

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 268

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81134 (MCL 324.81134), as amended by 1996 PA
175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81134. (1) A person who is under the influence of
2 intoxicating liquor or a controlled substance, as defined by
3 section 7104 of the public health code, ~~Act No. 368 of the~~
4 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
5 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104, or a combination of
6 intoxicating liquor and a controlled substance shall not operate
7 an ORV.

8 (2) A person who has an alcohol content of 0.10 grams or
9 more per 100 milliliters of blood, per 210 liters of breath, or
10 per 67 milliliters of urine shall not operate an ORV.

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1 (3) The owner or person in charge or in control of an ORV
2 shall not authorize or knowingly permit the ORV to be operated by
3 a person who is under the influence of intoxicating liquor or a
4 controlled substance or a combination of intoxicating liquor and
5 a controlled substance.

6 (4) Except as otherwise provided in this section, a person
7 who is convicted of a violation of subsection (1), (2), or (3) is
8 guilty of a misdemeanor, punishable by imprisonment for not more
9 than 90 days, or a fine of not less than \$100.00 or more than
10 \$500.00, or both, together with costs of the prosecution. As
11 part of the sentence for a violation of subsection (1) or (2),
12 the court shall order the person convicted not to operate an ORV
13 for a period of not less than 6 months or more than 2 years.

14 (5) On a second conviction under subsection (1) or (2) or a
15 local ordinance substantially corresponding to subsection (1) or
16 (2) within a period of 7 years, a person is guilty of a misde-
17 meanor, punishable by imprisonment for not more than 1 year, or a
18 fine of not more than \$1,000.00, or both. As part of the sen-
19 tence, the court shall order the person convicted not to operate
20 an ORV for a period of not less than 1 year or more than 2
21 years.

22 (6) On a third or subsequent conviction within a period of
23 10 years under subsection (1) or (2) or a local ordinance sub-
24 stantially corresponding to subsection (1) or (2), a person is
25 guilty of a felony. As part of the sentence, the court shall
26 order the person convicted not to operate an ORV for a period of
27 not less than 1 year or more than 2 years.

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1 (7) A PERSON WHO OPERATES AN ORV IN VIOLATION OF SUBSECTION
2 (1) OR (2) OR SECTION 81135 AND BY THE OPERATION OF THAT ORV
3 CAUSES THE DEATH OF ANOTHER PERSON IS GUILTY OF A FELONY PUNISH-
4 ABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS OR A FINE OF NOT
5 LESS THAN \$2,500.00 OR MORE THAN \$10,000.00, OR BOTH.

6 (8) A PERSON WHO OPERATES AN ORV WITHIN THIS STATE IN VIOLA-
7 TION OF SUBSECTION (1) OR (2) OR SECTION 81135 AND BY THE OPERA-
8 TION OF THAT ORV CAUSES A SERIOUS IMPAIRMENT OF A BODY FUNCTION
9 OF ANOTHER PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-
10 MENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT LESS THAN
11 \$1,000.00 OR MORE THAN \$5,000.00, OR BOTH. AS USED IN THIS SUB-
12 SECTION, "SERIOUS IMPAIRMENT OF A BODY FUNCTION" INCLUDES, BUT IS
13 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

14 (A) LOSS OF A LIMB OR USE OF A LIMB.

15 (B) LOSS OF A HAND, FOOT, FINGER, OR THUMB OR USE OF A HAND,
16 FOOT, FINGER, OR THUMB.

17 (C) LOSS OF AN EYE OR EAR OR USE OF AN EYE OR EAR.

18 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

19 (E) SERIOUS VISIBLE DISFIGUREMENT.

20 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

21 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

22 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

23 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.

24 (9) ~~(7)~~ As part of the sentence for a violation of subsec-
25 tion (1) or (2), or a local ordinance substantially corresponding
26 to subsection (1) or (2), the court may order the person to
27 perform service to the community, as designated by the court,

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1 without compensation, for a period not to exceed 12 days. The
2 person shall reimburse the state or appropriate local unit of
3 government for the cost of insurance incurred by the state or
4 local unit of government as a result of the person's activities
5 under this subsection.

6 (10) ~~-(8)-~~ Before imposing sentence for a violation of sub-
7 section (1) or (2) or a local ordinance substantially correspond-
8 ing to subsection (1) or (2), the court shall order the person to
9 undergo screening and assessment by a person or agency designated
10 by the office of substance abuse services, to determine whether
11 the person is likely to benefit from rehabilitative services,
12 including alcohol or drug education and alcohol or drug treatment
13 programs. As part of the sentence, the court may order the
14 person to participate in and successfully complete 1 or more
15 appropriate rehabilitative programs. The person shall pay for
16 the costs of the screening, assessment, and rehabilitative
17 services.

18 (11) ~~-(9)-~~ Before accepting a plea of guilty under this sec-
19 tion, the court shall advise the accused of the statutory conse-
20 quences possible as the result of a plea of guilty in respect to
21 suspension of the person's right to operate an ORV and the pen-
22 alty imposed for violation of this section.

23 Enacting section 1. This amendatory act takes effect
24 October 1, 1999.

25 Enacting section 2. This amendatory act does not take
26 effect unless all of the following bills of the 89th Legislature
27 are enacted into law:

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- 1 (a) Senate Bill No. 269.
- 2 (b) Senate Bill No. 625.
- 3 (c) Senate Bill No. 627.
- 4 (d) Senate Bill No. 869.
- 5 (e) Senate Bill No. 870.
- 6 (f) Senate Bill No. 953.
- 7 (g) House Bill No. 4210.
- 8 (h) House Bill No. 4576.
- 9 (i) House Bill No. 4959.
- 10 (j) House Bill No. 4960.
- 11 (k) House Bill No. 4961.
- 12 (l) House Bill No. 5122.
- 13 (m) House Bill No. 5123.
- 14 (n) House Bill No. 5951.
- 15 (o) House Bill No. 5952.
- 16 (p) House Bill No. 5953.
- 17 (q) House Bill No. 5954.
- 18 (r) House Bill No. 5955.
- 19 (s) House Bill No. 5956.