SUBSTANCE OR A COMBINATION OF INTOXICATING LIQUOR AND  
9 A CONTROLLED SUBSTANCE.

10 (4) A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION  
11 (1), (2), OR (3) IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY  
12 IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR A FINE OF NOT LESS  
13 THAN \$100.00 NOR MORE THAN \$500.00, OR BOTH, TOGETHER WITH COSTS  
14 OF THE PROSECUTION. A SUBSEQUENT OFFENSE IS PUNISHABLE AS  
15 FOLLOWS:

16 (A) ON A SECOND CONVICTION UNDER THIS SECTION OR A LOCAL  
17 ORDINANCE SUBSTANTIALLY CORRESPONDING TO THIS SECTION WITHIN A  
18 PERIOD OF 7 YEARS, A PERSON IS GUILTY OF A MISDEMEANOR, PUNISH-  
19 ABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR, OR A FINE OF NOT  
20 MORE THAN \$1,000.00, OR BOTH.

21 (B) ON A THIRD OR SUBSEQUENT CONVICTION WITHIN A PERIOD OF  
22 10 YEARS UNDER THIS SECTION, OR A LOCAL ORDINANCE SUBSTANTIALLY  
23 CORRESPONDING TO THIS SECTION, A PERSON IS GUILTY OF A FELONY.

24 (5) UPON CONVICTION OF A PERSON UNDER SUBSECTION (1) OR (2)  
25 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SUBSECTION  
26 (1) OR (2), THE COURT, IN ADDITION TO THE PENALTY IMPOSED UNDER  
27 SUBSECTION (4) AND AS PART OF THE SENTENCE, MAY ORDER THE PERSON

1 NOT TO OPERATE AN ORV FOR A PERIOD OF NOT MORE THAN 2 YEARS. THE  
2 COURT MAY ALSO ORDER THE PERSON TO PARTICIPATE IN AN ALCOHOL OR  
3 DRUG EDUCATION OR TREATMENT PROGRAM.

4 SEC. 20B. (1) A PERSON SHALL NOT OPERATE AN ORV IF, DUE TO  
5 THE CONSUMPTION OF INTOXICATING LIQUOR, A CONTROLLED SUBSTANCE,  
6 OR A COMBINATION OF INTOXICATING LIQUOR AND A CONTROLLED SUB-  
7 STANCE, THE PERSON HAS VISIBLY IMPAIRED HIS OR HER ABILITY TO  
8 OPERATE THE ORV. IF A PERSON IS CHARGED WITH VIOLATING SECTION  
9 20A, A FINDING OF GUILTY IS PERMISSIBLE UNDER THIS SECTION.

10 (2) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS  
11 GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
12 THAN 90 DAYS, OR A FINE OF NOT MORE THAN \$300.00, OR BOTH,  
13 TOGETHER WITH COSTS OF THE PROSECUTION. ON A SECOND OR SUBSE-  
14 QUENT CONVICTION UNDER THIS SECTION, OR A LOCAL ORDINANCE SUB-  
15 STANTIALLY CORRESPONDING TO THIS SECTION, THE PERSON IS GUILTY OF  
16 A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1  
17 YEAR, OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

18 SEC. 20C. (1) IN A CRIMINAL PROSECUTION FOR VIOLATING SEC-  
19 TION 20A OR 20B OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING  
20 TO SECTION 20A OR 20B, OR IN A CRIMINAL PROSECUTION FOR MAN-  
21 SLAUGHTER RESULTING FROM THE OPERATION OF AN ORV WHILE THE OPERA-  
22 TOR IS ALLEGED TO HAVE BEEN IMPAIRED BY OR UNDER THE INFLUENCE OF  
23 INTOXICATING LIQUOR OR A CONTROLLED SUBSTANCE OR A COMBINATION OF  
24 INTOXICATING LIQUOR AND A CONTROLLED SUBSTANCE, OR TO HAVE HAD A  
25 BLOOD ALCOHOL CONTENT OF 0.10% OR MORE BY WEIGHT OF ALCOHOL, THE  
26 AMOUNT OF ALCOHOL IN THE OPERATOR'S BLOOD AT THE TIME ALLEGED AS

1 SHOWN BY CHEMICAL ANALYSIS OF THE OPERATOR'S BLOOD, URINE, OR  
2 BREATH SHALL BE ADMISSIBLE INTO EVIDENCE.

3 (2) IF A CHEMICAL TEST OF AN OPERATOR'S BLOOD, URINE, OR  
4 BREATH IS GIVEN, THE RESULTS OF THE TEST SHALL BE MADE AVAILABLE  
5 TO THE PERSON CHARGED WITH AN OFFENSE ENUMERATED IN SUBSECTION  
6 (1) OR A PERSON'S ATTORNEY UPON WRITTEN REQUEST TO THE PROSECU-  
7 TION, WITH A COPY OF THE REQUEST FILED WITH THE COURT. THE PROS-  
8 ECUTION SHALL FURNISH THE REPORT AT LEAST 2 DAYS BEFORE THE DAY  
9 OF THE TRIAL AND THE RESULTS SHALL BE OFFERED AS EVIDENCE BY THE  
10 PROSECUTION IN A CRIMINAL PROCEEDING. FAILURE TO FULLY COMPLY  
11 WITH THE REQUEST SHALL BAR THE ADMISSION OF THE RESULTS INTO EVI-  
12 DENCE BY THE PROSECUTION.

13 (3) EXCEPT IN A PROSECUTION RELATING SOLELY TO A VIOLATION  
14 OF SECTION 20A(2), THE AMOUNT OF ALCOHOL IN THE OPERATOR'S BLOOD  
15 AT THE TIME ALLEGED AS SHOWN BY CHEMICAL ANALYSIS OF THE  
16 OPERATOR'S BLOOD, URINE, OR BREATH SHALL GIVE RISE TO THE FOLLOW-  
17 ING PRESUMPTIONS:

18 (A) IF THERE WAS AT THE TIME 0.07% OR LESS BY WEIGHT OF  
19 ALCOHOL IN THE OPERATOR'S BLOOD, IT SHALL BE PRESUMED THAT THE  
20 OPERATOR WAS NOT UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

21 (B) IF THERE WAS AT THE TIME IN EXCESS OF 0.07% BUT LESS  
22 THAN 0.10% BY WEIGHT OF ALCOHOL IN THE OPERATOR'S BLOOD, IT SHALL  
23 BE PRESUMED THAT THE OPERATOR'S ABILITY TO OPERATE AN ORV WAS  
24 IMPAIRED WITHIN THE PROVISIONS OF SECTION 20B DUE TO THE CONSUMP-  
25 TION OF INTOXICATING LIQUOR.

1 (C) IF THERE WAS AT THE TIME 0.10% OR MORE BY WEIGHT OF  
2 ALCOHOL IN THE OPERATOR'S BLOOD, IT SHALL BE PRESUMED THAT THE  
3 OPERATOR WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR.

4 (4) A SAMPLE OR SPECIMEN OF URINE OR BREATH SHALL BE TAKEN  
5 AND COLLECTED IN A REASONABLE MANNER. ONLY A LICENSED PHYSICIAN,  
6 OR A LICENSED NURSE OR MEDICAL TECHNICIAN UNDER THE DIRECTION OF  
7 A LICENSED PHYSICIAN AND QUALIFIED TO WITHDRAW BLOOD ACTING IN A  
8 MEDICAL ENVIRONMENT, AT THE REQUEST OF A PEACE OFFICER, MAY WITH-  
9 DRAW BLOOD FOR THE PURPOSE OF DETERMINING THE ALCOHOLIC CONTENT  
10 OF THE BLOOD UNDER THIS ACT. LIABILITY FOR A CRIME OR CIVIL DAM-  
11 AGES PREDICATED ON THE ACT OF WITHDRAWING BLOOD AND RELATED PRO-  
12 CEDURES SHALL NOT ATTACH TO A QUALIFIED PERSON WHO WITHDRAWS  
13 BLOOD OR ASSISTS IN THE WITHDRAWAL IN ACCORDANCE WITH THIS ACT  
14 UNLESS THE WITHDRAWAL IS PERFORMED IN A NEGLIGENT MANNER.

15 (5) A PERSON ARRESTED FOR A CRIME ENUMERATED IN SUBSECTION  
16 (1) WHO TAKES A CHEMICAL TEST ADMINISTERED AT THE REQUEST OF A  
17 PEACE OFFICER, AS PROVIDED IN THIS ACT, SHALL BE GIVEN A REASON-  
18 ABLE OPPORTUNITY TO HAVE A PERSON OF HIS OR HER OWN CHOOSING  
19 ADMINISTER 1 OF THE CHEMICAL TESTS DESCRIBED IN THIS SECTION  
20 WITHIN A REASONABLE TIME AFTER HIS OR HER DETENTION, AND THE  
21 RESULTS OF THE TEST SHALL BE ADMISSIBLE AND SHALL BE CONSIDERED  
22 WITH OTHER COMPETENT EVIDENCE IN DETERMINING THE DEFENDANT'S  
23 INNOCENCE OR GUILT OF A CRIME ENUMERATED IN SUBSECTION (1). IF  
24 THE PERSON ARRESTED IS ADMINISTERED A CHEMICAL TEST BY A PERSON  
25 OF HIS OR HER OWN CHOOSING, THE PERSON ARRESTED SHALL BE RESPON-  
26 SIBLE FOR OBTAINING A CHEMICAL ANALYSIS OF THE TEST SAMPLE. THE  
27 PERSON SHALL BE INFORMED THAT HE OR SHE HAS THE RIGHT TO DEMAND

1 THAT A PERSON OF HIS OR HER CHOOSING ADMINISTER 1 OF THE CHEMICAL  
2 TESTS DESCRIBED IN THIS SECTION, THAT THE RESULTS OF THE TEST  
3 SHALL BE ADMISSIBLE AND SHALL BE CONSIDERED WITH OTHER COMPETENT  
4 EVIDENCE IN DETERMINING THE INNOCENCE OR GUILT OF THE DEFENDANT,  
5 AND THAT THE PERSON ARRESTED SHALL BE RESPONSIBLE FOR OBTAINING A  
6 CHEMICAL ANALYSIS OF THE TEST SAMPLE.

7 (6) THE PERSON ARRESTED SHALL BE ADVISED THAT THE PERSON MAY  
8 REFUSE TO TAKE A TEST AS PROVIDED IN THIS SECTION AND, EXCEPT AS  
9 PROVIDED IN SECTION 20D(2), THAT THE REFUSAL IS ADMISSIBLE IN  
10 EVIDENCE AS PROVIDED IN SUBSECTION (9).

11 (7) THIS SECTION SHALL NOT BE CONSTRUED AS LIMITING THE  
12 INTRODUCTION OF ANY OTHER COMPETENT EVIDENCE BEARING UPON THE  
13 QUESTION OF WHETHER OR NOT THE DEFENDANT WAS UNDER THE INFLUENCE  
14 OF INTOXICATING LIQUOR.

15 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A  
16 PERSON REQUESTED TO TAKE A TEST SHALL BE ADVISED THAT HE OR SHE  
17 HAS THE OPTION TO DEMAND THAT ONLY A BREATH TEST BE GIVEN, IN  
18 WHICH CASE HIS OR HER REFUSAL TO SUBMIT TO ANOTHER TEST SHALL NOT  
19 CONSTITUTE A REFUSAL.

20 (9) IF A JURY INSTRUCTION REGARDING A DEFENDANT'S REFUSAL TO  
21 SUBMIT TO A CHEMICAL TEST UNDER THIS SECTION IS REQUESTED BY THE  
22 PROSECUTION OR THE DEFENDANT, THE JURY INSTRUCTION SHALL BE GIVEN  
23 AS FOLLOWS:

24 "EVIDENCE WAS ADMITTED IN THIS CASE WHICH, IF BELIEVED BY  
25 THE JURY, COULD PROVE THAT THE DEFENDANT HAD EXERCISED HIS OR HER  
26 RIGHT TO REFUSE A CHEMICAL TEST. YOU ARE INSTRUCTED THAT SUCH A  
27 REFUSAL IS WITHIN THE STATUTORY RIGHTS OF THE DEFENDANT AND IS

1 NOT EVIDENCE OF THE DEFENDANT'S GUILT. YOU ARE NOT TO CONSIDER  
2 SUCH A REFUSAL IN DETERMINING THE GUILT OR INNOCENCE OF THE  
3 DEFENDANT."

4 SEC. 20D. (1) A PERSON WHO OPERATES AN ORV MAY BE REQUESTED  
5 BY A PEACE OFFICER TO SUBMIT TO CHEMICAL TESTS OF HIS OR HER  
6 BLOOD, BREATH, OR URINE FOR THE PURPOSE OF DETERMINING THE AMOUNT  
7 OF ALCOHOL OR PRESENCE OF A CONTROLLED SUBSTANCE OR BOTH IN HIS  
8 OR HER BLOOD IF:

9 (A) THE PERSON IS ARRESTED FOR A VIOLATION OF SECTION 20A(1)  
10 OR (2) OR 20B OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO  
11 SECTION 20A(1) OR (2) OR 20B.

12 (B) THE PERSON IS ARRESTED FOR MANSLAUGHTER RESULTING FROM  
13 THE OPERATION OF AN ORV AND THE PEACE OFFICER HAS REASONABLE  
14 GROUNDS TO BELIEVE THAT THE PERSON WAS OPERATING THE ORV WHILE  
15 IMPAIRED BY OR UNDER THE INFLUENCE OF INTOXICATING LIQUOR, A CON-  
16 TROLLED SUBSTANCE, OR A COMBINATION OF INTOXICATING LIQUOR AND A  
17 CONTROLLED SUBSTANCE.

18 (2) A PERSON WHO IS AFFLICTED WITH HEMOPHILIA, DIABETES, OR  
19 A CONDITION REQUIRING THE USE OF AN ANTICOAGULANT UNDER THE  
20 DIRECTION OF A PHYSICIAN AND WHO REFUSES A CHEMICAL TEST SHALL  
21 NOT BE CONSIDERED TO HAVE REFUSED A CHEMICAL TEST IF THE TEST  
22 REQUIRES THE WITHDRAWAL OF BLOOD. THIS REFUSAL IS NOT ADMISSIBLE  
23 IN EVIDENCE UNDER SECTION 20C.

24 (3) IF AFTER AN ACCIDENT THE OPERATOR OF AN ORV INVOLVED IN  
25 THE ACCIDENT IS DECEASED, A SAMPLE OF THE DECEDENT'S BLOOD SHALL  
26 BE WITHDRAWN IN A MANNER DIRECTED BY THE MEDICAL EXAMINER FOR THE  
27 PURPOSE OF DETERMINING BLOOD ALCOHOL CONTENT. THE RESULTS OF AN

1 EXAMINATION OF THE BLOOD OF A DECEASED OPERATOR SHALL BE USED FOR  
2 STATISTICAL PURPOSES ONLY.

3 SEC. 20E. A PERSON WHO IS REQUESTED PURSUANT TO SECTION  
4 20D(1) TO TAKE A CHEMICAL TEST SHALL BE ADVISED OF THE RIGHT TO  
5 REFUSE TO SUBMIT TO CHEMICAL TESTS; AND IF THE PERSON REFUSES THE  
6 REQUEST OF A PEACE OFFICER TO SUBMIT TO CHEMICAL TESTS, A TEST  
7 SHALL NOT BE GIVEN WITHOUT A COURT ORDER.

8 Sec. 21a. If a peace officer has reasonable cause to  
9 believe that a person was, at the time of an accident, the  
10 ~~driver~~ OPERATOR of an ORV involved in the accident and was  
11 ~~driving~~ OPERATING the ORV while under the influence of an  
12 intoxicating liquor, ~~or~~ a controlled substance as defined in  
13 section 7104 of THE PUBLIC HEALTH CODE, Act No. 368 of the Public  
14 Acts of 1978, as amended, ~~or~~ BEING SECTION 333.7104 OF THE  
15 MICHIGAN COMPILED LAWS, or a combination of intoxicating liquor  
16 and a controlled substance, ~~or~~ OR WAS OPERATING THE ORV WHILE  
17 HIS OR HER ABILITY TO OPERATE AN ORV WAS IMPAIRED DUE TO THE CON-  
18 SUMPTION OF INTOXICATING LIQUOR, A CONTROLLED SUBSTANCE, OR A  
19 COMBINATION OF INTOXICATING LIQUOR AND A CONTROLLED SUBSTANCE,  
20 the peace officer may arrest the alleged ~~driver~~ OPERATOR of the  
21 ORV without a warrant.

22 Sec. 24. ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A  
23 person who violates a provision of this act is guilty of a  
24 misdemeanor.



1 NOTICE THAT THE USE OF THE PROPERTY IS OR MAY BE RESTRICTED UNDER  
2 THIS ACT.